

State of Florida



Public Service Commission

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

RECEIVED FPSC
12 Dec 19 2:51
COMMISSION
CLERK

DATE: December 19, 2002
TO: Division of Commission Clerk and Administrative Services
FROM: Tony Sargent, Professional Accountant, Division of Economic Regulation
RE: Docket No. 021228-WS - application for staff assisted rate case in Brevard County by Service Management Systems, Inc.

The attached letter was sent to the Division of Economic Regulation. Please include it in the official docket file for Docket No. 021228-WS.

Thank you.

AUS _____
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CMP _____
COM _____
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OPC _____
MMS _____
SEC I
OTH _____

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

TOM McMULLEN, CONSULTANT
208 OSPREY VILLAS COURT, MELBOURNE BEACH, FL 32951
(321) 768-9730

Government/Civil Contract Administration Services – Proposals and Claims

FACSIMILE TRANSMISSION
(321) 952-0572

DATE: 12/18/02
FAX NUMBER: 850 413-6969
ATTENTION: Mr. Tony Sargent
COMPANY: Public Service Commission
COPY TO: _____
FROM: Tom McMullen
NUMBER OF PAGES (including this cover page): 9
SUBJECT: _____

**IF YOU HAVE ANY DIFFICULTY RECEIVING THIS TRANSMISSION,
PLEASE CONTACT THE FOLLOWING PERSON IMMEDIATELY:**

Shirley (321) 768-9730

ADDITIONAL INFORMATION:

AQUARINA RESIDENTS ASSOCIATION, INC.
208 OSPREY VILLAS COURT
MELBOURNE BEACH, FL 32951
(321) 768-9730; FAX (321) 952-0572

December 18, 2002

VIA FACSIMILE @ 850/413-6969

Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0865
Attn: Tony Sargent

RE: Consumer Complaint against Service Management Systems, Inc.

Dear Mr. Sargent:

I am in receipt of Mr. Rendell's letter dated December 11, 2002, a copy which I enclose. He indicated if I had any questions to direct them to you. I am a bit surprised that the Public Service Commission has decided not to do the undocketed investigation audit. I am requesting our state senator, Stan Mayfield, to address that issue with you directly since I believe an audit will be beneficial to the customers of Service Management, Inc. that have concerns about the tariff and rates charged on the water and sewer. Furthermore, I do not believe that Service Management Systems, Inc. would qualify for a staff assisted rate case under Florida Statutes 367.0814, since Service Management Systems, Inc. has gross annual revenues in excess of \$150,000. It is my understanding that only utilities with a gross annual revenue of less than \$150,000 would be eligible for a staff assisted rate case. I have done some preliminary math, and I know that Service Management Systems, Inc. provides water and sewer to at least 250 households at an average of at least \$1,000 per household per year (see computation enclosed regarding the Tidewater condominium.) Based on my understanding of the water consumed on the Aquarina property, the golf course uses probably equal or greater than that of the residential consumption, and if Service Management Systems, Inc. is billing them a comparable rate, which they should be, then Service Management Systems, Inc. should have gross annual revenues in excess of \$500,000. Is the golf course water metered or just an estimate of volume?

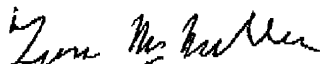
I would urge the Public Service Commission to reconsider its decision not to do the investigation audit. There are several areas of concern that I believe an audit will address. The tariff rate charged by Service Management Systems, Inc., pursuant to Florida Statutes 367.081, is based on providing the cost of the service. The following areas of inquiry will shed light on why the utility rates in Aquarina charged by Service Management Systems, Inc. are so disproportionate to those rates charged by other local utility providers. The areas of concern are:

1. Golf Course Usage. We believe that the golf course usage exceeds the residential usage, and we believe that the golf course may not be charged by Service Management Systems, Inc. the same rate that the residential customers are charged, or even charged at all. This would skew the cost of providing the service since the utility cannot give away utility services to associated corporations. The golf course is owned by some of the same people or corporations that own the water corporation.
2. Debt Service Charges. We would like the Public Service Commission to look into and determine what debt service charges are being allocated to Service Management Systems, Inc., and whether those are actual and accurate debt service charges.
3. Cost of Employees. Many of the employees that perform work for Service Management Systems, Inc. also work for the developer, Indian River No. 1 Developers, LLC, the broker of record, Aquarina Realty, and the homeowner's association, Aquarina Community Services Association, Inc. We would like to be assured that the salaries of these affiliated workers are properly proportioned and allocated, and not charged directly or solely to Service Management Systems, Inc. so as to increase the tariff or rate charged.

We believe if you look into these areas of concern that you may discover that there are charges being attributed to Service Management Systems, Inc. that really are not Service Management Systems, Inc.'s costs or expenses, and that is why our rates are so high and so out of proportion with the other local utilities.

Thanking you in advance.

