

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHEROKEE COUNTY
COURT OF COMMON PLEAS

The Honorable R. Keith Kelly, Circuit Court Judge

Appellate Case No.: 2017-002171

Circuit Court Case No. 2014-CP-11-0938

RECEIVED
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SC Court of Appeals

Joey Lemmons, d/b/a Rugs International, ... Appellant,

v.

Macedonia Water Works, Inc., ... Respondent.

RECORD ON APPEAL

N. Douglas Brannon
Christopher D. Kennedy
KENNEDY & BRANNON, P.A.
PO Box 3254
Spartanburg, SC 29304

J. Falkner Wilkes
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Counsel for Appellant

Joseph L. V. Johnson
Joseph L. Mathis
Saint-Amand, Thompson & Mathis, LLC
210 South Limestone Street, Suite 1
Gaffney, SC 29340
(864) 489-6052

Lawrence E. Flynn, III
POPE FLYNN, LLC
P.O. Box 11509
Columbia, SC 29211-1509
(803) 354-4902

Attorneys for Respondent

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The Honorable R. Keith Kelly, Circuit Court Judge

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Saint-Amand, Thompson & Mathis, LLC
210 South Limestone Street, Suite 1
Gaffney, SC 29340
(864) 489-6052

Lawrence E. Flynn, III
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P.O. Box 11509
Columbia, SC 29211-1509
(803) 354-4902

Attorneys for Respondent

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STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-11-0938

Joey Lemmons, d/b/a
Rugs International,

Plaintiff,

vs.

Macedonia Water Works, Inc.,

Defendant.

ORDER

On June 16, 2016, the Defendant, Macedonia Water Works, Inc., ("Macedonia"), filed a motion for summary judgment pursuant to Rule 56, South Carolina Rules of Civil Procedure, for summary judgment (the "Motion"). The Motion was argued by the parties at a hearing held on January 6, 2017. Upon the Court's consideration of the filed pleadings, affidavits, supporting memoranda of law and oral arguments of counsel and further based upon the conclusions of law set forth herein, the Court grants the Motion in favor of Macedonia as to each of Plaintiff's causes of action.

I. PROCEDURAL HISTORY

On November 24, 2014, this civil action was commenced by Plaintiff, Mr. Joey Lemmons, d/b/a Rugs International. Macedonia answered the Complaint of Plaintiff on January 15, 2015. Macedonia then served its Motion in this matter on June 16, 2016. The hearing of this matter was held on January 6, 2017. Plaintiff was represented at the hearing by Douglas N. Brannon. Macedonia was represented by Lawrence E. Flynn III and Joseph L. Mathis. At the hearing, the Defendant's Memorandum in Support of its Motion for Summary Judgment included an Engineering Report of the Defendant's expert (Exhibit 6) and an Engineering

Affidavit of the Plaintiff's expert (Exhibit 7).

II. INTRODUCTION AND BACKGROUND

In this matter, Plaintiff claimed Macedonia violated the provisions of S.C. Code Ann. Section 58-3-390 (2014 Supp.), which prohibits a utility from charging tap fees, service fees or other charges for the installation and maintenance of a separate fire sprinkler line that exceed the utility's costs of serving such line. Plaintiff further claims Macedonia was unjustly enriched because Macedonia's overcharged Plaintiff for its water service, a result of Plaintiff paying a higher monthly water bill than he believes is permitted by law.

Plaintiff is the owner and operator of the business known as Rugs International, LLC ("Rugs International") located in Cherokee County, South Carolina. Rugs International obtains water from Defendant and is otherwise provided with water service by Defendant. The building housing Rugs International is protected by an interior fire sprinkler system and contains other plumbing to receive potable water service. Water is supplied to both the fire sprinkler system and the potable water system by a single dual-purpose water line connected to Macedonia's water system.

The volume of water used by Rugs International is measured by a single "compound meter," that includes both a meter for an eight-inch water line and a meter for a four-inch by-pass water line.¹ Compound meters are used where it is expected that the volume of water flowing through a water line will vary dramatically, because a larger water meter, like the Plaintiff's eight-inch meter, cannot accurately measure low water volumes. Within the compound meter assembly there exists a valve that closes when flow is low, forcing all water flow into the smaller, 4-inch meter; once the flow increases above a certain level, the valve opens, flow ceases

to the 4-inch meter and is directed through the larger 8-inch meter. Exhibit 6, at p. 7. The Plaintiff's compound meter is able to meter all volumes of water flowing through its water line while permitting the volume to vary without the need for any action by the Plaintiff or Macedonia.

Macedonia has the authority to establish its own rates for water service and these rates are not subject to the approval of any regulatory authority. S.C. Code Ann. Section 33-36-280 (2006). Customers are billed a minimum base charge based upon the size of their water meter and a volumetric charge for all water used in excess of 2000 gallons each month. The minimum base charge for a four-inch meter is \$225 and \$650 for an eight-inch meter. Since 1999 Plaintiff has been billed a base rate of \$650 for his eight-inch meter.² Plaintiff contends that he should be billed a base rate of \$75 for the "two-inch" portion of his compound meter rather than \$650 for its eight-inch portion.³

III. GROUNDS FOR DEFENDANT'S MOTION

There are no genuine issues as to any material fact in this matter. Plaintiff and Defendant agree regarding the basic configuration of Plaintiff's compound meter and service line. The only matter that is left to the consideration of this Court is whether, due to its configuration, Plaintiff's compound meter falls within the definition of a "separate fire sprinkler line" so as to be subject to the limitations on fees and charges of Section 58-5-390. For the reasons provided for herein, this Court has determined that Plaintiff's compound meter does not constitute a separate fire

¹ In Plaintiff's Complaint and Macedonia's Answer, the by-pass line is stated to be a two-inch line; however, from discussions with Macedonia's staff and upon further review of the specifications on the meter, the by-pass line is actually a four-inch line.

² See Exhibit 1 to Macedonia's answer for a schedule of its current water rates.

³ As previously noted, Plaintiff misconstrued the size of his by-pass line, which is actually a 4-inch line. Macedonia's monthly base charge for a 4-inch meter is \$225.

sprinkler line as contemplated by Section 58-5-390. Since Section 58-5-390 is inapplicable to the Plaintiff, the fees charged by Macedonia to provide water service are valid.

IV. CONCLUSIONS OF LAW

A. Summary Judgment

Summary judgment shall be granted when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRPC. Summary judgment is appropriate only if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Glover v. County of Charleston*, 361 S.C. 634 (2004). Since it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. *Helena Chemical v. Allianz Underwriters*, 357 S.C. 631 (2004). Summary judgment is improper if the parties dispute the inferences to be drawn from the facts even if the facts themselves are not in dispute. *CEL Prods., LLC v. Rozelle*, 357 S.C. 125 (Ct. App. 2004). In determining whether summary judgment is proper, this court must view all evidence in the light most favorable to the non-moving party. *Silvester v. Spring Valley Country Club*, 344 S.C. 280 (Ct. App. 2001). Importantly, in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment. *Hutchinson v. Liberty Life Ins. Co.*, 393 S.C. 19, 24 (Ct. App. 2011). When plain, palpable, and indisputable facts exist to which reasonable minds cannot differ, summary judgment should be granted. *Ellis v. Davidson*, 358 S.C. 509 (Ct. App. 2004).

