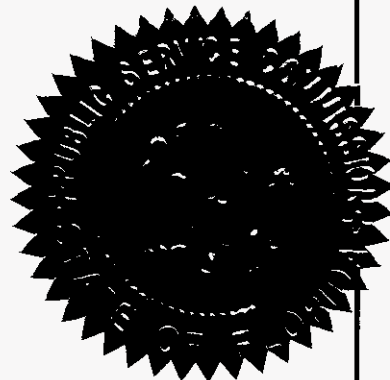


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080562-WU

In the Matter of:

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.



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 18

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, April 7, 2009

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

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

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1 PARTICIPATING:

2 TERRY WILL, representing himself.

3 LISA BENNETT, ESQUIRE, JENNIFER BRUBAKER,
4 ESQUIRE, SHANNON HUDSON, BART FLETCHER and RICHARD
5 REDEMANN, representing the Staff of the Florida Public
6 Service Commission.

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P R O C E E D I N G S

1
2 CHAIRMAN CARTER: Now with that,
3 Commissioners, we're on Item 18.

4 MS. BENNETT: Commissioners, my name is Lisa
5 Bennett. I'm an attorney with the General Counsel's
6 Office here at the Commission. Item 18 is staff's
7 recommendation on East Marion Sanitary Systems. Staff
8 has modifications to this item and at your pleasure we
9 can present them.

10 CHAIRMAN CARTER: How about now?

11 MS. BENNETT: That sounds good. On Page 3 of
12 the recommendation in the recommendation statement staff
13 recommends that the last sentence after the words
14 "*Florida Administrative Code,*" you add the phrase
15 "provided customer notice was timely given and provided
16 that," and then of course the sentence would continue
17 that "no protest is filed."

18 On the bottom of Page 6, the last paragraph
19 should be changed to delete all but the first sentence
20 so that the last paragraph would only read, "In summary,
21 staff recommends the utility's miscellaneous service
22 charges be approved with staff's recommended changes
23 above."

24 On the bottom of Page 7 after the section of
25 tap-in fee and before the summary, staff would recommend

1 that you add the following subsection. "Customer notice
2 of tariff changes." That would read, "East Marion
3 should file a proposed customer notice to reflect the
4 Commission-approved tariff changes, including the change
5 to the connection transfer sheet, the returned check
6 charge, the miscellaneous service charges, meter
7 installation charges and tap-in fees. The approved
8 changes should be effective for services rendered on or
9 after the stamped approval date of the tariff pursuant
10 to Rule 25-30.475(2), *Florida Administrative Code*,
11 provided the notice has been approved by staff. Within
12 ten days of the date the PAA order is issued, the
13 utility should be required to provide notice of the
14 tariff changes to all customers. Within ten days after
15 the date the notice was sent, East Marion should provide
16 an affidavit for proof that the customers have received
17 notice."

18 And finally, at the bottom of Page 8 in the
19 summary the last sentence should include again the
20 statement after *Florida Administrative Code*, "provided
21 customer notice was timely given and provided that," and
22 continue with "no protest is filed."

23 CHAIRMAN CARTER: Okay. Commissioners, have
24 you got those modifications? Let's hear from the -- we
25 have a participant on the phone. Let's hear from --

1 Mr. Willis (sic.), are you there? Mr. Will?

2 MR. WILL: Yes, I'm here.

3 CHAIRMAN CARTER: Okay. You're recognized,
4 sir.

5 MR. WILL: Yes. Thank you. I'm here along
6 with our president of our homeowners association,
7 Ms. Millie Malan (phonetic). And we have, we have -- it
8 sounds like I'm having an echo. Can you hear me, sir?

9 CHAIRMAN CARTER: We hear you fine.

10 MR. WILL: Okay. We've had several people
11 apply for, for the meter, for the irrigation meter at,
12 at the original price of \$70, and all of these, all of
13 the people that I have on this list have been denied.

14 CHAIRMAN CARTER: Commissioner Argenziano.

15 COMMISSIONER ARGENZIANO: What was the reason
16 for denial? Do you know, Mr. Will?

17 MR. WILL: Yes. The people, the people here
18 that I have on this list were denied because they were
19 waiting for a rate change from \$70 to something higher.
20 So they were refused on that basis.

21 COMMISSIONER ARGENZIANO: Has staff done any,
22 any research or have you looked into that at all?

23 MS. BENNETT: Staff has spent quite a bit of
24 time talking with different customers. The four that
25 are listed in Issue 2 are the four that we know about.

