

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: March 27, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Hudson, Bulecza-Banks, Daniel, Fletcher, Redemann)
Office of the General Counsel (Bennett)

RE: 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.

AGENDA: 04/07/09 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 04/18/09 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\080562.RCM.DOC

Case Background

East Marion Sanitary Systems Inc. (East Marion or Utility) is a Class C utility providing water and wastewater service to approximately 96 customers in Marion County. Water and wastewater rates were last established for this Utility in a staff-assisted rate case in 2002.¹ East Marion reported water and wastewater revenues of \$65,553 in its 2007 Annual Report. The system is located in the St. Johns River Water Management District (SJRWMD).

On August 19, 2008, the Utility filed an application for approval to amend its tariff sheets to reflect the following: amendment to connection/transfer sheet to require each customer to provide his social security number to obtain service, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and the imposition of a new tap-in fee. By Order No. PSC-08-0746-PCO-WU, issued November 12, 2008, the Commission suspended the tariff filing pending further investigation.

This recommendation addresses East Marion's proposed tariff sheets. The Commission has jurisdiction pursuant to Section 367.091, Florida Statutes (F.S.).

¹ See Order No. PSC-02-1168-PAA-WS, issued August 26, 2002, in Docket No. 010869-WS, In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

Discussion of Issues

Issue 1: Should East Marion's proposal to amend its connection/transfer sheet to require a customer to provide a Social Security number as a condition of receiving service, increase its returned check charge, amend its miscellaneous service charges, increase its meter installation charges, and impose a new tap-in fee be approved?

Recommendation: East Marion's proposal to amend its tariffs should be denied in part and granted in part as filed. Staff recommends that the Utility not be permitted to amend its connection/transfer sheet to include a requirement that the applicant provide his Social Security number. Staff recommends that the Utility be permitted to amend its connection/transfer sheet to require one of several acceptable forms of identification. Staff is recommending that the returned check charge be established as specified in Sections 68.065, and 832.08(5) F.S., as may be amended. Also, staff recommends that the Utility's proposed premise visit in lieu of disconnection be changed to premise visit, and its violation reconnection charge for water should be \$50.00 for normal hours and \$80.00 for after hours. With those exceptions, East Marion's miscellaneous service charges, meter installation charges, and tap-in fees should be approved. If the Utility files revised tariff sheets within 30 days of the effective date of the Order which are consistent with the Commission's vote, staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If the revised tariff sheets are filed and approved, the connection/transfer sheet, returned check charge, miscellaneous service charges, meter installation charges, and tap-in fee should become effective for connections made on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(2), Florida Administrative Code (F.A.C.), if no protest is filed. (Hudson, Bennett)

Staff Analysis: East Marion is requesting that its tariffs be amended to reflect the following: amendment to connection/transfer sheet to require a customer to provide a Social Security number as a condition of receiving service, an increase in returned check charge, amendment to miscellaneous service charges, an increase in meter installation charges, and the imposition of a new tap-in fee.

Social Security Number

The Utility is requesting that its connection/transfer sheet be revised to reflect a provision that requires customers to provide their Social Security numbers in their applications for service. The Utility asserts that it needs the Social Security number to collect on bad debts and delinquent accounts. Staff believes that the Utility's request to amend its tariff sheet to require a customer to provide his Social Security number to obtain service should be denied. While there is no law prohibiting a company from requiring a Social Security number before it provides service, staff believes that it is bad policy to require the number before a customer obtains utility service, especially when alternate means of identification will allow the Utility to pursue bad debts. The Social Security administration acknowledges on its website:

If a business or other enterprise asks you for your number, you can refuse to give it. However, that may mean doing without the purchase or service for which your number was requested. For example, Utility companies and other services ask for

a Social Security number, but do not need it; they can do a credit check or identify the person in their records by alternative means.

<http://ssa-custhelp.ssa.gov> The Commission has permitted other utilities to ask for a Social Security number, as one of several acceptable forms of identification a ratepayer may provide to obtain service. For instance, in its tariff, FPL is permitted to require an applicant to provide his name, telephone number and address and to require identification with the application for service. "The types of identification required upon application for service include a valid Social Security number, tax identification number, driver's license, birth certificate, or any other form of identification acceptable to the Company." FPL Tariff Sheet 6.010.

