



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

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COMMISSION
CLERK

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DATE: JULY 3, 2003

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

FROM: OFFICE OF THE GENERAL COUNSEL (BELLAK) *RCB DS*
DIVISION OF ECONOMIC REGULATION (HUDSON) *SH*

RE: DOCKET NO. 030470-WS - PETITION FOR DECLARATORY STATEMENT
CONCERNING INDIVIDUAL WATER METERING FOR GRAND ISLE, A
MULTI-UNIT RESIDENTIAL STRUCTURE IN LEE COUNTY, BY FLORIDA
WATER SERVICES CORPORATION.

AGENDA: JULY 15, 2003 - REGULAR AGENDA - DECISION ON DECLARATORY
STATEMENT - PARTIES MAY PARTICIPATE AT THE COMMISSION'S
DISCRETION

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\030470.RCM

CASE BACKGROUND

On May 30, 2003, Florida Water Services Corporation (Florida Water) filed a Petition for Declaratory Statement (Petition). The Petition noted that Florida Water had previously, on July 16, 2002, filed a proposed tariff requiring individual metering for the new construction of, inter alia, multi-family structures, such as Grand Isle Condominium, with certain exclusions not here relevant. Petition, p. 3. The Petition also noted that this Commission denied the proposed tariff as "premature". Petition, p. 4.

The denial of the proposed tariff requiring individual metering was contained in Order No. PSC-03-0484-TRF-WU, Docket No. 020761-WU, issued April 14, 2003. (Order) Attachment I. Therein, the Commission stated:

DOCUMENT NUMBER

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FPSC-COMMISSION CLERK

DATE: July 3, 2003

While we believe that individual metering tends to promote customer awareness regarding water conservation, we are concerned that approval of this tariff mandating individual metering in all multi-family structures throughout the service territory may be premature. In particular, we are concerned that in some instances, the costs associated with individual metering may exceed the anticipated benefits. An example of possible concerns is illustrated in an informal complaint filed with the Commission by WCI Communities, (WCI) opposing Florida Water's policy of requiring individual metering in mid-rise multi-family and multi-unit structures. [e.s.]

Order, p. 2.

Accordingly, the Commission denied the proposed tariff, and ordered instead that

Commission staff shall conduct a workshop to explore the potential costs and benefits of adopting individual metering in newly constructed multi-unit and multi-family structures. [e.s.]

Order, p. 7.

The Commission also noted in the Order that

denial of this tariff does not prohibit Florida Water from continuing its policy of negotiating for individual metering of multi-family and multi-unit structures. [e.s.]

Order, p. 3.

It is against this background that Florida Water petitions for a Declaratory Statement to the effect that

- A. Florida Water is authorized to require individual water metering at Grand Isles pursuant to the dictates of Order No. PSC-03-0484-TRF-WU; and
- B. At the request of Florida Water or Grand Isle, the Commission shall resolve the issue of individual metering at Grand Isle in the event the parties are not successful

in negotiating a developer agreement that addresses this issue. [e.s.]

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission issue a Declaratory Statement to the effect that Florida Water is authorized to require individual water metering at Grand Isles pursuant to the dictates of Order No. PSC-03-0484-TRF-WU?

RECOMMENDATION: No. The Commission should deny the Petition.

STAFF ANALYSIS: The very example cited by the Commission in its denial of Florida Water's proposed tariff at p. 2 of the Order is the complaint filed by WCI Communities, the developer of Grand Isle Condominium. The letter resolving that complaint stated:

[Florida Water] cannot unilaterally require individual metering because the tariff does not require it. [e.s.]

See, Petition, Exhibit B.

Accordingly, the "dictates of Order No. PSC-03-0484-TRF-WU" are the opposite of the declaratory statement petitioned for by Florida Water. The Order is consistent with the letter resolving WCI Communities' complaint and cited therein. Therefore, Florida Water is not authorized to require individual metering at Grand Isle Condominium and staff recommends that the Petition be denied.

