

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for  
amendment of Certificate No.  
347-W to extend territory and  
application to increase service  
availability charges for Summer  
Brooke service area in Marion  
County by Marion Utilities, Inc.

DOCKET NO. 020928-WU  
ORDER NO. PSC-03-1343-PAA-WU  
ISSUED: November 24, 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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING SERVICE AVAILABILITY CHARGES  
AND  
ORDER APPROVING AMENDMENT OF CERTIFICATE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service  
Commission that the action approving service availability charges  
as set forth herein is preliminary in nature and will become final  
unless a person whose interests are substantially affected files a  
petition for a formal proceeding, pursuant to Rule 25-22.029,  
Florida Administrative Code.

BACKGROUND

Marion Utilities, Inc. (Marion or utility) is a Class A  
utility which provides service in Marion County to approximately  
5,032 water and 118 wastewater customers. The utility is primarily  
in the St. Johns River Water Management District, all of which is  
considered a water use caution area. The utility's 2002 annual  
report shows a combined water and wastewater annual operating

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revenue of \$1,154,173, and a total utility operating income of \$157,085.

We assumed jurisdiction over the privately-owned utilities in Marion County on May 5, 1981. In Order No. 10566, issued February 3, 1982, in Docket No. 820018-W, the utility was granted Certificate No. 347-W. Over the years, there have been approximately twenty-eight additional territory amendments to the utility's certificate.

Pursuant to Section 367.045, Florida Statutes, on August 28, 2002, the utility applied for an amendment to Water Certificate No. 347-W to include a planned 38 equivalent residential connections (ERCs) residential area known as Summer Brooke. The utility intends to provide water service to Summer Brooke by interconnecting with its Fore Acres system. In conjunction with the amendment application, on January 31, 2003, the utility filed a developer agreement which included new service availability charges for the proposed Summer Brooke development. The utility currently has service availability charges for the Fore Acres system to which the Summer Brooke development will be connected. In the instant case, the utility is requesting new service availability charges for the new customers in the proposed Summer Brooke development.

Pursuant to Section 367.091, Florida Statutes, on March 25, 2003, Order No. PSC-03-0408-PCO-WU was issued suspending the proposed tariff for service availability charges for the Summer Brooke area pending further investigation. The suspension order kept this docket open pending completion of our staff's investigation into the service availability charges and for the processing of the amendment application. We have jurisdiction pursuant to Sections 367.091, 367.101, and 367.045, Florida Statutes.

#### AMENDMENT OF CERTIFICATE

Pursuant to Section 367.045(2), Florida Statutes, and Rule 25-30.036, Florida Administrative Code, on August 28, 2002, the utility applied for an amendment to Water Certificate No. 347-W to include a planned 38 ERC residential area known as Summer Brooke in Marion County.

The utility's application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning applications for amendment of certificate. The application contained a check in the amount of \$100, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

We find that the utility has demonstrated that it has the necessary financial and technical expertise. The utility reported that it has four C and one D class operators on staff to assure that it has sufficient technical capabilities. In addition, the Department of Environmental Protection (DEP) has no outstanding violations, citations, or notices of violation issued to the utility. The utility's 2002 annual report shows a combined water and wastewater annual operating revenue of \$1,154,173, and a total utility operating income of \$157,085.

The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objections were received and the time for filing objections has expired. Pursuant to Rule 25-30.036(3)(c), Florida Administrative Code, the utility states that the provision of water service will be consistent with Marion County's comprehensive land plan and development regulations. In addition, a letter received on September 20, 2002, from the Department of Community Affairs (DCA) noted that the utility's proposed area expansion is consistent with the Marion County comprehensive plan. As a result, DCA had no objection to the utility's proposed extension of service.

The applicant has provided evidence that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.036(3)(d), Florida Administrative Code. Also, adequate service territory and system maps, as well as a territory description have been provided as prescribed by Rule 25-30.036(3)(e), (f) and (i), Florida Administrative Code. A description of the proposed territory is appended to this Order as Attachment A.

Pursuant to Rule 25-30.036(3)(j), (k), (l), (m) and (n), Florida Administrative Code, the utility reported that the water supply to Summer Brooke will be provided from the utility's Fore

Acres water treatment plant located approximately three-quarters of a mile from the development. In order to accommodate the additional demand placed on the utility's system, the utility has indicated that the Summer Brooke developer will be providing most of the funding for the necessary expansion. The expansion includes the abandonment of a small existing well; the installation of a new 10-inch well which will be large enough to accommodate the additional demand, including fire flow; interconnection of the new well and another existing well that supplies the Fore Acres development; and upgrade of an electrical panel. In addition to the above, a new water supply main will connect the utility's existing Fore Acres well and service area with the new development. The utility has applied for and received the appropriate permitting necessary to accomplish this project from the DEP and the St. Johns River Water Management District. The utility projected no impact on rates due to the extension. However, it indicated that service availability charges will need to be addressed as a result of a developer's agreement.

