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Public Service Commission

January 13, 2010

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COMMISSION
CLERK

Mr. Jon B. Stump
Orangedale Utilities, Inc.
528 Majestic Oak Parkway
St. Augustine, FL 32092

Re: Docket No. 090468-WS, Application for grandfather certificate to operate water and wastewater utilities in St. Johns County by Orangedale Utilities, Inc.

Dear Mr. Stump:

This letter is a follow up to the telephone conversations staff had with you on Tuesday, December 29, 2009, Friday, January 8, 2010, and Tuesday, January 12, 2010. This letter addresses the deficiencies found by staff in the application filed on October 2, 2009, and your deficiency response letter dated December 1, 2009. All items must be addressed in order to process the application.

Deficiencies

1. Territory lease. Rule 25-30.035(6), Florida Administrative Code, (F.A.C.) requires evidence that the utility owns or has a long term lease for the land upon which the utility treatment facilities are located. It is our understanding that you intend to revise the lease so that it reflects that Orangedale Utilities, Inc. is leasing the land from Jon M. Stump. Please provide a copy of the revised lease. In addition, please provide a description of the location of the water and wastewater facilities which the lease refers to as Tracts D and E. Also, please note that since Orangedale Utilities, Inc. does not own any of the utility assets, there is no investment for the utility to earn a return on.

Other Information Needed

1. The utility may only charge those rates and charges that were being collected as of January 16, 2009, when St. Johns County turned jurisdiction of privately owned water and wastewater utilities over to the Commission, unless the utility requests and the Commission approves additional rates and charges. For your convenience, many of the Florida Administrative Code Rules mentioned below are enclosed for your review. Please provide revised tariff sheets for the following:
 - a. Residential and General Service Rates. It is our understanding that, although meters had been installed, the utility has not begun to charge metered rates.

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Instead, the utility was collecting, and continues to collect, \$45 for homes with one occupant, \$65 for homes with more than one occupant, and a \$25 vacation rate.

- b. **Miscellaneous Service Charges.** Miscellaneous Service Charges are defined in Rule 25-30.460, F.A.C. Refusal or Discontinuance of Service provisions are described in Rule 25-30.320, F.A.C. We are unclear as to what, if any, miscellaneous service charges the utility was collecting prior to Commission jurisdiction. Your proposed tariff included a \$15 initial connection fee, a \$15 normal reconnection fee, a \$15 violation reconnection fee for water and actual cost for wastewater, and a \$10 premises visit fee. Other documentation you provided included a \$10 late fee, a \$30 reconnection fee, a \$15 returned check charge, and a provision for collection and administrative costs. Please identify which of these charges were collected prior to January 16, 2009. If you wish to obtain Commission approval for other miscellaneous service charges, you will need to provide cost justification. It should be noted that the Commission practice has been to not authorize late fees as high as \$10.00.
- c. **Customer Deposits.** It appears that you are proposing to collect a \$100 initial customer deposit for new customers. Please identify whether this was the utility's practice prior to Commission jurisdiction. In addition, identify what portion of the deposit is for water and what portion is for wastewater. See Rule 25-30.311 for the Commission's policy with regard to customer deposits.
- d. **Customer Bill.** The sample customer bill included in the water and wastewater tariffs does not comply with Rule 25-30.335, F.A.C., which provides that any bill not paid within 21 days of issuance must be followed by a 5 day delinquency notice before a disconnection can occur. Wording to this effect must be included on the customer bill. Please provide revised sample customer bill tariff sheets.
- e. **Service Availability Charges.** The Service Availability Fees and Charges for water on tariff Sheet No. 17.0 includes charges that were not in effect when the Commission received jurisdiction in St. Johns County. Please provide a new tariff sheet with only those charges that the utility was charging as of January 16, 2009, such as meter installation fee of \$450.