1 And in Issue 2, if you'll, if you'll recall, staff is
2 recommending that those four customers be treated under
3 the old tariff and be allowed to connect at \$70. We
4 don't have any knowledge about the other customers other
5 than if they were to come to the Commission and tell us
6 about it.

7 COMMISSIONER ARGENZIANO: Mr. Will, how many,
8 how many people do you have on the list?

9 MR. WILL: I currently have eight people on
10 this list.

11 COMMISSIONER ARGENZIANO: And I understand
12 through staff that four, staff was aware of four. Have
13 the others contacted the PSC in any way?

14 MR. WILL: Yes, they have. They sent, sent
15 letters, they've called, they've contacted various
16 people. They've even gotten some replies. I must
17 confess I don't have an entire list. It might be in its
18 entirety with the eight people that I have; however, I
19 certainly don't want to leave anybody out that has
20 formally written a letter.

21 Per our requirements here, they have to write
22 a letter to request to the East Marion representative
23 for a meter, and they've been verbally denied. I don't
24 know that any of them have actually received a letter
25 refusing them, but that's the case. Everybody has been

1 refused, new people as well as old people. I've lived
2 in this subdivision for four years, and I asked when I
3 first got here and was refused. There was litigation
4 that went on because there was charges per meters in
5 excess of \$800 for an irrigation meter that was charged
6 and paid, and the people in here were successful and did
7 get their money back through a lengthy litigation.

8 But, again, I, I, I have eight people on this
9 list and I would respectfully request an opportunity to
10 canvass the entire community here and find out who
11 actually does have -- I would like to bring it up on our
12 agenda this month in our, in our meeting and see who,
13 who in fact can produce letters requesting for meters.
14 I would request an opportunity to submit an official
15 list.

16 COMMISSIONER ARGENZIANO: Well, Mr. Chair, was
17 there time given? I mean, it sounds like they don't
18 have enough time to find out if there are letters that
19 have been sent out. And I think it would only be fair,
20 if they have other customers who did send letters out
21 and who did respond or did correspond with the PSC, with
22 us, we should know. And I don't know that we have time
23 and just, you know, I'd like to make time.

24 CHAIRMAN CARTER: Well, let's ask staff. But
25 before -- and hold your, your question there. But let

1 me just ask for a moment, Mr. Will -- Mr. Will?

2 MR. WILL: Yes, sir.

3 CHAIRMAN CARTER: On your list, is it David
4 Greco, Joe Singel, Terry Will and Earl Turner, are those
5 four on your list?

6 MR. WILL: I have with the exception of David
7 Greco. I don't have him on this list right now.

8 COMMISSIONER ARGENZIANO: There's nine.

9 MR. WILL: I do have David Ennis and a host of
10 others.

11 CHAIRMAN CARTER: Okay. Staff, now I'm ready
12 for you to respond to my question. I was trying to see
13 if there was some overlap. These four were on his list
14 of four, and help us out in terms of time and where we
15 are procedurally on this matter.

16 MR. WILL: Sir, I do have Earl Turner, Terry
17 Will, and I believe that's the only two that I have on
18 here.

19 CHAIRMAN CARTER: Okay. Okay. One second,
20 Mr. Will. Staff?

21 MS. BENNETT: In staff's opinion, if a
22 customer comes and applies for a tariff under the old,
23 or a connection under the old rate, then the utility
24 must connect them under that rate. And these four
25 customers that we know about and have provided

1 information to us we listed here. But certainly if
2 other customers could come up and show us that they had
3 applied previously under the old tariff and been refused
4 because he was waiting for the new tariff rate, they
5 should get the same treatment as these four customers.

6 CHAIRMAN CARTER: Okay. What is the cutoff
7 date on that --

8 MS. BENNETT: Well --

9 CHAIRMAN CARTER: -- that they would have had
10 to submit their letters?

11 MS. BENNETT: I would state -- excuse me for
12 just a minute.

13 CHAIRMAN CARTER: Okay. Commissioner
14 Argenziano, I'll come back to you in a minute.

15 MS. BENNETT: Yeah. The, the effective date
16 is when the -- the cutoff date is when the new tariff
17 becomes effective.

18 CHAIRMAN CARTER: Okay. All right then.
19 Good. Which would be if we voted -- the day we vote on
20 those; is that correct?

21 MS. BENNETT: That's correct.

22 CHAIRMAN CARTER: Commissioner Argenziano,
23 you're recognized.

24 COMMISSIONER ARGENZIANO: And, staff, you are
25 not aware of any other than the four who have

1 communicated with the PSC? Because Mr. Will seems to
2 indicate that, excuse me, that there are other people.

