

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 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.

DOCKET NO. 080562-WU
ORDER NO. PSC-10-0116-PCO-WU
ISSUED: February 26, 2010

FIRST ORDER REVISING ORDER ESTABLISHING PROCEDURE

East Marion Sanitary Systems, Inc. (East Marion or Utility) petitioned the Commission for changes in its tariff. While considering East Marion's request at its April 7, 2009, Agenda Conference, the Commission heard from several customers who stated they had requested an irrigation meter prior to the tariff change and East Marion had refused to connect the customer's irrigation meter at the old tariff rate.

By Order No. PSC-09-0263-TRF-WU (tariff order), issued April 27, 2009, East Marion was permitted to change its tariffs to increase certain rates but was required to connect certain customers at the prior tariffed rate. East Marion protested that portion of the tariff order relating to the connection of customers at the prior tariffed rate. As a result of the protest, a hearing was set for March 10, 2010, before a Commission panel. By Order No. PSC-09-0742-PCO-WU (OEP), issued November 10, 2009, a procedural schedule was established setting forth the controlling dates for this docket. East Marion was to file testimony on or before December 7, 2009.

East Marion has not filed testimony in this docket and none of the customers referenced in the order have requested intervention. Accordingly, there will be no testimony or evidence for the Commission panel to consider, were it to proceed to a hearing on March 10, 2010.

Commission staff has conducted several conference calls with the utility and some of the customers referenced in the order. Our legal staff has been informed that some settlement discussions have taken place but to date no settlement has been reached. The parties indicated they are still discussing possible settlement.

In an effort to accommodate the settlement discussions and to permit the utility to file testimony and the customers to intervene if appropriate, the hearing, prehearing, and controlling dates have been revised. The OEP is revised only to the following extent:

I. Case Background

The hearing date is rescheduled to June 3, 2010.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

IV. Discovery Procedures

Discovery shall be completed by May 20, 2010.

VIII. Controlling Dates

The following dates have been revised and will govern the key activities of this case:

East Marion Sanitary Systems Inc.'s Testimony and Exhibits	March 22, 2010
Intervenor's Testimony and Exhibits	April 19, 2010
Staff Testimony and Exhibits, if any	April 26, 2010
Rebuttal Testimony and Exhibits	May 3, 2010
Prehearing Statements	May 6, 2010
Prehearing Conference	May 13, 2010
Discovery Deadline	May 28, 2010
Hearing	June 3, 2010
Briefs, if any	June 24, 2010

The remaining provisions of the Order Establishing Procedure, Order No. PSC-09-0742-PCO-WU shall remain in full force and effect.

The utility is hereby notified that failure to meet the filing date in this First Revised Order Establishing Procedure shall result in dismissal of East Marion's protest. In the event the protest is dismissed, the portions of Order No. PSC-09-0263-TRF-WU that were protested shall be in full force and effect and the utility will have forfeited its right to protest the order.

The customers affected by this protest are also notified that a decision in this docket may affect their interests in connecting to an irrigation meter at the prior tariff rate. To participate in this proceeding, an interested person must timely intervene as permitted by Rule 25-22.039, Florida Administrative Code.


Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that the hearing and controlling dates are revised as set forth in the body of this Order. It is further

ORDERED that failure of the protesting party, East Marion Sanitary Sewers, Inc., to file testimony shall result in a dismissal of the protest. It is further

ORDERED that Order No. PSC-09-0742-PCO-WU is reaffirmed in all other respects.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 26th day of February, 2010.


LISA POLAK EDGAR
Commissioner and Prehearing Officer

(SEAL)

LCB

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.

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.