STATE OF SOUTH CAROLINA

(Caption of Case)

IN RE:

Petition of Office of Regulatory Staff Regarding Wyboo Plantation Utilities, Inc.'s Collection and Charging of Unauthorized and Unapproved Rates

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

COVER SHEET

DOCKET NUMBER: 2006 - 327 - W/S

(Please type or print)

Submitted by: Richard L. Whitt

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DOCKETING INFORMATION (Check all that apply)

☐ **Emergency Relief demanded in petition** ☐ **Request for item to be placed on Commission's Agenda expeditiously**

Other: Routine

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
☐ Electric	☐ Affidavit of Publication	☒ Letter	☐ Request
☐ Electric/Gas	☐ Agreement	☐ Memorandum	☐ Request for Certificatio
☐ Electric/Telecommunications	☐ Answer	☒ Motion	☐ Request for Investigatior
☐ Electric/Water	☐ Appellate Review	☐ Objection	☐ Resale Agreement
☐ Electric/Water/Telecom.	☐ Application	☐ Petition	☐ Resale Amendment
☐ Electric/Water/Sewer	☐ Brief	☐ Petition for Reconsideration	☐ Reservation Letter
☐ Gas	☐ Certification of Mailing	☐ Petition for Rulemaking	☐ Response
☐ Railroad	☐ Comments	☐ Petition for Rule to Show Cause	☐ Response to Discovery
☒ Sewer	☐ Complaint	☐ Petition to Intervene	☐ Return to Petition
☐ Telecommunications	☐ Consent Order	☐ Petition to Intervene Out of Time	☐ Stipulation
☐ Transportation	☐ Discovery	☐	☐ Subpoena
☒ Water	☐ Exhibit	☐ Promotion	☐ Tariff
☐ Water/Sewer	☐ Expedited Consideration	☐ Proposed Order	☐ Other:
☐ Administrative Matter	☐ Interconnection Agreement	☐ Protest	
☐ Other:	☐ Interconnection Amendment	☐ Publisher's Affidavit	
	☐ Late-Filed Exhibit "6"	☐ Report	

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November 7, 2008

VIA ELECTRONIC FILING
The Honorable Charles L. A. Terreni
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE:
- Petition of Office of Regulatory Staff Regarding Wyboo Plantation Utilities, Inc.'s Collection and Charging of Unauthorized and Unapproved Rates
- Docket No. 2006-327-W/S
- **Motion for Approval of Water Tap Fee to Conform to Existing Rate, *Nunc Pro Tunc***

Dear Mr. Terreni:

Enclosed for filing is Wyboo Plantation Utilities, Inc.'s Motion for Approval of Water Tap Fee to Conform to Existing Rate, *Nunc Pro Tunc* in the above referenced Docket. ORS' Counsel of Record is being served with this filing.

Respectfully Submitted,

/S/

Richard L. Whit

RLW/kjw

BEFORE

THE PUBLIC SERVICE COMMISSION

OF SOUTH CAROLINA

DOCKET NO. 2006-327-W/S

IN RE:

Petition of Office of Regulatory Staff Regarding Wyboo Plantation Utilities, Inc.'s Collection and Charging of Unauthorized and Unapproved Rates	)))))	**MOTION FOR APPROVAL OF WATER TAP FEE TO CONFORM TO EXISTING RATE,** ***NUNC PRO TUNC***

PLEASE TAKE NOTICE that counsel for Wyboo Plantation Utilities, Inc. Defendant/Respondent (hereinafter, "Defendant/Respondent" or "Wyboo"), hereby moves this Commission to conform water tap fees charged prior to Order, to Wyboo's presently approved water tap fee and for the following relief in the above referenced matter:

INTRODUCTION

1. The above referenced matter is pending at the Public Service Commission of South Carolina, (hereinafter, "PSCSC").

2. The PSCSC approved a water tap fee for Wyboo in your Order Number 2007-138, issued in Docket Number 2005-13-WS, issued on February 26, 2007. The water tap fee approved was: $825 for ¾ inch connection, $965 for a 1 inch connection, and $1,145 for a 2 inch connection.

3. Prior to the issuance of this Order, Wyboo, under the mistaken belief[1] that a water tap fee was previously approved by the PSCSC, connected water tap fees as follows:

   a. Water tap fees connections-approximately 97.

   b. Customers involved in water tap fees connections-approximately 39.

   (hereinafter, "water taps connected prior to Order")

[1] The president of Wyboo was informed by the prior system owner that a water tap fee was approved by the PSCSC.

MOTION

4. The dollar amount of the water taps connected prior to Order equals approximately $37,850.00.

5. Counsel for the South Carolina of Regulatory Staff (hereinafter, "ORS") has informed Counsel for Wyboo that ORS seeks recovery of 100 percent of the dollar amount of the water taps connected prior to Order. ORS seeks this recovery notwithstanding the fact that every water customer who was charged a water tap fee, received the economic value and use of the water tap and the "benefit of the bargain", in that the water tap fees charged prior to Order ($300 or $450) were materially less than the water tap fee approved by this Commission, in 2007, of at least $825 (See paragraph 2 hereinabove).

6. The grounds for this Motion are that it is uncontroverted that **the water taps were installed at each customer location and utilized by that water customer.** Also, the water taps were installed by Wyboo upon the specific request of each water customer. Therefore, **any requirement that Wyboo retroactively refund 100 percent of the water tap fees charged by Wyboo**, would be (i) unfair and unjust (ii) be a substantial economic burden for Wyboo and would possibly bankrupt Wyboo's utility operations (iii) be an inappropriate "windfall" for each water customer (iv) severely hamper the utilities to provide adequate service to all of its utility customers and (v) be contrary to the mission statement of the Public Service Commission of South Carolina to balance the interests of the consumer and the utility. Any requirement by this Commission that Wyboos retroactively refund 100 percent of the water tap fees previously charged would not represent the required balance of interests.

7. This Commission's recent approval, in 2007, of a water tap fee of at least $825, as explained in more detail hereinabove in paragraph 2, **is the best evidence** that the water tap fees charged by Wyboo prior to Order were (i) fair, (ii) appropriate, (iii) materially less than the water customer would otherwise have paid for a water tap fee (iv) conforming with the Commission's presently approved water tap fee for Wyboo and (v) an appropriate and reasonable basis upon which this Commission may approve a conforming water tap fee for Wyboo, *nunc pro tunc*.

8. Wyboo notes for the record that the only other party of record is ORS. Although the subject matter of the Docket was recently noticed to all of Wyboo's customers, none intervened or protested.

9. Counsel for the South Carolina Office of Regulatory Staff, Nanette S. Edwards, Esquire, is being served with a copy of this Motion and transmittal correspondence. The contents and filing of this Motion were discussed in advance with Ms. Edwards.

CONCLUSION

Based on the foregoing and the mission statement of the Public Service Commission of South Carolina to balance to interests of the consumer and the utility, this Commission should approve Wyboo Plantation Utilities, Inc.'s request that this Commission conform water tap fees charged prior to Order, to the water tap fee previously approved by this Commission in its Order number 2007-138 and order such other and further relief as this Commission deems appropriate.

Respectfully Submitted,

/S/

Richard L. Whitt

Attorney for Defendant/Respondent Wyboo Plantation Utilities, Inc.

November 7, 2008
Columbia, South Carolina