

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of imposition of miscellaneous service charges, delinquent payment charge and meter tampering charge in Lake County, by Pine Harbour Water Utilities, LLC.

DOCKET NO. 090429-WU
ORDER NO. PSC-10-0257-TRF-WU
ISSUED: April 26, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

ORDER DENYING TARIFF REVISIONS FOR
MISCELLANEOUS SERVICE CHARGES,
DELINQUENT PAYMENT CHARGE, AND
METER TAMPERING FEE

BY THE COMMISSION:

BACKGROUND

Pine Harbour Water Utilities, LLC (Pine Harbour or Utility) is a Class C utility which provides service in Lake County to approximately 60 water customers. The Utility's 2008 annual report shows water annual operating revenue of \$15,678, and a total operating loss of \$4,930.

On August 7, 2009, Pine Harbour filed an application to modify Tariff Sheet No. 16.0. The Utility proposes to establish miscellaneous service charges which include an initial connection fee, a normal reconnection fee, a violation reconnection fee, and a premises visit charge. Pine Harbour has also requested adding a delinquent payment charge and a meter tampering charge. By Order No. PSC-09-0709-PCO-WU, issued October 26, 2009, we suspended the Utility's tariff filing pending further clarification.

On October 13, 2009, we sent a data request to Pine Harbour to obtain further clarification and cost justification regarding its miscellaneous service charges. The Utility responded to this data request on October 25, 2009.

This Order addresses Pine Harbour's requested tariff changes. We have jurisdiction over this matter pursuant to Section 367.091, Florida Statutes (F.S.).

DOCUMENT NUMBER DATE

03329 APR 26 2010

FPSC-COMMISSION CLERK

DECISION

As stated above, on August 7, 2009, Pine Harbour filed an application to modify Tariff Sheet No. 16.0. The Utility proposes to establish miscellaneous service charges, which include an initial connection fee, normal reconnection fee, violation reconnection fee, and a premises visit charge. Pine Harbour has also requested the addition of a delinquent payment charge and a meter tampering charge.

Miscellaneous Service Charges

Rule 25-30.460, Florida Administrative Code (F.A.C.), addresses applications for miscellaneous service charges. Pursuant to this rule, all water and wastewater utilities may apply for these charges, and the charges shall be included in each company's tariffs and shall include rates for initial connections, normal reconnections, violation reconnections, and premise visit charges. Pursuant to this rule the following charges are allowed to be levied by utilities:

- 1) Initial Connection: This charge is to be levied for service initiation at a location where service did not exist previously.
- 2) Normal Reconnection: This charge is to be levied for transfer of service to a new customer account at a previously served location, or reconnection of service subsequent to a customer requested disconnection.
- 3) Violation Reconnection: This charge is to be levied prior to reconnection of an existing customer after disconnection of service for cause according to Rule 25-30.320(2), F.A.C., including a delinquency in bill payment.
- 4) Premises Visit: This charge is to be levied when a service representative visits a premises at a customer's request for complaint resolution and the problem is found to be the customer's responsibility.
- 5) Premises Visit (in lieu of disconnection): This charge is to be levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill, but does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

Rule 25-30.460, F.A.C., also allows a utility to request an additional charge ("after hours charge") for overtime when the customer requests that service be performed after normal hours. The after hours charge may be the same rate as the charge during normal working hours; however, if the utility seeks a charge other than the normal working hours charge, the utility must file cost support. Section 367.091(6), F.S., authorizes the utility to file an application to establish, increase, or change a rate or charge other than monthly rates or service availability charges, which must be accompanied by a cost justification.

In several recent rate cases,¹ we have approved miscellaneous service charges of \$20-\$21 for normal hours and \$40-\$42 for after hours based on applying price indices. Pine Harbour has requested changes to increase all of its miscellaneous service charges for normal hours and after hours. The changes and additions requested by Pine Harbour to its Tariff Sheet No. 16.0 for miscellaneous service charges are discussed below.

Initial Connections and Normal Reconnections

Pine Harbour requested to establish a charge for initial connection and normal reconnections during normal hours of \$25.00. The Utility also requested to establish an initial connection and a normal reconnection service charge for after hours of \$50.00. Pine Harbour states that its proposed charges have never been incorporated into its tariffs since the Utility began and that the cost of fuel, labor and repairs has skyrocketed. According to Pine Harbour, during the past year the Utility had six connections and reconnections during normal hours and one connection and reconnection during after hours.

Premise Visit Charge and Premises Visit Charge In Lieu of Disconnection

Pine Harbour has requested the establish a charge for premises visits during normal hours of \$25.00. The Utility also requested to establish a premises visits for after hours of \$50.00. A Premise Visit Charge is consistent with Rule 25-30.460(1)(d), F.A.C. By Order No. PSC-05-0397-TRF-WS,² we approved a Premises Visit Charge to be levied when a service representative visits a premises at the customer's request for a complaint and the problem is found to be the customer's responsibility.