B. Interpretation of Section 58-5-390

Plaintiff complains that Macedonia's base rates, as applied to him, violate Section 58-5-390 because the base rate, which is calculated based upon the eight-inch portion of his compound meter, exceeds the actual cost associated with Plaintiff's water line to the system. S.C. Code Ann. Section 58-5-390(A). The basis of Plaintiff's claim rests entirely upon Macedonia's purported violation of Section 58-5-390. However, under a plain reading of this provision, Section 58-5-390 does not apply to the type of compound meter and dual-purpose water line that provides water service to Plaintiff's business.

Section 58-5-390 reads, in pertinent part, as follows:

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

(B) For purposes of this section, actual costs include direct labor, direct material, the necessity of increased capacity, and other direct charges associated with the separate fire sprinkler line. The direct costs must be documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line. Nothing in this section may be construed as requiring a utility to provide service to support a private fire protection system.

(emphasis supplied).

Section 58-5-390(B), clarifies that the "actual costs" in this under the statute are limited to those items that are associated with a "separate fire sprinkler line." Plaintiff does not have a separate fire sprinkler line. Plaintiff is served by a single dual-purpose water line that is metered by a compound meter. The use of a compound meter "is purely for improvement in the measurement of flow in the system and has no bearing on whether the water is used for fire sprinklers or other water consumption." Exhibit 6, at p. 7. Further, Plaintiff's compound meter has "no capability to differentiate between the volume of water consumed by the commercial

usage of the facility from the volume of water consumed by the fire sprinkler system.” Exhibit 6 at p. 7. As a result, “[t]here is no separate metering of commercial water and the fire sprinkler consumption.” Exhibit 6, at p. 11.

Plaintiff’s own expert, Jeffery A. Walker, general manager of the Inman-Campobello Water District (“ICWD”) upon review of the report prepared by Plaintiff’s expert witness, provided a written statement, submitted at the hearing on the matter as Exhibit 7, stating that in his opinion “since all of the water for this customer flowed through this meter assembly, and therefore, was not a connection dedicated to fire protection only, the ICWD would not consider this a private fire protection line.” Mr. Walker added, “[e]ven though the meter assembly is comprised of two meters, it is still considered an 8-inch meter.” Exhibit 7.

Where the language in used in a statute is clear and unambiguous, this Court must rely upon its plain reading. *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (“Where the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” (citations omitted)). It is unequivocal that Plaintiff does not maintain a “separate fire sprinkler line” as contemplated by Section 58-5-390; a plain reading of the clear and unambiguous language of this provision leads to the conclusion that its limitations on fees pertain only to separate fire sprinkler lines, not to single dual-purpose lines. Since Section 58-5-390 is not applicable, such statute cannot be further construed to limit the rates and fees that Macedonia may charge.

V. CONCLUSION

This Court has found that Plaintiff has misconstrued S.C. Code Ann. Section 58-5-390, and as such, there is no genuine dispute of fact in this matter. This Court grants the Defendant's motion for summary judgment in this matter as to all of Plaintiff's causes of action and Plaintiff's claims against Defendants are dismissed with prejudice.

IT IS SO ORDERED.

Honorable R. Keith Kelly
Presiding Judge for the Seventh Judicial Circuit

Gaffney, South Carolina
January __, 2017



Cherokee Common Pleas

Case Caption: Joey Lemmons, D/B/A , plaintiff, et al VS Macedonia Water Works, Inc.
Case Number: 2014CP1100938
Type: Order/Summary Judgment

It is so Ordered.

s/ R. Keith Kelly - 2165

Electronically signed on 2017-03-22 13:15:13 page 8 of 8

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHEROKEE	)	
 Joey Lemmons d/b/a Rugs International,	)))	
Plaintiff,	)	ORDER DENYING MOTION
vs.	)	
	)	CA No. 2014-CP-11-0938
Macedonia Water Works,	)	
	)	
<u>Defendants.</u>	)	

NOW COMES BEFORE THE COURT Plaintiff's Motion for Reconsideration, dated April 4, 2017. The present action arises out of the Court issuing a judgment in favor of the Defendant granting summary judgment dismissing the Plaintiff's case.

On November 24, 2014, this civil action was commenced by Plaintiff, Mr. Joey Lemmons, d/b/a Rugs International. Macedonia answered the Complaint of Plaintiff on January 15, 2015. Macedonia then served its Motion in this matter on June 16, 2016. The hearing of this matter was held on January 6, 2017. Plaintiff was represented at the hearing by N. Douglas Brannon. Macedonia was represented by Lawrence E. Flynn III and Joseph L. Mathis.

The Court found that Plaintiff had misconstrued S.C. Code Ann. Section 58-5-390, and as such, there was no genuine dispute of fact in the matter. The Court granted the Defendant's motion for summary judgment and dismissed the action with prejudice.

The court has carefully considered the facts of the case and conducted a thorough review of the file. The court has reviewed relevant case law and SCRPC 56, 59 and 60. As there are no grounds that would warrant an amendment of the court's initial summary judgment for the Defendant, the Plaintiff's Motion to Reconsider is denied.

NOW, THEREFORE, IT IS ORDERED in light of the facts presented that the Defendant's Motion to Reconsider dated April 10, 2015 is denied.

AND IT IS SO ORDERED.

The Hon. R. Keith Kelly
Seventh Judicial Circuit

_____, 2017
Gaffney, South Carolina



Cherokee Common Pleas

Case Caption: Joey Lemmons, D/B/A , plaintiff, et al VS Macedonia Water Works, Inc.
Case Number: 2014CP1100938
Type: Order/Other

It is so Ordered.

s/ R. Keith Kelly - 2165

Electronically signed on 2017-09-21 13:35:28 page 3 of 3

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Joey Lemmons, d/b/a Rugs International, Inc.
Plaintiff(s)

vs.

Macedonia Water Works,

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2014-CP - 11-

014CP-110938

Submitted By: N. Doug Brannon
Address: PO Box 3254, Spartanburg, SC 29304SC Bar #: 68798
Telephone #: 864-707-2020
Fax #: 864-707-2030

Other:

E-mail: Doug@kennedybrannon.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

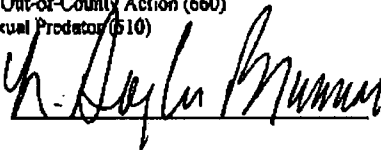
*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☒ Breach of Contract (140)
☒ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20-CP-
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Label (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (610) | | |

Submitting Party Signature:



Date:

11/24/14

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

ROA PAGE 12

Page 1 of 2

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHEROKEE

SEVENTH JUDICIAL CIRCUIT

Joey Lemmons, d/b/a
Rugs International,
Plaintiff,

vs.

Macedonia Water Works, Inc.
Defendant(s),

014CP-110938

2014-CP-11-_____

SUMMONS

To: The above Named Defendant

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in this Action, a copy of which is herewith served upon you, the original of which was filed in the Office of the Clerk of Court for Cherokee County, South Carolina on the 24th day of November, 2014, and to serve a copy of your Answer upon the subscriber at 229 Magnolia Street, Spartanburg, SC 29306, within thirty (30) days after service hereof, exclusive of the day of such service. If you fail to respond to the Complaint within that time, the Plaintiff will apply to the Court for the relief demanded in the Complaint.

IN THE EVENT YOU ARE AN INFANT UNDER FOURTEEN (14) YEARS OF AGE OR ARE INCOMPETENT OR INSANE, then you and the Guardian or Committee are further summoned and notified to apply for the appointment of a Guardian ad Litem to represent said infant under fourteen (14) years of age or said incompetent or insane person within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff herein.