Sincerely yours,



Tom McMullen
President

TMcM/sm
Enclosures

cc: Rep. Stan Mayfield
Van Catterton, Esq.
Jim Bates

24 UNITS
TIDE WATER
WATER CONSUMPTION

	GALLONS IN 000			DOLLARS
	MAIN	ROOF	TOTAL	
2002 (EST)	2005	110	2115	*24,000
2001	1917	575	2492	23,198
2000	1736	307	2038	16,144
1999	1799	255	2054	15,412
1998			1,254	N/A
1997 (EST)			788	N/A

DOLLARS INCLUDE IRRIGATION WATER
BUT NO POOL WATER.

N/A - NOT AVAILABLE

This is a 24 unit Condo that has had very little change in occupancy or time spent in residence. Approx 50% are part time.

FROM : STEWART B. CAPPS, P. A.

FAX NO. : 3217273200

Dec. 16 2002 12:17PM P5

TITLE XXVII. RAILROADS AND OTHER REGULATED UTILITIES / CHAPTER 367. WATER AND WASTEWATER SYSTEMS / 367.0814. Staff assistance in changing rates and charges; interim rates [West's F.S.A. § 367.0814]

367.0814. Staff assistance in changing rates and charges; interim rates

TITLE XXVII. RAILROADS AND OTHER REGULATED UTILITIES / CHAPTER 367. WATER AND WASTEWATER SYSTEMS / 367.0814. Staff assistance in changing rates and charges; interim rates [West's F.S.A. § 367.0814] / Current through End of 2002 Regular Session and 2002 Special "E" Session

Historical Notes

(1) The commission may establish rules by which a water or wastewater utility whose gross annual revenues are \$150,000 or less may request and obtain staff assistance for the purpose of changing its rates and charges. A utility may request staff assistance by filing an application with the commission.

(2) The official date of filing is established as 30 days after official acceptance by the commission of the application. If a utility does not remit a fee, as provided by s. 367.145, within 30 days after acceptance, the commission may deny the application. The commission has 15 months after the official date of filing within which to issue a final order.

(3) The provisions of s. 367.081(1), (2)(a), and (3) shall apply in determining the utility's rates and charges.

(4) The commission may, upon its own motion, or upon petition from the regulated utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

(5) The commission may require that the difference between the interim rates and the previously authorized rates be collected under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(6) The utility, in requesting staff assistance, shall agree to accept the final rates and charges approved by the commission unless the final rates and charges produce less revenue than the existing rates and charges.

(7) In the event of a protest or appeal by a party other than the utility, the commission may provide for temporary rates subject to refund with interest.

(8) If a utility becomes exempt from commission regulation or jurisdiction during the pendency of a staff-assisted rate case, the request for rate relief is deemed to have been withdrawn. Interim rates, if previously approved, shall become final. Temporary rates, if previously approved, must be discontinued, and any money collected pursuant to the temporary rates, or the difference between temporary and interim rates, if previously approved, must be refunded to the customers of the utility with interest.

(9) The commission may by rule establish standards and procedures whereby rates and charges of small utilities may be set using criteria other than those set forth in s. 367.081(1), (2)(a), and (3).

CREDIT(S)

FROM : STEWART B. CAPPS, P.A.

FAX NO. : 3217273200

Dec. 16 2002 12:18PM P6

1998 Main Volume

Added by Laws 1989, c. 89-353, § 8, eff. Oct. 1, 1989.

2002 Electronic Pocket Part Update

Amended by Laws 1999, c. 99-319, § 7, eff. June 11, 1999.

TITLE XXVII. RAILROADS AND OTHER REGULATED UTILITIES / CHAPTER 367. WATER AND WASTEWATER SYSTEMS / 367.0814. Staff assistance in changing rates and charges; interim rates [West's F.S.A. § 367.0814] / HISTORICAL NOTES

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

2002 Electronic Pocket Part Update

Laws 1999, c. 99-319, § 9, provides:

"This act does not apply to rate cases pending on March 11, 1999."

TITLE XXVII. RAILROADS AND OTHER REGULATED UTILITIES / CHAPTER 367. WATER AND WASTEWATER SYSTEMS / 367.0814. Staff assistance in changing rates and charges; interim rates [West's F.S.A. § 367.0814] / REFERENCES

REFERENCES

LIBRARY REFERENCES

1998 Main Volume

Municipal Corporations ~~C~~ 712(8).
Waters and Water Courses ~~C~~ 203.
WESTLAW Topic Nos. 268, 405.
C.J.S. Municipal Corporations § 1805.
C.J.S. Waters § 284.

FROM : STEWART B. CAPPS, P.A.

