



Public Service Commission  
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

**DATE:** DECEMBER 26, 2002

**TO:** DIRECTOR, DIVISION OF THE COMMISSION  
ADMINISTRATIVE SERVICES (BAYÓ)

**FROM:** DIVISION OF ECONOMIC REGULATION (SARGENT)  
OFFICE OF THE GENERAL COUNSEL (JAEGER)

**RE:** DOCKET NO. 021087-WS - REQUEST FOR APPROVAL OF NEW CLASS  
OF SERVICE FOR NON-POTABLE WATER CUSTOMER IN BREVARD  
COUNTY BY SERVICE MANAGEMENT SYSTEMS, INC.

**AGENDA:** 01/07/02 - REGULAR AGENDA - TARIFF FILING - INTERESTED  
PERSONS MAY PARTICIPATE

**CRITICAL DATES:** 60-DAY SUSPENSION DATE: JANUARY 17, 2002

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\021087.RCM

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CASE BACKGROUND

Service Management Systems, Inc. (SMS or Utility) is a Class C water and wastewater utility operating in Brevard County. SMS formerly operated the utility systems under the name of Aquarina Developments, Inc., and has operated under Certificates Nos. 517-W and 450-S since November 19, 1989. This utility provides service to approximately 257 customers in the utility's certificated territory. According to the utility's 2001 annual report, total gross revenues were \$197,489 and \$101,839 for water and wastewater, respectively. The utility reported operating expenses of \$116,875 for water and \$78,219 for wastewater.

On January 26, 1996, Aquarina Developments, Inc. (Aquarina), filed an application to change the name of the utility to SMS. According to the application, the effective date of the name change was January 1, 1996. A corporate reorganization that resulted in utility assets being transferred from Aquarina to SMS, a subsidiary

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of Aquarina, was approved by Order No. PSC-97-0206-FOF-WS, issued on February 21, 1997.

In a letter dated September 9, 2002, Tom McMullen, a customer of SMS, expressed his concern to the Commission over the utility's rates and quality of service. During a phone conversation with staff on October 18, 2002, Mr. McMullen specifically noted a new proposed rate for common area irrigation of the Aquarina Development. Staff explained to Mr. McMullen the utility's right to charge for service provided by the utility and the provisions of Section 367.091(5), Florida Statutes. Staff also assured Mr. McMullen that staff would evaluate the utility's application for a new class of service to ensure that it was fair, just, reasonable, and not unfairly discriminatory.

On October 18, 2002, staff also contacted James Bates, President of SMS by telephone. During this conversation, Mr. Bates informed staff that there are approximately 8 acres of landscaped common area of the Aquarina Development for which SMS provides non-potable water for irrigation. This service has been provided at no charge for several years, but Mr. Bates stated that the utility did intend to begin charging the Aquarina Community Services Association, Inc. (ACSA), the master homeowners association of the Aquarina community. Mr. Bates stated that a preliminary notice was sent to ACSA to inform them that this charge for common area irrigation would begin January 1, 2003. Mr. Bates was informed by staff that SMS was required by Section 367.091(5), Florida Statutes, to request approval by the Commission for this new class of service.

On October 21, 2002, SMS filed for approval of a new class of bulk irrigation with the Commission. With its initial filing, the utility provided the Commission with the requested flat rate, the computation and determination of said rate, maps defining the areas for which non-potable irrigation would be provided for this class of service, and other circumstances relating to the request for a flat, non-metered rate. While all other circumstances remained the same, two revisions were requested to the rate for the new class of service due to mathematical errors. This changed the 60-day suspension date to January 17, 2003.

The Commission has jurisdiction over this subject matter pursuant to Sections 367.081 and 367.091, Florida Statutes.

**ISSUE 1:** Should SMS's request for a new class of service for common area bulk irrigation be approved?

**RECOMMENDATION:** Yes, SMS's request for a new class of service for common area bulk irrigation should be approved. The utility should be allowed to charge the recommended rate as specified in the staff analysis. The utility should file a new tariff sheet which is consistent with the Commission's vote within 30 days of issuance of the Consummating Order. Staff should approve the tariff sheet upon verification that the tariff is consistent with the Commission's decision. If the new tariff sheet is filed and approved, the common area bulk irrigation rate should become effective on or after the stamped approval date of the tariff sheet, if no protest is filed. (SARGENT)

**STAFF ANALYSIS:** In addition to water and wastewater services, SMS provides non-potable water for irrigation and fire protection use. This irrigation service has been provided since the utility began operation. The common areas of Aquarina Development had been irrigated for no charge until an irrigation rate was set in Docket No. 941234-WS. By Order No. PSC-95-1417-FOF-WS, issued November 21, 1995, the Commission approved a non-potable gallonage rate for all metered irrigation. This gallonage rate has been used for all non-potable irrigation within the utility's service area where meters have been installed. With its filing on October 21, 2002, SMS requests a bulk irrigation rate for those common areas of the development which have not been metered.

