

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for authority to collect non-sufficient funds charges, pursuant to Sections 68.065 and 832.08(5), F.S., by Utilities, Inc.

DOCKET NO. 100313-WS  
ORDER NO. PSC-10-0474-TRF-WS  
ISSUED: July 28, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman  
LISA POLAK EDGAR  
NATHAN A. SKOP

ORDER APPROVING NON-SUFFICIENT FUNDS FEES

BY THE COMMISSION:

Background

Utilities, Inc. (UI) is an Illinois corporation which owns approximately 75 subsidiaries throughout 15 states including 14 water and wastewater utilities within the State of Florida. On June 1, 2010, UI requested approval of a Non-Sufficient Funds (NSF) charge for seven of its Florida utilities. These utilities are: Alafaya Utilities; Cypress Lakes Utilities; Utilities Inc. Eagle Ridge; Labrador Utilities; Lake Utility Services; Mid-County Services; and Tierra Verde Utilities.

Alafaya Utilities, Inc. is a Class A wastewater utility serving approximately 7,523 wastewater customers in Seminole County. The utility is located in the St. Johns River Water Management District (SJRWMD). The utility's annual report for 2009 shows the utility's gross operating revenue is \$3,914,424 and net operating income is \$516,861 for wastewater.

Cypress Lakes Utilities, Inc. is a Class B water and wastewater utility serving approximately 1,265 water and 1465 wastewater customers in Polk County. The utility is located in the Southwest Florida Water Management District (SWFWMD) and is within the Southern Water Use Caution Area (SWUCA). The utility's annual report for 2009 shows the utility's gross operating revenue is \$291,817 and \$525,535 and net operating income is (\$7,591) and \$72,201 for water and wastewater, respectively.

Utilities, Inc. of Eagle Ridge is a Class A wastewater utility serving approximately 2,535 wastewater customers in Lee County and is located in the South Florida Water Management District (SFWMD). The utility's annual report for 2009 shows the utility's gross operating revenue is \$1,022,853 and net operating income is (\$446,887) for wastewater.

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Labrador Utilities, Inc. is a Class B water and wastewater utility serving 797 water and 893 wastewater customers in Pasco County. The utility is located in the SWFWMD and is within the SWUCA. The utility's annual report for 2009 shows the utility's gross operating revenue is \$238,981 and \$375,420 and net operating income is \$21,665 and \$61,638 for water and wastewater, respectively.

Lake Utility Services, Inc. is a Class A water and wastewater utility serving 8,461 water and 3,131 wastewater customers in Martin County. The utility is located in the SFWMD. The utility's annual report for 2009 shows the utility's gross operating revenue is \$4,162,095 and \$1,894,025 and net operating income is \$815,167 and \$216,151 for water and wastewater, respectively.

Mid County Services, Inc. is a Class A wastewater utility serving 2,157 wastewater customers in Pinellas County. The utility is located in the SWFWMD and is within the SWUCA. The utility's annual report for 2009 shows the utility's gross operating revenue is \$1,870,209 and net operating income is \$321,122 for wastewater.

Tierra Verde Utilities, Inc. is a Class B wastewater utility serving 1,014 wastewater customers in Pinellas County. The utility is located in the SWFWMD and is within the SWUCA. The utility's annual report for 2009 shows the utility's gross operating revenue is \$904,523 and net operating income is \$91,211 for wastewater.

This recommendation addresses the authority to collect NSF charges pursuant to Sections 68.065 and 832.08(5), Florida Statutes (F.S.). The Commission has jurisdiction to consider this matter pursuant to Section 367.091, F.S.

#### Analysis and Ruling

Section 367.091, F.S., requires that rates, charges, and customer service policies be approved by this Commission. We have the authority to establish, increase, or change a rate or charge. UI has requested an NSF fee in accordance with Sections 68.065 and 832.08(5), F.S.

We find that UI shall be authorized to collect an NSF fee. The NSF fee should be established consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Sections 68.065 and 832.08(5), F.S., the following fees may be assessed:

1. \$25, if the face value does not exceed \$50,
2. \$30, if the face value exceeds \$50 but does not exceed \$300,
3. \$40, if the face value exceeds \$300,
4. or five percent of the face amount of the check, whichever is greater.

UI's tariff for an NSF fee shall be revised to reflect the charges set by Sections 68.065 and 832.08(5) F.S., as may be amended.

Approval of an NSF fee is consistent with our prior decisions.<sup>1</sup> Furthermore, an NSF fee places the cost on the cost-causer, rather than requiring that the costs associated with the return of the NSF checks be spread across the general body of ratepayers. As such, staff recommends that UI's proposed NSF fee be approved. The fee should be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the fees should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given no less than 10 days after the date of the notice.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Utilities, Inc. is hereby authorized to collect non-sufficient funds fees in accordance with Sections 68.065 and 832.08(5), Florida Statutes. 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 Commission Clerk, 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

ORDERED that in the event a protest is filed, the tariff shall remain in effect, with any revenues held subject to refund, pending resolution of the protest. It is further

ORDERED that this docket shall remain open to allow our staff to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once staff has verified that the revised tariff sheets and customer notice have been filed by the Utility and approved, the docket shall be closed administratively.

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<sup>1</sup> See Order Nos. PSC-10-0364-TRF-WS, issued June 7, 2010, in Docket No. 100170-WS, In re: Application for authority to collect non-sufficient funds charges, pursuant to Sections 68.065 and 832.08(5), F.S., by Pluris Wedgefield Inc., and PSC-10-0168-PAA-SU, issued March 23, 2010, in Docket No. 090182-SU, In re: Application for increase in wastewater rates in Pasco County by Ni Florida, LLC.

By ORDER of the Florida Public Service Commission this 28th day of July, 2010.



ANN COLE  
Commission Clerk

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ARW/kl

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 18, 2010.

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.