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STATE OF FLORIDA



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

Public Service Commission

April 17, 2003

Ms. K. R. Hoffman
President, Mobile Manor, Inc.
150 Lantern Lane
North Fort Myers, FL 33917-6515

Re: Docket No. 021251-WU, Request for acknowledgment of nonprofit exemption in Lee County and for cancellation of Certificate No. 056-W by Mobile Manor, Inc.

Dear Ms. Hoffman:

Thank you and the Board for your participation in yesterday's conference call. A lot was accomplished in a short period of time. It appears staff's initial understanding that all of the lots in the subdivision are subject to deed restrictions requiring membership in the homeowners association was incorrect. We are pleased that the Board has chosen to retain legal counsel to review the matter of the enforceability of membership and will be happy to cooperate in any way we can.

As also discussed in the conference call, enclosed is a copy of Part IV of Chapter 25-30, Florida Administrative Code (FAC), with respect to customer relations. Rule 25-30.335, FAC, contains the rules with regard to billing. Rule 25-30.320, FAC, contains the rules with regard to discontinuance of service. Some utility matters are discretionary. Those matters for which statutes and rules have been promulgated are not. We believe these rules to be fairly self-explanatory. However, if you have any questions, please feel free to contact staff.

Also, since your customers raised issues with regard to billing procedures, we reviewed the utility's tariff. It appears it was not updated pursuant to the transfer to Mobile Manor, Inc. My staff will be in contact with Ms. Julius regarding the procedures for updating the tariff. In the meantime, please ensure that a copy of the tariff is available in the utility's office for use by customers during normal business hours.

We will look forward to the Board's response regarding your legal counsel's opinion as to the enforceability of association membership on or before May 31, 2003. Please feel free to contact Ms. Patricia Brady, at (850) 413-6686, pbrady@psc.state.fl.us or the Commission's legal counsels, Ms. Lorena Holley at (850) 413-6185, lholley@psc.state.fl.us or Ms. Jennifer Rodan at (850) 413-6189, jrodan@psc.state.fl.us, if you have any questions.

Sincerely,

A handwritten signature in cursive that reads "Patti Daniel".

Patti Daniel
Supervisor of Certification

Enclosure
PD:PB

cc: Mr. Edward LeMeur
Mr. Peter Rambo
Ms. Carol Julius
Division of Economic Regulation (Brady, Bass)
Office of the General Counsel (Holley, Rodan)
Office of the Commission Clerk and Administrative Services (docket, security)

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

PART IV - CUSTOMER RELATIONS

25-30.310	Initiation of Service
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25-30.310 Initiation of Service.

(1) A utility may require that application for service be made in writing and in accordance with the forms prescribed by the utility. However, the utility shall treat a completed application as notice that service is desired and as an expression of the applicant's willingness to conform to the utility's service rules and regulations which are in effect and on file with the Commission.

(2) Upon an applicant's compliance with utility's reasonable rules regarding service initiation, the utility shall initiate service without unreasonable delay. To ensure effectiveness of its rules regarding service and the initiation of service, a utility shall set out its rules or policies in its tariff, and those rules or policies shall have uniform application.

(3) In addition to the above, the utility shall provide each applicant for service with a copy of the brochure entitled "Your Water and Wastewater Service" which is prepared by and available from the Florida Public Service Commission, Division of Consumer Affairs, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0867.

Specific Authority: 350.127(2), 367.121, F.S.

Law Implemented: 367.111, 367.121, 367.081, F.S.

History: Amended 9/12/74, formerly 25-10.71, Transferred from 25-10.071 and Amended 11/9/86.

25-30.311 Customer Deposits.

(1) Deposit required; establishment of credit. Each company's tariff shall contain their specific criteria for determining the amount of initial deposit. Each utility may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with the utilities' rules for prompt payment of bills. Credit will be deemed so established if:

(a) The applicant for service furnishes a satisfactory guarantor to secure payment of bills for the service requested. A satisfactory guarantor shall, at the minimum, be a customer of the utility with a satisfactory payment record. A guarantor's liability shall be terminated when a residential customer whose payment of bills is secured by the guarantor meets the requirements of subsection (5) of this rule. Guarantors providing security for payment of residential customers' bills shall only be liable for bills contracted at the service address contained in the contract of guaranty.

(b) The applicant pays a cash deposit.

