

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 080562 WU

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.

COMMISSION
CLERK

12 NOV 30 PM 3:30

RECEIVED-FPSC

PROCEEDINGS: COMMISSION CONFERENCE
ITEM NO. 4

COMMISSIONERS
PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, November 27, 2012

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

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

DOCUMENT NUMBER-DATE

07936 NOV 30 2012

FPSC-COMMISSION CLERK

P R O C E E D I N G S

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2 **CHAIRMAN BRISÉ:** Now moving on to Item
3 Number 4.

4 **MS. BENNETT:** Commissioners, Item Number 4 is
5 staff's recommendation to approve a recommended final
6 order from the Division of Administrative Hearing's
7 Administrative Law Judge. This complaint originated in
8 2008 when the Commission ordered the utility to provide
9 certain customers with an irrigation meter at the prior
10 tariffed rate of \$70. The utility protested, and
11 several customers intervened. During the pendency of
12 this proceeding, five of the customers entered into a
13 settlement agreement with the utility, two of the
14 customers did not and protested, as did the utility
15 protest the settlement agreement order.

16 The Commission transferred this to DOAH
17 for a proceeding, a full hearing, full
18 evidentiary hearing before the Administrative
19 Law Judge in Ocala. The two intervenors, Mr.
20 Will and Ms. Mallon, attended the hearing in
21 Ocala; the Utility did not.

22 At the conclusion of the hearing, the
23 Administrative Law Judge issued a recommended
24 final order. The utility filed an exception to
25 the order stating that its notice was

1 inadequate for it to prepare for the hearing.
2 Staff has reviewed the recommended final order
3 and agrees with the Administrative Law Judge.
4 The Commission is governed by Section 120.57,
5 Subsection (1)(1) of the Florida Statutes in
6 considering whether or not to approve, modify,
7 or reject a recommended final order.

8 **CHAIRMAN BRISÉ:** All right.

9 **MS. BENNETT:** Staff is available for
10 questions.

11 **CHAIRMAN BRISÉ:** Thank you.

12 Commissioner Graham.

13 **COMMISSIONER GRAHAM:** Thank you, Mr.
14 Chairman.

15 I was the one that pulled this off of
16 here. I guess I just want to talk through it
17 to make sure that I understood the direction
18 we're going and see if there wasn't any leeway
19 to free some things up.

20 I understand the Judge's order. I guess
21 the concern I have about the Judge's order, the
22 way I read it was he says that putting in an
23 independent line for the intervenors, which
24 were Will and Mallon, he said there was a
25 superior way of doing it. He didn't say that

1 it was the only way of doing it, and he didn't
2 say anything else. And my concern is -- well,
3 two parts. The first part is I know staff's
4 interpretation of the order was that these two
5 intervenors, Will and Mallon, will get an
6 independent line put in at the old rate, which
7 was \$70. And my understanding is anybody else
8 that had filed before we passed a tariff, which
9 was sometime in April, would also get the \$70
10 rate. Anybody else would get the new tariff
11 rate.

12 My concern is that of the 96 homes that
13 are out there, if a person a year from now
14 decided that they want to put in an irrigation
15 meter, they couldn't just tap in for the \$195
16 and make it work. They would have to pay for
17 the -- they would have to pay the tap-in fee,
18 which is a minimum of \$1,400, or a maximum of
19 \$2,600, depending on how far away they are.

20 So now something that would have been \$195
21 has got pushed up to 1,595 or 2,795. And I
22 guess the question I have is is the staff
23 interpretation the interpretation or an
24 interpretation?

25 Ms. Bennett.

1 **MS. BENNETT:** The utility requested in 2008
2 that its tariff be changed so that it could be
3 permitted to change its irrigation metering system so
4 that it would use a separate dedicated line and a
5 separate irrigation meter. So our understanding is
6 that, yes, all remaining customers who wanted to do
7 irrigation meters would have to pay the separate
8 dedicated line, plus the tap-in fee of \$195, plus a
9 monthly meter fee.

10 **COMMISSIONER GRAHAM:** So I guess my question
11 is is that based on -- is that from the tariff that we
12 passed that everybody has to get a dedicated line in,
13 or is that from the Judge's order?

14 **MS. BENNETT:** That is from the tariff. So
15 you would have, of course, jurisdiction over the tariff
16 if you -- you have jurisdiction over the tariff. This
17 is not from the Administrative Law Judge's order. The
18 Administrative Law Judge was just limited to those two
19 customers' dispute with the utility. It's very
20 limited.

21 **COMMISSIONER GRAHAM:** Okay. So if we decide
22 a year from now or four years now that it's over and
23 above board, it's cost prohibitive; if we want to alter
24 that, it is within our jurisdiction to change that.

25 **MS. BENNETT:** That is correct. And I also

1 want to point out that the exception for customers that
2 ask for meters before 2009, those customers -- any
3 customer that asked for it was part of either the
4 settlement agreement or this proceeding, and I don't
5 believe you will see any other customers.

6 **COMMISSIONER GRAHAM:** Okay. Well, then,
7 understanding that, I don't have a problem with the
8 staff recommendation, so I will move the staff
9 recommendation on Item 4.

10 **CHAIRMAN BRISÉ:** Okay. It has been moved and
11 seconded.

12 Any further comments or questions?

13 Okay. Seeing none, all in favor of
14 approval of Item Number 4 say aye.

15 (Vote taken.)

16 **CHAIRMAN BRISÉ:** All right. Thank you very
17 much.

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

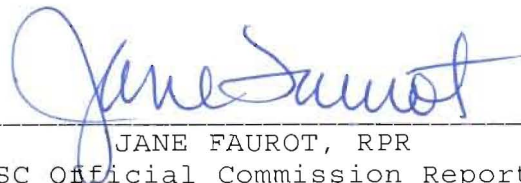
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 30th day of November, 2012.



JANE FAUROT, RPR
FPSC Official Commission Reporter
(850) 413-6732