

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems, Inc.

Docket No. 080562-WU

Filed: April 19, 2010

PETITION TO INTERVENE

Petitioner, Dennis U. Smith, pursuant to Florida Public Service Commission, ("Commission") Rule 25-22.039, Florida Administrative Code ("F.A.C."), hereby files his petition to intervene in this docket and states:

A. AGENCY AFFECTED

- 1. Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

B. IDENTIFICATION OF THE PETITIONER AND EXPLANATION OF HOW PETITIONER'S SUBSTANTIAL INTERESTS WILL BE AFFECTED

- 2. Dennis U. Smith
1384 NE 130th Terrace
Silver Springs, FL 34488-3533
Tel. No. (352) 625-1206
- 3. Dennis U. Smith will be representing himself and is authorized to receive all notices, pleadings and other communications in this docket.
- 4. Petitioner is a customer of East Marion Sanitary Systems, Inc. ("East Marion", "Utility" or "Company"). East Marion applied for and was approved for increases in the charges and fees the Utility can charge its customers. Part of the order approving the increased charges and fees required East Marion to provide irrigation meters at the old rate (\$70.00)

COM _____
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FPSC-COMMISSION CLERK

9. In response to Petitioner's request for an irrigation meter, did East Marion refuse to provide Petitioner with an application to receive an irrigation meter and otherwise refuse to provide the Petitioner with an irrigation meter, prior to April 7, 2009?
10. Should East Marion be required to furnish the Petitioner a properly installed irrigation meter upon receipt of the previously authorized charge of \$70.00, as provided by Commission PAA Order No. PSC-09-0263-TRF-WU?

E. CONCISE STATEMENT OF ULTIMATE FACTS ALLEGED

11. East Marion failed to abide by its previous tariff requirement to provide a properly installed irrigation meter upon a customer paying the \$70.00 meter installation charge to the Utility. The specific issues of material fact that need to be resolved are presented above in Section D.

F. STATUTES AND RULES THAT REQUIRE RELIEF REQUESTED

12. The specific statutes and rules that require the relief sought by the Petitioner include, but are not limited to, Section 367.081, 367.111, 367.121, Florida Statutes ("F.S."), Rules 25-30.520, 25-22.039 and 28-106.201(2), F.A.C. Section 367.081, F.S., provides that a utility may only charge rates and charges that have been approved by the Commission. Section 367.111, F.S., requires each utility to provide service to customers in its service territory within a reasonable time. Further, Section 367.111, F.S., requires that each utility shall provide to each person reasonably entitled thereto such safe, efficient and sufficient service as is prescribed by Part VI of Chapter 403 and Parts I and II of Chapter 373, or rules adopted pursuant thereto, but such service shall not be less safe, less efficient, or less sufficient than is consistent with the approved engineering design of the system and the reasonable and proper operation of the utility in the public interest. Section 367.121, F.S., provides that the Commission shall prescribe service rules to be observed by each utility. Rule 25-30.520, F.A.C., provides that it is the responsibility of the utility to provide service within its certified territory in accordance with the terms and conditions on file with the Commission. Rule 25-22.039, F.A.C., provides the requirements for filing a petition to intervene, and Rule 25-106.201(2), F.A.C., provides the information that

to customers who had requested these irrigation meters prior to the April 7, 2009 date of the Agenda Conference approving the new charges and fees. East Marion protested the portion of the order directing it to provide irrigation meters at the old rate to the customers who had requested the meters prior to April 7, 2009.

5. Petitioner requested by telephone and in person for East Marion to provide Petitioner with an irrigation meter for the \$70.00 installation charge, the charge then specified in the Utility's tariff. The Petitioner also made the request in writing. Both requests were made well before the April 7, 2009 deadline imposed by the Commission's PAA Order No. PSC-09-0263-TRF-WU. Notwithstanding these requests, East Marion refused to provide Petitioner with an application to request an irrigation meter, and otherwise refused to provide Petitioner with an irrigation meter. This docket is the appropriate proceeding to permit Petitioner to present evidence of East Marion's failure to abide by its previously established tariff charge for the proper installation of an irrigation meter. Further, it is the appropriate docket to provide the Petitioner with an opportunity to seek relief from the Company's refusal to properly install an irrigation meter for the \$70.00 charge. Petitioner's rights and interests as an intervenor cannot be adequately represented by any other party in this proceeding.

C. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

6. Petitioner received notice of East Marion's protest of Commission PAA Order No. PSC-09-0263-TRF-WU, issued in this docket, by reviewing the docket file on the Commission's website.

D. DISPUTED ISSUES OF MATERIAL FACT

7. Does East Marion's previously established tariff require the Utility to provide its customers with a properly installed irrigation meter, upon a customer paying the Utility the Commission approved charge of \$70.00?
8. Did the Petitioner request East Marion to provide Petitioner with an irrigation meter for the then approved charge of \$70.00, prior to April 7, 2009?

should be included in a petition to intervene, to demonstrate that the intervenor is entitled to participate in the proceeding or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding.

G. RELIEF SOUGHT BY PETITIONER

13. Petitioner requests the Commission to grant his petition to intervene in this docket, and to be afforded the opportunity to provide testimony to support his positions taken in this docket.

Respectfully submitted this 19th day of April 2010.



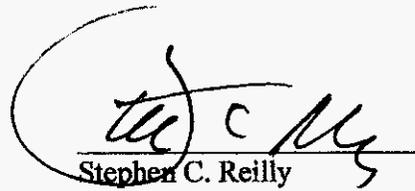
Dennis U. Smith

CERTIFICATE OF SERVICE
DOCKET NO. 080562-WU

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition to Intervene has been furnished by Electronic and U.S. Mail to the following parties this 19th day of April, 2010.

Lisa Bennett, Esquire
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

East Marion Sanitary Systems, Inc.
G-4225 Miller Road, #190
Flint, MI 48507-1227



Stephen C. Reilly
Associate Public Counsel