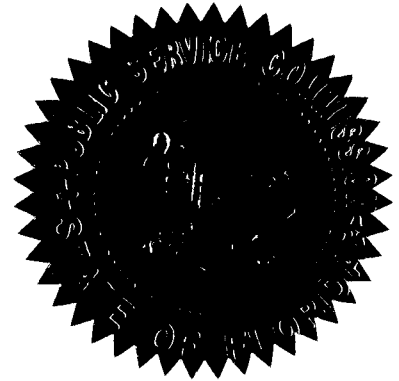


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070366-WU

In the Matter of:

APPLICATION TO AMEND WATER TARIFF TO
ALLOW COLLECTION OF CUSTOMER DEPOSITS
BY O&S WATER COMPANY, INC.



ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 14

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, July 31, 2007

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION

06844 AUG-7 07

FPSC-COMMISSION CLERK.

1 PARTICIPATING:

2 MICHAEL COOKE, GENERAL COUNSEL, RALPH JAEGER,
3 ESQUIRE, TROY RENDELL and JARED DEASON, representing the
4 Florida Public Service Commission Staff.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EDGAR: Okay. We are on Item 14.

MR. DEASON: Yes. Item 14 is application to amend a tariff by O&S Water Utilities, Incorporated -- or O&S Water Company, Incorporated. They have requested that they establish customer deposits that will be exactly two times the average customer bill for the utility, which comes to approximately \$73. We would recommend that the tariff be approved, and we're here for your questions.

COMMISSIONER CARTER: I'm sorry. I couldn't hear.

CHAIRMAN EDGAR: Okay. Mr. Deason, we're going to ask you to do that one more time a little louder and a little more slowly.

MR. DEASON: I'm sorry. Item Number 14 is a request to amend the water tariff by O&S Water Company, Incorporated. They have requested to establish a customer deposit for their customers, for new customers as well as customers with an unsatisfactory payment record. These deposits will be approximately, or exactly two times the average customer bill for the utility, which comes to \$73. We recommend that this tariff be approved, and we're here for your questions.

CHAIRMAN EDGAR: Thank you.

Commissioner Carter.

COMMISSIONER CARTER: I was, I was fine until he said "two times the average bill" for a deposit. That's, you know,

1 that's where I jumped off the train. That just kind of caught
2 me off guard, particularly in light of what we just finished
3 discussing here in the context of what we're doing for the
4 ratepayers. And I don't know, maybe it's just me, but that
5 just seemed kind of -- you know, two times the average bill as
6 a deposit, that kind of gave me the willies.

7 MR. RENDELL: Commissioners, if I might. Besides the
8 fact that it's consistent with the rule, but the theory behind
9 it is the bill goes out, they have 21 days.

10 COMMISSIONER CARTER: Hold on a second. Don't say
11 consistent with the rules and like what we just went through.
12 Okay? If you've got something else to say --

13 MR. RENDELL: I wanted, I wanted to give a little
14 further clarification.

15 COMMISSIONER CARTER: Okay. Good.

16 MR. RENDELL: The bill is issued to the customer.
17 It's not considered delinquent for 21 days. Then the utility
18 must submit a five-day work, five working day notice to turn
19 off service. So by the time the bill -- by the time the
20 utility can go out and turn the service off, two months has
21 already lapsed. So the two months is to cover the two months
22 for the period of time that the customer is not paying the
23 bill. So that's the theory behind the two months.

24 CHAIRMAN EDGAR: Commissioner Carter.

25 COMMISSIONER CARTER: But the thing about it is that,

1 the way you explain it is that the person should be required to
2 pay the two months' bill; not necessarily an arbitrary two
3 times the average bill, but just pay what's actually owed and
4 outstanding. Wouldn't you agree with that?

5 MR. RENDELL: Well, the Commission, when they
6 establish a deposit, they establish one dollar amount for all
7 residential customers, and it's based on the average bill, two
8 times the average bills for that class. So we set a dollar
9 amount for all the residentials based on their usage and a
10 two-month usage, and then all of the others are two times their
11 actual average bills, as you can see in the general service.
12 Because some general service customers would use substantially
13 more. But the, what the Commission strives to do is set one
14 dollar amount for all residential customers based on that two
15 months 'bills.

