

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: September 13, 2007

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Deason, Rendell)
Office of the General Counsel (Jaeger)

RE: Docket No. 070366-WU – Application to amend water tariff to allow collection of customer deposits by O&S Water Company, Inc.

AGENDA: 9/25/2007– Tariff filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 02/07/08 - 8-Month Effective Date

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\070366.RCM.DOC

Case Background

O&S Water Company, Inc. (O&S or utility) is a Class A water utility serving approximately 2,120 water customers in Osceola County.¹ On June 7, 2007, the utility filed proposed tariff sheets and requested approval to implement customer deposits.

¹ The Commission granted O&S its original Certificate No. 510-W in Order No. 20583, issued January 10, 1989, in Docket No. 870392-WU, In Re: Objection to Application of C&S Water Company for a water certificate in Osceola County. The Commission approved the transfer of majority organizational control and established rate base for transfer purposes, in Order No. PSC-92-0204-FOF-WU issued April 14, 1992, in Docket No. 910895-WU, In Re: Application for transfer of majority organizational control of C&S Water Company's Certificate No. 510-W in Osceola County from Doug Stewart and the Estate of Jack Chernau to Douglas B. Stewart. By Order No. PSC-92-1339-FOF-WU, issued November 18, 1992, in Docket No. 920941, In Re: Request for name change on Certificate

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Staff initially presented its recommendation to approve the utility's request to the Commission at the July 31, 2007, agenda conference. However, the Commission wanted further clarification and additional information before making its decision. As a result, by Order No. PSC-07-0682-PCO-WU, issued August 22, 2007, the Commission suspended the utility's tariff filing pending further clarification.

To obtain additional clarification and information, staff sent out a data request on August 3, 2007. The utility responded to this data request on August 22, 1007.

This recommendation addresses staff's analysis of the utility's requested tariff changes. The Commission has jurisdiction pursuant to section 367.091, Florida Statutes (F.S.).

No. 510-W in Osceola County from C&S Water Company to O&S Water Company, the Commission approved the utility's request to change its name.

Discussion of Issues

Issue 1: Should O&S's proposed tariff sheet to collect customer deposits be approved as filed?

Recommendation: Yes, Third Revised Sheet No. 13.0 filed on June 7, 2007, should be approved as filed. The revised tariff sheet should be implemented on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(2), Florida Administrative Code (F.A.C.), provided the utility submits and receives approval of its proposed customer notice and that the customers have received the approved notice. Staff further recommends the utility submit a revised tariff sheet to include a provision for new or additional customer deposits, as discussed in staff's analysis below. Staff should be given authority to administratively approve this tariff upon verification it is consistent with the Commission's decision. The revised tariff sheet should be implemented on or after the stamped approval date on the revised tariff sheet, pursuant to Rule 25-30.475(2), F.A.C., if no protest is filed and once the proposed customer notice has been approved by staff as adequate, and the customers have received the approved notice. (Deason, Rendell)

Staff Analysis: As stated in the background, the utility filed an application requesting approval to implement initial customer deposits pursuant to Section 367.091(6), F.S. This section authorizes the utility to establish, increase, or change a rate or charge other than monthly rates or service availability charges.

Initial Customer Deposits

The purpose of initial customer deposits is to establish credit with the utility. Rule 25-30.311(1), F.A.C., states criteria for establishment of credit for customers. The criteria include: (a) furnishing a satisfactory guarantor, (b) paying a cash deposit, or (c) furnishing an irrevocable letter of credit from a bank or a surety bond. Specifically, Rule 25-30.311(1), F.A.C., states:

Each company's tariff shall contain their specific criteria for determining the amount of initial deposit. Each utility may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with the utilities' rules for prompt payment of bills.

Further, Rule 25-30.311, F.A.C., also provides guidelines for collecting, administering, and refunding customer deposits. Pursuant to Rule 25-30.311(5), F.A.C.:

After a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the utility shall refund the residential customer's deposits . . . , providing the customer has not, in the preceding 12 months, (a) made more than one late payment of a bill (after the expiration of 20 days from the date of mailing or delivery by the utility), (b) paid with check refused by a bank, (c) been disconnected for nonpayment, or at any time, (d) tampered with the meter, or (e) used service in a fraudulent or unauthorized manner.

In addition, the utility is required to pay interest on all customer deposits pursuant to Rule 25-30.311(4), F.A.C.