We have reviewed the letter you included in your deficiency response regarding your transition of customers and utilities. The history of the utility is interesting; however, once the utility became under the jurisdiction of the Florida Public Service Commission, which was January of 2009, your revenues became subject to our regulatory assessment fees, which cannot be waived. These fees must be paid by March 30, 2010. The annual report for 2009 must also be filed by the same date. As we discussed during our telephone conversation, the utility could apply for a price index and pass through to adjust your future rates to recover the regulatory assessment fees. Also, you should discontinue use of the letter included in your deficiency response as exhibit E. This type of letter is not appropriate at this time since you have not applied for a staff assisted rate case. The rate case would take into account all of your qualifying expenses and gallons sold to determine a base facility charge and a gallonage rate. Information regarding Staff Assisted Rate Case applications and pass through rate adjustments can be obtained by calling Mr. Bart Fletcher at (850) 413-7017.

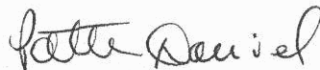
Mr. Jon B. Stump
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The **original and four copies** of the response to the information requested in this letter should be filed with the Commission on or before **February 12, 2010**. When filing the response, please be sure to refer to the docket number and to direct the response to:

Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Should you have any questions concerning the information in this letter, please contact Stephanie Clapp, of my staff, at (850) 413-6997.

Sincerely,



Patti Daniel
Public Utilities Supervisor
Bureau of Certification, Economics & Tariffs

pd/sc

Enclosures

cc: Division of Economic Regulation (Clapp, Kaproth, Fletcher)
Office of the General Counsel (Williams)
Office of Commission Clerk

25-30.460 Application for Miscellaneous Service Charges.

(1) All water and wastewater utilities may apply for miscellaneous service charges. These charges shall be included in each company's tariff and include rates for initial connections, normal reconnections, violation reconnections, and premises visit charges.

(a) Initial connection charges are levied for service initiation at a location where service did not exist previously.

(b) Normal reconnection charges are levied for transfer of service to a new customer account at a previously served location, or reconnection of service subsequent to a customer requested disconnection.

(c) Violation reconnection is a charge that is levied prior to reconnection of an existing customer after discontinuance of service for cause according to subsection 25-30.320(2), F.A.C., including a delinquency in bill payment. Violation reconnection charges are at the tariffed rate for water and actual cost for wastewater.

(d) Premises Visit Charge is levied when a service representative visits a premises at the customer's request for complaint resolution and the problem is found to be the customer's responsibility.

(e) Premises Visit Charge (in lieu of disconnection) is levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

(2) A utility may request an additional charge ("after hours charge") for overtime when the customer requests that the service be performed after normal hours. The after hours charge may be at the same rate specified for the existing charge during normal working hours. If the utility seeks a charge other than the normal working hours charge, the utility must file cost support.

Specific Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.121 FS. History—New 11-30-93.

25-30.320 Refusal or Discontinuance of Service.

(1) Until adequate facilities can be provided, a utility may refuse to serve an applicant if, in the best judgment of the utility, it does not have adequate facilities, or supply to render the service applied for, or if the service is of character that is likely to affect unfavorably service to other customers.

(2) As applicable, the utility may refuse or discontinue service under the following conditions provided that, unless otherwise stated, the customer shall be given written notice and allowed a reasonable time to comply with any rule or remedy any deficiency:

(a) For noncompliance with or violation of any state or municipal law or regulation governing such utility service.

(b) For failure or refusal of the customer to correct any deficiencies or defects in his piping or equipment which are reported to him by the utility.

(c) For the use of utility service for any other property or purpose than that described in the application.

(d) For failure or refusal to provide adequate space for the meter or service equipment of the utility.

(e) For failure or refusal to provide the utility with a deposit to insure payment of bills in accordance with the utility's regulation.

(f) For neglect or refusal to provide reasonable access to the utility for the purpose of reading meters or inspection and maintenance of equipment owned by the utility.

(g) For nonpayment of bills, including nonpayment of municipal sewer service under circumstances specifically provided in Section 159.18(2), F.S., or noncompliance with the utility's rules and regulations in connection with the same or a different type or a different class of utility service furnished to the same customer at the same premises by the same or affiliated utility only after there has been a diligent attempt to have the customer comply, including at least 5 working days' written notice to the customers. Such notice shall be separate and apart from any bill for service. For purposes of this subsection, "working day" means any day on which the utility's office is open and the U.S. Mail is delivered. A utility shall not, however, refuse or discontinue service for nonpayment of a dishonored check service charge imposed by the utility.