16 COMMISSIONER CARTER: Thank you, Madam Chair.

17 Just a follow-up. If, if, if the bill for the
18 customer is \$20 in my hypothetical, it's \$20, and they don't
19 pay this month and next month's bill is \$20, why should they
20 pay any more than the \$40 that's outstanding? They may pay a
21 late fee, maybe \$5 or something like that, but why would they
22 pay, you know, two times the average bill for the whole class
23 of customers?

24 MR. RENDELL: I believe the theory would be that
25 administratively you would have to have a separate deposit for

1 each individual customer. And so if you have thousands of
2 customers, each customer is going to pay a different amount.
3 And the administrative burden on the utility to, to enact that
4 would be, would outweigh the benefits of it. So it's
5 basically, it's for customers who cannot establish credit or
6 have had bad payment records in the last 12 months. So it's
7 basically to protect the general body of ratepayers, again, for
8 the customers who do not pay and to keep the bad debt expense
9 down for the utility.

10 COMMISSIONER CARTER: Just one final follow-up. My
11 point is that the bad actor should pay for the bad actor's
12 actions, not, not any more obviously. I mean, it's one thing
13 to say that you should pay X, but you should owe X and maybe,
14 like I say, a late fee or something like that. But just trying
15 to say a company convenience, you know, I'm not, I'm not
16 feeling you on that one.

17 MR. RENDELL: Commissioner, if I might, for further
18 clarification, and it's probably not -- it isn't clear in the
19 recommendation. This is for the initial deposit. The rule is
20 very clear for new or additional deposits it's the amount equal
21 to the average actual charge for the water and wastewater
22 service for two billing periods during the 12-month period. So
23 typically a utility will stylize the additional deposit for
24 that, for that individual customer for the additional deposit.
25 This is for initial deposits because you don't know coming in

1 what that customer will use. So if it's a brand new customer
2 who's never been a customer of the utility before, you have to
3 base it on something. So you base it on what the average, what
4 the average customer base uses for that utility.

5 For an additional deposit it is specifically for
6 those customers. They would look at the 12-month billing
7 period. And I have seen that for utilities, they will look at
8 that one utility -- that one customer's billings.

9 COMMISSIONER CARTER: But it's -- excuse me, Madam
10 Chair. If I may. May I?

11 CHAIRMAN EDGAR: You may.

12 COMMISSIONER CARTER: It just seems that, I mean, it
13 may have just been a throwaway line about people that have got
14 bad credit or don't have enough resources or whatever the case
15 may be, but it seems to me is that it may be burdensome for a
16 person initially to go there to pay some arbitrary amount based
17 upon what other folk have done versus what the true costs are
18 for the, in terms of a deposit. I mean, twice the average
19 month, the bill for a deposit versus -- what's wrong with once,
20 just taking the average monthly bill for a customer and just
21 charging once for one month as a deposit versus twice that? I
22 mean, you're guesstimating anyway, aren't you?

23 MR. RENDELL: It's actually based on the actual data
24 of that utility and the actual usage. But, you know, if the
25 Commission --

1 COMMISSIONER CARTER: For this customer though you're
2 guesstimating. Remember your hypothetical about the new
3 customer?

4 MR. RENDELL: Yes, for the initial customer. But if
5 the Commission wants to do one month, then you have the
6 authority to do so.

7 COMMISSIONER CARTER: Thank you, Madam Chair.

8 CHAIRMAN EDGAR: Commissioner Argenziano.

9 COMMISSIONER ARGENZIANO: Commissioner Carter, I have
10 some of the same problems. But I have to ask counsel, wouldn't
11 this be subject to the same thing we just spoke of on the last
12 matter? According to 367.091(6), it --

13 MR. COOKE: That would be my off-the-cuff response,
14 yes. It's a service charge similar to the same discussion
15 we've had, cost justification, however that is interpreted.

16 COMMISSIONER ARGENZIANO: Cost justification seems to
17 be in order according to the statutory language, and that would
18 then give you the numbers or the comfort you need as to why or
19 how you've come to that. I don't see a difference in this or
20 the last thing we spoke about as far as a cost justification.