Rule 25-9.005(4), Florida Administrative Code, states:

Whenever a new or additional service classification or rate schedule is filed with the Commission, the information required by subsection (1) above need not be furnished. In lieu thereof, a statement shall be filed stating the purpose and reason for the new service classification or schedule and, if determinable, the estimated annual revenue to be derived therefrom and the estimated number of customers to be served thereby.

Mr. James Bates, President of SMS, provided staff with a description and map of the common area where the bulk irrigation service would be utilized. The area is approximately 7.86 acres of landscaped entry way and development frontage on US RT 1 in Melbourne Beach. The ACSA would be the only customer of this class

of service as it is the master homeowner's association of the Aquarina Development. Annual revenues generated by this new class of service would be approximately \$7,936.

This landscaped common area, along with all other common areas within the development, is supplied by a 12-inch ductile iron main. While areas further from the main have been metered as the lines are reduced in size, this 7.86 acre area is fed directly from the main. Approximately 20 connections make up the irrigation system of this common landscaped property. The utility indicated that installing meters on each of these connections would be cost prohibitive since the connections existed prior to the service availability charges of SMS being established by Order No. 23812, issued November 27, 1990. The utility is concerned that installing a master meter on the 12-inch main, in addition to the expense, would require calculations be performed each month to deduce what water was actually used for irrigation.

While these circumstances are noted, staff is concerned with approving the use of a bulk flat rate for this class of service. First, SMS is located in the St. Johns River Water Management District (SJRWMD) which consists entirely of a water use caution area. While SMS has metered and charged a gallonage rate for irrigation in other areas of its territory, this remaining common area has not yet been metered. This is a concern of the Commission and is not consistent with the goals of the SJRWMD. Second, it is the practice of this Commission, in cooperation with the five water management districts of Florida, that whenever approving rates the Commission does so with a concern for the rates' effects on water conservation. Further, Rule 25-30.443 (2)(e), Florida Administrative Code states:

In designing rates, the base facility and usage charge rate structure shall be utilized for metered service.

SMS is requesting to begin charging for a service which was previously provided free, but staff believes this does not have the same impact on conservation as the base facility and usage charge. Finally, because of the non-conservation effect of a bulk rate, staff recommends approving this bulk rate with the understanding that this rate, along with the costs of metering this common area, will be reviewed as part of the utility's Staff Assisted Rate Case which was received on December 10, 2002, in Docket No. 021228-WS.

For the reasons and concerns noted above, staff believes that the use of a bulk irrigation rate should be approved in this instance pending thorough review of the utility's rates as part of its Staff Assisted Rate Case.

Section 367.091(6), Florida Statutes, states:

An application to establish, increase, or change a rate or charge other than the monthly rates for service pursuant to s. 367.081 or service availability charges pursuant to s. 367.101 must be accompanied by a cost justification.

As previously mentioned, all other areas supplied with non-potable water for irrigation have been metered, and usage is billed utilizing the Commission approved gallonage rate of \$0.56/kgal. By first determining the average usage for each metered irrigation area, then dividing by the total landscaped acreage (total acreage - roadways, houses, etc.), SMS was able to determine the average monthly use of non-potable irrigation per acre. This amount of usage was then multiplied by the landscaped area within the subject 7.86 acres of common property (6.67 acres), to determine an estimated monthly usage for the non-metered common area of 1,180,984 gallons. This average per acre usage at the current metered rate of \$0.56/kgal results in the requested monthly flat rate of \$661.35. Staff believes that the above calculations fairly estimate the average irrigation uses of the non-potable water supplied by SMS, and the resulting monthly rate is reasonable.

During phone conversations, and by letter, SMS has informed staff that it intends to begin charging the common area bulk irrigation rate as of January 1, 2003. SMS has stated that it will voluntarily hold all revenues generated by this new class of service subject to refund pending the resolution in this docket.

For the reasons stated above, staff recommends that SMS's request for a new class of common area bulk irrigation be approved. The utility should be allowed to charge the recommended rate of \$661.35 per month for irrigation of common areas for which there is no practical measure of monthly usage. The utility should file a new tariff sheet which is consistent with the Commission's vote within 30 days of issuance of the Consummating Order. Staff should approve the tariff sheet upon verification that the tariff is consistent with the Commission's decision. If the new tariff sheet

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is filed and approved, the common area bulk irrigation rate should become effective on or after the stamped approval date of the tariff sheet, if no protest is filed.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. If Issue 1 is approved, the new tariff should become effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariffs should remain in effect with common area bulk irrigation charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order. (JAEGER, SARGENT)

**STAFF ANALYSIS:** Yes. If Issue 1 is approved, the new tariff should become effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariffs should remain in effect with common area bulk irrigation charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order.