

COMMISSIONERS:  
RONALD A. BRISÉ, CHAIRMAN  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK  
ANN COLE  
COMMISSION CLERK  
(850) 413-6770

## Public Service Commission

March 14, 2012

Robert S. Cohen, Director and Chief Judge  
Division of Administrative Hearings  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060

**Re: Request for Assignment of an Administrative Law Judge**

**FPSC Docket No. 080562, Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems Inc.**

Dear Chief Judge Cohen:

The Florida Public Service Commission is requesting the assignment of an Administrative Law Judge to handle a dispute between East Marion Sanitary Systems, Inc. and two of its customers, Mr. Terry Will and Ms. Millicent Mallon.

The case began when the utility protested a portion of the Commission's Order No. PSC-09-0263-TRF-WS. The utility owner protested the portion of the order requiring the utility to connect irrigation meters at the lower tariff rate for customers who requested connection prior to the April 2009 Commission decision. The order and the petition are included with this filing. Seven customers intervened claiming to be entitled to the \$70 connection fee. A hearing was scheduled. Prior to the hearing, the utility and five customers entered into a settlement agreement which the Commission approved by Order No. PSC-11-0566-AS-WU. A copy of this order is also included. The remaining two customers and the utility wish to proceed to hearing.

Please let me know if there is anything else that the Commission needs to provide to the Division to process this hearing.

Sincerely,

Handwritten signature of Ann Cole in black ink.

Ann Cole, Commission Clerk  
Office of Commission Clerk

Enclosures

RECEIVED NUMBER DATE  
01528 MAR 14 21  
FPSC-COMMISSION CLERK

March 13, 2012  
Request for Assignment of Administrative Law Judge  
Page 2

cc: Lisa Bennett, Esquire  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
(850) 413-6230

Herbert Hein  
4225 Miller Road, Suite 190  
Flint, Michigan 48507

Millicent Mallon  
1075 NE 130<sup>th</sup> Terrace  
Silver Springs, Florida 34488

Terry Will  
1385 NE 130<sup>th</sup> Terrace  
Silver Springs, Florida 34488

**Eric Fryson**

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**From:** terry99wi@aol.com

**Sent:** Wednesday, January 11, 2012 1:39 PM

**To:** Filings@psc.state.fl.us

**Subject:** Doc. 080562-WU

**Attachments:** FLORIDA PUBLIC SERVICE COMM. PROTEST.docx

Please find efileing above

73000000

DOCUMENT NUMBER-DATE

00208 JAN 11 2012

FPSC-COMMISSION CLERK

1/11/2012

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

080562-WU

Doc. No. ~~080562-WU~~

Date: Jan, 11, 2012

-DM

Ann Cole, Commission  
Florida Public Service Commission  
2540 Shumard Oak, Blvd  
Tallahassee, Florida, 32399

**PROTEST OF ORDER DATED 12/12/2011**

To whom it may concern

Terry Will is protesting the order entered by the commission dated 12/12/2011 as follows.

Pages 3, 5, and 6, including but not limited to any future corrections.

S/ Terry Will

This protest was improperly filed by terry will and dated 12/16/2011

DOCUMENT NUMBER-DATE

00208 JAN 11 2012

FPSC-COMMISSION CLERK

RECEIVED-FPSC

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

12 JAN -3 AM 9:37

In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap in fee, in Marion County, by East Marion Sanitary Systems, Inc.

Docket No. 080562-WU  
COMMISSION  
CLERK

Dated: December 12, 2011


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one correct copy of East Marion's Protest of Commission's 12/12/2011 order and affirmative letter to proceed, has been served by facsimile & FedEx mail to Ann Cole, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, FL 32399-0850

and a correct copy by U.S. mail to the following on this 12 day of December, 2011.

Terry Will,  
1385 NE 130<sup>th</sup> Terrace  
Silver Springs, FL 34488

Millicent Mallon  
1075 NE 130<sup>th</sup> Terrace  
Silver Springs, FL 34488

  
Donna Congdon

COM \_\_\_\_\_  
APA \_\_\_\_\_  
ECR   I   \_\_\_\_\_  
GCL \_\_\_\_\_  
RAD \_\_\_\_\_  
SRC \_\_\_\_\_  
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OPC \_\_\_\_\_  
CLK \_\_\_\_\_

74-011-0-11121

DOCUMENT NUMBER-DATE

00011 JAN-3 2011

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap in fee, in Marion County, by East Marion Sanitary Systems, Inc.

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Docket No. 080562-WU

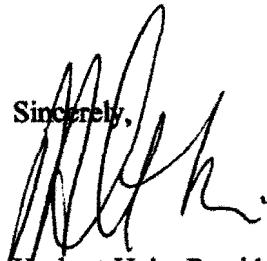
Dated: December 28, 2011

To: Ann Cole, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak, Blvd  
Tallahassee, Florida, 32399

To whom it may concern,

East Marion Sanitary Systems Inc, hereby is affirmatively indicating it's intention to proceed with the hearing. East Marion is prepared to fulfill it's obligation or have a qualified representative appear on the Utilities behalf.

Sincerely,



Herbert Hein, President for East Marion

DOCUMENT NUMBER-DATE

00011 JAN-3 2012

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap in fee, in Marion County, by East Marion Sanitary Systems, Inc.

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Docket No. 080562-WU

Dated: December 28, 2011

To: Ann Cole, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak, Blvd  
Tallahassee, Florida, 32399

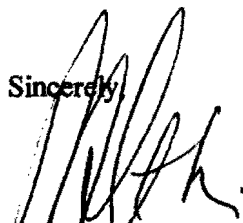
**PROTEST OF ORDER DATED 12/12/2011**

To whom it may concern,

East Marion Sanitary Systems Inc, hereby is protesting the order entered by the commission dated December 12, 2011.

The portion of the order being disputed is on page 5, paragraph 5.

Sincerely,



Herbert Hein, President for East Marion

**DOCUMENT NO. DATE**

00011-12 01/3/12  
**FPSC - COMMISSION CLERK**

Florida P.S.C  
2540 Shumard Oaks Blvd.  
Tallahassee, FL 32399

RECEIVED-FPSC  
09 MAY 19 AM 9:18

COMMISSION  
CLERK

EAST MARION SANITARY SYSTEMS, INC.  
G 4225 Miller Road #190  
Flint, Michigan 48507  
810 733-6342

May 15th, 2009.

### PETITION TO PROTEST ORDER

Docket # 080562-WU

To whom it may concern;

East Marion Sanitary Systems Inc. is protesting the Commissions order regarding the installation of irrigation meters for four customers and other applicants as stated on page 6 & page 8 of order #PSC09-0263-TRF-WU as specifically to Mr. Will and Mr. Turner. Mr. Will has never contacted the Company in any form or manner to even request an irrigation meter. The commission stated it had received correspondence from Mr. Will regarding a request for an irrigation meter. The staff has provided the Company with a copy of all correspondence from Mr. Will and there is nothing in any of the correspondence that in any way indicates that he had contacted the company in any fashion for a meter. The company is in concurrence with installing irrigation meters for Mr. Greco & Mr. Single as these customer have sent in an application along with the appropriate funds necessary for the installation. In regards to Mr. Turner, Mr. Turner did send a letter not to the Company but to the bill processing P.O. Box which was then forwarded on to the company. Mr. Turner was sent an application along with a letter stating that the application needed to be filled out & the appropriate funds mailed to the Utility and no response was received. Further the staff has provided copies of four additional letters that were provided to the PSC by Mr. Will purporting to be customers that had applied for irrigation meters prior to the deadline and the company protest these for the following reasons.

