

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of
new class of service for non-
potable water customer in
Brevard County by Service
Management Systems, Inc.

DOCKET NO. 021087-WS
ORDER NO. PSC-03-0115-TRF-WS
ISSUED: January 21, 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 APPROVING TARIFF FOR NEW CLASS OF SERVICE
FOR NON-POTABLE WATER BULK IRRIGATION

BY THE COMMISSION:

BACKGROUND

Service Management Systems, Inc. (SMS or Utility) is a Class C water and wastewater utility operating in Brevard County. SMS formerly operated the utility systems under the name of Aquarina Developments, Inc. (Aquarina), and has operated under Certificates Nos. 517-W and 450-S since November 19, 1989. By Order No. PSC-97-0206-FOF-WS, issued February 21, 1997, this Commission approved a corporate reorganization that resulted in the utility assets being transferred from Aquarina to SMS, a subsidiary of Aquarina.

The utility provides service to approximately 257 customers in the utility's certificated territory. According to the utility's 2001 annual report, total gross revenues were \$197,489 and \$101,839 for water and wastewater, respectively. The utility reported operating expenses of \$116,875 for water and \$78,219 for wastewater.

In a letter dated September 9, 2002, Tom McMullen, a customer of SMS, expressed his concern to this Commission over the utility's rates and quality of service. During a phone conversation with our

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staff on October 18, 2002, Mr. McMullen specifically noted a new proposed rate for common area irrigation of the Aquarina Development. Our staff advised Mr. McMullen of the utility's right to charge for service and the provisions of Section 367.091(5), Florida Statutes, and assured him that any such application for a new class of service would be reviewed to ensure that it was fair, just, reasonable, and not unfairly discriminatory.

On the same day that it talked to Mr. McMullen, our staff talked to the President of SMS, and determined that there are approximately 8 acres of landscaped common area of the Aquarina Development for which SMS provides non-potable water for irrigation. This service has been provided at no charge for several years, but the President stated that the utility intended to begin charging the Aquarina Community Services Association, Inc. (ACSA), the master homeowners association of the Aquarina community, for this service. The President also stated that a preliminary notice was sent to ACSA to inform them that this charge for common area irrigation would begin January 1, 2003. Our staff informed the President that SMS was required by Section 367.091(5), Florida Statutes, to request approval by the Commission for this new class of service.

On October 21, 2002, SMS filed for approval of a new class of bulk irrigation with this Commission. With its initial filing, the utility provided us with the requested flat rate, the computation and determination of said rate, maps defining the areas for which non-potable irrigation would be provided for this class of service, and other circumstances relating to the request for a flat, non-metered rate. While all other circumstances remained the same, two revisions were requested to the rate for the new class of service due to mathematical errors. This changed the 60-day suspension date to January 17, 2003.

We have jurisdiction over this subject matter pursuant to Sections 367.081 and 367.091, Florida Statutes.

Request for a New Class of Service for Common Area Bulk Irrigation

In addition to water and wastewater services, SMS provides non-potable water for irrigation and fire protection use. This irrigation service has been provided since the utility began operation. The common areas of Aquarina Development had been irrigated for no charge until an irrigation rate was set in Docket No. 941234-WS. By Order No. PSC-95-1417-FOF-WS, issued November 21, 1995, this Commission approved a non-potable gallonage rate for all metered irrigation. This gallonage rate has been used for all non-potable irrigation within the utility's service area where meters have been installed.

With its filing on October 21, 2002, SMS requests a bulk irrigation rate for those common areas of the development which have not been metered. Rule 25-9.005(4), Florida Administrative Code, states:

Whenever a new or additional service classification or rate schedule is filed with the Commission, the information required by subsection (1) above need not be furnished. In lieu thereof, a statement shall be filed stating the purpose and reason for the new service classification or schedule and, if determinable, the estimated annual revenue to be derived therefrom and the estimated number of customers to be served thereby.

The President of SMS provided our staff with a description and map of the common area where the bulk irrigation service would be utilized. The area is approximately 7.86 acres of landscaped entry way and development frontage on U.S. Route 1 in Melbourne Beach. The ACSA would be the only customer of this class of service as it is the master homeowner's association of the Aquarina Development. Annual revenues generated by this new class of service would be approximately \$7,936.