East Marion is not requesting alternate types of identification. East Marion only wants the customer's Social Security number. To provide a customer no alternative method of proving identification other than his Social Security number removes any choice from the consumer about releasing this sensitive information due to the monopolistic nature of a utility. Further, there are customers who do not have Social Security numbers, and in those instances, this requirement would be discriminatory. Therefore, staff recommends that East Marion's request to amend its connection/transfer sheet be denied.

Staff recommends that the Utility be permitted to amend its connection/transfer sheet to require one of several acceptable forms of identification. For purposes of the tariff, the types of identification required upon application for service include a valid Social Security number, tax identification number, driver's license, birth certificate, or any other form of identification acceptable to the Company. Staff recommends that if the Utility chooses to amend its connection/transfer sheet consistent with the Commission's direction, that it provide the Commission's staff with a copy of the revised tariff within 30 days of the effective date of the Order. Staff should be granted the administrative authority to approve the revised tariff sheet, consistent with the Commission's direction.

Returned Check Charge

The Utility is requesting that its returned check charge be increased from \$20 to \$25. Staff believes the returned check charge should be established consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payments. As currently set forth in section 832.08(5), F.S., the following fees may be assessed:

- 1.) \$25, if the face value does not exceed \$50,
- 2.) \$30, if the face value exceeds \$50 but does not exceed \$300,
- 3.) \$40, if the face value exceeds \$300,
- 4.) or five percent of the face amount of the check, whichever is greater.

Staff recommends that East Marion's tariffs for returned check charges be revised to reflect that the charges will be those set by Sections 68.065, and 832.08(5) F.S., as may be amended.

Miscellaneous Service Charges

The Utility is requesting to increase its miscellaneous service charges to be more reflective of its current cost of service. East Marion’s current and proposed miscellaneous service charges are the following:

	<u>Current</u>	<u>Proposed</u>	
		<u>Normal Hours</u>	<u>After Hours</u>
<u>Water</u>			
Initial Connection Fee	\$15.00	\$45.00	\$75.00
Normal Reconnection Fee	\$15.00	\$45.00	\$75.00
Disconnection Fee	\$0.00	\$45.00	\$75.00
Violation Reconnection Fee	\$15.00	Actual Cost	Actual Cost
Premise Visit Fee (in lieu of disconnection)	\$10.00	\$55.00	\$85.00

	<u>Current</u>	<u>Proposed</u>	
		<u>Normal Hours</u>	<u>After Hours</u>
<u>Wastewater</u>			
Initial Connection Fee	\$15.00	\$45.00	\$75.00
Normal Reconnection Fee	\$15.00	\$45.00	\$75.00
Disconnection Fee	\$0.00	\$45.00	\$75.00
Violation Reconnection Fee	Actual Cost	Actual Cost	Actual Cost
Premise Visit Fee (in lieu of disconnection)	\$10.00	\$55.00	\$85.00

The current miscellaneous service charges were approved for the Utility in a transfer docket in 1998² and have not changed since that date – a period of 11 years. East Marion believes these charges should be updated to reflect current costs. Based on the data supplied by the company, staff agrees with this update. The costs for fuel and labor have risen substantially since that time. Further, the Commission’s price index has increased approximately 25 percent in that period of time. The Commission has expressed concern with miscellaneous service charges that fail to compensate utilities for the cost incurred. By Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, the Commission expressed “concern that the rates [miscellaneous

² See Order No. PSC-98-0928-FOF-WS, issued July 7, 1998, in Docket No. 971269-WS, In re: Application for transfer of majority organizational control of East Marion Sanitary Systems, Inc. and East Marion Water Distribution, Inc. in Marion County from Del-American/First Federal of Osceola to Herbert Hein, and change in name on Certificate No. 490-W from East Marion Water Distribution, Inc. to East Marion Sanitary Systems, Inc.

service charges] are eight years old and cannot possibly cover current costs” and directed staff to “examine whether miscellaneous service charges should be indexed in the future and included in index applications.”³ Currently, miscellaneous service charges may be indexed if requested in price index applications pursuant to Rule 25-30.420, F.A.C. However, few utilities request that their miscellaneous service charges be indexed. The Utility does not have onsite personnel to perform these services and has to contract out. East Marion provided cost estimates from a third-party vendor. In view of the above considerations and the data provided by the Utility, staff believes that its requested charges are reasonable.