(c) The applicant for service furnishes an irrevocable letter of credit from a bank or a surety bond.

(2) Receipt for deposit. A non-transferrable certificate of deposit shall be issued to each customer and means provided so that the customer may claim the deposit if the certificate is lost.

(3) Record of deposits. Each utility having on hand deposits from customers shall keep records to show:

- (a) the name of each customer making the deposit;
 - (b) the premises occupied by the customer when the deposit was made;
 - (c) The date and amount of deposit; and
 - (d) A record of each transaction concerning such deposit.
- (4) Interest on deposit.

(a) Each utility which requires deposits to be made by its customers shall pay a minimum interest on such deposits of 6 percent per annum. The utility shall pay an interest rate of 7 percent per annum on deposits of nonresidential customers qualifying under subsection (5) below when the utility elects not to refund such a deposit after 23 months.

(b) The deposit interest shall be simple interest in all cases and settlement shall be made annually, either in cash or by credit on the current bill. This does not prohibit any public utility paying a higher rate of interest than required by this rule. No customer depositor shall be entitled to receive interest on his deposit until and unless a customer relationship and the deposit have been in existence for a continuous period of six months, then he shall be entitled to receive interest from the day of the commencement of the customer relationship and the placement of deposit.

(5) Refund of deposits. After a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the utility shall refund the residential customer's deposits and shall, at its option, either refund or pay the higher rate of interest specified above for nonresidential deposits, providing the customer has not, in the preceding 12 months, (a) made more than one late payment of a bill (after the expiration of 20 days from the date of mailing or delivery by the utility), (b) paid with check refused by a bank, (c) been disconnected for nonpayment, or at any time, (d) tampered with the meter, or (e) used service in a fraudulent or unauthorized manner. Nothing in this rule shall prohibit the company from refunding at any time a deposit with any accrued interest.

(6) Refund of deposit when service is discontinued. Upon termination of service, the deposit and accrued interest may be credited against the final account and the balance, if any, shall be returned promptly to the customer but in no event later than fifteen (15) days after service is discontinued.

(7) New or additional deposits. A utility may require, upon reasonable written notice of not less than 30 days, such request or notice being separate and apart from any bill for service, a new deposit, where previously waived or returned, or an additional deposit, in order to secure payment of current bills; provided, however, that the total amount of required deposit should not exceed an amount equal to the average actual charge for water and/or sewer service for two billing periods for the 12-month period immediately prior to the date of notice.

In the event the customer has had service less than 12 months, then the utility shall base its new or additional deposit upon the average monthly billing available.

Specific Authority: 367.121, 350.127(2), F.S.

Law Implemented: 367.081, 367.111, 367.121, F.S.

History: Amended 6/1/63, 4/1/69, 9/12/74, 6/10/80, 1/31/84, formerly 25-10.72, Transferred from 25-10.072 11/9/86, 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, F.S.

Law Implemented: 367.111, 367.121, F.S.

History: Amended 9/12/74, formerly 25-10.85, Transferred from 25-10.085 and Amended 11/9/86.

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, F.S.

Law Implemented: 367.081, 367.111, 367.121, F.S.

History: Amended 9/12/74, 4/3/80, formerly 25-10.74, 25-10.074, Amended 11/9/86, 1/1/91, 1/11/93, 11/30/93, 10/27/98.

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, F.S.

Law Implemented: 367.111, 367.121, F.S.

History: Amended 9/12/74, formerly 25-10.73, Transferred from 25-10.073 and Amended 11/9/86.

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, F.S.

Law Implemented: 367.121, F.S.

History: Amended 9/12/74, formerly 25-10.69, Transferred from 25-10.069 and 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.

(8) In the event of unauthorized use of service by a customer, a utility may bill the customer on a reasonable estimate of the service taken. In addition, the utility may assess a fee to defray the cost of restoring service to such a customer provided that the fee is specified in the utility's tariff.

(9) If a utility utilizes the base facility and usage charge rate structure and does not have a Commission authorized vacation rate, the utility shall bill the customer the base facility charge regardless of whether there is any usage.

Specific Authority: 350.127(2), 367.121, F.S.

Law Implemented: 367.121, F.S.

History: Amended 9/14/74, 6/21/79, formerly 25-10.97, Transferred from 25-10.097 and 25-10.111, and Amended 11/9/86, Amended 11/30/93.

