

!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: October 20, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (M. Watts) *mw*
Division of Accounting and Finance (Norris, Sowards) *TS*
Division of Economics (Hudson, Johnson) *CAS*
Office of the General Counsel (Leathers) *ALM*

RE: Docket No. 160023-WU – Application for transfer of majority organizational control of Sunny Shores Water Company, Inc., holder of Certificate No. 578-W in Manatee County, from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason. *plus for JS*

AGENDA: 11/1/16 – Regular Agenda – Tariff Filing for Issue 2 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 11/24/16 (8-Month Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

Sunny Shores Water Company, Inc. (Sunny Shores or Utility) is a Class C water utility serving approximately 262 customers in Manatee County. Original Certificate No. 578-W was approved by Order No. PSC-96-0599-FOF-WS, issued on May 7, 1996.¹ The Utility provides water service to its customers through bulk water purchased from Manatee County. Sunny Shores' 2015 Annual Report shows gross revenues of \$83,977 and a net operating income of \$1,738. Sunny Shores' service area lies in the Southwest Florida Water Management District.

¹Order No. PSC-96-0599-FOF-WS, issued on May 7, 1996, in Docket No. 960028-WS, *In re: Application for certificates to provide water and wastewater service in Manatee County by Sunny Shores Water Co., Inc. under grandfather rights.*

Docket No. 160023-WU

Date: October 20, 2016

On January 15, 2016, Sunny Shores filed an application for transfer of majority organizational control (TMOC). Staff identified several deficiencies in a letter to Sunny Shores on February 15, 2016. The Utility's response on March 14, 2016, satisfied all but one deficiency. Staff advised the Utility of the outstanding deficiency in a letter dated April 19, 2016. Sunny Shores' June 3, 2016, response satisfied the remaining deficiency.

On March 24, 2016, Sunny Shores filed a request for a late payment charge. At its May 5, 2016 Agenda Conference, the Commission voted to suspend Sunny Shores' request for a late payment charge pending final action in the instant docket.² It should also be noted that the Utility has applied for an original wastewater certificate.³ This recommendation addresses the Utility's application for a TMOC and request for a late payment charge. The Commission has jurisdiction pursuant to Sections 367.071 and 367.091, Florida Statutes (F.S.).

²Order No. PSC-16-0209-PCO-WU, issued on May 24, 2016, in Docket No. 160023-WU, *In re: Application for transfer of majority organizational control of Sunny Shores Water Company, Inc., holder of Certificate No. 578-W in Manatee County, from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason.*

³Docket No. 160219-SU, *In re: Application for certificate to provide wastewater service in Manatee County by Sunny Shores Water Co.*, filed on October 7, 2016.

Discussion of Issues

Issue 1: Should the application for transfer of majority organizational control of Sunny Shores Water Company, Inc. in Manatee County from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason be approved?

Recommendation: Yes. The transfer of majority organizational control from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason, is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as the water certificate, with the territory described in Attachment A. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.). (M. Watts, Sowards, Johnson)

Staff Analysis: This application is for the transfer of majority organizational control of Sunny Shores Water Company, Inc. in Manatee County from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason. Based on staff's review, the application is in compliance with the governing statute, Section 367.071, F.S., and Rule 25-30.037(4), F.A.C., concerning applications for transfer of majority organizational control.

Noticing and Territory

Sunny Shores provided notice of its application pursuant to Section 367.071, F.S., and Rule 25-30.030, F.A.C. No objections to the transfer were filed with the Commission, and the time for doing so has expired. The notice contains a description of the territory for Sunny Shores, which is appended to this recommendation as Attachment A.

Technical and Financial Ability

Pursuant to Rules 25-30.037(2)(l) and (m), F.A.C., the application contains statements describing the technical and financial ability of the buyers to provide service. The transfer application states that the buyers have sufficient financial assets to ensure the continuing operation of the Utility. Staff reviewed the financial statements of the buyers⁴ and believes they have the financial capability to provide any necessary funding. According to the application, the public interest is served by the continuity of management in the Utility as the shares of the majority owner are purchased by buyers who have been the managers of the Utility since 2008. Based on the information above, staff believes the buyers have the technical and financial capability to provide service to the existing service territory.

⁴Document No. 03356-16.

Rates and Charges

The Utility's rates and charges were last approved in a grandfather certificate docket in 1996.⁵ In 2010, the Commission approved a backflow maintenance charge.⁶ The Utility also applied for and received approval of numerous price indexes and pass-through rate adjustments. The Utility's existing rates and charges are shown on Schedule No. 1, which is attached to this recommendation. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by this Commission. Therefore, staff recommends that the Utility's existing rates and charges remain in effect until a change is authorized by this Commission in a subsequent proceeding.