In addition, a Premises Visit Charge In Lieu of Disconnection charge may be levied when a service representative visits a premises for the purpose of discontinuing service for non-payment of a due and collectible bill and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill. According to Pine Harbour, during the past year the Utility had twelve premises visits. Of the twelve premises visits, four premises visits were during after hours.

Cost Justification for Miscellaneous Service Charges

As cost justification for initial connections, normal reconnections, premise visit charge, and premises visit charge in lieu of disconnection, Pine Harbour provided the following breakdown for these charges listed below:

¹ Order No. PSC-06-0684-PAA-WS, issued August 8, 2006, in Docket No. 050587-WS, In re: Application for staff-assisted rate case in Charlotte County by MSM Utilities, LLC.; Order No. PSC-07-0130-SC-SU, issued February 15, 2007, in Docket No. 060256-SU, In re: Application for increase in wastewater rates in Seminole County by Alafaya Utilities, Inc.; Order No. PSC-07-0604-PAA-WU, issued July 30, 2007, in Docket No. 050862-WU, In re: Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.

² Docket No. 050096-WS, In re: Request for revision of Tariff Sheets 14.0 and 15.1 to change request for meter test by customer and premise visit charge, by Marion Utilities, Inc.

Normal Hours

Clerical & Administrative Labor

Office Clerk - \$14.75 per hour
Total - \$3.75 - \$14.75 per hour/0.25 hour

Labor to Inspect Facilities and Connect

Field Labor - \$18.75 per hour
Total - \$9.38 - \$18.75 per hour/0.50 hour

Transportation Costs

\$9.00 – \$1.50 x 6, One way miles to facility

Overhead

Ink, paper, postage, etc. - \$2.87

Total Costs

Clerical & Administrative Labor – \$3.75
Labor to Inspect Facilities and Connect – \$9.38
Transportation Costs – \$9.00
Overhead - \$2.87
Total - \$25.00

After Hours

Clerical & Administrative Labor

Office Clerk - \$7.40 per hour
Total - \$7.40 - \$22.13 per hour/0.33 hour

Labor to Inspect Facilities and Connect

Field Labor - \$21.11 per hour
Total - \$21.11 - \$28.13 per hour/0.75 hour

Transportation Costs

\$18.00 – \$1.50 x 12, Round trip to facility

Overhead

Ink, paper, postage, etc. - \$3.49

Total Costs

Clerical & Administrative Labor – \$7.40
Labor to Inspect Facilities and Connect – \$21.11
Transportation Costs – \$18.00
Overhead - \$3.49
Total - \$50.00

After reviewing the numbers provided by the Utility, we find that the following modifications to the cost justification for the initial connection and normal reconnections service charges are warranted:

- (1) It is not necessary to mail a bill for a premises visit because the charge can be reflected on the customer's next monthly billing statement. Therefore, the overhead cost associated with postage is unnecessary and the cost for overhead should be eliminated from both normal and after hours costs.
- (2) All clerical & administrative labor can be performed during normal hours. Therefore, the office clerk salary under clerical & administrative labor should not be multiplied by 1.5 for after hours.

Below is a revised chart that reflects our adjustments to the miscellaneous service charge cost justification provided by Pine Harbour:

Normal Hours

Clerical & Administrative Labor

Office Clerk - \$14.75 per hour
Total - \$3.69 - \$14.75 per hour/0.25 hour

After Hours

Clerical & Administrative Labor

Office Clerk - \$14.75 per hour
Total - \$3.69 - \$14.75 per hour/0.25 hour

Labor to Inspect Facilities and Connect
Field Labor - \$18.75 per hour
Total - \$9.38 - \$18.75 per hour/0.50 hour

Labor to Inspect Facilities and Connect
Field Labor - \$21.11 per hour
Total - \$21.08 - \$28.13 per hour/0.75 hour

Transportation Costs
\$9.00 – \$1.50 x 6, One way miles to facility

Transportation Costs
\$18.00 – \$1.50 x 12, Round trip to facility

Total Costs
Clerical & Administrative Labor – \$3.69
Labor to Inspect Facilities and Connect – \$9.38
Transportation Costs – \$9.00
Total - \$22.07

Total Costs
Clerical & Administrative Labor – \$3.69
Labor to Inspect Facilities and Connect – \$21.08
Transportation Costs – \$18.00
Total - \$42.77

Delinquent Payment Charge

The Utility has also requested to add a delinquent payment charge for any customer that pays a bill after the 20th of the month. Pursuant to Rule 25-30.335(4), F.A.C., “[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.” Therefore, the Utility cannot charge for a delinquent payment until the 21st day after the utility has mailed the bill.