Pursuant to Rule 25-30.036(3)(o), (p), (q) and (r), Florida Administrative Code, the utility provided a sample tariff sheet reflecting the additional service area, and supplied its certificate for possible amendment. Also, the utility provided the number of the most recent Commission order establishing its rates and charges. Finally, the utility stated that its tariffs and annual reports are on file with this Commission.

Based on the above information, we find that Marion's application to amend its territory, as described in Attachment A, is in the public interest and is therefore granted. The utility shall charge the customers in the territory added herein the monthly service rates contained in its current tariff until authorized to change by this Commission.

#### SERVICE AVAILABILITY CHARGES

On March 25, 2003, we issued Order No. PSC-03-0408-PCO-WU, suspending the utility's proposed service availability charge tariff for the Summer Brooke development. The utility's proposed charges include:

Plant Capacity Charge	\$401 per ERC
Distribution Line Charge	\$635 per ERC
Transmission Main Charge	\$193 per ERC

The utility's proposed plant capacity charge of \$401 per ERC is based on 75 percent of the estimated cost of \$20,318 to install a new well to serve the additional 38 ERCs in the Summer Brooke development. The developer plans on paying for the installation of a new well and donating it to the utility. The utility's existing well and treatment facilities used to serve the Fore Acres development will also be used to serve the Summer Brooke development. The utility plans on paying for the modification of the electrical panel and interconnection of the existing and new well.

The utility's proposed distribution line charge of \$635 per ERC is based on 75 percent of the estimated cost of \$32,151 to install the distribution lines in the Summer Brooke development. The developer plans on installing and donating the distribution lines to the utility which will have the capacity to serve the 38 ERCs in the Summer Brooke development.

The utility's proposed transmission main charge of \$193 per ERC is based on 75 percent of the estimated cost of \$44,165 to install the transmission main from the existing Fore Acres development to the Summer Brooke development. The developer will install and donate the main to the utility. It is being oversized to serve a total of 172 ERCs in anticipation of future development outside the Summer Brooke development.

In addition, the utility requested meter installation and backflow preventor charges which are designed to recover the cost to the utility for the meter, the backflow preventor, and the installation cost. The utility's proposed meter installation fees and backflow preventor fees are:

<u>Meter Size</u>	<u>Meter Installation Fee</u>	<u>Backflow Preventor Installation Fee</u>
5/8" X 3/4"	\$100	\$113
1"	\$130	\$130
1 1/2"	\$180	\$180
Over 1 1/2"	Actual Cost	Actual Cost

According to the proposed developer agreement, the utility will reimburse the developer for a portion of his costs by collecting the service availability charges (plant capacity, distribution line, and transmission main charges) from the customers as they connect and passing those charges on to the developer. In the event there are connections to the transmission main, in addition to the Summer Brooke development, the utility will also collect and pass on to the developer those transmission main charges.

Subsequent to the utility's filing, the developer and the utility completed construction of the lines, well installation, and plant upgrades. The utility reported that the total actual cost was \$100,759, which includes the additional capacity in the transmission main. The developer's investment in the new well and lines, which will be donated to the utility, was \$91,549. The utility's investment was \$9,210.

Pursuant to Rule 25-30.580(1)(b), Florida Administrative Code, at a minimum the cost of the lines shall be contributed to the utility. Pursuant to Rule 25-30.580(1)(a), Florida Administrative Code, the maximum utility contribution level is 75 percent. According to its 2002 annual report, the utility is currently approximately 52 percent contributed on a total company basis. The utility does not separately maintain the cost of the assets and Contribution In Aid of Construction for each system that it serves.

Based on all of the above, we find that the terms of the developer agreement regarding the developer installing and donating facilities to the utility and recovering a portion of his costs as customers connect are reasonable and consistent with the utility's approved service availability policy. Since the impact on the utility's contribution level will result from the assets constructed by the developers and donated to the utility, this reimbursement arrangement will have no net impact on the utility's contribution level. Instead, it will shift the contributions from the developer to the customers. The impact on the utility's contribution level will result from the assets constructed by the developer and donated to the utility.