(h) Without notice in the event of a condition known to the utility to be hazardous.

(i) Without notice in the event of tampering with regulators, valves, piping, meter or other facilities furnished and owned by the utility.

(j) Without notice in the event of unauthorized or fraudulent use of service. Whenever service is discontinued for fraudulent use of such service, the utility, before restoring service, may require the customer to make at his own expense all changes in piping or equipment necessary to eliminate illegal use and to pay an amount reasonably estimated as the deficiency in revenue resulting from such fraudulent use. Service shall not be discontinued if, prior to the arrival of the utility to discontinue service, the customer has:

1. Paid for all fraudulent use of service;

2. Demonstrated the fraudulent use has ceased;

3. Paid all other applicable fees and charges; and

4. The service condition allowing fraudulent use of service has been corrected.

(3) Service shall be restored when cause for discontinuance has been satisfactorily adjusted.

(4) In case of refusal to establish service, or whenever service is discontinued, the utility shall notify the applicant or customer in writing of the reason for such refusal or discontinuance. In all instances involving refusal or discontinuance of service the utility shall advise in its notice that persons dissatisfied with the utility's decision to refuse or discontinue service may register their complaint with the utility's Customer Relations Personnel and to the Florida Public Service Commission at 1(800)342-3552, which is a toll free number.

(5) The following shall not constitute sufficient cause for refusal or discontinuance of service to an applicant or customer:

(a) Delinquency in payment for service by a previous occupant of the premises unless the current applicant or customer occupied the premises at the time the delinquency occurred and the previous customer continues to occupy the premises and such previous customer will receive benefit from such service.

(b) Failure to pay for appliances or equipment purchased from the utility.

(c) Failure to pay for a different class of service, except where two or more classes of service are rendered to the same customer at the same premises.

(d) Failure to pay the bill of another customer as guarantor thereof.

(e) Failure to pay a dishonored check service charge imposed by the utility.

(6) No utility shall discontinue service to any customer, between 12:00 noon on a Friday and 8:00 a.m. the following Monday or

25-30.311 Customer Deposits.

(1) Deposit required; establishment of credit. Each company's tariff shall contain their specific criteria for determining the amount of initial deposit. Each utility may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with the utilities' rules for prompt payment of bills. Credit will be deemed so established if:

(a) The applicant for service furnishes a satisfactory guarantor to secure payment of bills for the service requested. A satisfactory guarantor shall, at a minimum, be a customer of the utility with a satisfactory payment record. A guarantor's liability shall be terminated when a residential customer whose payment of bills is secured by the guarantor meets the requirements of subsection (5) of this rule. Guarantors providing security for payment of residential customers' bills shall only be liable for bills contracted at the service address contained in the contract of guaranty.

(b) The applicant pays a cash deposit.

(c) The applicant for service furnishes an irrevocable letter of credit from a bank or a surety bond.

(2) Receipt for deposit. A non-transferrable certificate of deposit shall be issued to each customer and means provided so that the customer may claim the deposit if the certificate is lost.

(3) Record of deposits. Each utility having on hand deposits from customers shall keep records to show:

(a) The name of each customer making the deposit;

(b) The premises occupied by the customer when the deposit was made;

(c) The date and amount of deposit; and

(d) A record of each transaction concerning such deposit.

(4) Interest on deposit.

(a) Each public utility which requires deposits to be made by its customers shall pay a minimum interest on such deposits of 6 percent per annum. The utility shall pay an interest rate of 7 percent per annum on deposits of nonresidential customers qualifying under subsection (5) below when the utility elects not to refund such a deposit after 23 months.

(b) The deposit interest shall be simple interest in all cases and settlement shall be made annually, either in cash or by credit on the current bill. This does not prohibit any public utility paying a higher rate of interest than required by this rule. No customer depositor shall be entitled to receive interest on his deposit until and unless a customer relationship and the deposit have been in existence for a continuous period of six months, then he shall be entitled to receive interest from the day of the commencement of the customer relationship and the placement of deposit.