The delinquent payment charge is designed to recover the cost of paper, printing and preparation, and mailing the late notice. Pine Harbour has asserted that customers who pay on a timely basis should not bear the cost of those who rarely pay on time. We agree that it is appropriate to establish a delinquent payment charge. As cost justification, the Utility provided the following breakdown of its requested charge as listed below:

Clerical & Administrative Labor

Clerical time used to determine that account has not been paid - \$3.00
Clerical time used to prepare, print and sort notices for mailing - \$4.25
Total - \$7.25

Materials - \$0.31

Postage - \$0.44

Total Costs

Clerical & Administrative Labor – \$7.25
Materials- \$0.31
Postage - \$0.44
Total - \$8.00

In the past, late payment charge requests have been handled on a case-by-case basis. We have approved late fees in several cases finding that the cost-causer should pay the additional cost incurred by the utility for late payments, rather than the general body of the utility’s rate

payers.³ Presently, our rules provide that late payers may be required by a utility to provide an additional deposit.

In Order No. PSC-01-0998-TRF-WU,⁴ we found that the goal of allowing late fees to be charged by a utility is twofold: first, it encourages current and future customers to pay their bills on time; and second, if payment is not made on time, it ensures that the cost associated with the late payments is not passed on to the customers who do pay on time. Allowing a late fee encourages prompt payment by current and future customers. Therefore, we find that a late payment fee is appropriate.

However, we have determined that \$8 is not a reasonable late payment charge for this Utility. After reviewing the information provided by the Utility, we find that the time involved to determine that an account has not been paid shall be part of the normal duties of the Utility and the associated costs shall not be charged to every person who is charged a delinquent payment charge. Therefore, we find that the following breakdown is more appropriate:

Clerical & Administrative Labor

Clerical time used to prepare, print and sort notices for mailing - \$4.25

Materials - \$0.31

Postage - \$0.44

Total Costs

Clerical & Administrative Labor – \$4.25

Materials- \$0.31

Postage - \$0.44

Total - \$5.00

We find that a late payment charge of \$5 is a reasonable fee for a delinquent payment charge. A late payment charge of \$5 is consistent with our prior practice and Orders.⁵ A late payment charge of less than \$5 would not allow the Pine Harbour to recover the cost of processing delinquent accounts, nor would it send the appropriate signal to delinquent payers.

³Order No. PSC-96-1409-FOF-WU, issued November 20, 1996, in Docket No. 960716-WU, In re: Application for transfer of Certificate No. 123-W in Lake County from Theodore S. Jansen d/b/a Ravenswood Water System to Crystal River Utilities, Inc.

Order No. PSC-98-1585-FOF-WU, issued November 25, 1998, in Docket No. 980445-WU, In re: Application for staff-assisted rate case in Osceola County by Morningside Utility, Inc.

⁴ Order No. PSC-01-0998-TRF-WU, issued April 23, 2001, in Docket No. 010232-WU, In re: Request for approval of tariff filing to add "set rate" late fee to water tariff by Lake Yale Treatment Associates, Inc., in Lake County.

⁵ Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnum, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.; Order No. PSC-07-0604-PAA-WU, issued July 30, 2007, in Docket No. 070604-WU, In re: Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.; Order No. PSC-06-0823-TRF-WU, issued October 6, 2006, in Docket No. 060506-WU, In re: Request for approval of tariff amendment to include a late payment fee of \$5 in Osceola County by O&S Water Company, Inc.

Meter Tampering Fee

The Utility has requested the establishment of a meter tampering fee. Pine Harbour stated that the meter tampering fee would cover the cost of a service representative to make a special premises visit to determine if a meter has been tampered with. The Utility asserted that any costs incurred to repair the meter, piping, or meter box should be passed on to the premises owner and that the general body of customers should not have to bear the directly-related costs of repairs.

According to Pine Harbour, during the past year the Utility had two meter tampering events. The meter tampering occurred after the technician shut off the water for non payment of services rendered. Pine Harbour meters were encased in boxes without locks. The customer took it upon himself to turn the valves back on. This has been verified by the Utility by spot checking the meter readings. Pine Harbour has since obtained valve locks to place on its meters. The Utility also stated that one customer has performed this practice more than once, causing the pipe to crack and leak. As a result, the Utility incurred repair costs of \$246.

As cost justification, Pine Harbour provided the following breakdown of its requested charge as listed below:

Clerical & Administrative Labor

Labor to document complaint and prepare work order - \$7.40

Labor to Inspect Facilities

Labor to inspect meter and determine if repairs are necessary - \$21.11

Transportation Costs - \$18.00

Total Costs

Clerical & Administrative Labor – \$7.40

Labor to Inspect Facilities and – \$21.11

Transportation Costs – \$18.00

Total - \$50.00

We find that it would be appropriate to approve a meter tampering fee. In its petition, the Utility has requested a meter tampering investigation fee in the amount of \$50. The Utility asserted that the typical cost of investigations arising from meter tampering events is \$50. We agree with Pine Harbour that \$50 adequately reflects the typical costs to be incurred in investigating and resolving situations of meter tampering. We caution, however, that collection of the investigation fee is only appropriate where the investigation reveals evidence of meter tampering.