- 1) RE: letter from Mr. & Mrs. Smith at 1384 NE 130<sup>th</sup> Terrace  
In reviewing this letter it is clear that this letter was not sent to the utility, just by reviewing the mailing address. This is an incorrect address.
- 2) RE: letters from Mr. Tarsitano & the Costello's  
In reviewing these letters it is clear that these letters were solicited by Mr. Will and given either to Mr. Will or the Lakeview Woods Property Owners Association and not sent to the company, nor do they indicate that there ever was any contact made by them to the company, either by phone, fax or letter.

DOCUMENT NUMBER-DATE

04954 MAY 19 8

FPSC-COMMISSION CLERK



3)RE: Kevin & Candy Politte

This letter was solicited by Mr. Will and is a letter that was never mailed to the Utility. Mr. & Mrs. Politte would have filed a complaint with the Florida PSC, had they actually sent the letter and not received a response.

The only letter that has any credibility is Mr. Turner's and the Utility is willing to install an irrigation meter at that location should Mr. Turner so desire and properly fill out an application and pay the appropriate charges. Any others the Utility fully protests!

The Petitioner ask the Commissioner to amend its order to require the Utility to only install three irrigation meters and no others. The three being: Mr. Greco, Mr. Single and Mr. Turner should be complete the application process as required by the Utilities Tariff's.

The Utility received a copy of the PSC's order by fax from a customer and again from the PSC along with copies of the letters provided by Mr. Will.

Petitioners interest shall be substantially affected if the Utility is required to install irrigation meters at a cost of \$1,400.00 or more and only collect \$70.00. Especially as this was an oversight by the staff during the staff assisted rate case, as the \$70.00 meter installation fee took into consideration the existing piping, valves & meter box which costs are offset by the tap-in fee. However none of that applies to irrigation meters as additional piping, valves and meter box are required. This Utility is a very small utility with only 87 customer and it will be very difficult for the Utility to survive with 30 to 70 percent of its net revenue lost due to irrigation meters. The Utility should be allowed to charge the Water tap-in fee for the irrigation meters that are to be installed at \$70.00, as this fee was set to help pay for the piping and other necessary costs of installing a meter.

Sincerely,

  
Herbert Hein, President  
East Marion Sanitary Systems Inc.

Petitioner: Herbert Hein of East Marion Sanitary Systems Inc.  
G 4225 Miller Road, Suite 190  
Flint, MI 48507  
810 733-6342

Representative: Mike Smallridge  
15827 Cedar Elm Terrace  
Land O Lakes, FL 34638  
352 302-7406

**Ruth Nettles**

080562-WU

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**From:** mike smallridge [michael.smallridge@century21.com]  
**Sent:** Monday, May 18, 2009 4:33 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Document1  
**Attachments:** Doc1.docx

Please find attached petition to protest PSC order # PSC-09-0263-TRF-WU in Docket # 080562-WU as an e-filing.

Filed by

Mike Smallridge  
Mike Smallridge Utility Consulting  
15827 Cedar Elm Terr.  
Land O Lakes, FL 34638

For my client;

East Marion Sanitary Systems.

**Ann Cole Commission Clerk**

**Florida Public Service Commission**

**2540 Shumard Oak Blvd.**

**Tallahassee, FL. 32399**

**Re: Petition to Protest Order # PSC-09-0263-TRF-WU in Docket # 080562-WU**

**Dear Ms. Cole:**

- 1. East Marion Sanitary Systems, Inc. is protesting the above referenced commission order regarding the installation of irrigation meters for (4) four customers and the other applicants listed on pages 6 & 8 in the order, specifically to Mr. Will and Mr. Turner. Mr. Will has never contacted the company in any form or manner to even request an irrigation meter. The commission stated it had received correspondence from Mr. Will regarding a request for an irrigation meter. The staff has provided the company with a copy of all correspondence from Mr. Will and there is nothing in any of the correspondence that in any way indicates that he had contacted the utility in any fashion for installation of an irrigation meter. The utility is in concurrence with installing irrigation meters for Mr. Greco and Mr. Single, as these customers have sent in an application along with the appropriate funds for the installation. Mr. Turner did send a letter not to the company address but the Post Office Box address used for bill payment and processing, which was forwarded to the utility. However, Mr. Turner was sent an application along with a letter stating that the application needed to be filled out and the appropriate funds mailed to the utility and no response was received.**

**DOCUMENT NUMBER-DATE**

**04880 MAY 18 8**

**FPSC-COMMISSION CLERK**

2. Staff has provided copies of four additional letters that were provided to the PSC by Mr. Will purporting to be customers that had applied for irrigation meters prior to the deadline. The utility protests these for the following reasons:

**A. Letter from Mr. & Mrs. Smith of 1384 N.E. 130<sup>th</sup> Terrace.**

In reviewing this letter it is clear that this letter was not sent to the utility, just by reviewing the mailing address. This address is incorrect.

**B. Letters from Mr. Tarsitano & the Costello's.**

In reviewing these letters, it is clear these letters were solicited by Mr. Will and given either to Mr. Will or the Lakeview Woods Property Owners Association and not sent to the utility. These letters have no indication they were never sent to the utility.

**C. Kevin & Candy Politte.**

This letter was solicited by Mr. Will and is a letter that was never mailed to the utility. Mr. & Mrs. Politte would have filed a complaint had they actually sent the letter and not received a response.

3. The only letter that has any credibility is Mr. Turner's and the utility is willing to install an irrigation meter at the location should Mr. Turner properly execute the proper application and pay the required fee.

The Petitioner asks the Commission to amend order # PSC-09-0263-TRF-WU to only install three (3) irrigation meters, the three being Mr. Greco, Mr. Single and Mr. Turner should he successfully complete the application process and pay the required fee.

The Utility received a copy of the Commission Order # PSC-09-0263-TRF-WU by fax from a customer and again from the Commission along with letters provided by Mr. Will.

Petitioner's interest shall be substantially affected if the utility is required to install irrigation meters at a cost of \$ 1,400 or more and only collect \$70.00. This was an oversight by commission staff during the last staff assisted rate case. The \$70.00 irrigation installation fee took into account the existing piping, valves & meter boxes which costs are offset by the tap- in fee. However, none of that applies to irrigation meters as additional piping, valves and meter boxes that are required.

4. With only 87 customers the utility will find it difficult to survive with 30% to 70% of its net revenue lost, due to irrigation meters. The utility should be allowed to charge a fee similar to the utilities water tap-in fee for the irrigation fee, which was set up to help pay for proper installation of an irrigation meter.

