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State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

COMMISSION  
CLERK

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** August 5, 2010

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Daniel, Walden, Kaproth)  
Office of the General Counsel (Brown) *MB JSC*

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*to*

**RE:** Docket No. 090366-WU – Application for certificate to operate water Utility in Marion County by Arma Water Service, LLC.  
County: Marion

**AGENDA:** 08/17/10 – Regular Agenda – Proposed Agency Action Issues 2, 3, and 4 – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\090366.RCM.DOC

### Case Background

On July 14, 2009, Arma Water Service, LLC (Arma or Utility) filed an application for an original water certificate in Marion County. The proposed service area includes 22 duplexes, approximately 96 homes on private wells, and additional vacant lots in the Leighton Estates subdivision in Ocala. The Utility currently provides water service to the 22 duplexes (44 connections) at no charge. The area is in the St. Johns River Water Management District. No central wastewater service is provided and therefore each home has a septic tank.

In 2004, several of the private wells in the area failed. Marion County subsequently required that single and multi-family homes could not construct a private well unless the homes

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were on five acre tracts or the wells were owned by a permitted water system. The Utility's owners asked the County Commission for authority to construct a water system. County Resolution No. 05-R-23 was approved on January 18, 2005, authorizing construction of a community water system with the condition that no surrounding residential lots would be forced to hook up to the system. The Utility has been providing water service free of charge to its customers; therefore, the system is exempt from Commission regulation. However, the Utility wants to begin charging for service, which would make it subject to Commission regulation pursuant to Sections 367.011 and 367.021(12), Florida Statutes (F.S.).

A customer meeting was held in the Marion Oaks Community Center on July 15, 2010. The meeting was noticed to all renters and property owners by mail, as well as published in the local newspaper. No customers or property owners attended the meeting, although an aide for a local Senator did attend.

The Utility's water facilities include a 4" well with a submersible pump and a 5,000 gallon hydropneumatic tank. Water is chlorinated prior to entering the pressure tank and then pumped to the distribution system. The Department of Environmental Protection was not able to explain to staff how this system was constructed without a PSC certificate, but did note that there are no outstanding enforcement issues.

This recommendation addresses the Utility's application for an original certificate and initial rates and charges. The Commission has jurisdiction pursuant to Sections 367.031, 367.045, and 367.081, F.S.

### **Discussion of Issues**

**Issue 1:** Should the Utility's application for a water certificate be approved?

**Recommendation:** Yes, Arma should be granted Certificate No. 652-W to serve the territory described in Attachment A effective the date of the Commission's vote. The resultant order should serve as Arma's water certificate and it should be retained by the Utility. (Daniel, Walden, Brown)

**Staff Analysis:** As stated in the case background, Arma filed its application for a water certificate to provide service in Marion County on July 14, 2009. The applicant filed its final deficiency response on June 21, 2010. The application is in compliance with the governing statute, Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for an original certificate.

According to the Utility owners, Marion County would only issue building permits if homes in Leighton Estates were built on five acre tracts or served by a public water system for tracts of less than five acres. The Board of County Commissioners of Marion County approved the issuance of a special use permit for the construction of a community water system on 4.49 acres on January 18, 2005.

The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code (F.A.C.). Several objections were received from residents of single family homes in the proposed service area stating that they did not want to have to connect to the water system. On April 1, 2010, letters were sent to each objector clarifying that the County's Resolution No. 05-R-23 provided that no surrounding residential lots would be forced to connect to the public water system. The objectors were given until April 16, 2010, to respond if they wanted a formal hearing. None of the objectors responded. There have been no other objections to the notice of application and the time for filing such has expired. As stated previously, a customer meeting was held on July 15, 2010, in the Marion Oaks Community Center, but no customer or property owners attended.

Adequate service territory and system maps and a territory description have been provided, as prescribed by Rules 25-30.033(1)(l),(m) and (n), F.A.C. The proposed service territory includes 22 duplexes that the Utility has been serving since 2005, as well as 96 single family homes on private wells and several other vacant lots. The Utility's intent is to be available to provide service to the additional homes should the private wells fail and to serve the vacant lots if homes are constructed on them. A description of the territory requested by the applicant is appended to this memorandum as Attachment A. The applicant also submitted a copy of an executed and recorded warranty deed in the name of the Utility for the land on which the water facilities are located.