N. Douglas Brannon
N. Douglas Brannon (SC Bar # 68798)

Kennedy & Brannon, P.A.
229 Magnolia Street
Spartanburg, SC 29306
(864) 707-2020 Phone
(864) 707-2030 Fax

Dated: 11/24/14
Spartanburg, South Carolina

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2014 NOV 24 PM 11 37
BRANDY W. MCBEE

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHEROKEE

SEVENTH JUDICIAL CIRCUIT

Joey Lemmons, d/b/a
Rugs International,
Plaintiff,

vs.

Macedonia Water Works, Inc.,
Defendant.

014CP-10938

2014-CP-11-_____

COMPLAINT

COMES NOW the Plaintiff, complaining of the Defendant and would show unto this Honorable Court as follows:

FACTS

1. Plaintiff is a citizen and resident of Cherokee County. Plaintiff is the owner and operator of the business known as Rugs International which is also located in Cherokee County, South Carolina.
2. Defendant is a local water company which has its office in Cherokee County, South Carolina and sells water to citizens of a portion of Cherokee County, South Carolina.
3. Plaintiff is informed and believes that jurisdiction and venue are properly in the Court of Common Pleas for Cherokee County, South Carolina.
4. Plaintiff's business is served by the Defendant, water company.
5. Defendant charges different rates for water based the size of the water tap installed at a given business or residence, and the amount of water that passes through that tap each month.
6. For each size water tap, the Defendant has a set number of gallons of water allowed per month without additional water fees.
7. Plaintiff's business is housed in a very large building which is protected by an interior sprinkler system. This sprinkler system requires an Eight (8) inch water line/water tap for fire protection needs.

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S
2014 NOV 24 AM 11:38
BRANDY W. MCBEE
ROA PAGE 15

8. Plaintiff's business has what is known as a compound water meter. This type of meter is actually two meters in one. Plaintiff's specific meter is an Eight (8) inch meter and a Two (2) inch meter.
9. Water flows through the two inch portion of this compound meter for regular water use or consumption. In case of a fire, the higher water flow would open the Eight (8) inch valve of this compound meter to allow the larger flow of water required by the sprinkler system.
10. Plaintiff purchased his business 1999 and has been charged the water rate for the Eight (8) inch water tap since that date.
11. Since this compound meter was installed, a total of Fifteen (15) gallons have passed through the Eight (8) inch portion of the compound meter. Upon information and belief, these fifteen gallons passed through the meter during or at installation.
12. The Defendant charges a customer with a Two (2) inch meter a base water bill of Seventy Five Dollars and 00/100, (\$75.00) each month.
13. The Defendant charges a customer with an Eight (8) inch meter a base water bill of Six Hundred Dollars and 00/100, (\$600.00) each month.

FOR A FIRST CAUSE OF ACTION, VIOLATION OF S.C. CODE 58-5-390

14. The above paragraphs are restated.
15. S.C. Code §58-5-390 (A) states, "A publicly or privately owned utility may not impose a tap fee, other fee or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system..."
16. Based on the language of the statute set forth above, Plaintiff should have been paying a monthly water bill based on a Two (2) inch water line/tap. As set forth above, the Defendant's monthly minimum water bill for a Two (2) inch water line/tap is Seventy Five Dollars and 00/100, (\$75.00).
17. Plaintiff has been billed each month based on the Defendant's monthly rate for an Eight (8) inch water line/tap.

18. Plaintiff's minimum monthly water bill has been Six Hundred Dollars and 00/100, (\$600.00) since his date of purchase.
19. Defendant has violated § 58-5-390.
20. Plaintiff has suffered damages as the direct and proximate cause of the Defendant's violation of this code section.

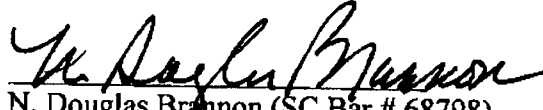
FOR A SECOND CAUSE OF ACTION, QUANTUM MERUIT

21. The above paragraphs are restated.
22. The Defendant has over billed the Plaintiff for actual water usage since § 58-5-390 was enacted.
23. Plaintiff has conferred a benefit upon the Defendant in the form of over payment for actual water usage since §58-5-390 was enacted.
24. Defendant has realized the benefit conferred upon it by the Plaintiff, so much so that the Defendant is able to charge its residential customers no monthly water bill for the month of December each year.
25. Defendant has failed and or refused to reimburse the Plaintiff the amount over charged since §58-5-390 was enacted in spite of Plaintiff's requests and demands for the water company to do so.

WHEREFORE, having set forth his complaint, the Plaintiff prays that this Court Order the following relief:

1. For the First Cause of Action, Violation of S.C. Code §58-5-390, Plaintiff seeks actual and consequential damages in an amount determined by this Court.
2. For the Second Cause of Action, Quantum Meruit, Plaintiff seeks actual and consequential damages in an amount determined by this Court.
3. For such other and further relief as this Court may deem just and proper.

RESPECTFULLY SUBMITTED



N. Douglas Brannon (SC Bar # 68798)

Kennedy & Brannon, P.A.

229 Magnolia Street

Spartanburg, South Carolina 29306

(864) 707-2020

Attorney for the Plaintiff

Dated: 11/24/14
Spartanburg, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-11-0938

Joey Lemmons, d/b/a
Rugs International,

Plaintiff,

vs.

Macedonia Water Works, Inc.,

Defendant.

ANSWER OF DEFENDANT

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2015 JAN 19 PM 4 32
BRANDY MCBEE

The Defendant, Macedonia Water Works, Inc., hereby answers the complaint (the "Complaint") filed by Plaintiff, Joey Lemmons, d/b/a Rugs International, denying each and every allegation of the Complaint not hereinafter admitted, qualified or explained:

FOR A FIRST DEFENSE TO THE GENERAL ALLEGATIONS
(General Denials of Complaint)

1. Defendant answers the Complaint as follows: each and every allegation of the Complaint not admitted, qualified, or explained herein is denied and strict proof thereof is demanded.
2. Defendant admits the allegations of Paragraph 1 of the Complaint, but clarifies that the legal name of the Plaintiff's business, according to the South Carolina Secretary of State, is Rugs International, LLC.
3. With respect to Paragraph 2 of the Complaint, Defendant clarifies that it is a nonprofit corporation organized pursuant to the provisions of Chapter 36 of Title 33 of the Code of Laws of South Carolina, 1976, as amended (the "Act"), and that it is engaged in the business

of supplying water to a portion of Cherokee County, South Carolina.

4. Defendant admits the allegations of Paragraph 3 of the Complaint in that jurisdiction and venue are properly in the Court of Common Pleas of Cherokee County, South Carolina.

5. Defendant admits the allegations of Paragraph 4 of the Complaint.

6. With respect to Paragraphs 5 and 6, Defendant denies the allegations as specifically stated in therein, and Defendant would show that:

- a. Pursuant to the Bylaws of the Macedonia Water Works, Inc., and § 33-36-280 of the Act, the Defendant has independent rate making authorization and its rates are not subject to oversight or regulation by any governmental or regulatory body;
- b. Pursuant to its approved rate schedule, a copy of which is attached hereto as Exhibit 1 (the "Rate Schedule"), customers are billed different monthly minimum charges based upon the size of the customer's water meter (the "Minimum Charge");
- c. The Minimum Charge includes water usage of up to 2,000 gallons without any additional charge for all tap sizes and customers are billed a volumetric charge for water usage in excess of 2,000 gallons per month;
- d. The amount of the Minimum Charge for each size of meter is based upon Defendant's costs of providing service to each customer and the costs to Defendant's water system to ensure that sufficient water capacity is available; and

- e. The Defendant also charges a flat rate of \$50.00 per month for water taps that are expressly dedicated to serving fire sprinkler systems.

