

Marguerite McLean

090182-SU

From: Trina Collins [TCollins@RSBattorneys.com]
Sent: Tuesday, February 09, 2010 2:38 PM
To: Filings@psc.state.fl.us
Cc: ewallace@niamerica.com; BWilkinson@niamerica.com; donald.clayton@tangibl.com; Bart Fletcher; Curt Mouring; Stan Rieger; Martin Friedman; Christian W. Marcelli; Trina Collins
Subject: Filing in Docket No. 090182-SU; Ni Florida, LLC's Application for Increase in Wastewater Rates in Pasco County, Florida
Importance: High
Attachments: PSC Clerk 22 (Late fees and NSF).ltr.pdf

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- b. Docket No. 090182-SU; Ni Florida, LLC's Application for Increase in Wastewater Rates in Pasco County, Florida - Filing as requested by Staff, the Utility's explanation of the \$219.18 increase in late penalty fees reflected in the Utility's trial balances from September 30, 2009 to November 30, 2009.
- c. Ni Florida, LLC
- d. 3 Pages.
- e. Letter to Commission Clerk - 2 pages; and Wastewater Tariff First Revised Sheet No. 10.0 - 1 page.

DOCUMENT NUMBER-DATE

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2/9/2010

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February 9, 2010

E-FILING

Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket No. 090182-SU; Ni Florida, LLC's Application for Increase in Wastewater Rates in Pasco County, Florida
Our File No.: 43053.03

Dear Ms. Cole:

Staff has requested that the Utility explain the \$219.18 increase in late penalty fees reflected in the Utility's trial balances from September 30, 2009 to November 30, 2009. As stated in its October 30, 2009 letter to the Commission, the Utility ceased to collect the late fees. The additional \$219.18 reflected in the November 30, 2009 trial balance is related to charges collected for Non-Sufficient Fund ("NSF") checks as follows:

October NSF Check Charges	(5 x \$25)	\$125.00
Adjustment for late penalty fee from prior month		(5.82)
<u>November NSF Check Charges</u>	<u>(4 x \$25)</u>	<u>\$100.00</u>
Net change for October and November		\$219.18

Upon researching this matter, it has become apparent that the Utility does not have a tariff directly authorizing the collection of NSF fees. The Utility believes that the collection of NSF fees is a statutory fee authorized by Section 832.07, Florida Statutes,

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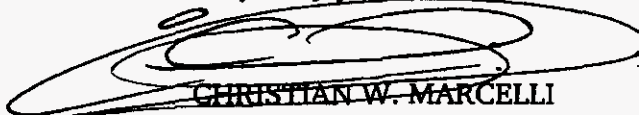
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Ann Cole, Commission Clerk
Florida Public Service Commission
Docket No. 090182-SU
February 9, 2010
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and does not require tariff authorization. However, in recent cases Staff has taken the position that a specific tariff is required in addition to the statutory authorization.¹

Despite our disagreement with Staff's position on this matter, we have instructed the Utility to cease collecting NSF fees until the Commission determines that a tariff is not required or an approved tariff is in place. While the Utility reserves its right to dispute Staff's position on this matter, as a practical matter the Utility is requesting that the Commission approve the attached proposed tariff authorizing NSF fees in accordance with Section 832.07, Florida Statutes.

Very truly yours,



CHRISTIAN W. MARCELLI

For the Firm

CWM
Enclosures

cc: Ed Wallace, President (w/enclosures) (via e-mail)
Mr. Benny Wilkinson (w/enclosures) (via e-mail)
Mr. Donald Clayton (w/enclosures) (via e-mail)
Mr. Bart Fletcher, Division of Economic Regulation (w/enclosures) (via e-mail)
Mr. Curt Mouring, Division of Economic Regulation (w/enclosures) (via e-mail)
Mr. Stanley Rieger, Division of Economic Regulation (w/enclosures) (via e-mail)

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¹ See Docket No. 090392, Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke, Letter dated October 28, 2009; See also Docket No. 090402-WS, Application of Sanlando Utilities Corporation for an Increase in Water and Wastewater Rates in Seminole County, Florida, Letter dated October 13, 2009.

NI FLORIDA, LLC
WASTEWATER TARIFF

(Continued from Sheet No. 9.0)

17.0 DELINQUENT BILLS - When it has been determined that a Customer is delinquent in paying any bill, wastewater service may be discontinued after the Company has mailed or presented a written notice to the Customer in accordance with Rule 25-30.320, Florida Administrative Code.

18.0 TERMINATION OF SERVICE - When a Customer wishes to terminate service on any premises where wastewater service is supplied by the Company, the Company may require reasonable notice to the Company in accordance with Rule 25-30.325, Florida Administrative Code.

19.0 UNAUTHORIZED CONNECTIONS - WASTEWATER - Any unauthorized connections to the Customer's wastewater service shall be subject to immediate discontinuance without notice, in accordance with Rule 25-30.320, Florida Administrative Code.

20.0 ADJUSTMENT OF BILLS - When a Customer has been undercharged as a result of incorrect application of the rate schedule or, if wastewater service is measured by water consumption and a meter error is determined, the amount may be credited or billed to the Customer as the case may be, pursuant to Rules 25-30.340 and 25-30.350, Florida Administrative Code.

21.0 FILING OF CONTRACTS - Whenever a Developer Agreement or Contract, Guaranteed Revenue Contract, or Special Contract or Agreement is entered into by the Company for the sale of its product or services in a manner not specifically covered by its Rules and Regulations or approved Rate Schedules, a copy of such contracts or agreements shall be filed with the Commission prior to its execution. In accordance with Rule 25-9.034 and Rule 25-30.550, Florida Administrative Code. If such contracts or agreements are approved by the Commission, a conformed copy shall be placed on file with the Commission-within 30 days of execution.

22.0 EVIDENCE OF CONSUMPTION - The initiation or continuation or resumption of water service to the Customer's premises shall constitute the initiation or continuation or resumption of wastewater service to the Customer's premises regardless of occupancy.

23.0 NSF CHECK CHARGE - This charge may be levied pursuant to Chapter 832, Florida Statutes, when a customer pays by check and that check is dishonored by the customer's banking institution. The Company will charge an amount authorized by Chapter 832, Florida Statutes.

ED WALLACE
ISSUING OFFICER
CFO
TITLE