Conclusion

Based on the above, staff recommends that the transfer of majority organizational control from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason, is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as the water certificate, with the territory described in Attachment A. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs pursuant to Rule 25-30.475, F.A.C.

⁵Order No. PSC-96-0599-FOF-WS, issued on May 7, 1996, in Docket No. 960028-WS, *In re: Application for certificates to provide water and wastewater service in Manatee County by Sunny Shores Water Co., Inc. under grandfather rights.*

⁶Order No. PSC-10-0553-TRF-WU, issued on September 3, 2010, in Docket No. 100038-WU, *In re: Application to implement a backflow maintenance program by Sunny Shores Water Co.*

Issue 2: Should Sunny Shores' request for a late payment charge of five percent of the total customer's bill be approved?

Recommendation: No. Sunny Shores' request to implement a late payment charge of five percent of the total customer's bill should not be approved. However, staff's recommended late payment charge of \$5 should be approved. The charge should be effective for services rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. Sunny Shores should provide proof of the date that the notice was given within 10 days of the date of the notice. (Johnson)

Staff Analysis: Section 367.091(6), F.S., authorizes the Commission to establish, increase, or change a rate or charge other than monthly rates or service availability charges. The Utility requested a late payment charge of five percent of the total customer bill to recover the cost of supplies and labor associated with processing late payment notices. Although the Utility prefers the percentage based late payment charge, it also proposed a cost-based late payment charge of \$8.55. The Utility's request for a late payment charge was accompanied by its reason for requesting the charge, as well as the cost justification required by Section 367.091, F.S.

As mentioned above, the Utility provided cost justification for a late payment charge of \$8.55. The Utility stated that it believed a flat charge would be too high for customers with low bills. Instead, the Utility believes a late payment charge should be based on a percentage of a customer's bill. The Utility's approved service rates consists of a \$69.85 base facility charge, which includes usage up to 10,800 gallons. Based on the cost of a standard bill of \$69.85, a late payment charge of five percent would result in a charge of \$3.49. With a pending wastewater certificate⁷ and with 20 percent to 30 percent of customers using more than 10,800 gallons of water, staff believes a late payment charge of five percent of the total bill could potentially lead to an excessively high late payment charge. In addition, past Commission practice indicates that water and wastewater utilities' late payment charges are to be cost-based.⁸ The cost of preparing and sending the late payment notice does not vary based on the amount of the bill. Therefore, staff believes the Utility's late payment charge should be cost-based and not percentage-based.

Based on historical data, the Utility anticipates it will prepare late payment notices for approximately 40 accounts per billing cycle. In the past, the Commission has allowed 10-15 minutes per account per month for clerical and administrative labor to research, review, and prepare the notice.⁹ The Utility indicated it will spend approximately 10 hours per billing cycle processing late payment notices, which results in an average of approximately 15 minutes per account (600 minutes/40 accounts) and is consistent with past Commission decisions. The Utility

⁷Docket No. 160219-SU.

⁸Order No. PSC-13-0177-PAA-WU, issued on April 29, 2013, in Docket No. 130052-WU, *In re: Application for grandfather certificate to operate water utility in Charlotte County by Little Gasparilla Water Utility, Inc.*

⁹Order No. PSC-11-0204-TRF-SU, issued on April 25, 2011, in Docket No. 100413-SU, *In re: Request for approval of tariff amendment to include a late fee of \$14.00 in Polk County by West Lakeland Wastewater.*; Order No. PSC-08-0255-PAA-WS, issued on April 24, 2008, in Docket No. 070391-WS, *In re: Application for certificates to provide water and wastewater service in Sumter County by Orange Blossom Utilities, Inc.*; Order No. PSC-01-2101-TRF-WS, issued on October 22, 2001, in Docket No. 011122-WS, *In re: Tariff filing to establish a late payment charge in Highlands County by Damon Utilities, Inc.*

suggested a labor rate of \$7.50 (10 hours x \$30.00 labor cost / 40), but also initially included labor costs for activities not involved in preparing and sending out late payment notices. In response to a staff email inquiry, the Utility indicated that the appropriate labor cost is \$15.00 per hour. This results in a labor rate of \$3.75 (10 hours x \$15.00 labor cost/40) per late payment notice. Both the Utility's and staff's cost justification for the late payment charge are shown below in Table 2-1.

**Table 2-1
 Late Payment Charge Cost Justification**

Activity	Utility Proposed	Activity	Staff Recommended
Labor	\$7.50	Labor	\$3.75
Printing	0.45	Printing	0.45
Postage	0.60	Postage	0.60
Total Cost	<u>\$8.55</u>	Total Cost	<u>\$4.80</u>

Source: Utility correspondence

Based on staff's research, since the late 1990s, the Commission has approved late payment charges ranging from \$2.00 to \$7.00.¹⁰ The purpose of this charge is not only to provide an incentive for customers to make timely payment, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing delinquent accounts solely upon those who are cost-causers.