The applicant appears to have the financial and technical ability to provide water service to the proposed service area. The Utility owners indicated that they will make the financial and operating commitment necessary for the Utility to be successful in its endeavor to provide water service to the customers within the proposed service territory. Towards that end, the applicant has retained a licensed professional for operation of the water plant system as well as a part time

billing clerk. Staff has reviewed the financial statements of the Utility owners and they appear to have adequate resources to support the Utility during the initial years of operation, as demonstrated by the owners' operation of the Utility since 2005 at no charge to the customers.

The owners understand that the Utility's books and records must be maintained according to the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA), that they will be required to file annual reports, and pay regulatory assessment fees. In addition, the applicant is aware that it may not charge rates, serve outside its certificated territory, or sell the Utility without prior Commission approval.

Based on the above information, staff believes that it is in the public interest to grant the application for an original water certificate. Accordingly, staff recommends that Arma Water Service, LLC should be granted Certificate No. 652-W to serve the territory described in Attachment A effective the date of the Commission's vote. The resultant order should serve as Arma's water certificate and it should be retained by the Utility.

**Issue 2:** What are the appropriate initial water rates?

**Recommendation:** The monthly water service rates proposed by Arma and shown on Schedule No. 1 are reasonable and should be approved. Arma should be required to file a proposed customer notice and tariff sheets reflecting the Commission-approved rates for staff approval. Within ten days after the Consummating Order is issued in this docket, Arma should provide the staff-approved notice to all its customers. Within ten days after the notice is provided to customers, Arma should file an affidavit attesting to the date that the customer notice was provided and attaching a copy of the customer notice. The docket should remain open until the affidavit of noticing is filed and verified by staff. The approved rates should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Arma should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. (Daniel, Walden)

**Staff Analysis:** As discussed in the case background, Arma began providing service in 2005, but has never charged for water service. The Utility's proposed rates include a base facility charge of \$21.45 per month and a gallonage charge of \$1.62 per 1,000 gallons. There are currently 44 customers connected to the water system.

In setting initial rates and charges for a new utility, Commission practice has been to set rates so that the utility will have an opportunity to earn a fair return on its investment when approximately 80% of its projected customers are being served. However, staff has not been able to determine the amount of rate base for Arma because the Utility owners are currently in litigation with the contractor for both the Utility and the duplexes over the actual amount of construction costs owed to the contractor. Therefore, the actual cost of the Utility assets will not be known until the litigation is resolved.

The Utility provided a copy of its 2008 tax return which reflected operating and maintenance expenses of \$20,019, including a management fee, contractual services, purchased power, insurance expense, maintenance expense, and licenses and fees. Staff has reviewed the Utility's supporting documentation and it appears that the operating and maintenance expenses are reasonable for the service provided.

The Utility's proposed rates would generate annual revenues of \$20,432, assuming 44 connections using an average of 350 gallons per connection per day. The Utility owners believe that the proposed rates are sufficient to cover the current operating expense. In addition, the Utility is concerned about rate shock for the existing customers since they are currently receiving service at no charge.

Based on the above factors, staff recommends that the Utility's requested rates are reasonable and should be approved. The Utility's requested monthly water rates, along with a comparison of typical monthly bills, are shown on Schedule No. 1. Arma should charge these rates until authorized to change them by the Commission in a subsequent proceeding. The rates should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C.

Staff recommends that the monthly water service rates proposed by Arma and shown on Schedule No. 1 are reasonable and should be approved. Arma should be required to file a proposed customer notice and tariff sheets reflecting the Commission-approved rates for staff approval. Within ten days after the Consummating Order is issued in this docket, Arma should provide the staff-approved notice to all its customers. Within ten days after the notice is provided to customers, Arma should file an affidavit attesting to the date that the customer notice was provided and attaching a copy of the customer notice. The docket should remain open until the affidavit of noticing is filed and verified by staff. The approved rates should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Arma should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding.

**Issue 3:** What are the appropriate service availability policy and charges?

**Recommendation:** The service availability policy and charges proposed by Arma and shown on Schedule No. 1 are consistent with the guidelines contained in Rule 25-30.580(1)(a), F.A.C. and should be approved. Arma should include the approved service availability charges in its proposed customer notice and tariff sheets as required to be filed for staff approval in Issue 1. The approved service availability policy and rates should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Arma should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. (Daniel, Walden)

**Staff Analysis:** Rule 25-30.580(1)(a), F.A.C., provides that the maximum amount of contributions-in-aid-of-construction (CIAC), net of amortization, should not exceed 75% of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their design capacity. The maximum guideline is designed to ensure the utility has a significant investment in the system. Rule 25-30.580(1)(b), F.A.C., provides that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution systems.

