

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: February 21, 2023
TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk
FROM: Sonica C. Bruce, Economic Analyst, Division of Economics *SCB*
RE: Docket No. 20230000-OT - CWS Communities LP d/b/a Palm Valley

Please place these attached letters in the above-referenced docket. One is staff's letter dated January 19, 2023, to the above-referenced utility regarding potential overbilling and the other letter is the utility's response to staff's inquiries.

RECEIVED-FPSC
2023 FEB 21 PM 12:51
COMMISSION
CLERK

COMMISSIONERS:
ANDREW GILES FAY, CHAIRMAN
ART GRAHAM
GARY F. CLARK
MIKE LA ROSA
GABRIELLA PASSIDOMO

STATE OF FLORIDA



DIVISION OF ECONOMICS
JUDY HARLOW
DIRECTOR
(850) 413-6410

Public Service Commission

January 19, 2023

Mr. Gregory Lynch, General Counsel
Hometown America
glynch@hometownamerica.net

Re: CWS Communities LP d/b/a Palm Valley (utility)

Dear Mr. Lynch:

I am writing you in response to your letter dated November 28, 2022. Staff has had an opportunity to review your letter and the information that has been provided by Ms. Danin. In your letter you explained that the base facility charge is billed on a monthly (i.e., the month of September) basis, while the usage charges for water and wastewater are billed based on the date the meter is read and the billing cycle the customer is on. Historically, the Commission views the billing cycle of the base facility charge (BFC) as coinciding with that of the usage. As you indicated, when the utility issues a bill, the usage is billed on a cycle that may overlap between months and the BFC is billed on a calendar month, which is not distinguishable on the bill. This appears to be creating the confusion as to whether a customer is being billed the appropriate BFC. In addition, the bill also includes the rent obligations.

In 2004, the utility filed a petition requesting a name change. In its petition, the utility explained that customers had been receiving one bill that included rent and the charges for water and wastewater services from Palm Valley, the owner of the utility and the manufactured home community. To allow for a separate bill for water and wastewater service from the rent bill, the water and wastewater utility billing would be made under the new name "Palm Valley Utilities." Pursuant to Order No. PSC-2004-1169-FOF-WS, issued November 23, 2004, in Docket No. 20040765-WS, the Commission approved the utility's request and a tariff which contained a copy of the bill that would be used for purposes of billing for water and wastewater services only. The Order approving the name change stated that "a name change would distinguish the water and wastewater billing from the rent invoice." This bill was in compliance with the requirements of Rule 25-30.335, Customer Billing, Florida Administrative Code, (F.A.C.).

Rule 25-30.335(1), F.A.C., requires that each bill must indicate the billing period covered. Although not explicitly written, staff does not believe the rule contemplates two different billing periods for the base facility charge and the usage charge. The rule refers to "the billing period" and not billing periods. Furthermore, the utility's bill does not indicate that two different billing periods are being used.

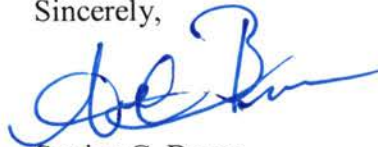
Mr. Lynch
Page 2
January 19, 2023

In addition, Rule 25-30.335(1), F.A.C., requires that the bill must contain the delinquent date or the date after which the bill becomes past due; and any authorized late payment charge. This information is not shown on the bill that is rendered by the utility. Further, pursuant to the above-referenced rule, a bill for utility service is due 20 days after the bill date. Staff is not certain of the actual date a bill is sent. However, staff believes the due date of the first of the month is for rent, but would not be the due date for the utility service.

In order to aid in our continued review of any overbilling, please provide staff with an explanation as to why the utility is not billing the utility services separately from the rent, as approved by the Commission in Order No. PSC-04-1169-FOF-WS. Please also discuss why the utility does not bill the base facility charge and the charges for usage for the same billing period, as contemplated by Rule 25-30.335, F.A.C. Finally, please state the past due date for an invoice received in September for payments that are due October 1st.

There is no official docket for this matter at this time. When providing your response, please reference Docket No. 20230000-OT, which is for undocketed matters. Please provide your response by February 17, 2023 to Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL or you may efile as prescribed on our website under Clerk's Office tab at www.floridapsc.com. If you have any questions, please feel free to contact me at 850-413-6994 or at sbruce@psc.state.fl.us. For legal matters, please feel free to contact Daniel Dose at (850) 413-6846 or at ddose@psc.state.fl.us.