3 MS. HUDSON: The ones listed are the only ones
4 that we are aware of that actually -- Mr. Greco has a
5 formal complaint that's filed with the Commission and
6 Mr. Singel as well, but those are the only ones that we
7 know of.

8 COMMISSIONER ARGENZIANO: Okay. And then I
9 probably would like to -- if Mr. Will has any other
10 information, he said he thinks he even got responses.
11 It may be the same four, so.

12 CHAIRMAN CARTER: Mr. Will --

13 MR. WILL: Yes, sir.

14 CHAIRMAN CARTER: -- the letters that you
15 submitted, did you submit them to the PSC or did you
16 submit them to the company for the request?

17 MR. WILL: I believe they first went to the
18 company, to the representative here in our subdivision.
19 And in addition to that, they were then forwarded --
20 when they got no response, they were then forwarded to
21 the PSC.

22 CHAIRMAN CARTER: Okay. Commissioners, it
23 seems to me if they submitted them in a timely manner,
24 they would fall within the same provision as these four
25 that we have here.

1 COMMISSIONER ARGENZIANO: Right.

2 CHAIRMAN CARTER: At least it makes sense to
3 me.

4 COMMISSIONER ARGENZIANO: But I still, Mr.
5 Chairman, have a question as to why the company just
6 refused them. I mean, that's not good practice.

7 CHAIRMAN CARTER: Okay. I'll come back to
8 you. One second, staff, while you guys are getting it
9 together.

10 Commissioner Skop, you're recognized.

11 COMMISSIONER SKOP: Thank you, Mr. Chairman.

12 Just a quick question, a point of information
13 to staff. I don't know if this is the same, and I
14 didn't see it in the staff recommendation, but I seem to
15 remember a case probably about a year and a half ago
16 that dealt with not having a tariff for meters and the
17 owner/operator had to, I think by action of the
18 Commission, had to pay for the meters and was not able
19 to recover those. Is this the same entity?

20 MS. BENNETT: I believe so. This entity, East
21 Marion, was before you before because they were charging
22 what it actually cost them to do these irrigation meters
23 and they didn't have a tariff for this. It was before
24 you on a show cause but ended up not being a show cause
25 proceeding. So, yes, it is the same entity.

1 COMMISSIONER SKOP: Thank you.

2 MS. BENNETT: Can I correct a statement on the
3 effective date?

4 CHAIRMAN CARTER: Yes, ma'am.

5 MS. BENNETT: The modification that I gave you
6 talks about the effective date, and the effective date
7 says, "The approved changes should be effective for
8 services rendered on or after the stamped approval date
9 of the tariff," and tariff does not get stamped until
10 notice is given. So it's not the date, today's vote,
11 but at a time subsequent to today's vote.

12 CHAIRMAN CARTER: Okay. But it seems like to
13 me, based upon what we've heard from Mr. Will, is that
14 the list was presented to the company but the company
15 evidently did not share it with staff.

16 MS. BENNETT: I believe that might be correct.
17 I know we've had several correspondence with Mr. Will
18 and --

19 CHAIRMAN CARTER: Well, I just think, I'm just
20 kind of thinking aloud, Commissioners, but I think out
21 of an abundance of fairness, if the customers got the
22 request in time and before the rates take effect, they
23 should be entitled to the same price for the irrigation
24 meters as the other, as the four that we have listed
25 here. It just seems to make sense to me. So I guess

1 what we need to do is get the list, get -- staff, get
2 the list and then look that over and then maybe we can
3 do it at one time.

4 Commissioner Argenziano, you're recognized.

5 COMMISSIONER ARGENZIANO: Well, Mr. Will just
6 asked if he could have time to, I guess, ask the
7 homeowners. And I think there are what, only 96?

8 MS. BENNETT: I think so, yes.

9 COMMISSIONER ARGENZIANO: Okay. So that
10 shouldn't really take very long. And if we could get a
11 list -- and, you know, it's not just asking. They have
12 to provide some kind of proof that they actually tried
13 either by letter or some other mechanism, and I think
14 that would be a fair approach to see. But, Mr. Chair,
15 at the right time I have, I have a different question on
16 a different subject regarding this issue.

17 CHAIRMAN CARTER: Okay. Well, let's, let's,
18 on this, on this issue here, let's -- Ms. Bennett.

19 MS. BENNETT: I just wanted to make sure that
20 you understood you could go ahead and vote today and
21 include that language that customers who provide proof
22 that they have applied under the old tariff rate will be
23 allowed to connect under the old tariff rate, and that
24 way you could make a decision within your eight-month
25 time clock.