Although the utility currently does not have a tariff charge for initial customer deposits, by Order No. PSC-06-0823-TRF-WU, issued October 6, 2006, the Commission approved a late payment charge of \$5 for O&S.² In that order, the Commission stated:

Presently, our rules provide that late payers may be required by the utility to provide an additional deposit. However, there is no further incentive for either delinquent or late paying customers to pay their bills on time after the additional deposit. The goal of allowing late fees to be charged by a utility is two fold: to encourage current and future customers to pay their bills on time; and, if payment is not made on time, to insure that the cost associated with collecting late payments is not passed on to the customers who pay on time.

Thus, the Commission has recognized that customer deposits may be required to encourage payment of bills or recovery of past due amounts. Customer deposits are designed to minimize the exposure of bad debt expense for the utility, and ultimately the general body of rate payers. Historically, the Commission has set customer deposits equal to two months bills based on average consumption. For the initial deposit, the amount is based on the average consumption per residential customer, calculated on the total residential usage divided by the number of residential bills. Therefore, the deposits are calculated specifically by the customer class. To provide a better understanding of the reasons for the two months basis, the billing cycle must be explained.

At the point in time the water meter is actually read by a meter reader, typically a full month of consumption has already passed. Consumption-based charges are based on past consumption. The consumption period is referred to as the service period, or the period of time from the previous meter reading to the current meter reading. Typically, this period of time is approximately thirty days, if the utility has a monthly billing cycle. However, the cycle time may vary between twenty-seven to thirty-three days.

The second time frame to be considered is from the meter reading date until the time the bill is prepared and rendered. This varies among utilities, but is usually between 5 to 7 days. Payment is due twenty days from the date the bill has been mailed or presented, consistent with Rule 25-30.335(4), F.A.C. Therefore, the actual payment is due approximately two months after the service is actually rendered.

If payment is not received by the twentieth day, it is considered delinquent pursuant to Rule 25-30.335(4), F.A.C. At that point in time, the utility may begin disconnection of services. Pursuant to Rule 25-30.320(2)(g), F.A.C., a utility may discontinue service for nonpayment of bills, provided the customer has been provided at least 5 working days' written notice, and there has been a diligent attempt to have the customer comply. Thus, the service cannot be disconnected until well after two months subsequent to the bill being rendered. Also, an

² See 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.

additional month's usage has already been provided to the delinquent customer, and presumably another month's bill has been issued by the time service can be disconnected.

Not only is collecting a customer deposit to recover this two-month period of service consistent with past Commission practice, it is also consistent with one of the fundamental principals of rate making - ensuring that the cost of providing service is recovered from the cost causer.³ If utilities do not collect adequate deposits to cover the cost of providing service, the result would be an increase in its bad debt expense. Ultimately, the bad debt expense is included in the utility's revenue requirement, and therefore is included in the service rates charged to the general body of ratepayers.

The methodology addressed above for calculating initial customer deposits is also consistent with the methodologies for natural gas utilities (Rule 25-7.083, F.A.C.) and electric utilities (Rule 25-6.097, F.A.C.).

A schedule of the utility's requested deposits follows:

<u>Residential Customer Deposits</u>	
<u>Meter Size</u>	<u>Proposed Water Deposits</u>
All Meter Sizes	\$73.00

<u>General Service Customer Deposits</u>	
<u>All Meter Sizes</u>	<u>2 x average bill</u>
All Meter Sizes	2 x average bill

According to information supplied by the utility, the average residential monthly bill per customer from May 2006 to May 2007 was \$36.47. Therefore, the proposed deposit is equal to two times the average residential bill or \$73.

In response to staff's data request, the utility indicated that from June 2006 through May 2007 the utility had a total of 4,147 late payments. In addition, the current total for the utility's accounts over 120 days old is \$6,017.49. Over the past four years, O&S has only reported Bad Debt Expense once in its annual reports. Therefore, staff believes O&S is attempting to be diligent in keeping bad debt expense at a minimum by not only receiving approval for late payment fees, but also requesting initial customer deposits. In 2005, O&S reported \$1,613 in bad debt expenses. Maintaining a minimal bad debt expense amount provides added protection and benefits to the utility, as well as the general body of ratepayers. It also insures that the costs are recovered from the cost causer.

Based on the above, staff recommends that the Third Revised Sheet No. 13.0 for water service filed June 7, 2007, should be approved as filed because it not only is consistent with past

³ See Order No. PSC-96-1147-FOF-WS, issued on September 12, 1996, in Docket No. 951258-WS, In Re: Application for rate increase in Brevard County by Florida Cities Water Company (Barefoot Bay Division).

