

Commissioners:
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DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

May 11, 2000

Mr. Robert D. Harris
615 Plaza Del Sol
North Ft. Myers, Florida 33917

Re: Docket No. 981781-SU - Application for amendment of Certificate No. 247-S to extend service area by the transfer of Buccaneer Estates in Lee County to North Fort Myers Utility, Inc.

Dear Mr. Harris:

Thank you for the copy of your correspondence dated April 17, 2000, which was addressed to North Fort Myers Utilities, Inc. (NFMU or utility). Chairman Garcia's office has asked that I respond to your letter on the Chairman's behalf. In your letter, you advise NFMU that "this matter of your servicing the senior citizens of Buccaneer Estates is under appeal in the Courts and we are deferring payment pending the outcome."

Order No. PSC-99-2444-AS-SU, issued December 14, 1999, by which the Commission approved the transfer of Buccaneer Estates to NFMU, is currently on appeal before the First District Court of Appeal. However, please be aware that the filing of an appeal does not serve to automatically stay the effectiveness of the Commission's Order. Rule 25-22.061, Florida Administrative Code, and Rule 9.310, Florida Rules of Appellate Procedure, address the conditions under which the stay of a final administrative Order may be effected.

Order No. PSC-99-2444-AS-SU provides that NFMU shall bill the Buccaneer customers within the park for service rendered from September 1, 1999, forward, based upon NFMU's residential rate schedule. In accordance with Rule 25-30.320, Florida Administrative Code, NFMU's tariff provides that the utility may withhold or discontinue wastewater service for reason of nonpayment, provided the utility has mailed or presented a five-day written notice. Service may be withheld until the utility has received payment for all past-due bills and reconnection charges from the customer, consistent with Rule 25-30.320, Florida Administrative Code. A copy of Rule 25-30.320, Florida Administrative Code, is attached for your reference.

If you have any further questions, please contact me at (850) 413-6199.

- AFA _____
- APP _____
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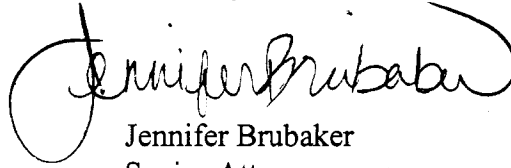
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Mr. Robert D. Harris
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Sincerely,

A handwritten signature in cursive script that reads "Jennifer Brubaker". The signature is written in black ink and is positioned above the printed name and title.

Jennifer Brubaker
Senior Attorney

Attachment

JSB/lw

cc: Chairman Joe Garcia's Office
Division of Records and Reporting
Division of Water and Wastewater (Messer, Redemann)
North Fort Myers Utility, Inc., c/o Mr. Martin S. Friedman, Esquire

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Specific Authority 367.121, 350.127(2) FS. Law Implemented 367.081, 367.111, 367.121 FS. History—Amended 6-1-63, 4-1-69, 9-12-74, 6-10-80, 1-31-84, Formerly 25-10.72, 25-10.072, Amended 10-13-88, 4-25-94.

25-30.315 Temporary Service.

(1) Upon compliance with subsection (3) of this rule, a utility may require an applicant customer to pay all the anticipated costs of installing and removing facilities and materials for temporary service.

(2) When temporary service is terminated, the utility shall credit the customer with the reasonable salvage value of the service facilities and materials if the customer has made advance payment pursuant to subsection (1) of this rule.

(3) Each utility shall set out in its tariff a definition of and policy or rules regarding temporary service.

Specific Authority 350.127(2), 367.121 FS. Law Implemented 367.111 367.121 FS. History—Amended 9-12-74, Formerly 25-10.85, 25-10.085, Amended 11-10-86.

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 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.

25-30.325 Termination of Service by Customer.

A utility may require a customer to give reasonable notice of his or her intention to discontinue service. Until the utility receives such notice, a customer may be held responsible for all service rendered.

Specific Authority 367.121 FS. Law Implemented 367.111, 367.121 FS. History—Amended 9-12-74, Formerly 25-10.73, 25-10.073, Amended 11-10-86.

25-30.330 Information to Customers.

(1) Each utility shall provide its customers with the following information on at least an annual basis:

(a) Telephone numbers regular and after hours;

(b) Office address.

(2) Each utility shall provide its customers, upon request, with such other information and assistance as reasonably may be necessary to ensure that the customer receives safe, efficient service.