1 CHAIRMAN CARTER: Okay. Okay. Well, we'll
2 come back to that in a minute.

3 Commissioner Argenziano, you're recognized.

4 COMMISSIONER ARGENZIANO: Yes. A couple of
5 questions and then I'll kind of explain the problem I'm
6 having. The company has 96 customers; is that correct?
7 And I think what we asked is -- because they're asking
8 for a service charge for returned checks, and I think
9 the answer I got from staff was more about bad debt than
10 returned checks. So what I'm trying to figure out is
11 how many returned checks is the company experiencing?
12 Are they really having a problem with returned checks?
13 Do you know?

14 MS. HUDSON: We don't have any information
15 specifically other than what was in the annual report,
16 and we couldn't really break that down to say that it
17 was necessarily returned check charges.

18 The returned check fees will be categorized
19 under miscellaneous service revenues, and that number is
20 not broken out. And the number that was quoted was from
21 the 2007 annual report. We don't know what it is for
22 2008, it could very well be more, because he hasn't
23 filed his report yet for 2008.

24 COMMISSIONER ARGENZIANO: What was the number
25 you were relying on? I'm sorry.

1 MS. HUDSON: The 2007 annual report.

2 COMMISSIONER ARGENZIANO: And the returned
3 checks were how many?

4 MS. HUDSON: We don't know. It just --

5 COMMISSIONER ARGENZIANO: Okay. So we -- wait
6 a minute. Wait a minute. We don't know if there are
7 any returned checks.

8 MS. HUDSON: Right.

9 COMMISSIONER ARGENZIANO: But yet we're
10 recommending that he use the, that we use the statute
11 that the Attorney General does, which is quite a lot of
12 money or higher bumped up money. I'd like to see the
13 company get their actual costs reimbursed because that's
14 only fair. But when I'm trying to deduce, well, if the
15 company really has an actual problem, real problem and
16 we don't even have any proof that there have been any
17 returned checks, and yet we're going to switch to the
18 Attorney General's section of the statute which
19 allows -- I mean, if your debt is \$50, you're going to
20 pay 50 percent of that in, in returned check fees, and I
21 just want to know why.

22 MR. FLETCHER: In their application what they
23 had provided support for was the bank actually charges
24 them \$10. And I believe the bookkeeper, in order to
25 reroute the bill, rerun the bill to the customer is \$25,

1 \$20 to \$25, their bookkeeper that they actually filed in
2 their application. They are only requesting that
3 amount. We were -- because it was \$25 to \$30 -- \$20 to
4 \$25 with the bookkeeper, they can charge less. We don't
5 know what the actual returned check charges were because
6 the annual report doesn't break it down that way, but we
7 were just wanting to put it on the cost causer. Even
8 without that information we know that if they don't have
9 charges in the tariff like this, that it will flow
10 through through bad debt expense and that will be paid
11 by the general body of ratepayers. So I guess we just
12 relied on the, what is it, Section 68 for their charges.

13 COMMISSIONER ARGENZIANO: Well, what you point
14 to is 832.08(5), and that goes to the Attorney General.
15 So I don't understand, and I'll read the part that I
16 have the most concern with is that -- I'll reread the
17 paragraph.

18 "To fund the diversion program, the state
19 attorney may collect a fee on each check that is
20 collected through the state attorney's office, whether
21 it is collected through prosecution or through the
22 diversion program. However, the State Attorney may not
23 collect," excuse me, "such a fee on any check collected
24 through a diversion program which was in existence in
25 another office prior to October 1st, 1986. A fee may be

1 collected by an office operating such a preexisting
2 diversion program for the purpose of funding such
3 program. The amount of the fee for each check shall not
4 exceed: (a) twenty-five dollars, if the face value does
5 not exceed \$50," or let's see, "(b), thirty dollars, if
6 the face value is more than \$50 but does not exceed
7 \$300, and forty dollars, if the face value is more than
8 \$300." Isn't that allowing more than the actual cost to
9 the company? Wouldn't that allow more than the actual
10 cost to the company?

11 MR. FLETCHER: If the amount were greater than
12 the \$300, exceeding \$300, then it would.

13 COMMISSIONER ARGENZIANO: Why go to the, why
14 go to the Attorney General statute? Why couldn't we do
15 actual cost to the company? And, again, I don't even
16 know how many returned checks the company is
17 experiencing. And, of course, I want them to recover
18 their fair, their fair amount to recover, but I haven't
19 even been provided any proof that they're really having
20 any kind of real problem. With 96 customers, I
21 imagine -- well, could 50 percent of them be -- even if
22 it's a small percent, I'd like the company to recover
23 their actual costs. But why should we go to the
24 Attorney General statute for that rather than 68?

