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Public Service Commission

December 12, 2011

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COMMISSION
CLERK

Mr. Stan Shirah
Tymber Creek Utilities, Incorporated
1951 W. Granada Boulevard
Ormond Beach, Florida 32174

Re: Docket No. 100359-WS, Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities, Incorporated.

Dear Mr. Shirah:

By Order No. PSC-11-0345-PAA-WS (Order Approving Rates and Charges), issued August 16, 2011, the Commission required "that within 120 days of the issuance of the Consummating Order in this docket, the Utility shall provide written documentation of its compliance with Section 367.1213, Florida Statutes (F.S.), and Rule 25-20.433(10), Florida Administrative Code (F.A.C.)" These cited provisions establish the utility's obligation to own or provide for long term use of the land upon which the utility's facilities are located. The Order Approving Rates and Charges was consummated by Order No. PSC-11-0374-CO-WS, issued September 8, 2011. Accordingly, Tymber Creek's written documentation of compliance with the above cited statute and rule provisions must be submitted no later than January 6, 2011.

Failure to provide the required documentation by January 6, 2011, may result in staff recommending the initiation of show cause proceedings pursuant to Section 367.161, F.S. As specified in Section 367.161(2), F.S., if a utility "is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the Commission... a penalty for each offense of not more than \$5,000" may be imposed by the Commission. The statute further states, "[e]ach day that such refusal or violation continues constitutes a separate offense." Therefore, the utility potentially faces fines of up to \$5,000 per day if it fails to comply with Order No. PSC-11-0345-PAA-WS on or before the January 6, 2011 deadline.

The Order Approving Rates and Charges also required Tymber Creek to complete the following pro forma items within 12 months of the issuance of the Consummating Order:

DOCUMENT NO. DATE
0889-11 12/12/11
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Pro Forma Items

Pro Forma Items	Treatment	
	Capitalize	Expense
1. Install automatic dialer at main lift station	\$3,300	
2. Replace monitoring well covers and bollards	3,603	
3. Install backup surge pumps, blower and motor assembly	5,675	
4. Replace two pumps at Inglewood lift station	14,400	
5. Replace filter media	5,865	
6. Install two monitoring and alarm systems	3,155	
7. Perform leakage tests of force main		\$400 ¹
8. Additional sludge hauling		25,200
9. Repair of collection system		15,014 ²
10. Engineering reports to summarize results		2,000
11. Maintenance cost on the monitoring systems		695
Total	\$35,998	\$43,309

Please provide an update regarding the status of these additions and repairs, including whether any have been made and when all additions and repairs are expected to be completed. The above-mentioned pro forma items must be completed within 12 months of the issuance of the Consummating Order, and verification must be provided to the Commission in order to implement the Phase II rates authorized by the Commission. Documentation that all pro forma additions and repairs have been completed should be submitted no later than September 7, 2012.

Your attention to this matter is greatly appreciated. If you have any questions please contact Avy Smith at (850) 413-6425 avy.smith@psc.state.fl.us or Larry Harris at (850) 413-6856 lharris@psc.state.fl.us.

Sincerely,



Larry D. Harris
Senior Attorney

LH/as

cc: Division of Economic Regulation (Smith, Hudson, Simpson, Daniel, Fletcher, Maurey)
Office of Commission Clerk, Docket File No. 100359-WS
Mr. Robert Dodrill

¹ Perform leakage tests of force main is amortized over 5 years = $\$2,000/5 = \400 .

² Reflects five-year average.