East Marion’s current tariff includes a Premises Visit (in lieu of disconnection) charge. This charge is levied when a service representative visits a premises for the purpose of discontinuing service for non-payment of a due and collectible bill but does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill. Staff recommends the “Premises Visit In Lieu of Disconnection” charge should be replaced with, “Premises Visit.” In addition to those situations described in the definition of the current Premises Visit In Lieu of Disconnection, the new Premises Visit charge will also be levied when a service representative visits a premises at a customer’s request for complaint resolution or for other purposes and the problem is found to be the customer’s responsibility. This charge is consistent with Rule 25-30.460(1)(d), F.A.C. In addition, by Order No. PSC-05-0397-TRF-WS, issued April 18, 2005, the Commission approved a Premises Visit Charge to be levied when a service representative visits a premises at the customer’s request for a complaint and the problem is found to be the customer’s responsibility.⁴ Based on the foregoing, staff recommends the Premises Visit (in lieu of disconnection) be changed to a Premises Visit charge be approved.

The Utility has requested to implement a Disconnection Charge. East Marion wants to levy this charge for disconnection of service for cause pursuant to Rule 25-30.320(2), F.A.C. Rule 25-30.460, F.A.C. does not provide a specific category for this charge. However, the Utility does not have any on-site personnel to perform disconnections. Based on the estimate provided by the Utility, staff believes East’s Marion’s proposed disconnection charges are reasonable. The Utility has proposed that its Violation Reconnection charge for water be actual cost. Pursuant to Rule 25-30.460, F.A.C., violation reconnection charges are at the tariffed rate for water and actual cost for wastewater. The third-party vendor charges a \$50 violation reconnection for water during normal business hours and \$80 for after hours. Staff believes this amount is reasonable for the water disconnection charge.

In summary, staff recommends the Utility’s miscellaneous service charges be approved with staff’s recommended changes above. East Marion should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1),

³ See Docket No. 950495-WS, In Re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc. in Osceola County, and in Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties.

⁴ See Docket 050096-WS, In re: Request for revision of Tariff Sheets 14.0 and 15.1 to change request for meter test by customer and premise visit charge, by Marion Utilities, Inc.

F.A.C., provided the notice has been approved by staff. Within ten days of the date the order is final, the Utility should be required to provide notice of the tariff changes to all customers. East Marion should provide an affidavit for proof that the customers have received notice within ten days after the date the notice was sent.

Meter Installation Charges

The Utility is requesting to increase its meter installation charge. East Marion's current meter installation charge is \$70.00. The Utility's meter installation charge was last established in 2002. East Marion has requested to increase its meter installation charge to \$195.00. The Utility does not have onsite personnel to perform this service and has to contract out meter installations. East Marion provided cost estimates for the meter installation from a third-party vendor. Staff believes the meter installation charge is reasonable. The Commission has approved meter installation charges of \$193⁵ in 2008, \$200⁶ in 2004 and \$250⁷ in 2003. Based on the above, staff recommends that the Utility should be authorized to collect meter installation fees of \$195 for 5/8" x 3/4" meters and actual cost for all others.

Tap-In Fee

In order to provide separate irrigation service, East Marion has requested to implement a new tap-in fee. The Utility is requesting three different charges for the tap-in fee. The proposed tap-in fees are \$1,400, \$1,800 and \$2,600 for the short, long, and extra long irrigation service line installation, respectively. The short installation tap-in fee involves installing the irrigation service line twenty-feet or less where the water main is on the same side of the road as the meter. The long installation tap-in fee involves installing the irrigation service line forty-feet or less where the water main is on the opposite side of the road. Finally, the extra long installation tap-in fee involves installing the irrigation service line forty feet or more on the opposite side of a cul-de-sac. East Marion does not have onsite personnel to perform these services and has to contract out these services. Staff has reviewed the estimates provided by the Utility from a third-party vendor. Based on the estimates, staff believes the proposed tap-in fees are reasonable.