**Petitioner: East Marion Sanitary Systems, Inc**

**Herbert Hein**

**G-4225 Miller Road Suite 190**

**Flint, MI. 48507**

**Phone Number- 810-733-6342**

**Company Representative: Mike Smallridge**

**15827 Cedar Elm Terr.**

**Land O'Lakes, FL. 34638**

**352-302-7406**

**Sincerely,**

**s/ Herbert Hein**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems Inc.

DOCKET NO. 080562-WU  
ORDER NO. PSC-11-0566-AS-WU  
ISSUED: December 12, 2011

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR  
JULIE I. BROWN

ORDER APPROVING SETTLEMENT AGREEMENT AND  
REQUIRING REMAINING PARTIES TO FILE ACKNOWLEDGEMENT

BY THE COMMISSION:

Background

East Marion Sanitary Systems Inc. (East Marion or Utility) is a Class C utility providing water and wastewater service to approximately 96 customers in Marion County. Water and wastewater rates were last established for this Utility in a staff-assisted rate case in 2002.<sup>1</sup> East Marion reported water and wastewater revenues of \$56,918 in its 2010 Annual Report. The system is located in the St. Johns River Water Management District (SJRWMD).

On August 19, 2008, the Utility filed an application for approval to amend its tariff sheets to reflect the following: amendment to connection/transfer sheet to require each customer to provide his social security number to obtain service, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and the imposition of a new tap-in fee. By Order No. PSC-08-0746-PCO-WU, issued November 12, 2008, we suspended the tariff filing pending further investigation.

By Order No. PSC-09-0263-TRF-WU, issued April 27, 2009, we denied in part and granted in part the Utility's application. Specifically, we ordered that any customer who has requested an irrigation meter from East Marion prior to April 7, 2009, shall only be charged the rates in effect at the time of their application.

On May 18, 2009, the Utility protested the portion of our order addressing previous applications for irrigation meters. East Marion protested our requirement that the Utility install

<sup>1</sup> See Order No. PSC-02-1168-PAA-WS, issued August 26, 2002, in Docket No. 010869-WS, In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

DOCUMENT NUMBER

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FPSC-COMMISSION CLERK

irrigation meters at its prior tariff rate for certain customers. Specifically, East Marion protested the order as it related to customers Will, Smith, Tarsitano, Costello, and Politte. The Utility did not dispute the order as it relates to customers Greco and Singel, or to customer Turner if the application process is completed.

By Order No. PSC-09-0742-PCO-WU, issued November 10, 2009, a procedural schedule was established setting forth the controlling dates for this docket. East Marion was to file testimony on or before December 7, 2009. At that time, the Utility did not file testimony and none of the customers referenced in the order had requested intervention. In addition, our staff counsel was informed that settlement discussions had taken place between the parties. In an effort to accommodate those settlement discussions and to permit the Utility to file testimony and the customers to intervene if appropriate, the hearing, prehearing, and controlling dates were revised by Order No. PSC-10-0116-PCO-WU, issued February 26, 2010.

On May 6, 2010, a Joint Motion was filed by East Marion Sanitary Systems, Inc., Dennis U. Smith, Joseph M. Singel, Earl Turner, David Greco, Carol Greco, Millicent Mallon, Terry Will, and Kevin Politte (movants), requesting that we hold this proceeding in abeyance pending efforts by the parties to resolve their differences by way of settlement, and that we abate all of scheduled actions set forth in our Order Nos. PSC-10-0116-PCO-WU and PSC-10-0276-PCO-WU, First and Second Orders Revising Order Establishing Procedure (procedural orders), respectively. By Order No. PSC-10-0294-PCO-WU, issued May 7, 2010, this joint motion was approved holding this proceeding in abeyance for 45 days pending completion of those settlement discussions.

By Order No. PSC-10-0460-PCO-WU, issued July 19, 2010, an extension of the Order Granting Abatement and Continuance for 30 days was approved to allow the parties to continue negotiating an agreement. On September 15, 2010, intervention petitions filed by Terry Will, David Greco, Carol Greco, Dennis U. Smith, Millicent Mallon, Earl Turner, Joseph M. Singel, and Kevin Politte were granted.<sup>2</sup>

Prior to the proceeding being abated and pursuant to the prior procedural schedules, the Utility, intervenors, and our staff filed testimony. The remaining controlling dates and key activities that were abated are as follows: the Utility's rebuttal testimony, the discovery cut-off, the prehearing statement filing deadline, the prehearing conference, the hearing, and the post-hearing briefs.

On November 17, 2010, OPC filed a Motion for Commission hearing, asking that the Commission and not an administrative law judge from the Division of Administrative Hearings (DOAH) hear the case. OPC stated our staff suggested that the docket be transferred to DOAH. OPC stated that given the very small size and gross revenues of the Utility, OPC believed it is in the best interest of the Utility and its customers to keep litigation expenses to the absolute minimum, and to find the most cost-effective solution possible to this controversy. OPC argued that assigning this case to DOAH will unnecessarily increase the cost of litigating this dispute.

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<sup>2</sup> See Order Nos. PSC-10-0565-PCO-WU, PSC-10-0566-PCO-WU, PSC-10-0567-PCO-WU, PSC-10-0568-PCO-WU, PSC-10-0569-PCO-WU, PSC-10-0570-PCO-WU, and PSC-10-0571-PCO-WU.

During late 2010 and early 2011, the members of the Commission, including some of the members of the panel, changed. During 2011, our staff assigned to the docket was also temporarily reassigned. Accordingly, OPC's November motion was addressed by Order No. PSC-11-0280-PCO-WU, issued June 23, 2011, and this docket was set for a Prehearing Conference on October 3, 2011, and a hearing on October 13, 2011. By Order No. PSC-11-0351-PCO-WU, issued August 23, 2011, we acknowledged the intervention of OPC.

By Order No. PSC-11-0353-PCO-WU, issued August 23, 2011, all parties to this proceeding were required to attend a Status Conference on September 14, 2011. The purpose of the Status Conference was to discuss the status of settlement negotiations, to discuss the status of discovery, to allow for a preliminary identification of witnesses and issues, to discuss any possible stipulations, and to resolve any other procedural matters.

On September 29, 2011, East Marion, a majority of the intervenors, and OPC on behalf of all ratepayers entered into a Settlement Agreement and filed a Joint Motion to Approve Settlement Agreement. The Settlement Agreement is included in this Order as Attachment A. Intervenors Terry Will and Millicent Mallon did not enter into the Settlement Agreement.

By Order No. PSC-11-0435-PCO-WU, issued September 29, 2011, the Prehearing Conference set for October 3, 2011, and the hearing scheduled for October 13, 2011, were held in abeyance pending our decision on the proposed Settlement Agreement. On October 6, 2011, OPC, Terry Will and Millicent Mallon filed their joint notice of OPC's withdrawal of representation of the individual Intervenor ratepayers Terry Will and Millicent Mallon.

We have jurisdiction pursuant to Section 367.091, Florida Statutes (F.S.).

#### Settlement Agreement

As stated above, the Joint Motion Seeking Approval of Settlement Agreement was filed on September 29, 2011. East Marion, OPC and every Intervenor that executed the proposed settlement agreement agreed to the following terms and conditions:

1. East Marion shall provide to each Intervenor who executes this Agreement, an irrigation meter, installed as prescribed by the June 16, 2010 Memorandum titled: Settlement of Docket No. 080562-WU, ("grandfather installation") attached hereto as Exhibit "A" and made a part hereof.
2. With regard to Intervenors David and Carol Greco and Joseph M. Singel, East Marion will reinstall their irrigation meters in accordance with the June 16, 2010 Memorandum. With regard to the other Intervenors who execute this Settlement Agreement, East Marion shall provide new irrigation meters in accordance with the June 16, 2010 Memorandum. All of these installations shall be completed on or before 30 days after the issuance of this order approving the Settlement Agreement.