However, we find that the transmission and distribution line charges shall be based on 100 percent of the estimated cost of the

lines, instead of 75 percent of the cost of the lines. This will result in the customers paying for 100 percent of the cost of the lines, consistent with the minimum guidelines in Rule 25-30.580, Florida Administrative Code. Therefore, a transmission main charge of \$222 per ERC and a distribution line charge of \$846 per ERC is approved. Further, the plant capacity charge shall be based on the difference between the total amount the utility originally proposed to reimburse the developer (\$1229 per ERC) as customers connect and the approved transmission and distribution line charges ( $\$1229 - \$222 - \$846 = \$161$ ).

As previously indicated, these service availability charges will have no impact on the utility's overall contribution level because they will be remitted to the developer to allow him to recover a portion of his costs from future customers. If all 38 ERCs connect to the utility and additional development occurs so that the excess capacity of the transmission line is utilized, the developer could recover as much as \$76,450 of his costs.

We find that the utility's proposed service availability charges for the Summer Brooke development shall be denied. The utility shall be authorized to collect the following service availability charges from future customers in the Summer Brooke development:

Plant Capacity Charge	\$161 per ERC
Distribution Line Charge	\$846 per ERC
Transmission Main Charge	\$222 per ERC

Additional connections to the transmission main outside the Summer Brooke development shall also be required to pay a transmission main charge of \$222 per ERC. In addition, the utility's proposed meter installation and backflow preventor fees are approved. The utility shall file revised tariffs within thirty days of the effective date of the Order. The tariffs shall become effective, upon our staff's verification that they are consistent with our decision, for connections made on or after the stamped approval date of the tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code. In the event a timely protest is filed, the tariff shall remain in effect and the charges collected held subject to refund pending resolution of the protest.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Marion Utilities, Inc.'s application for amendment of Certificate No. 347-W to expand its territory as described in Attachment A is in the public interest and is granted. It is further

ORDERED that Marion Utilities, Inc. shall charge the customers in the territory added herein the monthly service rates contained in its current tariff until authorized to change by this Commission. It is further

ORDERED that Original Tariff Sheet No. 42.0 filed on August 29, 2002 is denied. It is further

ORDERED that the utility shall be authorized to collect service availability charges as set forth in the body of this Order. It is further

ORDERED that the utility shall file a revised tariff within thirty days of the effective date of this Order. It is further

ORDERED that the tariffs shall become effective, upon our staff's verification that they are consistent with our decision, for connections made on or after the stamped approval date of the tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code. It is further

ORDERED that in the event a timely protest is filed, the tariff shall remain in effect and the charges collected held subject to refund pending resolution of the protest. It is further

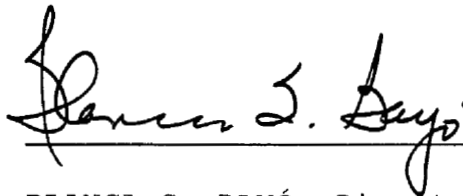
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further



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ORDERED that this docket shall remain open pending expiration of the protest period. If a timely protest is not filed, a Consummating Order shall be issued and the docket closed.

By ORDER of the Florida Public Service Commission this 24th Day of November, 2003.



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

( S E A L )

JSB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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.

As identified in the body of this order, our action approving service availability charges is preliminary in nature. Any person whose substantial interests are affected by the action proposed by

this order may file 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, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 15, 2003. If such a petition is filed, 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. In the absence of such a petition, this order shall become effective and final 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.

Any party adversely affected by the Commission's final action in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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Attachment A

Marion Utilities Inc.  
Amended Water Territory Description  
Marion County

Summer Brooke

Township 14 South, Range 22 East  
Sections 28 & 29

The North 12-1/2 chains of the SW 1/4 of the SW 1/4, Section 28, Township 14 South, Range 22 East, West of Anthony Road, plus the North 12-1/2 chains of the SE 1/4 of the SE 1/4, Section 29, Township 14 South, Range 22 East, LESS AND EXCEPT: Beginning at the intersection of the South boundary of the North 12-1/2 chains of the SW 1/4 of the SW 1/4 of Section 28, Township 14 South, Range 22 East, with the Westerly right of way line of the Anthony Road (U.S. 301 Alternate), from the Point of Beginning thus described proceed Northerly along said Westerly right of way line, a distance of 275.0 feet; thence departing from said right of way line West parallel to the South boundary of said North 12-1/2 chains of the SW 1/4 of the SW 1/4, a distance of 520.73 feet; thence South 267.42 feet more or less to an intersection with the South boundary of the North 12-1/2 chains of the SE 1/4 of the SE 1/4 of Section 29, Township 14 South, Range 22 East, thence East along said South boundary and along the South boundary of the aforesaid North 12-1/2 chains of the SW 1/4 of the SW 1/4 of Section 28, a distance of 456.61 feet more or less to the Point of Beginning. All lying and being situated in Marion County, Florida.