7. With respect to Paragraph 7 of the Complaint, Defendant admits that Plaintiff's business is housed in a building but lacks sufficient information to answer the remaining allegations of Paragraph 7, therefore, those allegations are denied and strict proof thereof is demanded.

8. With respect to Paragraphs 8 and 9 of the Complaint, Defendant admits that Plaintiff is served by a compound water meter that includes a meter for an eight-inch water line and a meter for a two-inch bypass water line, a picture of which is attached hereto as Exhibit 2. Defendant denies the remaining allegations as specifically stated therein. However, it is additionally noted by the Defendant that if the water flowing through the compound meter does not exceed the capacity of a two-inch bypass, then the water flows through, and is metered by, the meter on the two-inch bypass. In the event that, for any reason, the volume of water flowing through Plaintiff's compound meter exceeds the capacity of a two-inch bypass line, the water instead flows through, and is metered by, the eight-inch meter. A compound meter is able to meter all volumes of water flowing through the water line while permitting the volume to vary without the need for any action by the property owner or the utility. The compound meter structure used for the Plaintiff's business is used by the Defendant and similar utilities when the volumes of water flow are highly variable. Low flows through the eight-inch meter cannot be accurately measured. The two-inch bypass line has a more sensitive meter that can more accurately measure water usage during low flow periods.

9. With respect to Paragraph 10 of the Complaint, Defendant admits that, since

1999, it has charged the water customer located at the Plaintiff's place of business the Minimum Charge for an eight-inch water meter (as the Minimum Charge may have been amended from time to time).

10. Defendant lacks sufficient information to answer the allegations of Paragraph 11 of the Complaint and demands strict proof thereof.

11. With respect to Paragraphs 12 and 13 of the Complaint, Defendant admits the Minimum Charge applicable to a two-inch water meter is \$75.00. In accordance with the Rate Schedule, Defendant clarifies that the Minimum Charge applicable to an eight-inch water meter is \$650.00. All other allegations in Paragraphs 12 and 13 of the Complaint are denied. Defendant has charged the Plaintiff the Minimum Charge for an eight-inch water meter and a volumetric charge for all water consumed in excess of the initial 2,000 gallons provided in the Minimum Charge. Defendant has not additionally charged the Plaintiff the Minimum Charge for a two-inch meter.

FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION
(S.C. Code § 58-5-390 is Not Applicable)

12. Defendant denies each and every allegation of the first cause of action in Paragraphs 14 through 20 of the Complaint that is not hereinafter admitted, qualified or explained.

13. With respect to Paragraph 14 of the Complaint, Defendant incorporates by reference the answers provided herein for each and every allegation of the Complaint.

14. With respect to Paragraph 15 of the Complaint, Defendant admits that Plaintiff, except for a missing comma after the phrase "other fee," accurately quotes § 58-5-390(A) of the

Code of Laws of South Carolina 1976, as amended. Defendant notes, however, that § 58-5-390(B) further states as follows:

For purposes of this section, actual costs include direct labor, direct material, the necessity of increased capacity, and other direct charges associated with the separate fire sprinkler line. The direct costs must be documented either by invoice or work order that specifically assigns the costs to the separate fire sprinkler line. Nothing in this section may be construed as requiring a utility to provide service to support a private fire protection system.

(emphasis added)

15. With respect to Paragraph 16 of the Complaint, Defendant denies that the provisions of § 58-5-390 of the Code of Laws of South Carolina 1976, as amended (generally, “§ 58-5-390”) are applicable to the Plaintiff. Plaintiff’s compound meter arrangement allows for the Defendant to provide both potable water and fire service. The language of § 58-5-390 notes that “actual costs” are limited to those items that are “associated with the separate fire sprinkler line.” The provisions of § 58-5-390 are not applicable to lines that provide both potable water service and fire service. The Plaintiff does not have a “separate fire sprinkler line” and the use of a compound meter does not constitute or otherwise create a “separate fire sprinkler line” as required for the provisions of § 58-5-390 to be applicable. A plain reading of S.C. Code § 58-5-390 shows that the law does not apply to dual purpose water lines that supply more than fire sprinkler service.

16. In further response to Paragraph 16 of the Complaint, Defendant has fully complied with § 58-5-390 in those instances where it is applicable by including in its Rate

Schedule a flat rate of \$50.00 per month for taps (regardless of meter size) that are dedicated to serving a fire sprinkler system.

17. Defendant denies the allegations in Paragraph 18 of the Complaint. In accordance with the Rate Schedule, the Minimum Charge for an eight-inch meter is \$650.00.

18. Defendant denies the allegations as specifically stated in Paragraphs 19 and 20 of the Complaint for the reasons set forth herein and further denies that Plaintiff has suffered damages given that Defendant has not violated any provision of law.

FOR A SECOND DEFENSE TO THE FIRST CAUSE OF ACTION
(Defendant Has Complied with S.C. Code § 58-5-390)

19. Defendant denies each and every allegation of the first cause of action in Paragraphs 14 through 20 of the Complaint that is not hereinafter admitted, qualified or explained.

20. With respect to Paragraph 14 of the Complaint, Defendant incorporates by reference the answers provided herein for each and every allegation of the Complaint.

21. In the event that § 58-5-390 is determined to be applicable to the eight-inch line providing service to Plaintiff, Defendant denies that charging the Minimum Charge for an eight-inch line violates the provisions of § 58-5-390. Pursuant to § 33-36-280 of the Act and as recited in Paragraph 6(a) hereof, the Defendant has the authority to set their own rates and are not subject to the supervision of any state board, commission or agency. Defendant has determined that the actual cost of providing the eight-inch water line through which Plaintiff receives water is \$650.00 per month. This amount includes the cost of increased capacity that is necessary to support an eight-inch water line in the event that Plaintiff decides to make maximum use of the

volumes of water that are available to him at any time.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION
(Failure to State a Claim)

22. Defendant denies each and every allegation of the second cause of action in Paragraphs 21 through 25 of the Complaint that is not hereinafter admitted, qualified or explained.

23. With respect to Paragraph 21 of the Complaint, Defendant incorporates by reference the answers provided herein for each and every allegation of the Complaint.

24. With respect to Paragraphs 22 through 25 of the Complaint, Defendant will show that in the event that § 58-5-390 is determined to be applicable to Plaintiff's water line and tap, the Minimum Charge for Plaintiff's eight-inch tap does not exceed Defendant's "actual costs" as such term is defined in S.C. Code § 58-5-390(B). As such, pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, Plaintiff has failed to state a claim upon which relief may be granted

BY WAY OF FURTHER DEFENSE
(State of Limitations)

25. Further answering the Complaint and as an affirmative defense, Defendant asserts the claims of the Plaintiff are barred by the applicable statute of limitations.

BY WAY OF FURTHER DEFENSE
(Doctrine of Laches)

26. Further answering the Complaint and as an affirmative defense, Defendant asserts the claims of the Plaintiff are barred by the doctrine of laches.

BY WAY OF FURTHER DEFENSE
(Doctrine of Waiver)

27. Further answering the Complaint and as an affirmative defense, Defendant asserts the claims of the Plaintiff are barred by the doctrine of waiver.