3. Each Intervenor' must pay East Marion a \$70.00 irrigation meter charge prior to the meter being installed. Intervenor David and Carol Greco and Joseph M. Singel have already paid their respective \$70.00 meter installation charge.
4. Each Intervenor agrees to utilize the irrigation meter and pay the minimum monthly irrigation charge approved by the Florida Public Service Commission for a period of no less than 36 months after their respective meter has been installed or reinstalled, or until the Intervenor dies or sells the property being served by the meter, whichever occurs first. However, with respect to Mr. Joseph M. Singel's reinstalled irrigation meter, his 36 months begins after the original installation of his meter.
5. East Marion agrees to issue a credit to David and Carol Greco's water and wastewater bill equal to all of the monthly irrigation charges he has paid to the Utility since his original irrigation meter was installed until the time his irrigation meter is reinstalled in accordance with the June 16, 2010 Memorandum.
6. East Marion, OPC and the Intervenor, who execute this Agreement will file a Joint Motion requesting the Commission issue an order approving the Settlement Agreement.
7. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission Order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

We find that the Parties' Settlement Agreement is a reasonable resolution because it addresses the protested issues between the Utility, OPC, and each Intervenor that executed this agreement. It is a compromise in which the Utility relinquishes its position that the new irrigation tariff rate applies while the signatories relinquish their termination of service rights under Rule 25-30.325, F.A.C. Further, we find that it is in the public interest for us to approve the Settlement Agreement because it promotes administrative efficiency and avoids the time and expense associated with issues between the Utility, OPC, and every Intervenor that executed this agreement. In keeping with our long-standing practice of encouraging parties to settle contested proceedings whenever possible,<sup>3</sup> we approve the Joint Motion Seeking Approval of Settlement Agreement, as set forth in Attachment A.

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<sup>3</sup> See Order Nos. PSC-10-0299-AS-WU, issued May 10, 2010, in Docket No. 090170-WU, In re: Application for staff-assisted rate case in Lee County by Mobile Manor Water Company, Inc.; PSC-09-0711-AS-WS, issued October 26, 2009, in Docket No. 080249-WS, In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.; PSC-06-0092-AS-WU, issued February 9, 2006, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.; PSC-05-0956-PAA-SU, issued October 7, 2005, in Docket No. 050540-SU, In re: Settlement offer for possible overearnings in Marion County by BFF Corp.; and PSC-00-0374-S-El, issued February 22, 2000, in Docket No.

Remaining Intervenors

Intervenors Terry Will and Millicent Mallon did not enter into the Settlement Agreement. On October 6, 2011, OPC, Terry Will and Millicent Mallon filed their joint notice of OPC's withdrawal of representation of the individual Intervenor ratepayers Terry Will and Millicent Mallon.

Pursuant to South Florida Hospital and Healthcare Assoc. v. Jaber, 887 So. 1d 1210 (Fla. 2004), we approved a settlement of a rate proceeding without one party (SFHHA)'s agreement. The Supreme Court affirmed that decision. However, we find that the SFHHA case is distinguishable from this present docket. First in the SFHHA docket, the non-signatory party maintained its right to institute a new rate proceeding and was not bound by the settlement agreement. In the current docket, this will be the intervenors only opportunity to pursue obtaining an irrigation meter at the prior tariffed rate. Second, Rule 25-30.325, F.A.C., entitled "Termination of Service by Customer," states: "A utility may require a customer to give reasonable notice of his or her intention to discontinue service. Until the utility receives such notice, a customer may be held responsible for all service rendered." We find that requiring the two non-signatories to pay the BFC for a 3-year period is in contradiction with a customer's right to terminate his/her service upon giving a utility reasonable notice of the customer's intention to discontinue service.

The remaining non-signatory parties are advised that the maximum relief we will be able to grant either intervenor was that set forth in the original order, an irrigation meter at the cost of \$70. In other words, if either or both Mr. Will or Ms. Mallon is successful in proving that they properly requested a meter, the only advantage they would gain over not signing the settlement agreement is that they will not be obligated to keep the irrigation meter for 3 years. Irrigation meters must pay a base charge of \$9.98. If either party fails to convince us that they properly requested the meter, then they would be obligated to pay for the meter at the new meter installation fee of \$195 and the applicable tap-in fees of \$1,400, \$1,800, and \$2,600 for the short, long, and extra-long irrigation service line installation, respectively.

In addition, because this docket is now limited to two customers, and this is not a service hearing where input from the general body of ratepayers will be sought, the hearing will be held in Tallahassee, Florida rather than in Ocala, Florida. Conducting the hearing in Tallahassee promotes administrative efficiency, and minimizes the costs associated with a hearing.

Furthermore, the Utility is advised that it must bear the burden of proving that Ms. Mallon and Mr. Will did not request a meter. If the Utility is unsuccessful, it will be required to connect the two customers at the \$70.00 fee and any additional costs it incurs will likely not be considered a prudent expenditure. The Utility is hereby notified that it still has the option to withdraw its protest as to Ms. Mallon and Mr. Will. If the Utility's protest is withdrawn, our ruling in Order No. PSC-09-0263-TRF-WU is revived so that Ms. Mallon and Mr. Will may

obtain an irrigation meter at \$70.00 and the Utility will not incur any additional litigation expense.

We require East Marion, Terry Will, and Millicent Mallon to each affirmatively indicate their intention to proceed with the hearing. East Marion, Terry Will, and Millicent Mallon shall file a written statement in the docket affirming they have read and will abide by Chapters 25-22 and 28-106, F.A.C. and all procedural orders issued in this docket, and that each is prepared to fulfill their obligations as parties or have a qualified representative appear on their behalf. The parties' must file these written statements within 21 days of the date this order is issued. If opposing parties file the written statement, the Prehearing Conference and hearing will be set by the Prehearing Officer.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Settlement Agreement, attached to this Order and made a part hereof by reference, is approved. It is further

ORDERED that East Marion Sanitary Services, Terry Will, and Millicent Mallon shall file a written statement in the docket affirming that they have read and will abide by Chapters 25-22 and 28-106, F.A.C. and all procedural orders issued in this docket, and that each is prepared to fulfill their obligations as parties or have a qualified representative appear on their behalf. It is further

ORDERED that the written statement must be filed with the Commission Clerk within 21 days of the date this Order is issued.

By ORDER of the Florida Public Service Commission this 12th day of December, 2011.



ANN COLE

Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As to the approval of the Settlement Agreement, any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review in Federal district court pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 252(e)(6).

As to the continuation of the docket for the remaining, non-signatory parties, any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems, Inc.

Docket No. 080562-WU

**SETTLEMENT AGREEMENT**

This SETTLEMENT AGREEMENT is made and entered into this 27<sup>th</sup> day of September, 2011, by and between East Marion Sanitary Systems, Inc. ("East Marion" "Utility" or "Company"), the Office of Public Counsel, ("OPC") on behalf of the general body of ratepayers of East Marion, and intervenors David and Carol Greco, Joseph M. Singal, Rosemary Turner, Dennis Smith, Kevin Politta, Millicent Malloy and Terry Will. Each intervenor signing this agreement is doing so only on their own behalf with regard to their individual claim and request for relief in this docket.