(3) Upon request of a customer, each utility shall provide information as to the method of reading meters and the computation of billing which results from reading meters.

(4) When a customer requests a bench test of his or her meter, the utility shall inform that customer of the provisions of Rule 25-30.266, and shall advise that the customer may request the test be made or supervised by a Commission representative.

(5) Upon request of a customer, the utility is to provide a copy or explanation of the utility's rates applicable to the customer's classification for service and to assist the customer in obtaining the rate which is most advantageous for the customer's service requirements.

Specific Authority 367.121 FS. Law Implemented 367.121 FS. History—Amended 9-12-74, Formerly 25-10.69, 25-10.069, Amended 11-10-86.

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.

ROBERT D. HARRIS, ARCHITECT
615 PLAZA DEL SOL
N. FT MYERS, FL 33917

00-0454 MAY-3

April 17, 2000

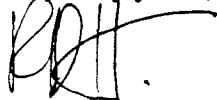
NFMU, Inc
P.O. Box 2547
Ft. Myers, FL 33902
attn: A.A. Reeves

Gentlemen:

I resent deeply the tone of your undated, unsigned form letter you mailed me last week implying we owe you for past sewer bills. Please be advised this matter of your servicing the senior citizens of Buccaneer Estates is under appeal in the Courts and we are deferring payment pending the outcome.

I'm sure you are aware of the investigation now underway by the Federal & County police agencies regarding the illegal process under which the private package sewer plants were dismantled and the undue economic burdens placed upon the senior citizens by assessing them for high cost sewage treatment.

Very truly yours,



cc Joseph Garcia Comm P,S.C. ✓
J.J. Reid M.H.C.

Encl.

RECEIVED

MAY 01 2000

FLORIDA PUBLIC SERVICE COMM.
Chairman Garcia

**N O R T H
F O R T M Y E R S
U T I L I T Y
I N C O R P O R A T E D**

5660 Clayshore Road, Suite 511 • North Fort Myers, Florida 33917

Mailing Address: P.O. Box 2547 • Fort Myers, Florida 33902

(941) 543-1005

Dear Buccaneer Customer:

As you are no doubt aware, the Florida Public Service Commission has recently entered a Final Order approving a settlement stipulation between North Fort Myers Utility, Inc. and the Office of Public Counsel regarding the provision of central wastewater service to Buccaneer Estates. As a part of the settlement stipulation, we have agreed to waive the collection of the \$462 pass through charge which had been previously imposed by the park owner and which was assigned to us. If you previously paid us that charge, you should have already received a refund with interest and if you have not received a refund, please contact our office. North Fort Myers Utility, Inc. also waived the collection of any monthly fees from December, 1998 through August 1999. Thus, you began accruing monthly user fees in September 1999. In fact, we have been preparing bills each month but have not been sending them pending the final determination by the Public Service Commission.

Although we believe that it would be within our right to bill residents of Buccaneer Estates for service rendered from September, 1999 through March of 2000 with the April billing, we have decided to bill two months at a time until the billings are current so long as the customer keeps payment current. Each month, you will receive two bills. the later bill will show the earlier bill as previous balance. You should only pay the latest bill. Thus, the following is a schedule showing the bills which you will receive over the next six months:

April – usage for September and October, 1999 (pay the October bill only)

May – usage for November and December, 1999 (pay the December bill only)

June – usage for January and February, 2000 (pay the February bill only)

July – usage for March and April, 2000 (pay the April bill only)

August – usage for May and June, 2000 (pay the June bill only)

September – usage for July and August, 2000 (pay the August bill only)

Pursuant to Florida Public Service Commission Rules and NFMU's Tariff, bills for wastewater service are due 20 days after mailing. If a bill is not paid within that period of time, then a utility will give the customer a separate notice that if the bill is not paid within the following 5 days, service will be disconnected. Please be assured that NFMU will strictly comply with these requirements and any customer who has not paid within these time frames will have their service disconnected. Since NFMU does not have control to disconnect water service for non-payment of wastewater service, NFMU will be compelled to bring in a back hoe to dig up the sewer line and close it off with a valve. In order to have service reconnected, the customer will be compelled to pay all outstanding bills, plus a \$25 customer deposit, plus the actual cost of disconnecting and reconnecting service. I would expect the later cost to be several hundred dollars.

Please do not hesitate to contact our office should you have any questions regarding the billing.

Very truly yours,