

Diamond Williams

From: DAVIS.PHYLLIS [DAVIS.PHYLLIS@leg.state.fl.us]
Sent: Monday, September 19, 2011 12:05 PM
To: Filings@psc.state.fl.us
Cc: Lisa Bennett; 'rturner102@cfl.rr.com'; 'dsmith32897@cfl.rr.com'; 'flashpta10@aol.com'; 'millicentmallon@earthlink.net'; 'utilityconsultant@yahoo.com'; 'joes1942@yahoo.com'; 'dgreco@utilitytechnicians.com'; 'terry99wi@aol.com'; REILLY.STEVE
Subject: RE: 080562-WU Electronic Filing
Attachments: PREHEARING STATEMENT 09-16-11.docx.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Stephen C. Reilly, Associate Public Counsel
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b. Docket No. 080562-WU

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.

c. Document being filed on behalf of Office of Public Counsel.

d. There are a total of 7 pages.

e. The document attached for electronic filing is **OPC's Prehearing Statement**

Thank you for your attention and cooperation to this request.

Phyllis W. Philip-Guide
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Office of Public Counsel
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DOCUMENT NUMBER-DATE

06716 SEP 19 =

9/19/2011

FPSC-COMMISSION CLERK

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: September 19, 2011

OFFICE OF PUBLIC COUNSEL PREHEARING STATEMENT

Pursuant to Order No. PSC-09-0742-PCO-WU, filed November 10, 2009, Order No. PSC-10-0116-PCO-WU, issued February 26, 2010, Order No. PSC-10-0276-PCO-WU, issued April 30, 2010 and the Third Order revising Order Establishing Procedure, issued June 23, 2011, the Office of Public Counsel ("OPC") files its Prehearing Statement on behalf of the ratepayers of East Marion Sanitary Systems, Inc. ("East Marion", "Utility" or "Company"), and on behalf of the Intervenor ratepayers, Rosemary Turner, widow of Earl Turner, David and Carol Greco, Joseph M. Singel, Dennis U. Smith, Kevin Politte, Millicent Mallon and Terry Will.

a. All Known Witnesses:

1. Rosemary Turner, widow of Earl Turner, document efforts to secure an irrigation meter from East Marion.
2. David Greco, document efforts to secure a properly installed irrigation meter from East Marion.
3. Carol Greco, document efforts to secure a properly installed irrigation meter from East Marion.
4. Joseph M. Singel, document efforts to secure a properly installed irrigation meter from East Marion.
5. Dennis U. Smith, document efforts to secure a properly installed irrigation meter from East Marion.
6. Kevin Politte, document efforts to secure a properly installed irrigation meter from East Marion.

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FPSC-COMMISSION CLERK

7. Millicent Mallon, document efforts to secure a properly installed irrigation meter from East Marion.
8. Terry Will, document efforts to secure a properly installed irrigation meter from East Marion.

b. All Known Exhibits

1. DG-1, September 18, 2008, letter from David Greco requesting irrigation meter from East Marion.
2. DG-2 Copy of complaint filed with the FPSC documenting the Company's failure to provide Mr. Greco with an application for an irrigation meter.
3. Composite DG-3, Copy of diagram and photographs documenting improper installation of irrigation meter at Mr. and Mrs. Greco's home.
4. DG-4, Copy of letter to East Marion requesting removal of improperly installed irrigation meter, and request to have the meter properly reinstall.
5. CG-1 Copy of complaint filed with the FPSC documenting the Company's failure to provide Mr. Greco with and application for an irrigation meter.
6. Composite JMS-1, Copy of diagram and photographs documenting improper installation of irrigation meter at Mr. Singel's home.
7. RT-1, Copy of letter requesting East Marion to provide an irrigation meter at Ms. Turner's home.
8. DUS-1, Copy of letter requesting East Marion to provide an irrigation meter at Dennis and Karen Smith's home.
9. KP-1, Copy of letter requesting East Marion to provide an irrigation meter at Mr. Politte's home.
10. MM-1, Copy of letter requesting East Marion to provide an irrigation meter at Ms. Millon's home.
11. TWW-1, Copy of letter requesting East Marion to provide an irrigation meter at Mr. Will's home.
12. June 16, 2010 Memorandum, documentation of proposed settlement of Docket No. 08562-WU.

13. Pursuant to Section 120.569(2) (i), F.S., OPC provides notice to the parties that it intends to ask the Commission to take Official Recognition of Florida Public Service Commission ("Commission") Complaint No. 753207W, Commission Complaint No. 753207W, and Commission Order No. PSC-08-0182-PAA-WU. These official documents of the Commission detail East Marion's continued failure to provide service to its customers in a timely manner pursuant to Rule 25-30.310, Florida Administrative Code, and Section 367.111, Florida Statutes, which should subject the Utility to a show cause proceeding and potential fines of up to \$5,000 per day.

c. OPC's Statement of Basic Position

Unprotested portions of Commission PAA Order No. PSC-09-0263-TRF-WU require East Marion to provide irrigation meters, for \$70.00, for the houses of Intervenors David and Carol Greco, Joseph Singel and substitute Intervenor Rosemary Turner. These Intervenors have paid for and made demand upon East Marion to provide properly installed irrigation meters for their homes. The Commission should order that Ms. Turner's irrigation meter be installed and David and Carol Greco and Joseph Singel's meters be properly reinstalled immediately.