**WITNESSETH**

WHEREAS, the Public Service Commission issued a Proposed Agency Action Order, No. PSC-09-0263-TRF-WU, ("PAA Order"), which provided in part that East Marion was required to provide an irrigation meter for the prior tariff rate of \$70.00 to those customers who requested an irrigation meter prior to April 7, 2009; and

WHEREAS, East Marion protested that part of the PAA Order; and

WHEREAS, the Commission provided an opportunity for every customer who desired to document their efforts to request an irrigation meter from East Marion prior to April 7, 2009, to do so to establish their entitlement to receive the irrigation meter at the prior charge of \$70.00; and

WHEREAS, seven customers, David and Carol Greco, Joseph M. Singal, Rosemary Turner, Dennis Smith, Kevin Polite, Millicent Mallon and Terry Will all intervened in this docket and provided prefiled testimony to document their efforts to request an irrigation meter from East Marion prior to April 7, 2009; and

WHEREAS, prior efforts to settle this docket and the seven claims regarding each individual Intervenor's entitlement to an irrigation meter at the prior \$70.00 charge, were not successful, resulting in this matter being set for hearing; and

WHEREAS, in order to avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with the Commission's long-standing policy and practice of encouraging parties in protested proceedings to settle issues wherever possible. East Marion OPC and each and every Intervenor that executes this agreement to bind only themselves to the terms and conditions of this Agreement, hereby enter into this Settlement Agreement and agree as follows:

1. East Marion shall provide to each Intervenor who executes this Agreement, an irrigation meter, installed as prescribed by the June 16, 2010 Memorandum titled: Settlement of Docket No. 080562-WU, ("grandfather installation") attached hereto as Exhibit "A" and made a part hereof.

2. With regard to Intervenor David and Carol Greco and Joseph M. Singel, East Marion will reinstall their irrigation meters in accordance with the June 16, 2010 Memorandum. With regard to the other Intervenor who execute this Settlement Agreement, East Marion shall provide new irrigation meters in accordance with the June 16, 2010 Memorandum. All of these installations shall be completed on or before 30 days after the Commission issues and order approving this Settlement Agreement.

3. Each Intervenor must pay East Marion a \$70.00 irrigation meter charge prior to the meter being installed. Intervenor David and Carol Greco and Joseph M. Singel have already paid their respective \$70.00 meter installation charge.

4. Each Intervenor agrees to utilize the irrigation meter and pay the minimum monthly irrigation charge approved by the Florida Public Service Commission for a period of no less than 36 months after their respective meter has been installed or reinstalled, or until the Intervenor dies or sells the property being served by the meter, whichever occurs first. However, with respect to Mr. Joseph M. Singel's reinstalled irrigation meter, his 36 months begins after the original installation of his meter.

5. East Marion agrees to issue a credit to David and Carol Greco's water and wastewater bill equal to all of the monthly irrigation charges he has paid to the Utility since his original irrigation meter was installed until the time his irrigation meter is reinstalled in accordance with the June 16, 2010 Memorandum.

6. East Marion, OPC and the Intervenor, who execute this Agreement will file a Joint Motion requesting the Commission to issue an order approving the Settlement Agreement.

7. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved

without modification by Commission Order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

IN WITNESS WHEREOF, the parties hereto have hereunder caused this Settlement Agreement to be executed as of the date and year aforesaid, in counterparts, each counterpart to be considered and original.

Respectfully submitted this \_\_\_\_ day of September, 2011.

East Marion Sanitary System, Inc.

By: [Signature] 9-16-2011  
Herbert Hein, President

Intervenor

\_\_\_\_\_  
David Greco

\_\_\_\_\_  
Carol Greco

\_\_\_\_\_  
Joseph M. Singel

\_\_\_\_\_  
Millicent Mallon

Office of Public Counsel

By: [Signature] 9/17/11  
Stephen C. Kelly  
Associate Public Counsel  
*on behalf of the general body  
of ratepayers. Expressly not  
on behalf of any of the Intervenor's.*

\_\_\_\_\_  
Dennis U. Smith

\_\_\_\_\_  
Kevin Polite

\_\_\_\_\_  
Rosemary Turner

\_\_\_\_\_  
Terry Will



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East Marion Sanitary System, Inc.

Office of Public Counsel

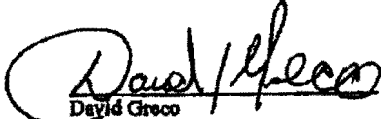
By: \_\_\_\_\_

Herbert Hein, President

By: \_\_\_\_\_

Stephen C. Reilly  
Associate Public Counsel

Intervenors

  
David Greco

  
Carol Greco

\_\_\_\_\_  
Joseph M. Singel

\_\_\_\_\_  
Millicent Mallon

\_\_\_\_\_  
Deanda U. Smith

\_\_\_\_\_  
Kevin Politte

\_\_\_\_\_  
Rosemary Turner

\_\_\_\_\_  
Terry Will

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Respectfully submitted this \_\_\_\_ day of September, 2011.

East Marion Sanitary System, Inc.

Office of Public Counsel

By: \_\_\_\_\_

By: \_\_\_\_\_

Herbert Hein, President

Stephen C. Reilly  
Associate Public Counsel

Intervenor

\_\_\_\_\_  
David Greco

\_\_\_\_\_  
Dennis U. Smith

\_\_\_\_\_  
Carol Greco

\_\_\_\_\_  
Kevin Politte

  
Joseph M. Singel

\_\_\_\_\_  
Rosemary Turner

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Millouet Mallon

\_\_\_\_\_  
Terry Will

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Respectfully submitted this \_\_\_\_\_ day of September, 2011.

East Marion Sanitary System, Inc.

Office of Public Counsel

By: \_\_\_\_\_

By: \_\_\_\_\_

Herbert Hein, President

Stephen C. Ralily  
Associate Public Counsel

**Intervenor**

\_\_\_\_\_  
David Greco

\_\_\_\_\_  
Dennis U. Smith

\_\_\_\_\_  
Carol Greco

\_\_\_\_\_  
Kevin Politto

\_\_\_\_\_  
Joseph M. Singel

*Rosemary Turner*  
\_\_\_\_\_  
Rosemary Turner

\_\_\_\_\_  
Millicent Mallon

\_\_\_\_\_  
Terry Will

*DOCKET NO. 080562-WU*

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Respectfully submitted this \_\_\_\_\_ day of September, 2011.

East Marion Sanitary System, Inc.

Office of Public Counsel

By: \_\_\_\_\_

By: \_\_\_\_\_

Herbert Hain, President

Stephen C. Reilly  
Associate Public Counsel

**Intervenor**

\_\_\_\_\_  
David Greco

*Dennis U. Smith*  
Dennis U. Smith *9/30/2011*

\_\_\_\_\_  
Carol Greco

\_\_\_\_\_  
Kevin Politte

\_\_\_\_\_  
Joseph M. Singel

\_\_\_\_\_  
Rosemary Turner

\_\_\_\_\_  
Millicent Mallon

\_\_\_\_\_  
Terry Will

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Respectfully submitted this \_\_\_\_ day of September, 2011.

East Mariem Sanitary System, Inc.

