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Public Service Commission

March 18, 2010

Mr. Wayne Smith
Black Bear Reserve Water Company, Inc.
P.O. Box 440
Eutis, FL 32736

VIA E-MAIL & U.S. MAIL

Re: Docket No.100085-WU, Application for certificate to operate water utility in Lake County by Black Bear Reserve Water Company, Inc.

Dear Mr. Smith:

A complaint from Mrs. Barbara Jennings was filed in this docket on March 15, 2010, as Document NO. 01800-10. In the letter and its attachments, Mrs. Jennings indicates that, while she is now receiving only one bill for potable water from the Black Bear Reserve Water Co., Inc. (Water Company), she is receiving double bills for irrigation, one from Chalcopyrite Investments, Inc. (Chalcopyrite) and one from the Water Company. In addition, her current bill from the Water Company, includes an unexplained amount of \$266.85, which she disputes as owed.

Mrs. Jennings' letter also indicated that, for the first time this month, the water bills from both entities contained the statement that, if the bill is not paid within 3 days after the payment due date, service interruption will occur without further notice. Further, Mrs. Jennings' letter indicates that last month she was told that the Water Company will turn off her water and pull her irrigation box if she pays Chalcopyrite for irrigation water this month.

Please be advised that pursuant to Rule 25-30.335(4), Florida Administrative Code (F.A.C.), 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. In addition, Rule 25-30.320(2), F.A.C., lists the only circumstances under which a utility may refuse or discontinue service. Disconnection for nonpayment of bills is allowed only after there has been a diligent attempt to have the customer comply, including at least 5 working days' written notice to the customer separate and apart from any bill for service. (Copies of these rules are attached.)

Mrs. Jennings' letter appears to contradict statements that the Water Company and Chalcopyrite have verbally made to staff that, until billing rights are resolved, customers will only receive one bill for each service and there would be no threats of service disconnection, regardless of the amounts paid and to which entity. Staff respectfully requests that Water Company not discontinue service for failure of customers to pay until the property issue is resolved.

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Please provide a detailed response to Mrs. Jennings' complaint, including (1) why she is being billed for irrigation water by both the Water Company and Chalcopyrite, (2) what is currently being done to resolve the contract dispute between the Water Company and Chalcopyrite, (3) why the Water Company is not following Rules 25-30.320 and .335, F.A.C., and (4) a detailed explanation of all the charges on Mrs. Jennings' current bill. Your response should copy both Mrs. Jennings and Mr. Martin S. Friedman, Esq. The response should be filed in the docket by electronic transmission no later than Monday, March 22, 2010. Please call the Office of the Commission Clerk at (850) 413-6770 for instructions on how to file by electronic transmission.

If you have any questions you may contact me at (850) 413-6808, pdaniel@psc.state.fl.us; a member of my staff, Ms. Patricia Brady at (850) 413-6686, pbrady@psc.state.fl.us; or staff's legal counsel, Ms. Lorena Holley, Esq., at (850) 413-6197, lholley@psc.state.fl.us.

Sincerely,



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

PD/PB:kb

Enclosure

cc: Mrs. Barbara Jennings
Martin S. Friedman, Esq.
Division of Economic Regulation (Brady, Williams)
Office of the General Counsel (Holley)
~~Office of Commission Clerk~~

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.

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

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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 between 12:00 noon on the day preceding a public holiday and 8:00 a.m. the next working day; provided, however, that this prohibition shall not apply when:

(a) Discontinuance is requested by or agreed to by the customer; or

(b) A hazardous condition exists; or

(c) Meters or other utility-owned facilities have been tampered with; or

(d) Service is being obtained fraudulently or is being used for unlawful purposes.

Specific Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.111, 367.121 FS. History--Amended 9-12-74, 4-3-80, 10-25-84, Formerly 25-10.74, 25-10.074, Amended 11-10-86, 1-1-91, 1-7-93, 11-30-93, 10-28-98.

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ADDRESSES:

Mrs. Barbara Jennings

P.O. Box 1503

Mount Dora, FL 32756

Martin S. Friedman, Esq.

Rose, Sundstrom & Bentley, LLP

2180 West State Road 4343, Suite 2118

Longwood, FL 32779

Wayne Smith's e-mail

blackbearwater@centurylink.net