WHEREFORE, having fully answered the Complaint, the Defendant prays that the Court enter judgment as follows:

1. Dismissing the Plaintiff's claims against the Defendant; and
2. For such other and further legal and equitable relief as the Court finds just and proper.

Respectfully submitted,



Joseph L. Mathis (SC Bar #11782)
SAINT-AMAND, THOMPSON & MATHIS, LLC
210 South Limestone Street
Gaffney, South Carolina 29340
Tel.: 864-489-6052



Lawrence E. Flynn, III (SC Bar #74931)
POPE ZEIGLER, LLC
P. O. Box 11509
Columbia, South Carolina 29211-1509
Tel.: 803-354-4902

January 15, 2015
Gaffney, South Carolina

EXHIBIT 1

MACEDONIA WATER WORKS, INC.

POST OFFICE BOX 1955
3142 UNION HIGHWAY
GAFFNEY, SOUTH CAROLINA 29342
(864) 487-4596

Water Rate Schedule
Effective 1/1/01

Meter Size	Monthly Minimum
¾ inch	\$20.00
1 inch	\$28.00
2 inch	\$75.00
3 inch	\$135.00
4 inch	\$225.00
6 inch	\$435.00
8 inch	\$650.00

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2015 JAN 16 AM 8 44
BRANDY W. MCBEE

Monthly minimum charge includes usage of 0-2000 gallons of water.

Volume charge

2000-10,000 gallons of water \$3.25 per thousand

10,000 gallons of water & above \$2.75 per thousand

Water tap fee's

¾ inch tap	\$1000.00
1 inch tap	\$1400.00
2 inch tap	\$2300.00
4 inch tap	\$12,000.00
6 inch tap	\$17,000.00
8 inch tap	\$23,000.00

EXHIBIT 2

FILED IN OFFICE OF
J. C. ...

U.S. MAR 15 AM 8 44

BRADY W. MOORE

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

IN THE COURT OF COMMON PLEAS

Joey Lemmons d/b/a Rugs)
International,)
Plaintiff,)

PLAINTIFF'S REPLY TO COUNTERCLAIM

vs.)
Macedonia Water Works, Inc.,)
Defendant.)

2014-CP-11-0938

The Plaintiff, answering and replying to the Counterclaim of the Defendant herein, would respectfully allege unto this Honorable Court as follows:

1. That each and every allegation not hereinafter specifically admitted, qualified or explain is denied and strict proof demanded thereof.
2. That Paragraphs 25, 26, and 27 are denied.

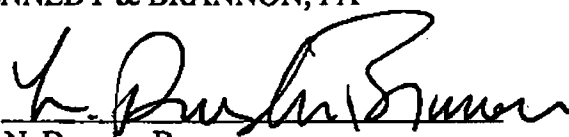
Wherefore, having fully answered and replied to the Counterclaim of the Defendant herein, the Plaintiffs pray as follows:

1. For dismissal of the Counterclaim of the Defendant;
2. For that relief prayed for in the Complaint; and
3. For such other and further relief as the Court may deem just and proper.

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2015 FEB 5 AM 11 31
BRANDY W. MCBEE

ROA PAGE 29

KENNEDY & BRANNON, PA

By: 

N. Douglas Brannon

PO Box 3254

Spartanburg, SC 29304

(864)707-2020

(864)707-7030

Spartanburg, SC

February 2, 2015

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2015 FEB 5 AM 11 31
BRANDY W. MOBEE

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-11-0938

Joey Lemmons, d/b/a
Rugs International,

Plaintiff,

vs.

Macedonia Water Works, Inc.,

Defendant.

MOTION FOR SUMMARY
JUDGMENT

FILED IN THE
CLERK'S OFFICE
2016 JUN 16 P 12:09
BRANDY W. MOORE
CHEROKEE COUNTY, S.C.

TO: N. DOUGLAS BRANNON, ATTORNEY FOR PLAINTIFF JOEY LEMMONS,
d/b/a RUGS INTERNATIONAL

YOU WILL PLEASE TAKE NOTICE that the undersigned will move before the presiding Judge, Court of Common Pleas for Cherokee County, within ten (10) days after service hereof or as soon thereafter as counsel may be heard, for an Order, pursuant to Rule 56, South Carolina Rules of Civil Procedure, granting summary judgment in favor of Defendant in this matter.

Plaintiff claims Macedonia Water Company ("Macedonia") violated S.C. Code Ann. Section 58-3-390 (2014 Supp.), which statute forbids a utility from charging tap, service or other fees for the installation and maintenance of a separate fire sprinkler line that exceed the utility's costs of serving such line. Plaintiff further claims Macedonia has unjustly enriched itself because Macedonia's water rates result in Plaintiff paying a higher monthly water bill than he believes is permitted by law. Section 58-3-390, however, does not apply to Plaintiff's single dual-purpose water line. Moreover, even if Plaintiff's interpretation of the statute is correct, Macedonia's rates do not exceed the costs incurred by Macedonia to serve Plaintiff.

Plaintiff's business is located in a very large building that is protected by an interior fire sprinkler system and contains other plumbing requiring potable water. Water is supplied to both the fire sprinkler system and the potable water system by a single dual-purpose water line connected to Macedonia's water system.

The volume of water used by Plaintiff's business is measured by a "compound meter," that includes both a meter for an eight-inch water line and a meter for a four-inch by-pass water line.¹ Compound meters are commonly used where it is expected that the volume of water flowing through a water line will vary dramatically, because a larger water meter, like the Plaintiff's eight-inch meter, cannot accurately measure low water volumes. Within the compound meter assembly there exists a valve that closes when flow is low, forcing all water flow into the smaller, 4-inch meter; once the flow increases below a certain level, the valve opens, flow ceases to the 4-inch meter and is directed through the large 8-inch meter. Engineering Report of American Engineering Consultants, Inc. at p. 7. The Plaintiff's compound meter is able to meter all volumes of water flowing through its water line while permitting the volume to vary without the need for any action by the Plaintiff or Macedonia.

Macedonia has the authority to establish its own rates for water service and these rates are not subject to the approval of any regulatory authority. S.C. Code Ann. Section 33-36-280 (2006). Customers are billed a minimum base rate based upon the size of their water meter and a volumetric charge for all water used in excess of 2000 gallons each month. The minimum base rate for a four-inch meter is \$225 and for an eight-inch meter is \$650. See Complaint, Exhibit 1. The minimum base rate is higher for larger meters to account for both (i) the higher cost of

¹ In Plaintiff's complaint (see Complaint at ¶¶ 16-18) and Macedonia's answer (see Answer at ¶¶ 8-11), the by-pass line is stated to be a two-inch line; however, from discussions with Macedonia's staff and upon further review of the specifications on the meter, the by-pass line is actually a four-inch line. Engineering Report at p. 6. The compound

providing service to customers who use high volumes of water as well as (ii) the cost of the capacity in Macedonia's system that must be constantly maintained to ensure that a sufficient volume of water is available to meet the demands that may be placed upon its water system at any time. Plaintiff is billed a base rate of \$650 for his eight-inch meter based upon the high volumes that it may demand and be served at any time.

I. Plaintiff Has Incorrectly Applied Section 58-5-390 to His Single Water Line

Plaintiff contends that he should be billed a base rate of \$75 for the "two-inch" portion of his meter rather than \$650 for its eight-inch portion.² Complaint at ¶¶ 16-18. Plaintiff's claim that he has been overbilled by Macedonia is based entirely upon his flawed and incorrect interpretation of S.C. Code Ann. Section 58-5-390 (2014 Supp.). Complaint at ¶¶ 15-16.

