

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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.

DOCKET NO. 160023-WU  
ORDER NO. PSC-16-0523-TRF-WU  
ISSUED: November 21, 2016

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
RONALD A. BRISÉ  
JIMMY PATRONIS

ORDER APPROVING TRANSFER OF MAJORITY ORGANIZATIONAL CONTROL AND  
LATE PAYMENT CHARGE

BY THE COMMISSION:

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.<sup>1</sup> 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.

On January 15, 2016, Sunny Shores filed an application for transfer of majority organizational control (TMOC). Commission 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. Commission 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 our May 5, 2016 Agenda Conference, this Commission voted to suspend Sunny Shores' request for a late

<sup>1</sup> Order 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.

payment charge pending final action in the instant docket.<sup>2</sup> We also note that the Utility has applied for an original wastewater certificate.<sup>3</sup> This order addresses the Utility's application for a TMOc and request for a late payment charge. We have jurisdiction pursuant to Sections 367.071 and 367.091, Florida Statutes (F.S.).

### Decision

#### **Transfer of Majority Organizational Control**

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 our review, the application is in compliance with the governing statute, Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code (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 this 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 order 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. We have reviewed the financial statements of the buyers<sup>4</sup> and find that 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, this Commission finds that the buyers have the technical and financial capability to provide service to the existing service territory.

#### *Rates and Charges*

The Utility's rates and charges were last approved in a grandfather certificate docket in 1996.<sup>5</sup> In 2010, this Commission approved a backflow maintenance charge.<sup>6</sup> The Utility also

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<sup>2</sup> Order 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.

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

<sup>4</sup> Document No. 03356-16.

<sup>5</sup> Order No. PSC-96-0599-FOF-WS.

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 order. 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, we find 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, this Commission finds 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 shall be approved effective the date of the Commission vote. The resultant order shall serve as the water certificate, with the territory described in Attachment A. The existing rates and charges shall remain in effect until a change is authorized by this Commission in a subsequent proceeding. The tariffs reflecting the transfer shall 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.

### **Late Payment Charge**

Section 367.091(6), F.S., authorizes this 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 certificate<sup>7</sup> and with 20 percent to 30 percent of customers using more than 10,800 gallons of water, we find that 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.<sup>8</sup> The cost of preparing

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<sup>6</sup> Order 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.

<sup>7</sup> Docket No. 160219-SU.

<sup>8</sup> Order 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.

and sending the late payment notice does not vary based on the amount of the bill. Therefore, we find that the Utility's late payment charge shall 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, this Commission has allowed 10-15 minutes per account per month for clerical and administrative labor to research, review, and prepare the notice.<sup>9</sup> 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 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 Commission 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 this Commission's cost justification for the late payment charge are shown below in Table 1.

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

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

Source: Utility correspondence

Since the late 1990s, this Commission has approved late payment charges ranging from \$2.00 to \$7.00.<sup>10</sup> The purpose of this charge is not only to provide an incentive for customers to

<sup>9</sup> Order 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.

<sup>10</sup> Order 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,

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 shall not be approved. However, a late payment charge of \$5 shall be approved. The charge shall 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 shall not be implemented until Commission staff has approved the proposed customer notice and the notice has been received by the customers. Sunny Shores shall provide proof of the date that the notice was given within 10 days of the date of the notice.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of majority organizational control from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason, is hereby approved effective November 1, 2016. It is further

ORDERED that this order shall serve as the water certificate, with the territory described in Attachment A. It is further

ORDERED that the existing rates and charges shall remain in effect until a change is authorized by this Commission in a subsequent proceeding. The tariffs reflecting the transfer shall 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. It is further

ORDERED that Sunny Shores Water Company, Inc. request to implement a late payment charge of five percent of the total customer's bill is hereby denied. It is further

ORDERED that a late payment charge of \$5 is hereby granted. It is further

ORDERED that the charge shall be effective for services rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. It is further

ORDERED that the approved charge shall not be implemented until Commission staff has approved the proposed customer notice and the notice has been received by the customers. It is further

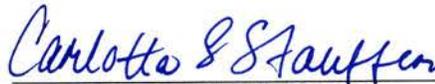
ORDERED that Sunny Shores Water Company, Inc. shall provide proof of the date that the notice was given within 10 days of the date of the notice. It is further

ORDERED that the docket shall remain open pending Commission staff's verification that the revised tariff sheets and customer notice have been filed by Sunny Shores Water

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Company, Inc. and approved by Commission staff. If a protest is filed within 21 days of the issuance date of this order, the tariff sheets shall remain in effect with the charges held subject to refund pending resolution of the protest. If no timely protest is filed, a consummating order shall be issued and, once Commission staff verifies that the notice of the charges has been given to customers, the docket shall be administratively closed.

By ORDER of the Florida Public Service Commission this 21st day of November, 2016.



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CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our action discussed herein, except for the transfer of Certificate No. 578-W to Jack E. Mason, II and Debbie A. Mason, is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 12, 2016. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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