Based on the above, Sunny Shores' request to implement a late payment charge of five percent of the total customer's bill should not be approved. However, staff's recommended late payment charge of \$5 should be approved. The charge should be effective for services rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. Sunny Shores should provide proof of the date that the notice was given within 10 days of the date of the notice.

¹⁰Order No. PSC-01-2101-TRF-WS; Order No. PSC-08-0255-PAA-WS; Order No. PSC-09-0752-PAA-WU, issued on November 16, 2009, in Docket No. 090185-WU, *In re: Application for grandfather certificate to operate water utility in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.*; Order No. PSC-10-0257-TRF-WU, issued on April 26, 2010, in Docket No. 090429-WU, *In re: Request for approval of imposition of miscellaneous service charges, delinquent payment charge and meter tampering charge in Lake County, by Pine Harbour Water Utilities, LLC.*; Order No. PSC-11-0204-TRF-SU; Order No. PSC-14-0105-TRF-WS, issued on February 20, 2014, in Docket No. 130288-WS, *In re: Request for approval of late payment charge in Brevard County by Aquarina Utilities, Inc.*; and Order No. PSC-16-0041-TRF-WU, issued on January 25, 2016, in Docket No. 150215-WU, *In re: Request for approval of tariff amendment to include miscellaneous service charges for the Earlene and Ray Keen Subdivisions, the Ellison Park Subdivision and the Lake Region Paradise Island Subdivision in Polk County, by Keen Sales, Rentals and Utilities, Inc.*

Issue 3: Should this docket be closed?

Recommendation: No. The docket should remain open pending staff's verification that the revised tariff sheets and customer notice have been filed by Sunny Shores and approved by staff. If a protest is filed within 21 days of the issuance date of the Order, the tariff sheets should remain in effect with the charges held subject to refund pending resolution of the protest. If no timely protest is filed, a consummating order should be issued and, once staff verifies that the notice of the charge has been given to customers, the docket should be administratively closed. (Leathers)

Staff Analysis: The docket should remain open pending staff's verification that the revised tariff sheets and customer notice have been filed by Sunny Shores and approved by staff. If a protest is filed within 21 days of the issuance date of the Order, the tariff sheets should remain in effect with the charges held subject to refund pending resolution of the protest. If no timely protest is filed, a consummating order should be issued and, once staff verifies that the notice of the charges has been given to customers, the docket should be administratively closed.

SUNNY SHORES WATER COMPANY, INC.
WATER SERVICE AREA
MANATEE COUNTY

Located in a portion of Manatee County, Florida, situated entirely within the Northwest 1/4 of Section 2, Township 35 South, Range 16 East, described as follows:

Commence at the northwest corner of Section 2, Township 35 South, Range 16 East; thence run S 00°00'00" E a distance of 1,444 feet to the northerly ROW line of 40th Avenue West; thence run S 64°00'00" E along said ROW line a distance of 881 feet to the Point of Beginning; thence run N 24°00'00" E a distance of 1,468 feet along the westerly bank of a canal; thence continuing along the westerly bank of said canal run N 16°00'00" E a distance of 131 feet; thence continuing along said canal run N 26°00'00" E to the shoreline of Palma Sola Bay; thence run easterly along the shoreline of Palma Sola Bay a distance of approximately 1,000 feet to the point where a bulkhead intersects said shoreline; thence run along said bulkhead N 26°56'00" E a distance of 302.14 feet; thence continuing along said bulkhead run S 62°30'11" E a distance of 160.67 feet to the easterly ROW line of 115th Street West; thence run S 24°46'00" W along said ROW line a distance of 1,875 feet to the northerly ROW line of 40th Avenue West; thence run N 64°00'00" W along said ROW line a distance of approximately 1,069 feet to the Point of Beginning.

**FLORIDA PUBLIC SERVICE COMMISSION
Authorizes**

**Sunny Shores Water Company, Inc.
Pursuant to
Certificate Number 578-W**

to provide wastewater service in Manatee County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-96-0599-FOF-WS *	05/07/1996 *	960028-WS 160023-WU	Original Certificate Transfer Majority Organizational Control

***Order Number and date to be provided at time of issuance**

Sunny Shores Water Company, Inc.

Quarterly Water Rates

Residential and General Service

Base Facility Charge - All Meter Sizes \$69.85

Charge per 1,000 gallons – Residential and General Service

0 – 10,800 gallons \$0.00

Over 10,800 gallons \$4.78

Miscellaneous Service Charges

Initial Connection Charge \$18.19

Normal Reconnection Charge \$18.19

Violation Reconnection Charge \$18.19

Premise Visit Charge (in lieu of disconnection) \$11.87

Service Availability Charges

Meter Installation Charge

5/8" x 3/4" \$115.00