Section 58-5-390 reads, in pertinent part, as follows:

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

(B) For purposes of this section, actual costs include direct labor, direct material, the necessity of increased capacity, and other direct charges associated with the separate fire sprinkler line. The direct costs must be documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line. Nothing in this section may be construed as requiring a utility to provide service to support a private fire protection system.

(emphasis supplied).

Plaintiff complains Macedonia's base rates, as applied to him, violate this statute because the rate is calculated based upon the eight-inch portion of his compound meter which is capable of providing service to his fire sprinkler system in addition to his potable water system.

meter in question is an 8-inch Hersey Model MFM II Compound Water Meter with a 4-inch by-pass meter. Engineering Report at p. 6.

² As previously noted, Plaintiff misconstrued the size of his by-pass line, which is actually a 4-inch line. Macedonia's monthly base charge for a 4-inch meter is \$225.

Complaint at ¶ 15-19. Plaintiff theorizes that by charging the higher base rate in this instance, Macedonia is charging a fee for a fire sprinkler system that “exceeds the actual cost associated with the water line to the system.” S.C. Code Ann. Section 58-5-390(A). Plaintiff misconstrues and misapplies the provisions of Section 58-5-390.

Section 58-5-390(B), clarifies that the “actual costs” in this instance are limited to those items that are associated with a “separate fire sprinkler line.” Plaintiff does not have a separate fire sprinkler line. Plaintiff is served by a single dual-purpose water line that is metered by a compound meter. The use of a compound meter “is purely for improvement in the measurement of flow in the system and has no bearing on whether the water is used for fire sprinklers or other water consumption.” Engineering Report of American Engineering Consultants, Inc. at p. 7. Further, Plaintiff’s compound meter has “no capability to differentiate between the volume of water consumed by the commercial usage of the facility from the volume of water consumed by the fire sprinkler system.” Engineering Report of American Engineering Consultants, Inc. at p. 7. The use of a compound meter on Plaintiff’s single dual-purpose water line does not constitute a “separate fire sprinkler line” such that the provisions of Section 58-5-390 are applicable and therefore such statute cannot be construed to limit the rates and fees that Macedonia may charge. Engineering Report at p. 11.

II. Macedonia’s Rates Comply with Section 58-5-390

Although Plaintiff’s interpretation of Section 58-5-390 is incorrect, Macedonia’s rate structure complies with the provision of Section 58-3-390 which permits utilities to charge fees for separate fire sprinkler lines up to the “actual cost associated with the water line to the system.” S.C. Code Ann. Section 58-5-390(A). The statute defines “actual costs” to include “direct labor, direct material, the necessity of increased capacity, and other direct charges

associated with the separate fire sprinkler line.” S.C. Code Ann. Section 58-5-390(B). Utilities consider a number of various components to determine the total cost of operating and maintaining their water systems. Along with the variable costs related to the treatment of the water, a utility must include in its cost of service the fixed capital costs of the system that are necessary to ensure that a sufficient supply of water is available to meet customers’ demands. Engineering Report at p. 11. The rate structure adopted by Macedonia takes into account the capacity demands of the various sizes of water meters and incorporates the actual cost of this capacity into its adopted rates.

As measured by the switching capabilities of the Plaintiff’s compound meter, actual flows through Plaintiff’s single dual-purpose line could vary at any time between 5 gallons per minute (GPM) up to 4,000 GPM. Engineering Report at p. 6. In determining the capacity requirements of its water system and the costs of delivering water to such capacity, Macedonia views Plaintiff’s compound meter to be no different than any other eight-inch water meter where demands on the system can vary from no-demand up to the full capacity of an eight-inch water line. Pursuant to its independent rate-making authority, Macedonia has determined that a base rate of \$650 for any water line that could demand up to 4,000 GPM represents the actual cost to the water system, including capacity costs as are expressly permitted under Section 58-5-390. In consideration of these factors, the “billing for a base charge on an 8” meter by Macedonia to [Plaintiff] is an appropriate and proper interpretation given the current installation.” Engineering Report at p. 11

III. Plaintiff’s Claim is Barred by the Applicable Statute of Limitation

The statute of limitations for actions pursuant to a contract or statute is three years. S.C. Code Ann. Section 15-3-530(1). “The limitations period begins to run when a party knows or

should know, through the exercise of diligence, that a cause of action might exist.” *RWE NUKEM Corp. v. ENSR Corp.*, 373 S.C. 190, 196, 644 S.E.2d 730, 733 (2007). Where a cause of action is created by a change in law, the party is considered to have known, or should have known through the exercise of due diligence, at that time, of the accrual of the cause of action when the change in law occurred. *Anonymous Taxpayer v. S. Carolina Dep’t of Revenue*, 377 S.C. 425, 439, 661 S.E.2d 73, 80 (2008).

Plaintiff’s claims in this matter arise from the contract for water service that exists between Plaintiff and Macedonia that Plaintiff incorrectly argues violate Section 58-5-390. This law was enacted pursuant to Act No. 357 of 2008, which became effective on June 25, 2008. Pursuant to the holding in *Anonymous Taxpayer*, Plaintiff’s claim accrued on this date and the applicable statute of limitation ran on June 25, 2011. Therefore, Plaintiff’s claims are barred by the statute of limitations.

Based upon the grounds set forth in this motion, along with the Engineering Report submitted herewith and the pleadings, Defendant, Macedonia, respectfully moves that there are no genuine issues of material fact and would request that this Court grant Defendant summary judgment as a matter of law to Plaintiff’s causes of action on the basis that:

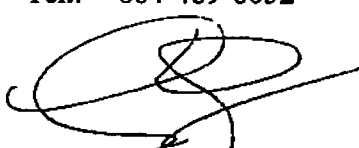
1. The provisions of Section 58-5-390 are not applicable to Plaintiff’s single dual-purpose water line and, therefore, cannot limit the rates established by Macedonia;
2. Even if Section 58-5-390 is applicable to Plaintiff’s water line, Macedonia’s rates are based upon the actual cost of providing water service to Plaintiff; and
3. Plaintiff’s claims are barred by the applicable statute of limitations.

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Respectfully submitted,



Joseph L. Mathis (SC Bar #11782)
SAINT-AMAND, THOMPSON & MATHIS, LLC
210 South Limestone Street
Gaffney, South Carolina 29340
Tel.: 864-489-6052



Lawrence E. Flynn, III (SC Bar #74931)
POPE FLYNN, LLC
P. O. Box 11509
Columbia, South Carolina 29211-1509
Tel.: 803-354-4902

JUNE
May 14, 2016
Gaffney, South Carolina

FILED IN THE OFFICE
CLERK OF COURT
2016 JUN 16 P 12:09
BRANDY W. HOBBS
JEROME COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Joey Lemmons d/b/a Rugs International,
Plaintiff(s)

vs.

Macedonia Water Works, Inc.,
Defendant(s)

RULE 59E
NOTICE OF MOTION AND
MOTION TO RECONSIDER,
ALTER AND AMEND ORDER
2014-CP-11-0938

TO: The Honorable R. Keith Kelly, Circuit Court Judge for the SEVENTH JUDICIAL
Circuit.

YOU ARE HEREBY NOTIFIED THAT N. Douglas Brannon, Attorney for
Plaintiff Joey Lemmons will respectfully move this Court to Reconsider, Alter or Amend
the Court's Order granting Summary Judgement.