(5) Refund of deposits. After a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the utility shall refund the residential customer's deposits and shall, at its option, either refund or pay the higher rate of interest specified above for nonresidential deposits, providing the customer has not, in the preceding 12 months, (a) made more than one late payment of a bill (after the expiration of 20 days from the date of mailing or delivery by the utility), (b) paid with check refused by a bank, (c) been disconnected for nonpayment, or at any time, (d) tampered with the meter, or (e) used service in a fraudulent or unauthorized manner. Nothing in this rule shall prohibit the company from refunding at any time a deposit with any accrued interest.

(6) Refund of deposit when service is discontinued. Upon termination of service, the deposit and accrued interest may be credited against the final account and the balance, if any, shall be returned promptly to the customer but in no event later than fifteen (15) days after service is discontinued.

(7) New or additional deposits. A utility may require, upon reasonable written notice of not less than 30 days, such request or notice being separate and apart from any bill for service, a new deposit, where previously waived or returned, or an additional deposit, in order to secure payment of current bills; provided, however, that the total amount of the required deposit should not exceed an amount equal to the average actual charge for water and/or wastewater service for two billing periods for the 12-month period immediately prior to the date of notice. In the event the customer has had service less than 12 months, then the utility shall base its new or additional deposit upon the average monthly billing available.

Specific Authority 367.121, 350.127(2) FS. Law Implemented 367.081, 367.111, 367.121 FS. History—Amended 6-1-63, 4-1-69, 9-12-74, 6-10-80, 1-31-84, Formerly 25-10.72, 25-10.072, Amended 10-13-88, 4-25-94.

25-30.335 Customer Billing.

(1) Except as provided in this rule, a utility shall render bills to customers at regular intervals, and each bill shall indicate: the billing period covered; the applicable rate schedule; beginning and ending meter reading; the amount of the bill; the delinquent date or the date after which the bill becomes past due; and any authorized late payment charge.

(2) If the utility estimates the bill, the utility shall indicate on the bill that the amount owed is an estimated amount.

(3) When service is rendered for less than 50 percent of the normal billing cycle, the utility shall prorate the base facility charges as though the normal billing cycle were 30 days, except that the utility may elect not to issue an initial bill for service if the service is rendered during a time period which is less than 50 percent of the normal billing cycle. Instead, the utility may elect to combine the amount owed for the service rendered during the initial time period with the amount owed for the next billing cycle, and issue a single bill for the combined time period. For service taken under flat rate schedules, 50 percent of the normal charges may be applied.

(4) A utility may not consider a customer delinquent in paying his or her bill until the 21st day after the utility has mailed or presented the bill for payment.

(5) Each utility shall establish each point of delivery as an independent customer and shall calculate the amount of the bill accordingly, except where physical conditions make it necessary to use additional meters or points of delivery for one class of service to a single customer on the same premises, or where such multiple meters or delivery points are used for the convenience of the utility.

(6) A utility may not incorporate municipal or county franchise fees into the amount indicated as the cost for service on the customer's bill. Rather, the utility shall show any such franchise fee as a separate item.

(7) The utility shall maintain a record of each customer's account for the most current 2 years so as to permit reproduction of the customer's bills during the time that the utility provided service to that customer.

(8) In the event of unauthorized use of service by a customer, a utility may bill the customer on a reasonable estimate of the service taken. In addition, the utility may assess a fee to defray the cost of restoring service to such a customer provided that the fee is specified in the utility's tariff.

(9) If a utility utilizes the base facility and usage charge rate structure and does not have a Commission authorized vacation rate, the utility shall bill the customer the base facility charge regardless of whether there is any usage.

Specific Authority 350.127(2), 367.121 FS. Law Implemented 367.121 FS. History—Amended 9-14-74, 6-21-79, Formerly 25-10.97, 25-10.097, Amended 11-10-86, 11-30-93.