FAX NO. : 3217273200

Dec. 16 2002 12:18PM P7

TITLE XXVII. RAILROADS AND OTHER REGULATED UTILITIES / CHAPTER 367. WATER AND WASTEWATER SYSTEMS / 367.011. Jurisdiction; legislative intent [West's F.S.A. § 367.011]

367.011. Jurisdiction; legislative intent

TITLE XXVII. RAILROADS AND OTHER REGULATED UTILITIES / CHAPTER 367. WATER AND WASTEWATER SYSTEMS / 367.011. Jurisdiction; legislative intent [West's F.S.A. § 367.011] / Current through End of 2002 Regular Session and 2002 Special "E" Session

Historical Notes References Annotations

(1) This chapter may be cited as the "Water and Wastewater System Regulatory Law."

(2) The Florida Public Service Commission shall have exclusive jurisdiction over each utility with respect to its authority, service, and rates.

(3) The regulation of utilities is declared to be in the public interest, and this law is an exercise of the police power of the state for the protection of the public health, safety, and welfare. The provisions of this chapter shall be liberally construed for the accomplishment of this purpose.

(4) This chapter shall supersede all other laws on the same subject, and subsequent inconsistent laws shall supersede this chapter only to the extent that they do so by express reference. This chapter shall not impair or take away vested rights other than procedural rights or benefits.

CREDIT(S)

1998 Main Volume

Laws 1971, c. 71-278, § 1, eff. Sept. 1, 1971. Amended by Laws 1980, c. 80-99, § 1, eff. July 1, 1980; Laws 1982, c. 82-25, § 6, eff. March 15, 1982; Laws 1989, c. 89-353, § 1, eff. Oct. 1, 1989.

TITLE XXVII. RAILROADS AND OTHER REGULATED UTILITIES / CHAPTER 367. WATER AND WASTEWATER SYSTEMS / 367.011. Jurisdiction; legislative intent [West's F.S.A. § 367.011] / HISTORICAL NOTES

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

1998 Main Volume

Prior Provisions for Legislative Review of Regulatory Statutes:

Laws 1976, c. 76-168, the Regulatory Reform Act of 1976, which provided for legislative review of programs and functions which regulate professions, occupations, business, industry and other endeavors in Florida, provided in section 3 of the law for repeal of this chapter on July 1, 1980. Laws 1980, c. 80-99, which amended provisions of this chapter, provided in section 25 that notwithstanding the Regulatory Reform Act of 1976, the provisions comprising Fla. St. 1979, Chapter 367, with the exception of § 367.131, are revived and readopted. Section 26 of Laws 1980, c. 80-99, provided for the repeal of Chapter 367 on July 1, 1986 and further provided that the chapter was to be reviewed by the Legislature pursuant to the Regulatory Reform Act of 1976, as amended. Laws 1981, c. 81-318, rewrote statutes providing for legislative review of laws regulating

STATE OF FLORIDA

COMMISSIONERS:
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J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



TIMOTHY DEVLIN, DIRECTOR
DIVISION OF ECONOMIC REGULATION
(850) 413-6900

Public Service Commission

December 11, 2002

James H. Bates
Service Management Systems, Inc.
235 Hammock Shore Drive
Melbourne Beach, FL 32951

Re: Customer complaint against Service Management Systems, Inc.

Dear Mr. Bates:

We have received your application for a Staff Assisted Rate Case in Highlands County for Service Management Systems, Inc. Because each Staff Assisted Rate Case includes a complete audit and evaluation of the utility's books, records, plant and quality of service, I have suspended the request for an undocketed investigation audit. If, for any reason, your application for a Staff Assisted Rate Case is declined by the Commission, the undocketed investigation audit will be carried out pursuant to my letter dated December 2, 2002.

If you have any further questions regarding this matter, please contact the Commission staff assigned to this matter, Tony Sargent, at (850) 413-6968.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Rendell".

Troy Rendell
Public Utilities Supervisor

TR:ts

CC: Representative Stan Mayfield
Tom McMullen

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STATE OF FLORIDA



TIMOTHY DEVLIN, DIRECTOR
DIVISION OF ECONOMIC REGULATION
(850) 413-6900

Public Service Commission

December 11, 2002

Mr. Tom McMullen
208 Osprey Villas Court
Melbourne Beach, FL 32951

Re: Customer complaint against Service Management Systems, Inc.

Dear Mr. McMullen:

On December 10, 2002, in Docket No. 021228-WS, Service Management Systems, Inc. filed an application for a Staff Assisted Rate Case. Since each Staff Assisted Rate Case includes a complete audit and evaluation of the utility's books, records, plant and quality of service, I have suspended the request for an undocketed investigation audit. If, for any reason, the application for a Staff Assisted Rate Case is declined by the Commission, the undocketed investigation audit will be carried out pursuant to my letter dated December 2, 2002.

If you have any further questions regarding this matter, please contact the Commission staff assigned to this matter, Tony Sargent, at (850) 413-6968.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Rendell".

Troy Rendell
Public Utilities Supervisor

TR:ts

CC: Representative Stan Mayfield
James Bates, President, Service Management Systems, Inc.