This motion is made pursuant to Rule 59 and 60 of the South Carolina Rules of
Civil Procedure and is based on the following grounds:

1. The Court interpreted the controlling statute incorrectly by applying
Section B. of this statute to Section A. Section B. deals with billing. Section A. controls
the application of this statute.

2. The Court considered as evidence the statements of to experts that were
not in the form of an affidavit and therefore violate the "sworn testimony" requirement
for a Motion for Summary Judgement.

THEREFORE, the undersigned attorney for the Plaintiff respectfully requests the
Court to amend its Judgment in this matter and deny the Defendant Motion for Summary
Judgement.

Respectfully Submitted,

s\N. Douglas Brannon
N. Douglas Brannon (SC Bar # 68798)
Attorney for the Plaintiff
229 Magnolia Street
Spartanburg, SC 29306
(864) 707-2020

Date April, 3, 2017
Spartanburg, SC

1 STATE OF SOUTH CAROLINA

) IN THE COURT OF
) COMMON PLEAS
) OF THE SEVENTH
) JUDICIAL CIRCUIT

2 COUNTY OF SPARTANBURG

3)
4)
5 JOEY LEMMONS d/b/a Rugs
International,

6 Plaintiff,

) TRANSCRIPT OF RECORD
) 2014-CP-11-0938

7 vs.

8 MACEDONIA WATER WORKS, INC.,
9 Defendant.

ORIGINAL

10
11 January 6, 2017
12 Spartanburg, South Carolina

13
14 B E F O R E:

15 HONORABLE R. KEITH KELLY, Judge.

16 A P P E A R A N C E S:

17 N. DOUGLAS BRANNON, ESQUIRE
18 For Plaintiff

19 LAWRENCE EMILE FLYNN, ESQUIRE
20 For Defendant

21
22
23 Julie A. Ashbrook,
24 Circuit Court Reporter
25 Seventh Judicial Circuit

I N D E X

WITNESSPAGE

MOTION FOR SUMMARY JUDGMENT

By Mr. Flynn

4

REPLY TO MOTION FOR SUMMARY JUDGMENT

By Mr. Brannon

12

FURTHER ARGUMENT

By Mr. Flynn

14

FURTHER ARGUMENT

By Mr. Brannon

16

COURT TAKES UNDER ADVISEMENT

16

CERTIFICATE OF REPORTER

17

EXHIBITS

MARKEDENTERED

NO EXHIBITS PROFFERED

JOEY LEMMONS VS. MACEDONIA WATER

THE COURT: Mr. Flynn.

MR. FLYNN: Yes, sir. May it please the Court?

THE COURT: Yes, sir.

MR. FLYNN: Thank you for having us this morning.

We represent Macedonia Water Company. It's a nonprofit water company operating in rural Cherokee County. They have been providing water to Rugs International since, at least since Mr. Lemmons acquired the building in 1999.

Macedonia Water nonprofit water company created by the USDA as a program to create potable water services in rural areas all over the country. Fairly standard operation as to the way they operate. Have good strategic fertility planning practices they've used. And the administrator is actually the same administrator of the Gaffney Board of Public Works, Mr. Don Bingham.

The facts in dispute here are the fact that Rugs International has an eight-inch compound meter attached to otherwise receive water service at his, at his location. And the question that we're ultimately wrestling with is an interpretation of a statute that was passed in 2008 in response to the Sofa Superstore fire down in Charleston, the Charleston Nine case.

1 Basically in response to that, the legislation
2 attempt, as far as we can read it, behind the
3 implementation of 58-5-390 was to incentivize commercial
4 businesses to install commercial sprinkler systems. And
5 the idea behind it being that they didn't want
6 commercial owners who took the initiative to install
7 fire sprinkler services into their locations to be
8 charged for water service in excess of the actual cost.

9 And so if you read the actual provisions of the
10 statute, the provisions state that a public utility,
11 private utility, private or public, may not impose a tax
12 fee, other fee or recurring maintenance fee however
13 describes the installation of maintenance of a fire
14 sprinkler system that exceeds the actual cost.

15 Plaintiff would have you believe that that's what
16 the statute is. Unfortunately, the way that we
17 interpret statutes is to look at the fine terms in the
18 statute. And actual costs is a specifically defined
19 term under the statute. And the legislature combined
20 actual costs as direct labor, direct material, necessity
21 to increase capacity and other direct charges associated
22 with a separate fire sprinkler line.

23 And that's the, the important point of all of
24 this. In identifying whether or not this case has any
25 merit is the question of whether or not the plaintiff

1 has a separate fire sprinkler line for purposes of this
2 statute. And we would argue unequivocally that he does
3 not. Our expert has stated that and we have some
4 information on the record that we'll present to you here
5 in a second, as well as the Plaintiff's expert with
6 respect to his analysis of our, of our expert report.

7 With respect to Macedonia, the way that we
8 actually implement good utility practice is that we have
9 a series of charges. And this is kind of the standard
10 way that any utility otherwise operates. You've got a
11 standard base rate that basically builds in the costs of
12 the labor and materials and the capacity in other
13 facilities that the public utility has put in place in
14 order to provide potable water service to all of its
15 customers.

16 In addition to that base charge, you also have a
17 volume charge, which is otherwise charged for the actual
18 usage of water that the -- that the customer runs
19 through their finger. The base charge is a flat amount.
20 And the way it's set up, and this is the way that
21 Macedonia operates. This is the way that Gaffney Board
22 of Public Works operates. This is the way that the
23 Plaintiff's expert, Jeff Walker at Inman/Campobello
24 utility operates.

25 The base charge is a flat amount based on the

1 meter size. And that meter size recognizes the cost of
2 basically producing the water or otherwise acquiring the
3 water, the labor associated with the folks that
4 otherwise administer the system, and the hard capacity
5 costs associated with creating the water services in the
6 ancestral papers that pays for the system. And so
7 you'll see a tier break structure that's a part of the
8 record that basically the water calls for an increase on
9 a bases charge level as the size of the meter increases.

10 In this particular circumstance, Mr. Lemmons has
11 an eight-inch compound meter. Mr. Lemmons is arguing
12 that the compound meter has the ability to differentiate
13 between his commercial water usage and his separate fire
14 usage. And as a matter of record, the materials that
15 co-counsel presented to you right before we got started,
16 if you'll look at Exhibit 6, there's a picture, and it
17 should be a colored picture. Exhibit 6, Page 7 on our
18 expert's report.

19 I'll give you a second to find it. It's denoted,
20 it's Figure 5 in the actual report on Exhibit 6.

21 THE COURT: Okay.

22 MR. FLYNN: That's an actual picture of the, of
23 the meter assembly at Rugs International. And looking
24 at from kind of the birds-eye view, you'll see that you
25 have the direct main coming into the facility. And

1 you'll see that there are actually two meters in place.
2 The way the compound meter generally works is that you
3 have in this circumstance an eight-inch traditional
4 meter and a four-inch bypass line.

5 In the original complaint, um, Rugs International
6 stated that they have two-inch bypass lines and that's
7 incorrect. Upon further review it's a four-inch line.

8 Now, the whole idea behind a compound meter is,
9 is where you had a situation where a commercial tenant
10 had the potential for potentially live varied variances
11 in their water hose. And so you use the bypass line to
12 better measure the lower closed water that would
13 otherwise come into the system. That doesn't mean that
14 you couldn't utilize the entire eight-inch capacity of
15 that line if needed.

16 And one of -- the way I kind of think about this,
17 you know, the I -- you know, one of the red herring
18 arguments that, that the Plaintiff's counsel makes is
19 the fact that they haven't used the eight-inch meters.
20 There's not enough, there's not enough usage on that
21 meter to show that it's doing anything except measure
22 the fire usage.