Summary

East Marion's proposal to amend its tariffs should be denied in part and granted in part as filed. Staff recommends that the Utility not be permitted to amend its connection/transfer sheet to include a requirement that the applicant provide his Social Security number. Staff recommends that the Utility be permitted to amend its connection/transfer sheet to require one of several acceptable forms of identification. Staff is recommending that the returned check charge be established as specified in Sections 68.065, and 832.08(5) F.S., as may be amended. Also, staff recommends that the Utility's proposed premise visit in lieu of disconnection be changed to premise visit, and its violation reconnection charge for water should be \$50.00 for normal hours

⁵ See Order No. PSC-08-0483-PAA-WU, issued July 25, 2008, in Docket No. 070627-WU, In re: Application for staff-assisted rate case in Lake County by Raintree Utilities, Inc.

⁶ See Order No. PSC-04-1256-PAA-WU, issued December 20, 2004, in Docket No. 041040-WU, In re: Application for certificate to operate water utility in Baker and Union Counties by B & C Water Resources, L.L.C.

⁷ See Order No. PSC-03-0740-PAA-WS, issued June 23, 2003, in Docket No. 021067-WS, In re: Application for staff assisted rate case in Polk County by River Ranch Water Management, L.L.C.

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and \$80.00 for after hours. With those exceptions, East Marion's miscellaneous service charges, meter installation charges, and tap-in fees should be approved. If the Utility files revised tariff sheets within 30 days of the effective date of the Order which are consistent with the Commission's vote, staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If the revised tariff sheets are filed and approved, the connection/transfer sheet, returned check charge, miscellaneous service charges, meter installation charges, and tap-in fee should become effective for connections made on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(2), Florida Administrative Code (F.A.C.), if no protest is filed.

Issue 2: Should East Marion be required to provide irrigation meters to the customers who have requested at the current tariff rate of \$70?

Recommendation: Yes. The Utility should be required to provide irrigation meters to the customers who have requested at the current tariff rate of \$70. (Hudson, Bennett)

Staff Analysis: Staff has received correspondence from four customers (Mr. David Greco, Mr. Joseph Singel, Mr. Terry Will, and Mr. Earl Turner) who have all requested irrigation meters. In all instances, the customers were told that service would not be provided until after the Commission approved the new meter installation rate. At an informal meeting held on November 14, 2008, with East Marion, staff informed East Marion that pursuant to Rule 25-30.520, F.A.C., a utility could not refuse to provide service within its certificated areas in accordance with the terms and conditions on file with the Commission.

In Issue 1, staff is recommending that the Utility's meter installation charge and tap-in charge be approved. Staff believes these four customers should only be charged the rates in effect at the time of their application. Therefore, staff recommends that the Utility should be required to provide irrigation meters to these customers at the current tariff rate of \$70.

Issue 3: Should this docket be closed?

Recommendation: No. Upon expiration of the protest period, if a timely protest is not filed, a Consummating Order should be issued and the docket should remain open for 30 days from the issuance date of the Consummating Order, to allow the Utility time to file the revised tariff sheet. Upon staff's verification that the tariff sheet complies with the order, the tariff sheet should be stamped approved and the docket should be closed administratively. In the event that a timely protest is filed, and the Utility files revised tariff sheets reflecting the approved charges, the tariff should remain in effect with any increases held subject to refund pending resolution of the protest. (Bennett)

Staff Analysis: Upon expiration of the protest period, if a timely protest is not filed, a Consummating Order should be issued and the docket should remain open for 30 days from the issuance date of the Consummating Order, to allow the Utility time to file the revised tariff sheet. Upon staff's verification that the tariff sheet complies with the order, the tariff sheet should be stamped approved and the docket should be closed administratively. In the event that a timely protest is filed, and the Utility files revised tariff sheets reflecting the approved charges, the tariff should remain in effect with any increases held subject to refund pending resolution of the protest.