The remaining intervenors, Dennis Smith, Kevin Politte, Millicent Mallon and Terry Will in good faith actively requested the Utility to install irrigation meters at their homes for the \$70.00 tariff charge in effect at the time of their requests. The Company wrongfully ignored and refused to provide the irrigation meters at the approved tariff rate, but adopted a policy to refuse this service until after the Company secured an amendment to the tariff approving a significantly higher charge.

The Commission should order the Utility to immediately install the irrigation meters for the homes of these four Intervenors for the \$70.00, with a show cause proceeding to be established to impose potential fines upon the Utility if it fails to timely install any of the seven irrigation meters. OPC on behalf of East Marion customers and on behalf of all the Intervenors request that the Utility be ordered to provide the "grandfather installation" to all of the Intervenors, as detailed in the June 16, 2010 Memorandum titled: Settlement of Docket No. 080562-WU.

As a direct result of East Marion's continuous failure over many years to provide service to its customers in a timely manner, the Commission should subject the Utility to a separate show cause proceeding and potential fines of \$5,000.00 per day.

d. OPC's Positions on the Issues

Issue 1: Does the Commission's Order No. PSC-09-0263-TRF-WU require the Utility to provide properly installed irrigation meters to the homes of Intervenors Greco, Singel and Turner for the prior \$70.00 tariff charge?

OPC Position: Yes.

Issue 2: Did Intervenor's Greco, Singel, Turner, Smith, Politte, Mallon and Will provide sufficient evidence that their requests for an irrigation meter was initiated prior to April 7, 2009, as required by Order NO. PSC-09-0263-TRF-WU?

OPC Position: Yes.

Issue 3: If any or all of the Intervenor's, submitted sufficient evidence to show they requested an irrigation meter before the April 7, 2009 deadline, should East Marion be required to provide irrigation meters to the homes of those Intervenor's at the prior tariff rate of \$70.00 per meter?

OPC Position: Yes.

Issue 4: If the Commission requires East Marion to provide irrigation meters to any or all of the Intervenor's at the prior tariff rate of \$70.00, how should those irrigation meters be configured?

OPC Position: The meter should be configured as detailed in the June 16, 2010 Memorandum titled: Settlement of Docket No. 080562-WU.

Issue 5: If the Commission requires East Marion to provide irrigation meters to the Intervenor's, what is the allowable time in which the Utility must install those irrigation meters?

OPC Position: Two weeks after the Order is issued.

Issue 6: What is the appropriate monthly charge for any irrigation meter installed for the Intervenor's as a result of this protest proceeding?

OPC Position: \$9.93

Issue 7: Should the Commission order the Utility to issue a credit on David and Carol Greco's water bill equal to all of the prior irrigation base facility charges they have paid to the Utility prior to receiving a properly installed irrigation meter?

OPC Position: Yes.

Issue 8: Should the Commission initiate a show cause proceeding to determine if East Marion should be fined up to \$5,000 per day, for failure to provide service in its territory in a timely manner pursuant to Rule 25-30.310, Florida Administrative Code and Section 367.111, Florida Statutes?

OPC Position: Yes.

Issue 9: Should this docket be closed?

OPC Position: Yes. Upon expiration of the time for appeal thirty days after the order's issuance, this docket should be closed.

e. Stipulated Issues

1. It has been stipulated that the Utility is obligated to properly reinstall the irrigation meters for Intervenors Greco and Singel.

f. Pending Motions

1. Citizens' Motion to Substitute Party and Testimony

g. Pending Confidentiality Claims or Requests

There are no pending confidentiality claims or requests at this time.

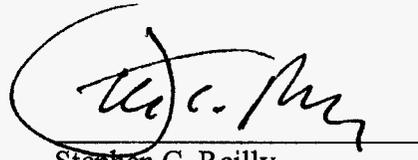
h. Objections to Witness Qualifications as an Expert

OPC has no objections to any witness' qualifications.

- i. Compliance with Order Nos. PSC-09-0742-PCO-WU, PSC-10-0116-PCO-WU, and PSC-10-0276-PCO-WU

OPC has complied with all requirements of all of the Orders Establishing Procedure entered in this docket.

Respectfully submitted this 19th day of September, 2011.

A handwritten signature in black ink, appearing to read "Stephen C. Reilly", is written over a horizontal line. The signature is stylized and cursive.

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Associate Public Counsel

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Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 080562-WU

I HEREBY CERTIFY that a true and correct copy of the foregoing **OPC Prehearing Statement** has been furnished by U.S. Mail and electronic mail to parties who have provided e-mail addresses, on this 19th day of September, 2011.

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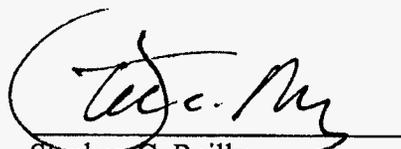
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