The Utility is requesting approval of a tap in fee of \$875 and a meter installation charge of \$125 for 5/8" x 3/4" meters for new connections. All other meters will be installed at the Utility's actual cost. In addition, the Utility proposes to require future connections to donate on-site and off-site water lines. The Utility's requested service availability policy and charges are consistent with the guidelines in Rule 25-30.580, F.A.C., which require that at a minimum the cost of the lines should be contributed. The Utility owners are aware that existing connections will not be required to pay the proposed meter installation charge or tap in fee. Schedule No. 1 contains the proposed service availability charges.

Staff recommends that the service availability policy and charges proposed by Arma and shown on Schedule No. 1 are consistent with the guidelines contained in Rule 25-30.580(1)(a), F.A.C. and should be approved. Arma should include the approved service availability charges in its proposed customer notice and tariff sheets as required to be filed for staff approval in Issue 1. The approved service availability policy and rates should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Arma should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding.

**Issue 4:** Should Arma's request for authority to collect initial customer deposits and to apply certain miscellaneous service charges be approved?

**Recommendation:** Yes. Arma's requests for authority to collect initial customer deposits and to apply certain miscellaneous service charges shown on Schedule 1 are reasonable and should be approved. Arma should include the approved initial customer deposits and miscellaneous service charges in its proposed customer notice and tariff sheets as required to be filed for staff approval in Issue 1. The approved customer deposits and miscellaneous service charges should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Arma should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. (Daniel, Walden)

**Staff Analysis:** The Utility requested authority to collect customer deposits and to apply certain miscellaneous service charges pursuant to Section 367.091, F.S.

### **Customer Deposits**

The Utility requested an initial customer deposit for 5/8" x 3/4" meters of \$50.00. The proposed deposit is based on two times the average monthly charge for approximately 3,000 gallons of water. Rule 25-30.311, F.A.C., contains the criteria for collecting, administering, and refunding customer deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the utility, and ultimately the general body of rate payers. Historically, the Commission has set customer deposits equal to two months bills based on average consumption. For the initial deposit, the amount is based on the average consumption per residential customer, calculated on the total residential usage divided by the number of residential bills. Therefore, the deposits are calculated specifically by the customer class. To provide a better understanding of the reasons for the two months basis, the billing cycle should be explained.

At the point in time that the water meter is actually read by a meter reader, typically a full month of consumption has already passed. Consumption-based charges are based on past consumption. The consumption period is referred to as the service period, or the period of time from the previous meter reading to the current meter reading. Typically, this period of time is approximately thirty days, if a utility has a monthly billing cycle. However, the cycle time may vary between twenty-seven to thirty-three days.

Another time frame to be considered is the period from the meter reading date until the time the bill is prepared and rendered. This varies among utilities, but is usually between five to seven days. Payment is due 20 days from the date the bill has been mailed or presented, consistent with Rule 25-30.335(4), F.A.C. Therefore, the payment is due approximately two months after the service is actually rendered.

If payment is not received by the twentieth day, it is considered delinquent pursuant to Rule 25-30.335(4), F.A.C. At that point in time, a utility may begin disconnection of services. Pursuant to Rule 25-30.320(2)(g), F.A.C., a utility may discontinue service for nonpayment of bills, provided the customer has been provided at least five-working days' written notice, and there has been a diligent attempt to have the customer comply. Thus, the service cannot be disconnected until well after two months subsequent to the bill being rendered. Also, an



additional month's usage has already been provided to the delinquent customer, and presumably another month's bill has been issued by the time service can be disconnected.

Not only is collecting a customer deposit to recover this two month period of service consistent with our past practice, it is also consistent with one of the fundamental principles of rate making - ensuring that the cost of providing service is recovered from the cost causer.<sup>1</sup> If utilities do not collect adequate deposits to cover the cost of providing service, the result would be an increase in its bad debt expense. Ultimately, the bad debt expense is included in the utility's revenue requirement, and, therefore, is included in the service rates charged to the general body of ratepayers.

The methodology addressed above for calculating initial customer deposits is also consistent with the methodologies for natural gas utilities (Rule 25-7.083, F.A.C.) and electric utilities (Rule 25-6.097, F.A.C.). Staff recommends that the Utility's proposed initial customer deposit of \$50.00 for 5/8" x 3/4" meters is consistent with Commission rules and should be approved.