Additionally, based on the information provided by the Utility, we find that the potential costs associated with repairs to Utility property arising from meter tampering events could be substantially higher than the \$50 meter tampering investigation fee requested by Pine Harbour.

Therefore, we find that in addition to the meter tampering investigation charge of \$50, it would be appropriate that the Utility also be authorized to collect repair costs to Utility property encompassing the actual costs of repairing the damage to utility property arising from meter tampering events. We believe that by authorizing the Utility to collect a repair to utility property fee, the cost causer will pay the additional cost incurred by the Utility for meter tampering, rather than the general body of the Utility's rate payers.

A meter tampering investigation charge is similar to a late payment charge. In both instances, the Utility incurs additional costs as a result of an individual customer's failure to follow the Utility's approved tariff. Just as rates are set assuming customers pay their bills on time, rates are set assuming that the product delivered to the customer will be metered and billed at the appropriate rates. Costs to send additional bills, or to detect and remedy meter tampering, are not normal costs of providing the regulated service, but are directly related to actions by individual customers. If those costs are not recovered from the customer causing the costs, the general body of ratepayers will be subsidizing inappropriate behavior of those who choose not to abide by the Utility's tariffs.

Finally, we find that with respect to both the meter tampering investigation fee and the repair to utility property fee, it is appropriate that the Utility's tariff be amended to inform customers that they have the right to contest the imposition of the fees with this Commission without interruption of service (assuming there are no other grounds for disconnection) while the issue is undecided.

Summary

In summary, Pine Harbour's requested miscellaneous service charges, delinquent payment charge, and meter tampering charge shall not be approved as filed. Traditionally, we have either approved or denied revised tariff sheets. However, in the interest of administrative efficiency, if the Utility were to file a revised tariff sheet consistent with our analysis within 30 days of the Consummating Order being issued, our staff is hereby granted administrative authority to approve that tariff sheet. The revised tariff sheet shall be implemented on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(2), F.A.C., provided the notice has been approved by our staff. Within 10 days of the date the order is final, Pine Harbour shall be required to provide notice of the tariff changes to all customers. The Utility shall provide proof that the customers have received notice within 10 days after the date the notice is sent. A breakdown of the Utility's requested charges and our approved charges are as follows:

	<u>Currently Approved</u>		<u>Utility Revised Request</u>		<u>Commission Approved</u>	
Meter Tampering Fee	\$0.00		\$50.00		\$50.00 plus the actual cost associated with any repairs	
Delinquent Payment Charge	\$0.00		\$8.00		\$5.00	
<u>Misc. Service Charges</u>	<u>Normal Hours</u>	<u>After Hours</u>	<u>Normal Hours</u>	<u>After Hours</u>	<u>Normal Hours</u>	<u>After Hours</u>
Initial Connection Fee	\$0.00	\$0.00	\$25.00	\$50.00	\$22.00	\$43.00
Normal Reconnection Fee	\$0.00	\$0.00	\$25.00	\$50.00	\$22.00	\$43.00
Violation Reconnection Fee	\$0.00	\$0.00	\$0.00	\$0.00	\$22.00	\$43.00
Premises visit Fee	\$0.00	\$0.00	\$25.00	\$50.00	\$22.00	\$43.00
Premises visit Fee (In Lieu of Disconnection)	\$0.00	\$0.00	\$25.00	\$50.00	\$22.00	\$43.00

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Pine Harbour Water Utilities, LLC's requested imposition of miscellaneous service charges, delinquent payment charge, and meter tampering charge is hereby denied. It is further

ORDERED that Pine Harbour Water Utilities, LLC may file a revised tariff sheet consistent with our analysis within 30 days of the Consummating Order being issued, and our staff has administrative authority to approve that tariff sheet and customer notice, as discussed within the body of this Order. It is further

ORDERED that the revised tariff sheet shall be implemented on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(2), F.A.C., provided the notice has been approved by our staff. It is further

ORDERED that within 10 days of the date that this Order is final, Pine Harbour Water Utilities, LLC shall be required to provide notice of the tariff changes to all customers. Pine Harbour Water Utilities, LLC shall provide proof that the customers have received notice within 10 days after the date the notice is sent. It is further

ORDERED that if a protest is filed within 21 days of the date of this Order, the revised tariff shall remain in effect with all increased charges held subject to refund pending resolution of the protest, and the docket shall remain open. It is further

ORDERED that if no timely protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 26th day of April, 2010.



ANN COLE
Commission Clerk

(S E A L)

CMK

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 17, 2010.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.