Sincerely,



Sonica C. Bruce
Economic Analyst

cc: Gary Paugh (gpaugh@hometownamerica.net)
Rachel Zemke (rzemke@hometownamerica.net)
Diana Danin (seladi1@gmail.com)
Marty Deterding (mdeterding@sfflaw.com)

HOMETOWN AMERICA

C O M M U N I T I E S

February 17, 2023

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Attention: Sonica Bruce
Email: sbruce@psc.state.fl.us

Re: Palm Valley Utilities

Dear Ms. Bruce:

I am writing on behalf of Hometown Palm Valley, L.L.C. (the affiliate successor to CWS Communities LP) d/b/a Palm Valley Utilities ("Palm Valley") in response to the letter you sent on January 19, 2023. In that letter you raised two questions: the first regarding the use of a separate billing period for the flat water and sewer charge from that used for the actual usage charge, and the second regarding the use of a singular invoice for both rent and utilities.

In response to your first question regarding the billing period, we note that invoice are provided on a monthly basis, however, the service period reflected on individual resident invoices is simply a factor of when each particular resident's meter reading was conducted. Given the size of our community, meter readings do not happen on the same day for all residents. This is especially true when meters are read in connection with a home sale. As we reviewed invoices in connection with our responses to residents on the possible overpayments, we saw service periods that ranged from 0 days (the service period started and ended on the same day) to as long as 34 days. We have had residents that receive invoices with service periods that covered nearly 2 full months. On its face, it does not seem logical to have a flat service fee apply equally to all service periods when in practice there is such a variance in the service periods from resident to resident. Without specific guidance in the applicable Rules, we have applied the service fee to a monthly "payment in advance" structure. This assures that (i) all residents are charged the same flat fee for the same period of time, regardless of the timing of their meter readings (a variable over which the resident has no control), (ii) avoids any situation in which Palm Valley could collect more than twelve (12) service fees in a calendar year simply because there was a series of short, interim service periods during a particular calendar year, and (iii) avoids duplicative billing of the flat service fee at the time of transition of a home between a former resident and new resident at the time of a home sale. In fact, given the timing of issuance of the first invoice for utility charges and rent following a residents move-in date, there is frequently a gap month for which Palm Valley does not collect the monthly flat service fee, despite there not having been a gap in the underlying service between residents.

In response to the second question concerning the singular invoice, we have reviewed Order No. PSC-2004-1169-FOF-WS (the "2004 Order") to which you reference in your letter. We acknowledge that the 2004 Order does reference the use of a separate invoice in the discussion regarding the requested name change that resulted in the 2004 Order. However, as we read the 2004 Order, the use of separate billing appears that it could have been raised at the desire of Palm Valley at the time and was the reason behind the

HOMETOWN AMERICA

C O M M U N I T I E S

requested name change (as opposed to Palm Valley simply wanting a name change, and PSC conditioning it on separate billing). We do not read the 2004 Order in any way mandating the use of separate billing at all times going forward. Palm Valley has, for many years, provided the residents a singular invoice containing charges for both rent and utilities, which we believe is preferred by our residents as it provides the resident with a single invoice of all charges due at the Community, thus requiring only the resident to make a single payment each month.

Similarly, Rule 25-30-335 does not mandate the use of separate invoicing for rent and utilities either. The Rule does, however, contain requirements regarding the specifics that must be identified on the invoice regarding the utility charges (billing period, amount of bill, delinquent date, etc.). We recently received a complaint from one of our residents regarding confusion over the due date for utility charges. In our response to PSC, a copy of which is attached to this letter, we acknowledged that our invoice did not distinguish the due date for rent charges and utility charges. As noted in the letter, we intend to correct our form of invoice going forward so as to clearly state on our invoices the due date for utility charges (separate from the standard 1st of the month due date for rent).

We hope the above addresses the questions raised in your letter. If you would like to discuss the above or have further questions, we would be happy to arrange a call to discuss. Please do not hesitate to reach out to me at glynch@hometownamerica.net should you have any questions.

Sincerely,

Gregory Lynch
General Counsel, Hometown America

cc: Gena Paugh (gpaugh@hometownamerica.net)
Rachel Zemke (rzemke@hometownamerica.net)
Diana Danin (seladil@gmail.com)
Marty Deterding (mdeterding@sflaw.com)