

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment of water tariff by O&S Water Company Inc., to implement Florida Department of Environmental Protection's requirement under Rule 62-555.360, F.A.C., that backflow prevention devices be tested on an annual basis.

DOCKET NO. 080606-WU
ORDER NO. PSC-09-0146-TRF-WU
ISSUED: March 11, 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 APPROVING TARIFF

BY THE COMMISSION:

BACKGROUND

O & S Water Company, Inc. (O & S or utility) is a Class A utility which provides water service for approximately 2,743 customers in Osceola County. O & S's 2007 annual report shows an annual operating revenue of \$1,165,273 and a net operating income of \$65,484. The service area is located in the St. Johns River Water Management District, where the entire district is considered a water use caution area.

On September 24, 2008, the utility filed an application for approval of a new tariff page requiring that all backflow prevention devices be inspected on an annual basis. The tariff filing was suspended by Order No. PSC-08-0797-PCO-WU, issued December 3, 2008, pending further review of the application. The proposed tariff page is attached as Attachment A. We have jurisdiction pursuant to Sections 367.091 and 367.101, Florida Statutes (F.S.).

DECISION

Section 367.091(6), F.S., states that we may withhold consent to the operation of any or all portions of new rate schedules by a vote to that effect within 60 days, giving a reason or statement of good cause for withholding consent. If consent is not withheld, the proposed rates may be assumed in effect after 60 days. We suspended the utility's filing in December 2008, pending further review.

The purpose of the filing is to address the Department of Environmental Protection (DEP) requirement for an annual inspection of backflow prevention devices that are installed on customers' service lines in the utility's service area, and to require that these customer

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installations be inspected by licensed individuals. The basis for the tariff filing is to comply with DEP Rules 62-555.330 and 62-555.360, Florida Administrative Code (F.A.C.). Attachment B is an additional reference from the American Water Works Association (AWWA) Manual of Practice No. M14 and relates to backflow prevention device installation and testing, specifically from the section of this AWWA reference that discusses Cross-Connection Control Practices. The utility has an approved Cross-Connection Control Program as required by the DEP. One of the items the program mandates is a backflow prevention device on all connections which may represent a source of contamination due to a lawn irrigation system. Not all customers have backflow prevention devices. Utility records show 423 devices installed and in use. The utility was cited with a deficiency by the DEP in February 2008, noting that only 297 of the 423 backflow prevention assemblies were tested in 2007.

Customers are responsible for piping and appurtenances beyond the utility's water meter toward the dwelling. Rule 25-30.231, F.A.C., requires each utility to operate and maintain in safe and proper condition all of the facilities and equipment used in connection with the distribution, regulation, measurement and delivery of water service to the customer up to and including the point of delivery into the piping owned by the customer. Rule 25-30.210(7), F.A.C., defines Point of Delivery for a water system as the outlet connection of the meter for metered service of the point at which the utility's piping connects with the customer's piping. Backflow prevention devices are located within the customer's piping. Therefore, the cost of inspection shall be borne by the customer.

The utility sent letters in 2007 and 2008 to all customers with backflow prevention devices advising of the annual testing requirement as dictated by the DEP's rule. Notice will continue to be sent annually. A list of plumbers certified in backflow inspection has also been provided to these customers. The cost of testing varies between \$30 and \$60, depending upon the vendor. Customers shall have thirty days from the date of the annual notice to complete the testing and provide documentation to the utility.

We find that an effective means to uniformly achieve compliance with the DEP's rules is to include a new tariff page (Attachment A) in the utility's tariff. It shall define with specificity the requirement that annual inspection of backflow prevention devices owned by the customer is necessary. The customer shall bear the cost of the inspection since the device is a customer-owned installation. If the customer fails to have the annual inspection conducted and provide documentation of the test to the utility within 30 days of the notice from company, water service shall be subject to disconnection upon five additional working days' notice to the customer. The notice requirement for discontinuance of service is contained in Rule 25-30.320, F.A.C. This rule provides, under paragraph (2)(a), that service may be discontinued for noncompliance with any state regulation governing such utility service.

Based on the above, we find that the utility's request for new Original Sheet No. 16.1 shall be approved. The utility shall file a proposed customer notice to reflect the approved tariff sheet. The approved tariff sheet shall be effective for service rendered on or after the stamped approval date of the new tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the inspection requirement shall not be implemented until the proposed customer notice has been approved. The utility shall distribute the notice to the customers no later than with the first bill

containing the new tariff sheet and shall provide proof of the date the notice was given no less than 10 days after the date of the notice.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that proposed tariff sheet requiring that all backflow prevention devices be inspected on an annual basis is approved. It is further

ORDERED that the utility shall file a proposed customer notice to reflect the Commission-approved tariff sheet. The approved tariff sheet shall be effective for service rendered on or after the stamped approval date of the new tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code. It is further

ORDERED that the inspection requirement shall not be implemented until Commission staff has approved the proposed customer notice. The utility shall distribute the notice to the customers no later than with the first bill following the effective date of the tariff and shall provide proof of the date the notice was given no less than 10 days after the date of the notice. It is further

ORDERED that if no timely protest to the order is filed by a substantially affected person within 21 days, a Consummating Order shall be issued and the docket shall be closed. In the event there is a timely protest, this docket shall remain open pending resolution of the protest.

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 11th day of March, 2009.

ANN COLE
Commission Clerk

By: Dorothy E. Menasco
Dorothy E. Menasco
Chief Deputy Commission Clerk

(S E A L)

JEH

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 April 1, 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.

ATTACHMENT A

O & S WATER COMPANY, INC.
WATER TARIFF

ORIGINAL SHEET NO. 16.1

BACKFLOW PREVENTION DEVICE ANNUAL TESTING REQUIREMENT

Pursuant to Rule 62-555.360, Florida Administrative Code, the Florida Department of Environmental Protection requires that all backflow prevention devices be inspected at least once every twelve (12) months by a backflow prevention assembly tester possessing a valid Certification recognized by the American Water Works Association.

In compliance with the Department of Environmental Protection's mandate, the Company requires that all customers with backflow prevention devices arrange for an inspection of such devices, at the customers expense, by a certified backflow prevention assembly tester.

If the results of such test are satisfactory, the results shall be documented by the licensed tester and submitted, by the customer, to the Company in a timely fashion. If the test discloses that the device is not functioning satisfactorily, the customer must, at the customer's expense, arrange for the necessary repairs to be made and the assembly retested by a certified tester. The customer will then submit the satisfactory results to the Company annually.

Satisfactory results of such a test must be submitted within one year of the previous test results. If the customer does not arrange for backflow prevention device testing or does not forward copy of the satisfactory results to the Company, service will be subject to disconnection upon five (5) working days notice to the customer.

EFFECTIVE DATE _____

TYPE OF FILING - Tariff

Jack Olsen
ISSUING OFFICER

President
TITLE

ATTACHMENT B

Excerpt from Section 7 – Cross-Connection Control Practices:

7.4 *Typical methods of backflow prevention.* When a hazard has been found and properly classified, effective steps should be taken, when necessary, to require the installation of backflow prevention devices at service connections to prevent possible pollution or contamination of the public system. The devices should be installed on each service connection at the point of delivery and ahead of any outlet.

7.6 *Testing, inspection, and test programs.* Regular testing, inspection, and maintenance of all backflow devices, and appropriate records of the results, are essential parts of any cross-connection program.¹

¹ Backflow Prevention and Cross-Connection Control, American Water Works Association, Manual of Practice No. M14, 1966, November 1980 printing, pp. 12-13.