25 MR. REDEMANN: I can address it a little bit.

1 We had done an audit on the utility, and it's been a
2 while since I looked at the paperwork, but there was
3 like three to six checks or so. There was not a whole
4 lot of returned checks, but there were like a handful of
5 returned checks.

6 COMMISSIONER ARGENZIANO: But how come when I
7 just asked that question five minutes ago we didn't have
8 that information? Why do we -- why does that happen? I
9 mean, even in reading the information I couldn't derive
10 support for, for that. And I understand the company is
11 probably going to get returned checks, but logically I
12 want to figure out, well, how many? Are they having a
13 real problem with it? And even if they're not, I mean,
14 let's say it's a minimum of three to five checks out of
15 96 people, couldn't it be just written that they
16 received their actual cost? And when's the last time
17 you went to this statute to do this for a service fee?

18 MR. FLETCHER: I think in the returned check
19 fee Ms. Hudson looked at TECO, I believe there was a
20 TECO case where they quoted the Section 68.065, *Florida*
21 *Statutes*, in that case and they referenced that in their
22 MFRs. And that was, I believe, one of the recent cases
23 she did in her analysis in order to recommend her
24 approved, the approved returned check charge, or
25 recommended.

1 COMMISSIONER ARGENZIANO: You're saying in a
2 recent TECO case you used the Attorney General statutes
3 for service fees? Larry, you better get with it because
4 you told me they haven't used it in a long time.

5 MS. BRUBAKER: Madam Commissioner --

6 CHAIRMAN CARTER: Hang on a second.
7 Commissioner Brubaker (sic.) -- Ms. Brubaker. Ms.
8 Brubaker.

9 MS. BRUBAKER: Thank you, sir. I'm sorry to
10 interrupt.

11 Jennifer Brubaker for legal staff. I'm hoping
12 I might be able to offer just a little bit of background
13 that may help kind of explain why we drafted this to tie
14 it back to the statute.

15 With water and wastewater companies,
16 traditionally they have tied more, the returned check
17 charge to a particular amount. The problem with that --
18 and usually that amount does track the statute I think
19 by and large. But when you specify an amount in the
20 tariff and the statute changes, in order to charge what
21 the statute permits, you would then have to go back and
22 make a tariff change.

23 Now a lot of the electric companies simply
24 cite to the statute. And that way as the statute
25 changes, that amount would automatically track the

1 statute. And in our opinion, again, as has been
2 expressed previously, what's important is that -- of
3 course, if there was a big problem with returned checks,
4 we'd want to know that, I suppose. But the more
5 important thing in my opinion is to make sure that those
6 who cause those costs are the ones who pay for those
7 costs and that they not be subsidized through the
8 general body of ratepayers. So there's a logic to tying
9 it to the statute and allowing --

10 COMMISSIONER ARGENZIANO: And I, and I
11 understand that. And I've said it probably three or
12 four times, I want the company to recover its actual
13 costs. I don't want the ratepayers to have to pay for
14 that. So I know that.

15 But to me the more important thing is to make
16 sure that it's fair. Now if you, if you have a \$55 --
17 and if there's a real chronic problem, I can understand
18 saying, well, okay, we have to do something to stop the
19 problem. But I haven't had any support of a chronic
20 problem. As a matter of fact, I've heard two different
21 things: We haven't, we don't know any, and then we have
22 three or four. So I really don't know what to think.

23 But if you're spending -- if there's a \$55 --
24 if the value is more than \$50, say it's \$55, now the
25 company can charge \$30. Why, why, why should the

1 company, you know -- I don't understand giving a benefit
2 to the company. Give them their actual costs; I think
3 that's fair. So that goes in line with what you're
4 saying. I don't want it misunderstood that I don't
5 want -- that I want the ratepayers to pay anything. I
6 want the actual costs to be paid. And, of course, if
7 there was a chronic problem, I can understand maybe some
8 type of stiffer penalty to say, hey, this has got to
9 stop.

10 But can it -- let me ask the question this way
11 instead of any other explanations. Can it be tied to
12 just actual costs? Can it be -- if it's costing the
13 company \$25, can't we do that?

14 MS. BRUBAKER: I believe it's certainly within
15 the Commission's discretion, if they'd like to do that.
16 It is just a usual practice for the purpose of
17 businesses to track the statute, but certainly that's
18 well within the Commission's discretion.