21 MR. RENDELL: And, Commissioners, the utility did
22 provide the cost justification in this one.

23 COMMISSIONER ARGENZIANO: Okay.

24 CHAIRMAN EDGAR: Do we have anyone here that can
25 speak on behalf of the utility?

1 MR. JAEGER: I talked to Marty Friedman this morning.
2 And since most of these have been move staff, it's a fairly
3 small utility, and he said he was not coming. And I thought
4 part of the problem was there was a question of whether current
5 customers would have to pay this deposit. And he said, no, the
6 utility agreed that the current customers, it would only be for
7 prospective, and they agreed with the two times bill based on
8 Mr. Rendell's, plus any bad payment or late payment, then they
9 could implement twice what the bill would be. And I think it's
10 just the delay that you're providing service for 60 days before
11 you start getting the payments and before you can go after
12 them, and it's a way that the company manages bad debt. And I
13 think that was in an order when they were talking about
14 managing bad debt, that we should give the utility this ability
15 to not have, lose this money, that these people can no longer
16 be a customer and just leave after a couple of months and they
17 could get two months of free service.

18 CHAIRMAN EDGAR: Commissioner Argenziano.

19 COMMISSIONER ARGENZIANO: To the point of only
20 current -- I thought it was going to apply to only new
21 customers. But, but I think I heard you say that if you are a
22 current customer and you have a problem paying a bill one
23 month, then you could be subject to this \$73 deposit also.

24 MR. JAEGER: That's -- our interpretation is if they
25 go into a bad, you know, or they lose that presumed good

1 customer, then they could require a deposit.

2 COMMISSIONER ARGENZIANO: Madam Chair.

3 CHAIRMAN EDGAR: Yes.

4 COMMISSIONER ARGENZIANO: So that would be then, it
5 could be even if you are late one time and then you'd be
6 charged a double or a \$73 connection fee. So then let me see,
7 the possible outcome could be then that instead of -- I have no
8 problem with a deposit because I think that that's reasonable
9 if it's a reasonable deposit. But I want to make sure that if
10 we're talking about a current customer then being late one time
11 then maybe being subject to, to this fee and then not being
12 able to pay their bill plus the fee, where does that help the
13 company?

14 MR. RENDELL: The rule actually specifies that the
15 utility -- the customer has not in the preceding 12 months made
16 more than one late payment of a bill paid with a check refused
17 by a bank, been disconnected for nonpayment, or tampered with
18 the meter, or used fraudulent service. So it's more than one
19 late payment during a preceding 12-month period. It's not just
20 one.

21 COMMISSIONER ARGENZIANO: Okay. Could you just cite
22 for me the rule, please?

23 MR. RENDELL: Sure. It is 25-30.311, and it's (5).

24 COMMISSIONER ARGENZIANO: Thank you.

25 MR. RENDELL: And (7) is the new additional deposits.

1 CHAIRMAN EDGAR: Commissioners, further questions,
2 further discussion?

3 Commissioner.

4 COMMISSIONER ARGENZIANO: On the cost justification,
5 maybe staff could go through that.

6 MR. RENDELL: The utility provided information on the
7 average residential consumption per bill. We calculated that
8 times the gallonage charge, then added in the base facility
9 charge, times that times two, and that's the cost justification
10 of \$73 based on this utility's usage data for the residential
11 customers.

12 MR. JAEGER: That was over the period from May 2006
13 to May 2007 they showed a \$36.47 average bill.

14 COMMISSIONER ARGENZIANO: Madam Chair.

15 CHAIRMAN EDGAR: Yes.

16 COMMISSIONER ARGENZIANO: I guess I'm looking for the
17 justification in this little diagram that I have here. I don't
18 have a lot of information other than meter size, all meter
19 sizes, proposed water deposit \$73 and general service customer
20 deposits, all meter sizes, two times the average bill. And I
21 think a justification entitles me to a little bit more
22 information as far as why is it justified. How many customers
23 have they -- you know, and they have a right to recoup. I'm
24 just trying to figure out what the real justification is, not
25 the --

1 MR. RENDELL: Commissioners, once again, if you would
2 like, you could suspend this tariff and we could ask for
3 further justification from the utility and we'll come back at a
4 later date.

5 MR. JAEGER: In Exhibit A of their filing, Troy, I
6 think is where they --

7 CHAIRMAN EDGAR: Commissioners, questions? No
8 questions?

9 Commissioner McMurrin.

10 COMMISSIONER McMURRIAN: I was just thinking maybe
11 they could get that to us and come back to it later. If we
12 think we've got the information in this case, although we
13 didn't in the other one, then it may be worthwhile to go ahead
14 as long as we can look at the cost information. Maybe come
15 back after the other.

16 CHAIRMAN EDGAR: Well --

17 MR. RENDELL: Unfortunately, we don't have the
18 information that Commissioner Argenziano wants, the number of
19 late payments, the bad debt numbers. We looked at the cost
20 justification of the cost, of the requested rate itself, and
21 that's based on an exhibit the utility provided based on
22 consumption of residential customers, and that's how we derived
23 at the \$73.