DATE: July 3, 2003

ISSUE 2: Should the Commission issue a declaratory statement to the effect that at the request of Florida Water or Grand Isle, the Commission shall resolve the issue of individual metering at Grand Isle in the event the parties are not successful in negotiating a developer agreement that addresses this issue?

RECOMMENDATION: No. The Commission should deny the Petition.

STAFF ANALYSIS: As in the previous issue, staff is unable to discern any difference between what Florida Water is petitioning for here and what was already previously denied. If negotiations were unsuccessful as to individual metering at Grand Isle and Florida Water sought to require it notwithstanding, both the Commission's complaint resolution letter and the Commission's Order have already informed Florida Water that it "cannot unilaterally require individual metering".

Order, p. 2, Petition, p. 4; Petition, Exhibit B.

If, on the other hand, Grand Isle requested the Commission to resolve the issue, the request would be for the Commission to again consider the same issue already previously resolved in the Commission's letter resolving WCI Communities' complaint.

Petition, Exhibit B.

Accordingly, there is neither a basis nor need for the Declaratory Statement sought by Florida Water and staff recommends that the Petition be denied.

Staff notes that the Order, which was issued PAA, was not protested and that no request for informal conference was filed as to the resolution of WCI Communities' complaint.

Staff further notes that the workshop scheduled pursuant to the Order will appropriately weigh the costs and benefits of individual metering, but that whatever policy changes may eventually occur as a result will be implemented with notice. In contrast, the current notice provided by both the Order and the resolution of WCI Communities' complaint is simply inconsistent with the Declaratory Statement sought by Florida Water.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission votes to dispose of the petition for declaratory statement, the docket should be closed.

STAFF ANALYSIS: If the Commission answers the petition, a final order can be issued and the docket closed.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of
revisions to water tariff
regarding individual metering of
multi-family and multi-unit
structures by Florida Water
Services Corporation.

DOCKET NO. 020761-WU
ORDER NO. PSC-03-0484-TRF-WU
ISSUED: April 14, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER DENYING PROPOSED TARIFF

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Florida Water Services Corporation (Florida Water or utility) is a Class A utility which provides water and wastewater service in 21 of Florida's counties that are located in four of the five Water Management Districts. In 1996, Florida Water implemented a policy mandating individual meters for all new construction of multi-residential housing. The practice was adopted as a water conservation measure and was implemented throughout all of its service areas in Florida.

On July 16, 2002, Florida Water filed proposed revisions to its tariff to codify its longstanding individual metering policy. Florida Water requested that, with respect to new construction, we approve the revisions to the tariffs to recognize the environmental and conservation benefits that come from individual metering of multi-family and multi-unit structures. By Order No. PSC-02-1301-

PCO-WU, issued September 23, 2002, in this docket, we suspended the tariff filing pending further investigation. We have jurisdiction pursuant to Sections 367.091 and 367.101, Florida Statutes.

I. THE TARIFF

Current Implementation

While we believe that individual metering tends to promote customer awareness regarding water conservation, we are concerned that approval of this tariff mandating individual metering in all multi-family structures throughout the service territory may be premature. In particular, we are concerned that in some instances, the costs associated with individual metering of multi-family and multi-unit structures may exceed the anticipated benefits. An example of possible concerns is illustrated in an informal complaint filed with the Commission by WCI Communities (WCI), opposing Florida Waters' policy of requiring individual metering in mid-rise multi-family and multi-unit structures.

Currently, we do not have any policy or rule requiring individual metering of multi-family and multi-unit structures by water utilities. Pursuant to Rule 25-30.255, Florida Administrative Code, each utility shall measure water sold upon the basis of metered volume sales. Thus, master metering multi-family and multi-unit structures is in accordance with our rules. However, we recognize that master metering may not promote conservation goals. Water consumers in multi-unit structures tend to have their water charge included as an unspecified portion of their rent or as an allocation of the property's total bill divided by the number of units in the multi-family or multi-unit structure. When the water charge is a portion of the consumers' rent, the consumer does not pay for actual usage. In turn, there is not a price signal sent to conserve water. Also, it is not equitable for consumers who conserve water to be included in a water charge allocation with consumers who do not conserve. We believe that individual metering of multi-family and multi-unit structures can be beneficial to water conservation for residents of these types of housing structures. However, we do not have enough information to ascertain whether those benefits outweigh the cost of individually metering multi-family and multi-unit structures in all instances.

