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Public Service Commission

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COMMISSION
CLERK

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

DATE: August 5, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Deason, Fletcher, Maurey, Walden)
Office of the General Counsel (Brown)

JR BJ ALM AW P.O. CARR (1)
MCB JSC

RE: Docket No. 100038-WS – Application to implement a backflow maintenance program by Sunny Shores Water Co.

AGENDA: 08/17/10 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: *All Commissioners - ac*

PREHEARING OFFICER: Administrative

CRITICAL DATES: 10/18/2010 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100038.RCM.DOC

Case Background

Sunny Shores Water Co. (Sunny Shores or Utility) is a Class C utility which provides water service for approximately 264 customers in Manatee County. Sunny Shores' 2009 annual report shows operating revenue of \$72,343 and a net operating loss of \$358. The service area is located in the Southwest Florida Water Management District.

On February 18, 2010, the Utility filed an application for approval of a new tariff page allowing the Utility to charge for the annual inspections/certification of backflow prevention devices as required by Manatee County Resolution R-187-25 and the Department of Environmental Protection (DEP) Rules 62-555.330 and 62-555.360 Florida Administrative Code (F.A.C.). The tariff filing was suspended by Order No. PSC-10-0181-PCO-WU, issued March 29, 2010, pending further review of the application.

COMMUNICATIONS SECTION - DATE

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PPSC-8100 COMM. CLERK

Docket No. 100038-WS

Date: August 5, 2010

This recommendation addresses staff's review of the filing and recommends approval of the new tariff page. The Commission has jurisdiction pursuant to Sections 367.091 and 367.101, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Utility's proposed tariff sheet allowing it to charge for the annual inspections/certification of backflow prevention devices as required by Manatee County Resolution R-187-25 and DEP Rules 62-555.330 and 62-555.360, F.A.C., be approved as filed?

Recommendation: Yes. Sunny Shores' proposed tariff sheet allowing it to charge for the service of inspections/certification of backflow prevention on an annual basis as required by Manatee County Resolution R-187-25 and DEP Rules 62-555.330 and 62-555.360, F.A.C., should be approved. The Utility should file a proposed customer notice to reflect the Commission-approved tariff sheet. The approved tariff sheet should be effective for service rendered on or after the stamped approval date of the new tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the charge for inspection should not be implemented until staff has approved the proposed customer notice. The Utility should distribute the notice to the customers no later than with the first bill following the effective date of the tariff and should provide proof of the date the notice was given no less than 10 days after the date of the notice. (Deason, Walden)

Staff Analysis: Section 367.091(6), F.S., states that the Commission may withhold consent to the operation of any or all portions of new rate schedules by a vote to that effect within 60 days, giving a reason or statement of good cause for withholding its consent. If the Commission does not withhold consent, the proposed rates may be assumed in effect after 60 days. The Commission suspended the Utility's filing in March 2010, pending further review by staff.

Sunny Shores submitted a tariff filing for purposes of implementing a fee for the annual inspections/certification of backflow prevention devices. The basis for the tariff filing is to comply with Manatee County Resolution R-187-25 and DEP Rules 62-555.330 and 62-555.360, F.A.C. The Utility has an approved Cross-Connection Control Program as required by Manatee County and DEP. One of the items the program mandates is a backflow prevention device on all connections which may represent a source of contamination due to a lawn irrigation system. Utility records show 264 back flow devices have been installed and are in use within its service area. The Utility was cited with a deficiency notice by the Manatee County Health Department in December 2007, noting that only 87 of the 264 backflow prevention assemblies were tested in 2007.

Customers are responsible for piping and appurtenances beyond the Utility's water meter toward their residence. Rule 25-30.231, F.A.C., requires each utility to operate and maintain in safe and proper condition all of the facilities and equipment used in connection with the distribution, regulation, measurement and delivery of water service to the customer up to and including the point of delivery into the piping owned by the customer. Rule 25-30.210(7), F.A.C., defines Point of Delivery for a water system as the outlet connection of the meter for metered service at the point at which the utility's piping connects with the customer's piping. Backflow prevention devices are located within the customer's piping. Therefore, the cost of annual inspections/certification should be borne by the customer.

According to the Utility, a meeting was held in January 2008 with the Manatee County Backflow Division department head Sue Glasgow, representatives and customers of Sunny

Shores Mobil Home Park and Sagamore Estates, and Jack E. Mason II and Debbie Mason, the owners of the Utility. The meeting was called to inform everyone why annual inspections of backflow prevention devices were mandatory. At that time, it was discussed that Sunny Shores would give the customers options and help with developing an annual inspection/certification program. It was also voted upon at that time by the community to have Sunny Shores be responsible for the maintenance and annual inspections, because the community believes that the Utility would be able to provide the best cost to the customers. This would benefit all parties involved to assure that the initial installation and annual inspections would meet Manatee County Health Department and DEP requirements. The Utility has contracted with a state certified plumber to perform the inspections at a cost of \$18.95 per inspection. Staff verified the reasonableness of this fee by calling two additional area plumbers.¹ The Utility proposes to charge its customers \$4.74 ($\$18.95/4$) per quarter for each inspection.

Based on the above, staff believes that the proposed rates are reasonable, and thus recommends that the Utility's request for new Original Sheet No. 15.1 be approved as filed. The Utility should file a proposed customer notice to reflect the Commission-approved tariff sheet. The approved tariff sheet should be effective for service rendered on or after the stamped approval date of the new tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the inspection program should not be implemented until staff has approved the proposed customer notice. The Utility should distribute the notice to the customers no later than with the first bill containing the new tariff sheet and should provide proof of the date the notice was given no less than 10 days after the date of the notice.

¹ Staff contacted two plumbing companies in Manatee County and obtained price quotes of \$98 and \$20 for inspecting a backflow prevention device.

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Issue 2: Should the docket be closed?

Recommendation: Yes. If no timely protest to the order is filed by a substantially affected person within 21 days, a Consummating Order should be issued and the docket should be closed. In the event there is a timely protest, this docket should remain open pending resolution of the protest. (Brown, Deason)

Staff Analysis: If no timely protest to the order is filed by a substantially affected person within 21 days, a Consummating Order should be issued and the docket should be closed. In the event there is a timely protest, this docket should remain open pending resolution of the protest.