24 CHAIRMAN EDGAR: Well, I have some discomfort
25 proceeding if, if what I think I may have heard is that our

1 staff gave some indication to the company or its representative
2 that they may not be asked questions today. And I realize we
3 give, you know, the best direction that we can and things
4 sometimes change. I recognize that.

5 MR. JAEGER: Chairman, let me assure you, we did not
6 tell him. It's just that this is a small utility and they're
7 trying to save the money for their client, and they did their
8 own presumption about this might be on the move staff. And
9 what I did, I called him early this morning and thought maybe
10 he might have somebody from the Rose, Sundstrom firm here in
11 Tallahassee represent them if they, you know, if he couldn't be
12 here. And, and he said that, that, no -- he didn't elect to go
13 that route. I'm not sure what their connections are with the
14 Rose, Sundstrom here in Tallahassee, if he could get anybody at
15 that such late notice to represent them. But, no, we didn't
16 tell him this is going to be move staff or it's always that
17 way. He made his own decision not to come up from Orlando and
18 travel that day. And I, in fact, did tell him it was not on
19 the move staff.

20 CHAIRMAN EDGAR: Thank you, Mr. Jaeger.

21 Commissioner Carter.

22 COMMISSIONER CARTER: Madam Chair, I see this as a
23 distinction without a difference in the last case that we had.
24 And staff has information, even though notwithstanding the fact
25 it is a small utility, I would make the -- I think we're in

1 pretty much the same posture as we were on Issue 13. And I
2 would make the same motion to suspend and we get the
3 information so that the Commission can, can make a ruling based
4 upon it. I mean, we've got four pages of charts -- well --

5 CHAIRMAN EDGAR: Less.

6 COMMISSIONER CARTER: Actually a page and a quarter.
7 So I think it's kind of hard. And I think it's important for
8 us to have that information, particularly going back to what I
9 said before, there are a tremendous number of water cases
10 coming before us and we need to make sure that we are clear in
11 delineating what we are expecting of these companies, and also
12 to be clear to make sure that we don't allow something by
13 subterfuge or whatever the case may be get into the rate base
14 or be put on the general body of ratepayers.

15 So in that context, Madam Chairman, I think
16 Commissioner McMurrian was far more articulate in moving to
17 suspend the tariff on that. And I want to ask our General
18 Counsel if he thinks that's the appropriate move on this.

19 MR. COOKE: I do, Commissioner, if the desire is to
20 get further clarification or information regarding the cost
21 justification for the deposit issue, then I think it is
22 perfectly appropriate for you to decide to suspend with the
23 reason of wanting staff to collect that information and present
24 it and address it.

25 COMMISSIONER CARTER: I so move.

1 COMMISSIONER ARGENZIANO: Madam Chair.

2 CHAIRMAN EDGAR: Commissioner Argenziano.

3 COMMISSIONER ARGENZIANO: Just a comment. The
4 company may be very well justified, and it's a small company
5 and that may be. But I'd just like to have a basis for doing
6 that and seeing it in front of me. So I appreciate staff
7 getting that together for us. Thank you.

8 CHAIRMAN EDGAR: Thank you.

9 COMMISSIONER McMURRIAN: Second.

10 CHAIRMAN EDGAR: Okay. Commissioners, I have a
11 motion and Commissioner McMurrian has seconded. Is there a
12 discussion? Okay. All in favor, say aye.

13 (Unanimous affirmative vote.)

14 Opposed? Show it adopted.

15 (Agenda Item 14 concluded.)

16

17

18

19

20

21

22

23

24

25

1 STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
2 COUNTY OF LEON)

3

4 I, LINDA BOLES, RPR, CRR, Official Commission
Reporter, do hereby certify that the foregoing proceeding was
5 heard at the time and place herein stated.

6 IT IS FURTHER CERTIFIED that I stenographically
reported the said proceedings; that the same has been
7 transcribed under my direct supervision; and that this
transcript constitutes a true transcription of my notes of said
8 proceedings.

9 I FURTHER CERTIFY that I am not a relative, employee,
attorney or counsel of any of the parties, nor am I a relative
10 or employee of any of the parties' attorneys or counsel
connected with the action, nor am I financially interested in
11 the action.

12 DATED THIS _____ day of August, 2007.

13

14

LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734

15

16

17

18

19

20

21

22

23

24

25