Commission practice, it also meets the requirements of Rule 25-30.311, F.A.C. The tariff sheet should be implemented on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(2), F.A.C., if no protest is filed and once the proposed customer notice has been approved by staff as adequate.

New or Additional Deposits

In the utility's application requesting approval of initial customer deposits, O&S did not address new or additional deposits from existing customers. However, in response to staff's data request, the utility indicated that for simplicity, it was the utility's original intent to charge the same deposit amount as new customers. Staff does not agree. Further, at the July 31, 2007, agenda conference, the Commission requested additional information pertaining to the collection of new or additional deposits.

Pursuant to Rule 25-30.311(7), F.A.C.:

A utility may require, upon reasonable written notice of not less than 30 days, such request or notice being separate and apart from any bill for service, a new deposit, where previously waived or returned, or an additional deposit, in order to secure payment of current bills; provided, however, that the total amount of the required deposit should not exceed an amount equal to the average actual charge for water and/or wastewater service for two billing periods for the 12-month period immediately prior to the date of notice. In the event the customer has had service less than 12 months, then the utility shall base its new or additional deposit upon the average monthly billing available.

Although subsection seven does not provide specific guidance as to when a utility collects a new or additional deposit, historically, utilities have applied this rule to current customers who would not qualify for a refund of a deposit pursuant to Rule 25-30.311(5), F.A.C.

Staff agrees with this industry-wide application and believes the utility may request a new or additional deposit when a current customer, in the preceding 12 months: (a) made more than one late payment of a bill (after expiration of 20 days from the date of mailing or delivery by the utility), (b) paid with check refused by a bank, (c) has been disconnected for nonpayment, (d) at any time tampered with the meter, or (e) used service in a fraudulent or unauthorized manner. Therefore, current customers will not be charged a new or additional deposit unless they come under one of the preceding categories. If the utility decides to require a deposit from current customers, it must do so consistent with the conditions spelled out in its tariffs. This new or additional deposit shall be calculated using the specific average actual water and/or wastewater charges for two billing periods for the individual customer. Since the utility has this billing information specifically for its customers, the new or additional deposit should be based on the customer's actual usage over the preceding 12-month period. In comparison, the initial deposits requested by the utility are based on the average consumption of the rate class, since there is no billing history for new customers.

The methodology of basing new or additional deposits on the actual average of two months is also consistent with the methodologies for determining customer deposits for natural

gas utilities (Rule 25-7.083, F.A.C.), and electric utilities (Rule 25-6.097, F.A.C.). In response to a complaint over customer deposits between Sears/K-Mart and FPL, the Staff initiated a Review of Customer Deposit Procedures for the five investor owned electric utilities. The purpose was to determine whether utilities were complying with Commission rules and whether the internal procedures were fair and non-discriminatory with respect to customer deposits. It also included an evaluation of new and additional deposits. The staff review has been completed and staff's report was issued in March, 2007. In summary, the electric utilities use similar procedures in the determination of whether new or additional deposits are necessary. This methodology is also consistent with other regulated water and wastewater utilities throughout the State of Florida.

In its response to staff's data request, the utility indicated that it would not be opposed to basing new or additional deposits on the actual average of two months, if the Commission determines this methodology is appropriate. Therefore, staff recommends the utility submit a revised tariff sheet to include a provision for new or additional customer deposits, as discussed in staff's analysis above. Staff should be given authority to administratively approve this tariff upon verification it is consistent with the Commission's decision. The revised tariff sheet should be implemented on or after the stamped approval date on the revised tariff sheet, pursuant to Rule 25-30.475(2), F.A.C., if no protest is filed and once the proposed customer notice has been approved by staff as adequate, and the customers have received the approved notice. The notice may be combined with the notice for initial customer deposits.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved, this tariff should become effective on or after the stamped approval date of the tariff sheet, pursuant to Rule 25-30.475, F.A.C., provided the customers have received adequate notice. If a protest is filed within 21 days of the issuance of the Order by a substantially affected person, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, a Consummating Order will be issued. However, the docket should remain open to allow staff to review the amended tariff. If the amended tariff is approved, the docket should be closed administratively. (Jaeger, Deason)

Staff Analysis: If Issue 1 is approved, this tariff should become effective on or after the stamped approval date of the tariff sheet, pursuant to Rule 25-30.475, F.A.C., provided the customers have received adequate notice. If a protest is filed within 21 days of the issuance of the Order by a substantially affected person, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, a Consummating Order will be issued. However, the docket should remain open to allow staff to review the amended tariff. If the amended tariff is approved, the docket should be closed administratively.