### **Miscellaneous Service Charges**

The Utility's request for miscellaneous service charges was accompanied by its reasons for requesting the charges, as well as the cost justification required by Section 367.091, F.S. The Utility's proposed miscellaneous service charges are also shown on Schedule No. 1. Pursuant to Rule 25-30.460, F.A.C., water utilities may apply for miscellaneous service charges, including initial connection, normal reconnection, violation reconnection, and premises visit charges. Since the Utility has not started charging for service, the miscellaneous service charges are based on estimated expenses. The Utility's justification for the miscellaneous service charges is to place the burden of these charges on the cost-causer rather than the general body of rate payers.

The proposed miscellaneous service charges, shown on Schedule No. 1, are based on the hourly contract rate of the plant operator plus mileage for 30 miles round trip at \$0.50 per mile. The proposed miscellaneous service charges appear to be reasonable based on the estimated costs to provide those services and the amount of miscellaneous service charges recently approved for other similarly situated utilities. Therefore, staff recommends that the Utility's proposed miscellaneous service charges, as shown on Schedule No. 1, are reasonable and should be approved.

### **Conclusion**

Staff recommends that the Utility's requests for authority to collect initial customer deposits and to apply certain miscellaneous service charges are reasonable and should be approved. Arma should include the approved initial customer deposits and miscellaneous service charges in its proposed customer notice and tariff sheets as required to be filed for staff approval in Issue 1. The approved customer deposits and miscellaneous service charges should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Arma should be required to collect the approved initial

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<sup>1</sup> See Order No. PSC-96-1147-FOF-WS, issued on September 12, 1996, in Docket No. 951258-WS, In re: Application for rate increase in Brevard County by Florida Cities Water Company (Barefoot Bay Division).

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customer deposits and miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding.

**Issue 5:** Should this docket be closed?

**Recommendation:** No. If no timely protest to the proposed agency actions in Issues 2, 3, or 4 is filed with the Commission by a substantially affected person, a Consummating Order should be issued. The docket should remain open pending verification by staff that notice has been appropriately given by Arma to customers of the Commission-approved rates and charges in Issues 2, 3, and 4. Upon verification of the noticing, the docket should be administratively closed. (Brown)

**Staff Analysis:** If no timely protest to the proposed agency action in Issues 2, 3, and 4 is filed with the Commission by a substantially affected person, a consummating order should be issued. The docket should remain open pending verification by staff that notice has been appropriately given by Arma to customers of the Commission-approved rates and charges in Issues 2, 3, and 4. Upon verification of the noticing, the docket should be administratively closed.

Arma Water Service, LLC  
Marion County  
Leighton Estates Water Service Area

Section 23, Township 16 South, Range 21 East

A portion of Section 23, Township 16 South, Range 21 East, more particularly described as follows:

The SW quarter of the NE quarter;

The NW quarter of the SE quarter;

The North 600 feet of the SW quarter of the SE quarter.

**FLORIDA PUBLIC SERVICE COMMISSION  
authorizes  
Arma Water Service, LLC  
pursuant to  
Certificate Number 652-W**

to provide water service in Marion County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	090366-WU	Original Certificate

**\*Order Number and date to be provided at time of issuance.**

**Arma Water Service, LLC  
 Monthly Service Rates  
 Residential and General Service**

Base Facility Charge	Utility Proposed And Staff Rcommended
Meter Size:	
5/8" x 3/4"	\$ 21.45
1"	48.50
1.5"	76.25
2.0"	94.12
Charge per 1,000 gallons	\$1.62

**Typical Residential Bills**

5/8" x 3/4" meter	
3,000 gallons	\$26.31
5,000 gallons	\$29.55
10,000 gallons	\$37.65

**Service Availability Charges**

Description	Utility Proposed And Staff Rcommended
Meter Installation Charge – 5/8" x 3/4"	\$125.00
Meter Installation Charge – over 5/8" x 3/4"	Actual Cost
Tap In Fee	\$875.00

**Initial Customer Deposits**

Description	Utility Proposed And Staff Rcommended
5/8" x 3/4" Meter	\$50.00

**Miscellaneous Service Charges**

Description	Normal Hours	After Hours
Initial Connection	\$ 25.00	\$ 50.00
Normal Reconnection	\$ 25.00	\$ 50.00
Violation Reconnection	\$ 25.00	\$ 50.00
Premises Visit Charge	\$ 25.00	\$ 50.00