This landscaped common area, along with all other common areas within the development, is supplied by a 12-inch ductile iron main. While areas further from the main have been metered as the lines are reduced in size, this 7.86 acre area is fed directly from the main. Approximately 20 connections make up the irrigation system of this common landscaped property. The utility indicated that

installing meters on each of these connections would be cost prohibitive since the connections existed prior to the service availability charges of SMS being established by Order No. 23812; issued November 27, 1990. The utility is concerned that installing a master meter on the 12-inch main, in addition to the expense, would require that calculations be performed each month to deduce what water was actually used for irrigation.

We note that SMS is located in the St. Johns River Water Management District (SJRWMD) which consists entirely of a water use caution area. While SMS has metered and charged a gallonage rate for irrigation in other areas of its territory, this remaining common area has not yet been metered. This gives us concern and does not appear to be consistent with the goals of the SJRWMD. Moreover, it is the practice of this Commission, in cooperation with the five water management districts of Florida, that in approving rates we do so with a concern for the rates' effects on water conservation. Further, Rule 25-30.443(2)(e), Florida Administrative Code states:

In designing rates, the base facility and usage charge rate structure shall be utilized for metered service.

Although the utility is requesting that it be allowed to begin charging for a service which was previously provided free, we do not believe that this has the same impact on conservation as the base facility and usage charge. Therefore, noting the non-conservation effect of a bulk rate, we shall approve this bulk rate with the understanding that this rate, along with the costs of metering this common area, will be reviewed as part of the utility's Staff Assisted Rate Case in which the initial application was received on December 10, 2002, and assigned Docket No. 021228-WS.

Section 367.091(6), Florida Statutes, states:

An application to establish, increase, or change a rate or charge other than the monthly rates for service pursuant to s. 367.081 or service availability charges pursuant to s. 367.101 must be accompanied by a cost justification.

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As previously mentioned, all other areas supplied with non-potable water for irrigation have been metered, and usage is billed utilizing our approved gallonage rate of \$0.56/kgal. By first determining the average usage for each metered irrigation area, then dividing by the total landscaped acreage (total acreage - roadways, houses, etc.), SMS was able to determine the average monthly use of non-potable irrigation per acre. This amount of usage was then multiplied by the landscaped area within the subject 7.86 acres of common property (6.67 acres), to determine an estimated monthly usage for the non-metered common area of 1,180,984 gallons. This average per acre usage at the current metered rate of \$0.56/kgal results in the requested monthly flat rate of \$661.35. We believe that the above calculations fairly estimate the average irrigation uses of the non-potable water supplied by SMS, and the resulting monthly rate is reasonable.

During phone conversations, and by letter, SMS has informed our staff that it intends to begin charging the common area bulk irrigation rate as of January 1, 2003. SMS has stated that it will voluntarily hold all revenues generated by this new class of service subject to refund pending the resolution in this docket.

For the reasons stated above, SMS's request for a new class of common area bulk irrigation is approved. The utility shall charge the rate of \$661.35 per month for irrigation of common areas for which there is no practical measure of monthly usage. The utility shall file a new tariff sheet which is consistent with our decision within 30 days of issuance of the Consummating Order. Our staff shall approve the tariff sheet upon verification that the tariff is consistent with our decision. If the new tariff sheet is filed and approved, the common area bulk irrigation rate shall become effective on or after the stamped approval date of the tariff sheet, if no protest is filed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Service Management System, Inc.'s request for a new class of common area bulk irrigation is approved, and the utility shall charge the rate of \$661.35 per month for irrigation of common areas as delineated in the body of this Order. It is further

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ORDERED that Service Management Systems, Inc., shall file a new tariff sheet which is consistent with our decision within 30 days of issuance of the Consummating Order. It is further

ORDERED that the tariff sheet shall be approved upon verification by our staff that the tariff is consistent with our decision. It is further

ORDERED that if the new tariff sheet is filed and approved, the common area bulk irrigation rate shall become effective on or after the stamped approval date of the tariff sheet, if no protest is filed. It is further

ORDERED that the new tariff shall become effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of this Order, the tariffs shall remain in effect with common area bulk irrigation charges held subject to refund pending resolution of the protest, and the docket shall remain open. It is further

ORDERED that if no timely protest is filed, the docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 21st day of January, 2003.

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

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

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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.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 11, 2003.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.