25-30.340 Adjustment of Bills for Meter Error.

(1) In meter tests made by the Commission or by the utility at the request of the customer (as provided in Rule 25-30.266) the accuracy of registration of the meter and its performance in service shall be judged by its averaged error. The average meter error shall be considered to be the algebraic average of the errors at the test rate flows set out in Rule 25-30.263. Any adjustment of charges which is made in accordance with this rule shall be based on the average error thus derived.

(2) Fast meters. Whenever a meter tested is found to register fast in excess of the tolerance permitted under Rule 25-30.262, the utility shall refund to the customer the amount billed in error for one half the period from the time the meter was last tested not to exceed twelve (12) months except that if it can be shown that the error was due to some cause, the date of which can be fixed, the overcharge shall be computed back to but not beyond such date, based upon available records. The refund shall not include any part of the minimum charge.

(3) Slow meters.

(a) Except as provided by this paragraph, a utility may backbill in the event that a meter is found to be slow, non-registering or partially registering. A utility may not backbill for any period greater than twelve (12) months from the date it notifies a customer that his or her meter is slow, non-registering or partially registering. If it can be ascertained that the meter was slow, non-registering or partially registering for less than twelve (12) months prior to notification, then the utility may backbill only for the lesser period of time. In any event, the customer may extend the payments of the backbill over the same amount of time for which the utility issued the backbill. Nothing in this subsection shall be construed to limit the application of subsection (5) of this rule.

(b) Whenever a meter tested is found to register slow in excess of the tolerance established under Rule 25-30.262, the utility may bill the customer in accordance with this subsection. If the utility has required a deposit as permitted under Rule 25-30.266 the customer may be billed only for that portion of the unbilled error which is in excess of the deposit retained by the utility.

(c) In the event of a non-registering or a partially registering meter, unless the provisions of subsection (4) of this rule apply, a customer may be billed on an estimated amount based on previous bills for similar usage.

(4) It shall be understood that when a meter is found to be in error in excess of the prescribed accuracy limits, fast or slow, the figure to be used for calculating the amount of refund or charge in (2) or (3)(b) above shall be that percentage of error as determined by the test.

(5) In the event of unauthorized use, the customer may be billed on a reasonable estimate of the service taken. The utility may assess a fee to defray the cost of restoring service provided such charge is specified in the tariff.

Specific Authority: 350.127(2), 367.121, F.S.

Law Implemented: 367.081, 367.121, F.S.

History: Amended 9/12/74, 5/3/82, formerly 25-10.98, Transferred from 25-10.098 11/9/86.

25-30.345 Customer Service Charges.

(1) When a utility has disconnected service for proper cause as specified in Rule 25-30.320, F.A.C., the utility may charge a reasonable fee to defray the cost of restoring service provided that the fee is specified in the utility's tariff.

(2) When an applicant requests temporary service, the utility may charge a reasonable fee pursuant to Rule 25-30.315, F.A.C., to defray the cost of installing and removing facilities and materials.

(3) A utility may have other customer service charges. These are specified in the utility's tariff.

Specific Authority: 350.127(2), 367.121, F.S.

Law Implemented: 367.081, 367.111, F.S.

History: Amended 3/6/71, 9/12/74, formerly 25-10.99, Transferred from 25-10.099 and Amended 11/9/86.

25-30.350 Backbilling.

(1) A utility may not backbill customers for any period greater than 12 months for any undercharge in billing which is the result of the utility's mistake. The utility shall allow the customer to pay for the unbilled service over the same time period as the time period during which the underbilling occurred or some other mutually agreeable time period. The utility shall not recover in a ratemaking proceeding, any lost revenues which inure to the utility's detriment on account of this provision.

Specific Authority: 350.127(2), 367.121, F.S.

Law Implemented: 367.121, F.S.

History: New 11/9/86.

25-30.355 Complaints.

(1) A utility shall make a full and prompt acknowledgement and investigation of all customer complaints and shall respond fully and promptly to all customer requests.

(2) For the purpose of this rule the word "complaint" used in this rule shall mean an objection made to the utility by the customer as to the utility's charges,

facilities or service, where the disposal of the complaint requires action on the part of the utility.

(3) Replies to inquiries by the Commission's staff shall be furnished within fifteen (15) days from the date of the inquiry and shall be in writing, if requested.

