

Marguerite McLean

080562-WU

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Sent: Wednesday, November 17, 2010 4:05 PM
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Cc: REILLY.STEVE
Subject: RE: Office of Public Counsel' Motion for Commission Hearing in Docket No. 080562-WU
Attachments: 080562-WU Motion for Commission Hearing.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Stephen C. Reilly, Associate Public Counsel
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b. **Docket No. 080562-WU**

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.

c. Document being filed on behalf of Office of Public Counsel.

d. There are a total of 3 pages.

e. The document attached for electronic filing is **OPC's Motion for Commission Hearing**

Thank you for your attention and cooperation to this request.

Phyllis W. Philip-Guide
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Office of Public Counsel
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DOCUMENT NUMBER DATE

09490 NOV 17 2010

11/17/2010

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.

Docket No. 080562-WU

Filed: November 17, 2010

MOTION FOR COMMISSION HEARING

The Office of Public Counsel (“OPC”), on behalf of all of the customer Intervenor in this docket, by and through their undersigned attorney, hereby move that a duly appointed panel of Commissioners of the Florida Public Service Commission (“PSC” or “Commission”) conduct the formal evidentiary hearing for this docket, and issue a final order consistent with the evidence presented at the hearing, and in support thereof state:

1. The Commission’s staff is considering making a recommendation to the Commission that the hearing to be conducted in this docket be assigned to a law judge from the Division of Administrative Hearings (“DOAH”).
2. The assignment of a small water case to DOAH is relatively unprecedented, and in this case both unnecessary and less desirable than following the Commission’s long-standing practice of assigning these cases to a panel of PSC Commissioners.
3. It is the Commission and its staff that has the unique expertise and statutory duty to consider the factual and legal evidence to determine if a utility is properly following the requirements of its tariffs and the applicable Florida Statutes and Commission rules. The customer Intervenor are opposed to any potential recommendation that this duty be assigned to another agency.

DOCUMENT NUMBER DATE
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4. East Marion Sanitary Systems, Inc. ("Utility") is a very small Class C water and wastewater utility. All of OPC's efforts in this docket to date have been directed to resolving the dispute between the Utility and some of its customers in the most inexpensive and cost-effective way possible. Given the very small size and gross revenues of the Utility, OPC believes 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 the irrigation meter controversy. Assigning this case to DOAH will unnecessarily increase the cost of litigating this dispute. OPC and the customer Intervenors believe the public interest will be better served if the Commission continues its long-standing practice and assigns this case to a panel of PSC Commissioners.

WHEREFORE, for the reasons stated above, OPC respectfully requests the Commission to not consider assigning this case to DOAH, but rather have a panel of PSC Commissioners conduct the formal evidentiary hearing, with the hearing to be scheduled at a convenient time within or as close as practical to the Utility's certificated service area.

Respectfully submitted,



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Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 080562-WU

I HEREBY CERTIFY that a true and correct copy of the foregoing **Motion for Commission Hearing** has been furnished by U.S. Mail and electronic mail to parties who have provided e-mail addresses, on this 17th day of November, 2010.

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