Office of Public Counsel

By: \_\_\_\_\_

By: \_\_\_\_\_

Herbert Hein, President

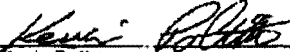
Stephen C. Reilly  
Associate Public Counsel

**Intervenor**

\_\_\_\_\_  
David Greco

\_\_\_\_\_  
Denzle U. Smith

\_\_\_\_\_  
Carol Greco

  
\_\_\_\_\_  
Kevin Politt

\_\_\_\_\_  
Joseph M. Singel

\_\_\_\_\_  
Rosemary Turner

\_\_\_\_\_  
Millicent Mallon

\_\_\_\_\_  
Terry Will

Exhibit "A"  
Page 1 of 3

**MEMORANDUM**

From: Steve Reilly  
TO: Mr. Herbert Hein  
Intervenors  
DATE: June 16, 2010  
SUBJECT: Settlement of Docket No. 080562-WU

Combining the resources and efforts of Dave Greco and Mike Smalridge we have been able to produce a very workable and affordable solution to the problem of providing irrigation meters for the houses of the five Intervenors who did not receive irrigation meters prior to the April 7, 2010 deadline. By selecting the best priced items researched by Dave and Mike we were able to assemble the best prices for the materials, and Mike has graciously offered excellent labor costs to install the new parts and lines. The parts with the "Sunstate" designation are parts provided by Sunstate Meter and Supply, Inc. at wholesale prices arranged by Dave. The remaining parts and labor will be supplied by Mike.

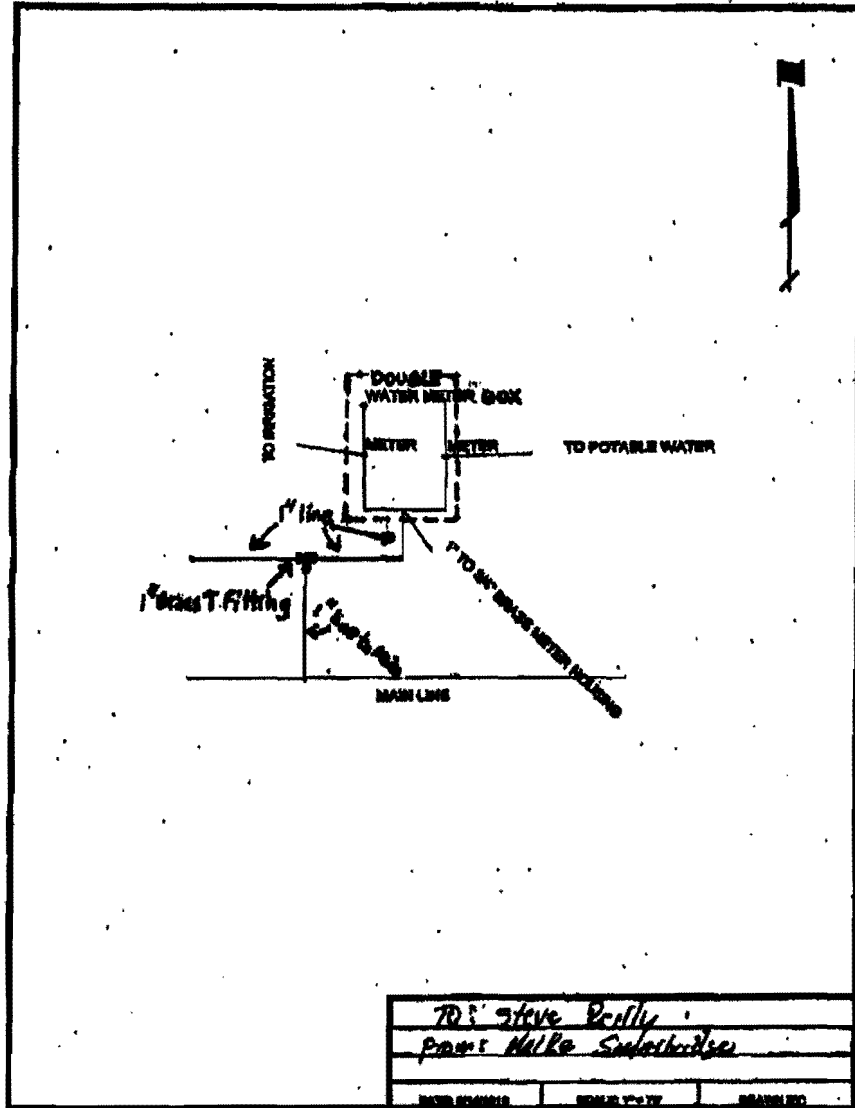
See the attached diagram that depicts the "grandfather" installation. Grandfather, because it is the less costly configuration which uses the existing 1" line that serves two houses rather than the more expensive dedicated line that goes directly to the main.

The breakdown of the materials and labor and their estimated costs are as follows:

1.	1" Brass "T" fitting	\$ 9.00
2.	3/4" - 1" Brass double branch w/ curb stops (Sunstate)	\$ 80.00
3.	3/8" x 1/4" Senus manual read meter	\$ 41.00
4.	Plastic double meter box with lid (Sunstate)	\$ 32.00
5.	Miscellaneous schedule 40 drinking water PVC 1" & 3/4" pipes and fittings	\$16.00
6.	Labor and installation	<u>\$ 40.00</u>
	Estimated total cost per irrigation installation:	\$ 218.00
	Intervenor payment per prior tariff:	<u>\$ -70.00</u>
	Approximate net cost to utility per installation:	\$ 148.00

*MR*

TIME RECEIVED: June 14, 2010 4:08:05 PM EDT      REPORT CID: 1 352 726 0547      DURA1: 39  
06/14/2010 16:07 BLACK & WHITE COPY      Exhibit "A" Page 3 of 3



*ARK*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems Inc.

DOCKET NO. 080562-WU  
ORDER NO. PSC-09-0263-TRF-WU  
ISSUED: April 27, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

ORDER DENYING IN PART AND GRANTING IN PART EAST MARION SANITARY  
SYSTEM, INC.'S APPLICATION TO AMEND TARIFFS;  
ADDRESSING PREVIOUS APPLICATIONS FOR IRRIGATION METERS

BY THE COMMISSION:

Background

East Marion Sanitary Systems Inc. (East Marion or Utility) is a Class C utility providing water and wastewater service to approximately 96 customers in Marion County. Water and wastewater rates were last established for this Utility in a staff-assisted rate case in 2002.<sup>1</sup> East Marion reported water and wastewater revenues of \$65,553 in its 2007 Annual Report. The system is located in the St. Johns River Water Management District (SJRWMD).

On August 19, 2008, the Utility filed an application for approval to amend its tariff sheets to reflect the following: amendment to connection/transfer sheet to require each customer to provide his social security number to obtain service, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and the imposition of a new tap-in fee. By Order No. PSC-08-0746-PCO-WU, issued November 12, 2008, we suspended the tariff filing pending further investigation. We have jurisdiction pursuant to Section 367.091, Florida Statutes (F.S.).

<sup>1</sup> See Order No. PSC-02-1168-PAA-WS, issued August 26, 2002, in Docket No. 010869-WS, In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

DOCUMENT NUMBER-DATE

03917 APR 27 8

FPSC-COMMISSION CLERK



Social Security Number

The Utility requests that its connection/transfer sheet be revised to reflect a provision that requires customers to provide their Social Security numbers in their applications for service. The Utility asserts that it needs the Social Security number to collect on bad debts and delinquent accounts. The Utility's request to amend its tariff sheet to require a customer to provide his Social Security number to obtain service is denied. While there is no law prohibiting a company from requiring a Social Security number before it provides service, we find that it is bad policy to require the number before a customer obtains utility service, especially when alternate means of identification will allow the Utility to pursue bad debts. The Social Security administration acknowledges on its website:

If a business or other enterprise asks you for your number, you can refuse to give it. However, that may mean doing without the purchase or service for which your number was requested. For example, Utility companies and other services ask for a Social Security number, but do not need it; they can do a credit check or identify the person in their records by alternative means.