19 COMMISSIONER ARGENZIANO: Well, Mr. Chair, I
20 just, I don't understand without supporting evidence
21 telling me that there's a real problem there why we
22 would do that. I want the company to recover their
23 actual costs. I don't think the company cares about
24 making money off the customer if they're late. They
25 just want to recover their cost. So I would feel much

1 more comfortable if it was just the cost that, you know,
2 that the company incurred.

3 And then if we could find out what the actual
4 returned checks are and if there's a continued problem,
5 then we'd look at that and say, well, okay, then
6 something else needs to be done here. But, but I don't,
7 I just can't be comfortable with saying, okay, let's
8 just -- because then it's kind of not a windfall, I
9 mean, but it's giving the company, money to the company
10 that when you have a problem with somebody who can't
11 pay, maybe their check is returned because there's a
12 problem or an inadvertent problem, well, you say, okay.
13 If it's a chronic problem, different story. Or if
14 they're having a hard time paying their bills, you've
15 just made it, you've just compounded the problem. Let
16 them pay the actual cost. And if we could do that, I'd
17 be very happy with that.

18 CHAIRMAN CARTER: I think we can because I
19 think that the general perspective on what we're doing
20 is to make sure that the cost causers are the ones that
21 pay that.

22 So, staff, as we, maybe we can just tie it
23 into that so they can recoup the actual costs. And
24 notwithstanding the statute, from what you said, we do
25 have the discretion to do that. So we can say, first of

1 all, that in the context of the cost causer, they'll be
2 the ones that will bear the cost of that and then tie
3 that into the actual costs and whatever -- there could
4 be some penalty provision or fee and all like that, but
5 tie it specifically to, to the cost causers and for the
6 cost of the actual check itself. Did that make sense?

7 MS. BENNETT: Yes, sir. And we do know the
8 exact amount. He did provide it with his response to
9 the data request. It is \$35 currently.

10 COMMISSIONER ARGENZIANO: It is what?

11 MS. BENNETT: It is \$35 currently. It's
12 \$10 for the bank charge and \$25 for the bookkeeper fee.

13 COMMISSIONER ARGENZIANO: And that's
14 regardless of the value?

15 MS. BENNETT: Correct.

16 COMMISSIONER ARGENZIANO: Okay. Well, then
17 that to me is fair.

18 CHAIRMAN CARTER: Okay. Okay. Commissioner
19 McMurrin, you're recognized.

20 COMMISSIONER McMURRIAN: What is 30 -- I'm
21 sorry. What is -- are we talking about the returned
22 check charge still?

23 MS. BENNETT: Yes, ma'am.

24 COMMISSIONER McMURRIAN: Because I was reading
25 here it would be increased from \$20 to \$25, so.

1 MS. BENNETT: The bookkeeper is increasing her
2 charge from \$20 to \$25.

3 COMMISSIONER McMURRIAN: Okay.

4 MS. BENNETT: Citizens Bank sent a letter that
5 said that they charge for returned checks \$10. Okay.
6 But still he wasn't asking to increase it to \$35, he was
7 only asking to increase it to \$25?

8 CHAIRMAN CARTER: For the bookkeeper.

9 COMMISSIONER McMURRIAN: Or is there a second
10 piece that I'm not --

11 MR. FLETCHER: That was just for the
12 bookkeeper. There's two pieces for the returned check
13 charges, \$10 that the bank charges, then the bookkeeper
14 is going from \$20 to \$25, making the total actual cost
15 \$35.

16 COMMISSIONER McMURRIAN: So was he asking for
17 the total to be -- was he asking for \$35 to be recovered
18 somehow because -- I mean, with this line it says he's
19 asking for it to be increased from \$20 to \$25. So is
20 there another \$10 somewhere that he's asking to pick up
21 or is it just that he just didn't ask for the full cost?

22 MS. HUDSON: In his initial request it was \$20
23 to \$25. And when we asked him to provide additional
24 information, he also provided the \$10 that the Citizens
25 Bank charges as well. So that's how the \$35 was

1 arrived.

2 COMMISSIONER McMURRIAN: Okay. Okay. So you
3 all think that the actual cost would be \$35 even though
4 he originally just asked for \$25. Okay. Thank you.

5 CHAIRMAN CARTER: Thank you.

6 Commissioner Argenziano.

7 COMMISSIONER ARGENZIANO: I want to clarify
8 that when I asked Larry about if staff had ever used
9 this statute before, he said in the water area, in the
10 water arena you have not. So I want to clarify that.
11 And you cited TECO, so that jumps to electric.