Since we currently do not have any policy or rules on individual metering of multi-family and multi-unit structures, the only way it can be implemented is through a developer agreement between a developer and the utility. When a developer requests service from a utility, the parties negotiate the metering requirements and any applicable service availability fees are in accordance with the utility's tariff. The only time we become involved in this process is if the parties do not reach an agreement as is the case with WCI. Therefore, denial of this tariff does not prohibit Florida Water from continuing its policy of negotiating for individual metering of multi-family and multi-unit structures.

Customer Complaint

WCI made its informal complaint on November 19, 2002, objecting to Florida Water requiring individual metering for its development. WCI is constructing a development in Florida Water's Burnt Store service area and requested that the development be provided service through master metering. The development is the last planned mid-rise building in the community. WCI has stated it is unaware of any mid-rise buildings within the Burnt Store Marina Community that have individual rather than master meters. WCI has indicated that providing individual metering for each unit would create severe logistical problems, i.e., water pressure and design space for meter location. WCI indicated that to maintain sufficient water pressure at the top of a multi-unit structure, booster pumps would be required and the meters would have to be installed downstream of the pump. A large room would be required to house the meters. WCI stated that a meter room layout would be very complex. Because of the problems identified by WCI, we believe that potentially problematic areas involved with individual metering of multi-family and multi-unit structures throughout the state should be explored more thoroughly. In addition, costs associated with alleviating potential problems should be examined before it is recommended that a tariff of this nature be approved.

The cost effectiveness of individual metering and the amount of water actually saved may decrease significantly in buildings over three or four stories tall. Individual metering of multi-family and multi-unit structures would in essence be similar to going from a flat rate water charge to a metered rate water charge.

It has been our experience that single family residential customers conserve water when going from a flat to metered charge. Usually, the single family residential customer has discretionary use of water that it can conserve. However, customers residing in high-rise structures may not have discretionary use of water. In a high-rise unit or structure, a customer would not have an outside spigot for car washing nor a lawn to water. We believe that individual metering of multi-family and multi-unit structures would cause increased cost to the builder and the utility for meter reading and billing which would ultimately be borne by the customer. However, at this time, we are unable to determine whether any water savings would outweigh the cost.

Local Governments

Other governmental authorities that looked at individual metering of multi-unit and multi-family structures. Also, Florida Water has asked for approval of this tariff in other non-jurisdictional counties. Some of the non-jurisdictional counties used the number of stories in the structure as a basis for whether to approve the tariff. Citrus County has approved Florida Water's tariff for the individual metering of multi-family and multi-unit structures. However, the county's Land Development Code limits the height of a structure to 50 feet at the peak roof line and limits the height of a coastal structure to 35 feet high. This limits the structure to three or four stories. Therefore, Citrus County approved FWS's request and does not believe that individually metering new multi-family and multi-unit structures will be a problem. Hernando County also approved Florida Water's tariff for individual metering of multi-family and multi-unit structures. We have been unable to determine whether Hernando County has any height restrictions on the multi-family and multi-unit structures.

Florida Water attempted to impose its individual metering policy on WCI in Collier County. WCI protested and Collier County Water and Wastewater Authority (CCWWA) granted the developer the right to master meter its development citing that Florida Water's policy was not in its tariff. This decision by CCWWA prompted Florida Water's effort to codify its policy in a tariff. CCWWA denied Florida Water's tariff request. Florida Water has appealed the denial.