Specific Authority: 350.127(2), 367.121, F.S.

Law Implemented: 367.121, F.S.

History: Amended 9/12/74, formerly 25-10.70, Transferred from 25-10.070 and Amended 11/9/86.

25-30.360 Refunds.

(1) Applicability. With the exception of deposit refunds, all refunds ordered by the Commission shall be made in accordance with the provisions of this Rule, unless otherwise ordered by the Commission.

(2) Timing of Refunds. Refunds must be made within 90 days of the Commission's order unless a different time frame is prescribed by the Commission. A timely motion for reconsideration temporarily stays the refund, pending the final order on the motion for reconsideration. In the event of a stay pending reconsideration, the timing of the refund shall commence from the date of the order disposing of any motion for reconsideration. This rule does not authorize any motion for reconsideration not otherwise authorized by Chapter 25-22, Florida Administrative Code.

(3) Basis of Refund. Where the refund is the result of a specific rate change, including interim rate increases, and the refund can be computed on a per customer basis, that will be the basis of the refund. However, where the refund is not related to specific rate changes, such as a refund for overearnings, the refund shall be made to customers of record as of a date specified by the Commission. In such case, refunds shall be made on the basis of usage. Per customer refund refers to a refund to every customer receiving service during the refund period. Customer of record refund refers to a refund to every customer receiving service as of a date specified by the Commission.

(4) Interest.

(a) In the case of refunds which the Commission orders to be made with interest, the average monthly interest rate until refund is posted to the customer's account shall be based on the 30 day commercial paper rate for high grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000 as regularly published in the Wall Street Journal.

(b) This average monthly interest rate shall be calculated for each month of the refund period:

1. By adding the published interest rate in effect for the last business day of the month prior to each month of the refund period and the published rate in effect for the last business day of each month of the refund period divided by 24 to obtain the average monthly interest rate;
2. The average monthly interest rate for the month prior to distribution shall be the same as the last calculated average monthly interest rate.

(c) The average monthly interest rate shall be applied to the sum of the previous month's ending balance (including monthly interest accruals) and the current month's ending balance divided by 2 to accomplish a compounding effect.

(d) Interest Multiplier. When the refund is computed for each customer, an interest multiplier may be applied against the amount of each customer's refund in

lieu of a monthly calculation of the interest for each customer. The interest multiplier shall be calculated by dividing the total amount refundable to all customers, including interest, by the total amount of the refund, excluding interest. For the purpose of calculating the interest multiplier, the utility may, upon approval by the Commission, estimate the monthly refundable amount.

(e) Commission staff shall provide applicable interest rate figures and assistance in calculations under this Rule upon request of the affected utility.

(5) Method of Refund Distribution. For those customers still on the system, a credit shall be made on the bill. In the event the refund is for a greater amount than the bill, the remainder of the credit shall be carried forward until the refund is completed. If the customer so requests, a check for any negative balance must be sent to the customer within 10 days of the request. For customers entitled to a refund but no longer on the system, the company shall mail a refund check to the last known billing address except that no refund for less than \$1.00 will be made to these customers.

(6) Security for Money Collected Subject to Refund. In the case of money being collected subject to refund, the money shall be secured by a bond unless the Commission specifically authorizes some other type of security such as placing the money in escrow, approving a corporate undertaking, or providing a letter of credit. The company shall provide a report by the 20th of each month indicating the monthly and total amount of money subject to refund as of the end of the preceding month. The report shall also indicate the status of whatever security is being used to guarantee repayment of the money.

(7) Refund Reports. During the processing of the refund, monthly reports on the status of the refund shall be made by the 20th of the following month. In addition, a preliminary report shall be made within 30 days after the date the refund is completed and again 90 days thereafter. A final report shall be made after all administrative aspects of the refund are completed. The above reports shall specify the following:

- (a) The amount of money to be refunded and how that amount was computed;
- (b) The amount of money actually refunded;
- (c) The amount of any unclaimed refunds; and
- (d) The status of any unclaimed amounts.

(8) Any unclaimed refunds shall be treated as cash contributions-in-aid-of-construction.

Specific Authority: 350.127(2), 367.121, F.S.

Law Implemented: 367.081, 367.0814, 367.082(2), F.S.

History: New 8/17/83, Formerly 25-10.76, 25-10.076, Amended 11/9/86, 11/30/93.