<http://ssa-custhelp.ssa.gov> We have permitted other utilities to ask for a Social Security number, as one of several acceptable forms of identification a ratepayer may provide to obtain service. For instance, in its tariff, Florida Power & Light Company (FPL) is permitted to require an applicant to provide his name, telephone number and address and to require identification with the application for service. "The types of identification required upon application for service include a valid Social Security number, tax identification number, driver's license, birth certificate, or any other form of identification acceptable to the Company." FPL Tariff Sheet 6.010.

East Marion is not requesting alternate types of identification; it only wants the customer's Social Security number. To provide a customer no alternative method of proving identification other than his Social Security number removes any choice from the consumer about releasing this sensitive information due to the monopolistic nature of a utility. Further, there are customers who do not have Social Security numbers, and in those instances, this requirement would be discriminatory. Therefore, East Marion's request to amend its connection/transfer sheet is denied.

The Utility is permitted, however, to amend its connection/transfer sheet to require one of several acceptable forms of identification. For purposes of the tariff, the types of identification required upon application for service include a valid Social Security number, tax identification number, driver's license, birth certificate, or any other form of identification acceptable to the Company. If the Utility chooses to amend its connection/transfer sheet consistent with our direction, it must provide our staff with a copy of the revised tariff within 30 days of the effective date of the Order. Our staff is granted the administrative authority to approve the revised tariff sheet, consistent with our direction.

Returned Check Charge

The Utility requests that its returned check charge be increased from \$20 to \$25. The utility submitted information in its filings reflecting the actual costs it incurs for returned checks. We find that the Utility shall be permitted to collect its actual costs for returned checks. The Utility shall revise its tariff to reflect that the charges for returned checks will be its actual costs.

Miscellaneous Service Charges

The Utility requests an increase in its miscellaneous service charges to be more reflective of its current cost of service. The current miscellaneous service charges were approved for the Utility in a transfer docket in 1998<sup>2</sup> and have not changed since that date – a period of 11 years. East Marion believes these charges should be updated to reflect current costs. Based on the data supplied by the company, we agree with this update. The costs for fuel and labor have risen substantially since that time. Further, our price index has increased approximately 25 percent in that period of time. We have expressed concern with miscellaneous service charges that fail to compensate utilities for the cost incurred. By Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, we expressed “concern that the rates [miscellaneous service charges] are eight years old and cannot possibly cover current costs” and directed our staff to “examine whether miscellaneous service charges should be indexed in the future and included in index applications.”<sup>3</sup> Currently, miscellaneous service charges may be indexed if requested in price index applications pursuant to Rule 25-30.420, F.A.C. However, few utilities request that their miscellaneous service charges be indexed. The Utility does not have on-site personnel to perform these services and has to contract out. East Marion provided cost estimates from a third-party vendor. In light of the above considerations and the data provided by the Utility, we find that the Utility’s requested charges are reasonable.

East Marion’s current tariff includes a Premises Visit (in lieu of disconnection) charge. This charge is levied when a service representative visits a premise for the purpose of discontinuing service for non-payment of a due and collectible bill but does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill. In addition to those situations described in the definition of the current Premises Visit In Lieu of Disconnection, the new Premises Visit charge will also be levied when a service representative visits a premise at a customer’s request for complaint resolution or for other purposes and the problem is found to be the customer’s responsibility. This charge is consistent with Rule 25-30.460(1)(d), F.A.C. In addition, by Order No. PSC-05-0397-TRF-WS, issued April 18, 2005, we approved a Premises Visit Charge to be levied when a service representative visits a premises at the customer’s request for a complaint and the problem

<sup>2</sup> See Order No. PSC-98-0928-FOF-WS, issued July 7, 1998, in Docket No. 971269-WS, In re: Application for transfer of majority organizational control of East Marion Sanitary Systems, Inc. and East Marion Water Distribution, Inc. in Marion County from Del-American/First Federal of Osceola to Herbert Hein, and change in name on Certificate No. 490-W from East Marion Water Distribution, Inc. to East Marion Sanitary Systems, Inc.

<sup>3</sup> See Docket No. 950495-WS, In Re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc. in Osceola County, and in Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties.

is found to be the customer's responsibility.<sup>4</sup> Based on the foregoing, the Premises Visit (in lieu of disconnection) shall be changed to a Premises Visit charge.

The Utility has requested to implement a Disconnection Charge. East Marion wants to levy this charge for disconnection of service for cause pursuant to Rule 25-30.320(2), F.A.C. Rule 25-30.460, F.A.C. does not provide a specific category for this charge. However, the Utility does not have any on-site personnel to perform disconnections. The Utility included its estimate for the disconnection costs in the docket file. Based on the estimate provided by the Utility, East's Marion's proposed disconnection charges are reasonable. The Utility has proposed that its Violation Reconnection charge for water be actual cost. Pursuant to Rule 25-30.460, F.A.C., violation reconnection charges are at the tariffed rate for water and actual cost for wastewater. The third-party vendor charges a \$50 violation reconnection for water during normal business hours and \$80 for after hours. We find that this amount is reasonable for the water disconnection charge.

In summary, the Utility's miscellaneous service charges are approved with the changes discussed above. The following table shows East Marion's current charges, its proposed charges, and the Commission-approved charges.

<u>Water</u>	<u>Current</u>	<u>Proposed</u>		<u>Commission Approved</u>	
		<u>Normal Hours</u>	<u>After Hours</u>	<u>Normal Hours</u>	<u>After Hours</u>
Initial Connection Fee	\$15.00	\$45.00	\$75.00	\$45.00	\$75.00
Normal Reconnection Fee	\$15.00	\$45.00	\$75.00	\$45.00	\$75.00
Disconnection Fee	\$0.00	\$45.00	\$75.00	\$45.00	\$75.00
Violation Reconnection Fee	\$15.00	Actual Cost	Actual Cost	\$50.00	\$80.00
Premise Visit Fee (in lieu of disconnection)	\$10.00	\$55.00	\$85.00	\$0	\$0
Premise Visit	\$0	\$0	\$0	\$55.00	\$85.00

<sup>4</sup> See Docket 050096-WS, In re: Request for revision of Tariff Sheets 14.0 and 15.1 to change request for meter test by customer and premise visit charge, by Marion Utilities, Inc.

