

**Ruth Nettles**

090392-WS

**From:** Trina Collins [TCollins@RSBAttorneys.com]  
**Sent:** Wednesday, November 04, 2009 9:52 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Jennifer Brubaker; jphoy@uiwater.com; keweeks@uiwater.com; Martin Friedman; Christian W. Marcelli; Trina Collins  
**Subject:** Filing in Docket No.: 090392-WS; Application of Utilities, Inc. of Pennbrooke for an Increase in Water and Wastewater Rates in Lake County, Florida  
**Importance:** High  
**Attachments:** Brubaker (Attorney Supervisor) 01 (filing re NSF check charges).11-04-2009.pdf

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- b. Docket No.: 090392-WS; Application of Utilities, Inc. of Pennbrooke for an Increase in Water and Wastewater Rates in Lake County, Florida - Filing the Utility's response to Jennifer Brubaker, Attorney Supervisor's October 28, 2009 letter regarding Utilities, Inc. of Pennbrooke proposing NSF check charges when it receives an NSF check from a customer.
- c. Utilities, Inc. of Pennbrooke
- d. 2 Pages.
- e. Letter to Jennifer Brubaker, Attorney Supervisor, Florida Public Service Commission - 2 pages.

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MARTIN S. FRIEDMAN, P.A.  
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November 4, 2009

VIA E-MAIL

Jennifer Brubaker, Attorney Supervisor  
Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

RE: Docket No.: 090392-WS; Application of Utilities, Inc. of Pennbrooke for an Increase  
in Water and Wastewater Rates in Lake County, Florida  
Our File No. 30057.177

Dear Ms. Brubaker:

This correspondence is in response to your October 28, 2009 letter regarding  
Utilities, Inc. of Pennbrooke proposing NSF check charges when it receives an NSF check  
from a customer.

As you are no doubt aware, Section 832.07, Florida Statutes, grants to every  
recipient of a dishonored check the right to demand payment in the full amount of such  
check, plus a service charge as set forth in that Statute. This is a statutory fee to which a  
Utility, just as any other business, may impose. As such, we do not believe that it is  
necessary for a Utility to have an approved NSF check charge prior to being able to  
impose such charge upon a customer so long as such charge is imposed in accordance  
with Section 832.07, Florida Statutes. If such charge was required to be included in the  
Utility's Tariff, would you also have to include that if the Utility sued the customer for  
the dishonored check, would the Utility also have to include the Utility's entitlement to  
court costs and attorneys fees if it is successful in such action. Those rights to court costs  
and attorneys fees are also statutorily set forth in Section 832.07, Florida Statutes.

Would the Tariff also have to include a Utility's right to treble damages of  
\$1,000.00, whichever is greater, should one of its customers be found in violation of  
Section 812.14 in a civil lawsuit? These types of charges which the legislature has

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specifically allowed to be collected by utility companies should not also then have to have a separate level of approval by being included in the Utility's Tariff.

Notwithstanding my disagreement with the position in which you have taken in this matter, I have instructed the Utility to cease to collect NSF check charges until the Commission has determined that it is not necessary to have such charges established in a Utility Tariff or the Utility has such a provision in its Tariff.

Should you have any questions or concerns regarding this filing, please do not hesitate to give me a call.

Very truly yours,



MARTIN S. FRIEDMAN  
For the Firm

MSF/tlc

cc: Ann Cole, Commission Clerk, Office of Commission Clerk (via e-filing)  
John Hoy, Chief Regulatory Officer (via e-mail)  
Ms. Kirsten E. Weeks (via e-mail)

M:\1 ALTAMONTE\UTILITIES INC\PENNBROOKE\(.177) 2009 Rate Case\Brubaker (Attorney Supervisor) 01 (filing re NSF check charges).doc