12 Have you used it in water cases before that
13 you know of in the recent --

14 MS. BENNETT: I don't believe we have used
15 reference to the statute. What we have done is tracked
16 the statute language that was in existence at the time,
17 but not pursuant to Section 63. It's just these are the
18 check charges. We changed it and made reference to the
19 statute just so that as the prices increased or
20 decreased, we wouldn't have to come back through for
21 another tariff change.

22 COMMISSIONER ARGENZIANO: Okay. Thank you.

23 CHAIRMAN CARTER: Commissioners, anything
24 further?

25 Staff.

1 MS. BRUBAKER: Chairman Carter, I'm sorry.

2 CHAIRMAN CARTER: Yes, ma'am. Ms. Brubaker.

3 MS. BRUBAKER: Just one last thing, I just
4 would clarify that since what the utility has requested
5 was that an increase be to \$25 and what the Commission
6 is currently contemplating is something different than
7 that, just procedurally is it my understanding that it
8 would be denying the company's request but giving it
9 leave to amend its request to be consistent with the
10 Commission's vote today?

11 CHAIRMAN CARTER: Based upon what staff has
12 told us about the actual cost, because, as Commissioner
13 McMurrian was saying, is that like they were just asking
14 for \$25 but based upon what you have given us today said
15 that it's \$25 plus the \$10; right? Isn't that what you
16 just told us?

17 MS. BRUBAKER: Yes, sir. Again, the concern
18 being we approve tariffs or deny tariffs, but we also
19 can give the company leave to modify it if the
20 Commission believes a modification would be appropriate.

21 CHAIRMAN CARTER: Be consistent with what
22 we've discussed today.

23 MS. BRUBAKER: Yes.

24 COMMISSIONER ARGENZIANO: But it also --
25 Mr. Chair, but it's also different than your

1 recommendation, which would allow them to go higher.

2 MS. BRUBAKER: Yes, ma'am.

3 CHAIRMAN CARTER: Right.

4 COMMISSIONER ARGENZIANO: Thank you.

5 CHAIRMAN CARTER: I hope you guys are taking
6 good notes.

7 And also, staff, to ensure that you get with
8 Mr. Will and get that list. As what staff has told us,
9 Commissioners, and I'm not saying we're there yet, but
10 if we are, staff has told us that they can, we can go
11 ahead on and move forward with the case and give staff
12 leave to go get that information about the people who
13 had applied and so they can get the \$70 fee versus the
14 higher fee as well as adjust the, the \$25 for the
15 bookkeeper and \$10 for the Citizens Bank, I think it
16 was, that you said there. I think I -- Commissioner
17 McMurrrian.

18 COMMISSIONER McMURRIAN: Just one more
19 question.

20 So am I understanding that, that Commissioners
21 want to allow the returned check charge to be higher
22 than the \$25 that he's asking for currently or should we
23 just go with what he's asking for? We've seen proof
24 that it's going to be at least \$25 and it's perhaps more
25 than that. Do we want to leave it open for cost?

1 CHAIRMAN CARTER: Commissioner Argenziano.

2 COMMISSIONER ARGENZIANO: Well, Commissioner
3 McMurrian, I think that, I think the company should be
4 able to recuperate its actual costs. And if staff is
5 indicating that the company had asked for \$25 and failed
6 to mention the bank fee, well, the bank fee is an actual
7 cost. So I think it's only fair that the company recoup
8 what they actually -- because otherwise the ratepayers
9 are going to wind up paying that, other payers are going
10 to wind up paying that anyway. So if they recoup their
11 actual costs and the other ratepayers are not going to
12 be paying for those who have canceled checks or returned
13 checks, I think that's fair. So if we're modifying but
14 we're not going with staff's recommendation, which could
15 allow it to go a little bit higher, and that's, that's
16 what we're trying to do.

17 COMMISSIONER McMURRIAN: Thank you. I just
18 wanted that clarification to make sure I understood.
19 Thank you.

20 CHAIRMAN CARTER: Thank you. Commissioners,
21 any further clarification?

22 Staff, make sure that you get with Mr. Will on
23 that complete list. And, Mr. Will, when is your next
24 meeting?

25 MR. WILL: The next -- I believe it's

1 April 23rd.

2 CHAIRMAN CARTER: Okay. Commissioner
3 Argenziano.

4 COMMISSIONER ARGENZIANO: Is there any
5 way that -- there's only 96 people we're talking about.
6 Is there any way that they can do that, start working on
7 that before the next meeting so that we get that
8 information as soon as possible?