	<u>Current</u>	<u>Proposed</u>		<u>Commission Approved</u>	
		<u>Normal Hours</u>	<u>After Hours</u>	<u>Normal Hours</u>	<u>After Hours</u>
<u>Wastewater</u>					
Initial Connection Fee	\$15.00	\$45.00	\$75.00	\$45.00	\$75.00
Normal Reconnection Fee	\$15.00	\$45.00	\$75.00	\$45.00	\$75.00
Disconnection Fee	\$0.00	\$45.00	\$75.00	\$45.00	\$75.00
Violation Reconnection Fee	Actual Cost	Actual Cost	Actual Cost	Actual Cost	Actual Cost
Premise Visit Fee (in lieu of disconnection)	\$10.00	\$55.00	\$85.00	\$0	\$0
Premise Visit	\$0	\$0	\$0	\$55.00	\$85.00

Meter Installation Charges

The Utility requests an increase in its meter installation charge. East Marion's current meter installation charge is \$70.00. The Utility's meter installation charge was last established in 2002. East Marion has requested to increase its meter installation charge to \$195.00. The Utility does not have on-site personnel to perform this service and has to contract out meter installations. East Marion provided cost estimates for the meter installation from a third-party vendor. We find the meter installation charge to be reasonable. We have approved meter installation charges of \$193<sup>5</sup> in 2008, \$200<sup>6</sup> in 2004 and \$250<sup>7</sup> in 2003. Based on the above, the Utility is authorized to collect meter installation fees of \$195 for 5/8" x 3/4" meters and actual cost for all others.

Tap-In Fee

In order to provide separate irrigation service, East Marion has requested to implement a new tap-in fee. The Utility is requesting three different charges for the tap-in fee. The proposed tap-in fees are \$1,400, \$1,800, and \$2,600 for the short, long, and extra-long irrigation service

<sup>5</sup> See Order No. PSC-08-0483-PAA-WU, issued July 25, 2008, in Docket No. 070627-WU, In re: Application for staff-assisted rate case in Lake County by Raintree Utilities, Inc.

<sup>6</sup> See Order No. PSC-04-1256-PAA-WU, issued December 20, 2004, in Docket No. 041040-WU, In re: Application for certificate to operate water utility in Baker and Union Counties by B & C Water Resources, L.L.C.

<sup>7</sup> See Order No. PSC-03-0740-PAA-WS, issued June 23, 2003, in Docket No. 021067-WS, In re: Application for staff assisted rate case in Polk County by River Ranch Water Management, L.L.C.

line installation, respectively. The short installation tap-in fee involves installing the irrigation service line twenty-feet or less where the water main is on the same side of the road as the meter. The long installation tap-in fee involves installing the irrigation service line forty-feet or less where the water main is on the opposite side of the road. Finally, the extra-long installation tap-in fee involves installing the irrigation service line forty feet or more on the opposite side of a cul-de-sac. East Marion does not have on-site personnel to perform these services and has to contract out these services. We have reviewed the estimates provided by the Utility from a third-party vendor. Based on the estimates, the proposed tap-in fees are reasonable.

#### Customer Notice of Tariff Changes

East Marion shall file a proposed customer notice to reflect our approved tariff changes, including the change to the connection/transfer sheet, the returned check charge, the miscellaneous service charges, meter installation charges, and tap-in fees. The approved changes shall be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(2), F.A.C., provided the notice has been approved by our staff. Within ten days of the date the order is issued, the Utility shall provide notice of the tariff changes to all customers. Within ten days after the date the notice was sent, East Marion shall provide an affidavit for proof that the customers have received notice.

#### Summary

East Marion's proposal to amend its tariffs is denied in part and granted in part as filed. The Utility is not permitted to amend its connection/transfer sheet to include a requirement that the applicant provide his Social Security number. The Utility is permitted to amend its connection/transfer sheet to require one of several acceptable forms of identification. We find that the Utility shall be permitted to collect its actual costs for returned checks. Also, the Utility's proposed premise visit in lieu of disconnection shall be changed to premise visit, and its violation reconnection charge for water shall be \$50.00 for normal hours and \$80.00 for after hours. With those exceptions, all other of East Marion's requested miscellaneous service charges, meter installation charges, and tap-in fees are approved. If the Utility files revised tariff sheets within 30 days of the effective date of the Order which are consistent with our vote, our staff is given administrative authority to approve the revised tariff sheets upon verification that the tariffs are consistent with our decision. If the revised tariff sheets are filed and approved, the connection/transfer sheet, returned check charge, miscellaneous service charges, meter installation charges, and tap-in fee shall become effective for connections made on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(2), Florida Administrative Code (F.A.C.), provided customer notice was timely given and provided that no protest is filed.

#### Prior Applicants for Irrigation Meters

We have received correspondence from four customers (Mr. David Greco, Mr. Joseph Singel, Mr. Terry Will, and Mr. Earl Turner) who have all requested irrigation meters. In all instances, the customers were told that service would not be provided until after we approved the new meter installation rate. At an informal meeting held on November 14, 2008, with East Marion, our staff informed East Marion that pursuant to Rule 25-30.520, F.A.C., a utility could

not refuse to provide service within its certificated areas in accordance with the terms and conditions on file with us.

By this Order we have approved the Utility's new meter installation charge and tap-in charge. However, these four customers, and any other customers who have requested an irrigation meter prior to April 7, 2009, shall only be charged the rates in effect at the time of their application. The Utility shall be required to provide irrigation meters to those customers at the current tariff rate of \$70.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that East Marion Sanitary Systems, Inc.'s application for approval to amend its tariff sheets is denied in part and approved in part as set forth in the body of this Order. It is further

ORDERED the Utility is not permitted to amend its connection/transfer sheet to include a requirement that the applicant provide his Social Security number. The Utility is permitted to amend its connection/transfer sheet to require one of several acceptable forms of identification. The Utility is permitted to collect its actual costs for returned checks. The Utility's proposed premise visit in lieu of disconnection shall be changed to premise visit, and its violation reconnection charge for water shall be \$50.00 for normal hours and \$80.00 for after hours. All other of East Marion's requested miscellaneous service charges, meter installation charges, and tap-in fees are approved. It is further

ORDERED that if the Utility chooses to amend its connection/transfer sheet to require one of several acceptable forms of identification consistent with our direction, it must provide our staff with a copy of the revised tariff within 30 days of the effective date of the Order. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that East Marion Sanitary Systems, Inc.'s shall file revised tariff sheets and a proposed customer notice to reflect the approved tariff amendments. It is further

ORDERED that the tariffs shall be approved upon our staff's verification that the tariffs are consistent with our decision herein. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. It is further

ORDERED that the approved tariff amendments shall not be implemented until our staff has approved the proposed customer notice and the notice has been received by the customers as set forth in the body of this Order. It is further

ORDERED that East Marion Sanitary Systems, Inc.'s shall provide proof of the date notice was given no less than ten days after the date of the notice. It is further

ORDERED any customer who has requested an irrigation meter from East Marion Sanitary Systems, Inc. prior to April 7, 2009, shall only be charged the rates in effect at the time of their application. The Utility shall be required to provide irrigation meters to those customers at the current tariff rate of \$70.

ORDERED upon expiration of the protest period, if a timely protest is not filed, a Consummating Order shall be issued and the docket shall remain open for 30 days from the issuance date of the Consummating Order, to allow the Utility time to file the revised tariff sheet. Upon staff's verification that the tariff sheet complies with the order, the tariff sheet shall be stamped approved and the docket shall be closed administratively. In the event that a timely protest is filed, and the Utility files revised tariff sheets reflecting the approved charges, the tariff shall remain in effect with any increases held subject to refund pending resolution of the protest.

By ORDER of the Florida Public Service Commission this 27th day of April, 2009.

  
\_\_\_\_\_  
ANN COLE  
Commission Clerk

( S E A L )

LCB

**NOTICE OF FURTHER PROCEEDINGS**

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 18, 2009.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.