Our staff contacted CCWWA and was told that the county does not want to individually meter new or old construction. The county believes that there would be increased cost to individually meter the units and that there are special engineering issues when placing meters in high rise buildings. Some of the existing structures are 140 feet high. It is expected that developers will continue to build high rise buildings to maximize the land use. Collier County does not believe there would be any additional water savings achieved through the individual metering.

As for other governmental authorities, Pasco County does not want to individually meter new or old multi-family or multi-unit structures. Pasco County believes it is cost prohibitive. JEA tried individually metering multi-unit and multi-family structures about 10 years ago. It experienced maintenance problems and fire protection problems when the meters were installed. JEA has gone back to master meters, after a one year trial, and does not anticipate using individual meters in the future. OUC has started to individually meter multi-family and multi-unit new construction. OUC sells an electronic meter to the customer. The customer is then responsible for the meter. The meter is put in the utility closet and the meter is electronically read by the meter reader from the road. Florida Water did not indicate whether a meter with this type of remote meter reading would be used, and we have no information on its costs.

Conservation Initiative

We participated with the Department of Environmental Protection, the Water Management Districts, and the Department of Agriculture in the Florida Water Conservation Initiative (Initiative). The purpose of the Initiative was to find ways to improve efficiency in all categories of water use. In April 2002, a report on the work of the Initiative identified a variety of technological, behavioral, educational, regulatory, and economic methods for improving water use efficiency by the participants of the Initiative. One area of focus in the report was the requirement for more accurate and widespread measurement of water use, including metering and sub-metering. However, the report did not address any of the problems on water pressure and design for meter location. We agree that there should be more accurate and widespread measurement of water, but additional information is

necessary on the cost of mandating individual metering for multi-family and multi-unit structures.

Water Management Districts

St. John's River Water Management District issued a consumptive use permit to one of Florida Water's systems prohibiting the use of master meters to supply potable water to any new multi-family or multi-unit structure connected to the system after the issuance date of the permit. We have a Memorandum of Understanding with all five Water Management Districts in which the parties recognize that it is in the public's interest to engage in a joint goal to ensure the efficient and conservative utilization of water in Florida. We do not intend to stop working jointly with the Water Management Districts, and denying this tariff does not prevent us from effectively carrying out our role in this joint effort. Our role is to conduct a feasibility analysis of the financial and economic impact of requiring individual metering of multi-family and multi-unit structures to arrive at a cost-effective solution. At this time, we do not have enough information to carry out this analysis.

Summary

Although individual metering is required for electric utilities for newly constructed multi-family structures and is encouraged by Water Management Districts, this is the first time a water and wastewater utility has sought permission from us to include a requirement for individual water metering of newly constructed multi-family structures in its tariff. We believe that if such a requirement is approved for FWS, the largest Commission regulated water utility in the State, other utilities will likely follow.

Based on our review, we find that there is reason to question that individual metering is cost-effective and effective at conserving water in all situations under which the tariff would apply. For this reason, we deny the tariff.

II. WORKSHOP

As discussed above, there is a need for more accurate and widespread measurement of water usage. However, we need additional information on the cost of mandating individual metering for multi-family and multi-unit structures. Therefore, it would be appropriate to conduct a workshop to explore the potential costs and benefits of adopting individual metering of newly constructed multi-family structures. We anticipate that developers, Water Management Districts, and utilities will participate in the workshop. Also, the staff of the Department of Environmental Protection, who were lead on the Florida Water Conservation Initiative, have indicated that they are supportive of conducting a workshop.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Water Service's proposed tariff change is denied. It is further

ORDERED that Commission staff shall conduct a workshop to explore the potential costs and benefits of adopting individual metering in newly constructed multi-unit and multi-family structures. It is further

ORDERED that the tariff shall not go into effect during the 21-day noticing period. Likewise, if a protest is filed, the tariff shall not go into effect during the time it takes to resolve the protest. If no protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

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DOCKET NO. 020761-WU
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By ORDER of the Florida Public Service Commission this 14th
day of April, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

(S E A L)

MKS

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.