9 CHAIRMAN CARTER: Mr. Will, could you expedite
10 that matter and get it to our staff as soon as possible?

11 MR. WILL: Yes. The president is shaking her
12 head here. We can call for a special meeting and have
13 that done. If you'll give us a reasonable date, we'll
14 certainly meet that date.

15 CHAIRMAN CARTER: Okay.

16 COMMISSIONER ARGENZIANO: Great.

17 CHAIRMAN CARTER: Okay. That will be fine.
18 And get it to our staff. And, staff, please follow up
19 with Mr. Will on that as he gets an expedited date for
20 the meeting. And as we proceed, we can incorporate
21 that -- actually you can incorporate it in the final
22 review.

23 Commissioners, anything further on Item 18?
24 Any further discussion? Any debate? The Chair is now
25 open for a disposition of this matter.

1 Commissioner Argenziano, question?

2 COMMISSIONER ARGENZIANO: I'm just wondering
3 if Mr. Will had anything else he wanted to say.

4 CHAIRMAN CARTER: Mr. Will, anything else?

5 MR. WILL: Yes, sir. Will someone be
6 contacting me?

7 CHAIRMAN CARTER: Yes, sir. Our staff will be
8 contacting you.

9 MR. WILL: Very good, sir.

10 CHAIRMAN CARTER: Do you -- let's get both
11 your numbers now while we've got you on the, on the horn
12 here. Give us your --

13 COMMISSIONER ARGENZIANO: I don't know if you
14 want to do that.

15 CHAIRMAN CARTER: Oh, okay. Staff -- you may
16 have everybody in the state calling you. That's okay.
17 Staff will contact -- you do have Mr. Will's number?

18 MS. BENNETT: I have, I have his number.

19 CHAIRMAN CARTER: We have your number,
20 Mr. Will, and we'll contact you.

21 MR. WILL: Thank you very much.

22 CHAIRMAN CARTER: We don't want you to be
23 infamous, we just want you to be famous. Okay?

24 MR. WILL: Thank you again.

25 CHAIRMAN CARTER: Okay. Thank you, Mr. Will,

1 for your participation and thank you for your patience.

2 MR. WILL: And thank you.

3 CHAIRMAN CARTER: Commissioner Edgar, you're
4 recognized for a motion.

5 COMMISSIONER EDGAR: Mr. Chairman, I move that
6 we adopt the staff recommendation on all items with the
7 following modifications: Direction to the utility to
8 modify the tariff to reflect the actual cost for
9 returned checks, the inclusion of all oral modifications
10 that were given by our staff at the beginning of our
11 discussion, that we direct the company, the utility to
12 honor the previous tariff fee of \$70 for requests for an
13 irrigation meter prior to the adoption of the staff
14 recommendation revised tariff today, and that we further
15 direct our staff to coordinate with Mr. Will and the
16 homeowners association to carry that forward.

17 COMMISSIONER SKOP: Second.

18 CHAIRMAN CARTER: It's been moved and properly
19 seconded. Commissioners, are we kind of clear on where
20 we're going with this? Staff, are you clear that we
21 incorporated our changes and reviews?

22 MS. BENNETT: I am with -- I'm a little
23 confused with is it the effective date of the new order
24 that customers have to show proof of application?

25 COMMISSIONER EDGAR: I think it would probably

1 be more clear to have it through today, would it not?

2 MS. BENNETT: Okay.

3 COMMISSIONER EDGAR: I would say through
4 today.

5 CHAIRMAN CARTER: That makes sense.
6 Commissioner Argenziano.

7 COMMISSIONER ARGENZIANO: Meaning through
8 today -- if Mr. Will finds people tomorrow, you mean a
9 cutoff date today?

10 COMMISSIONER EDGAR: What I meant was that the
11 request had been made prior to today was what I was
12 trying to state.

13 COMMISSIONER ARGENZIANO: Okay. Got you.

14 CHAIRMAN CARTER: Right. Staff, are you
15 clear?

16 MS. BENNETT: Yes. Thank you.

17 CHAIRMAN CARTER: Commissioners, any further
18 questions? Any concerns? Any debate? Hearing none,
19 all in favor, let it be known by the sign of aye.

20 (Unanimous affirmative vote.)

21 All those opposed, like sign. Show it done.

22 Thank you, Commissioners. And thank you,
23 Mr. Will.

24 MR. WILL: Thank you, sir.

25 (Agenda Item 18 concluded.)


1 STATE OF FLORIDA)
2 COUNTY OF LEON) CERTIFICATE OF REPORTER

3
4 I, LINDA BOLES, RPR, CRR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

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

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

18 DATED THIS 16th day of April, 2009.

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