23 And that's not necessarily true because, you
24 know, the traditional standard that we always have in
25 the financial industry is prior product performance is

1 not indicative to future returns. That's the same thing
2 here. He had the ability to draw on that meter at any
3 time he otherwise wanted to.

4 And you'll see as a specific finding in our
5 expert's report: (Reading.) The use of the two meters
6 and the compound meter simply is purely for improvement
7 in the measurement and flow of the system and has no
8 bearing of whether the water is used for fire sprinkler
9 or for commercial uses.. (Ends reading.)

10 So there is absolutely no ability whatsoever for
11 that compound meter and structure to say we're using
12 commercial water usage or we're using separate filing
13 procedure. And that is the whole, the whole crux of
14 this statute is that it needs to be a separate fire
15 meter.

16 If you'll back onto Page 3, our expert has
17 actually specifically laid out the scenarios by which he
18 believes that you had a separate fire meter arrangement.
19 So on Page 3, Figure 1, is I think what most of the
20 general public would assume to be a separate fire meter.
21 You see you've got the, the main trump line that runs in
22 front of the property. You've got the two separate
23 water taps. You have a designated meter for the
24 commercial usage and a designated meter for the fire
25 usage.

1 If you look over to Figure 2 on Page 4, there's
2 another piping schematic where we show we have a single
3 tap with a branch connection. That branch connection
4 has a separate independent entity for commercial usage
5 and an independent connection for the fire sprinkler
6 usage.

7 What Mr. Lemmons has at Rugs International is a
8 dual purpose water line. If you flip to the next page,
9 Page 5, Figures 3 and 4, it describes that compound
10 metering structure where you had a single tap, a
11 compound meter and then a split after the meter. So
12 there's no way to differentiate or otherwise engage
13 whether or not you're using commercial water or you're
14 using separate fire water.

15 And the specific findings that, that our expert
16 states in his conclusion is that: (Reading.) The
17 configuration of his dual purpose compound meter and
18 sprinkler -- excuse me, the configuration of the -- that
19 this configuration is a dual purpose or compound
20 commercial water inspired sprinkler service connection.
21 There is no separate meter in the commercial water, in
22 the fire sprinkler. There is no back flow perimeters
23 otherwise installed that are part of the compound meter
24 assembly to separate the use of fire water from the use
25 of commercial water. (Ends reading.)

1 You know, standing alone we think that that's
2 sufficient to prove almost unequivocally that he doesn't
3 -- that he doesn't meet the standard of the statute.
4 But we've scheduled the deposition of his, his named
5 expert, Mr. Jeff Walker, who is the general manager of
6 the Inman/Campobello water district up, up in
7 Spartanburg County. There are special purposes that
8 provides potable water service to those who live in
9 Spartanburg County.

10 We wound up cancelling his deposition because he
11 wrote a letter to the party basically after his review
12 of, of the report that our expert on the record in which
13 he stated: (Reading.) Since all of the water for the
14 customer flowed through this meter; therefore, this was
15 not a connection dedicated to fire protection only and
16 ICWD, which is the Inman/Campobello water district,
17 would consider this a private, a private power
18 protection line. Therefore, given the same meter or
19 similar industry standard, ICWD would notice customer
20 the minimum water charge for an eight-inch meter and
21 anything else for the excessive volume. (Ends reading.)

22 So the same base charge arrangement that were
23 otherwise charged here and the same volume charges. And
24 he goes on to say: (Reading.) Even though the meter
25 simply is comprised of two meters, it's still considered

1 an eight-inch meter. (Ends reading.)

2 So the facts are not in dispute. Our expert has
3 unequivocally stated that Plaintiff does not have a
4 separate designated fire line or a separate fire
5 sprinkler line.

6 His, his expert agrees with it. The only thing
7 that has been presented is an affidavit of, of the
8 Plaintiff himself, who is certainly not qualified to
9 make this conclusion himself. He tries to rely on an
10 Attorney General opinion from 2012 by which the Attorney
11 General makes some general conclusions of law without
12 knowing the baseline facts.

13 The facts are not in dispute here. He does not
14 have a separate fire sprinkler system, and as a result
15 this should be renewed on this motion for summary
16 judgment. Thank you.

17 THE COURT: Thank you.

18 MR. BRANNON: May it please the Court?

19 THE COURT: Yes, sir.

20 MR. BRANNON: Good morning.

21 THE COURT: Good morning.

22 MR. BRANNON: Your Honor, counsel himself said my
23 client has two meters, a four-inch and an eight-inch.
24 And he says that there's no way or that my client would
25 have the ability to use the water flow through the

1 eight-inch meter at any time that he chose to. Well,
2 Your Honor, that's just not possible. The only -- the
3 only instruments in his building that use water are
4 sinks, toilets and a fire sprinkler system.

5 There's no way if he flushed every toilet at the
6 same time and turned every sink on at the same time that
7 that would cause the water to flow through the
8 eight-inch portion of this meter.

9 Now, counsel wants you to think that the only
10 thing that I'm relying on today is my client's
11 affidavit. Well, Your Honor, that's simply not true.
12 If you look behind my client's affidavit, you'll see the
13 code section in question, 58-5-390, a letter from DHEC,
14 which the Court obviously can review. But then you see
15 the opinion from the State's Attorney General dated
16 February 6th, 2013. And, Your Honor, they tell you
17 point blank that 58-5-390 does in fact control a
18 compound meter where the larger portion, in this case
19 the 8-inch portion of that meter, is directed solely to
20 fire protection.

21 Your Honor, my client bought his building in
22 1999. He paid \$600 a month for water from 1999. And,
23 Your Honor, it was actually \$622 a month from 1999 until
24 2014. And I'll explain why he stopped paying that in
25 2014.

1 Your Honor, my client became aware of this code
2 section in early 2012. And he's been negotiating with
3 the defendant board since then for some relief from this
4 over billing for water service. In March of 2014 he had
5 a one-inch water meter installed to serve the sinks and
6 the toilets in his building. He is now paying \$50 a
7 month for that eight-inch compound -- four-inch,
8 eight-inch compound meter. A \$50 base fee for that.
9 And then he's paying \$20 a month, plus anything in
10 excess of 2,000 gallons on the one-inch meter. So, Your
11 Honor, they over billed him \$622, minus \$50 since 1999.

12 Your Honor, the burden here is on the defendant.
13 The Court is required to take the evidence in the light
14 most favorable to the non-moving party. And if there is
15 one scintilla of evidence in my client's favor, this
16 Court is bound to deny this motion for summary judgment.
17 I submit to you that an attorney's -- an attorney
18 general's opinion that suggests to this Court that
19 58-5-390 is controlling in this situation is a scintilla
20 of evidence.

21 Your Honor, I ask this Court to dismiss this or
22 deny this motion and allow this matter to progress to
23 trial. Thank you.

24 THE COURT: Okay. Anything further?

25 MR. FLYNN: I would like to say if Mr. Lemmons

1 decided that the moon was made out of blue cheese that
2 doesn't make it so. We have experts directly on point
3 who are uncontroverted in their decision in their
4 opinion that this is not a separate fire sprinkler line.
5 If you interpret the direct terms of the statute, a
6 compound meter does not give you a separate fire line.
7 So the idea that he doesn't have sufficient metering or
8 sufficient usage capacity for sinks and toilets is
9 completely irrelevant to the fact that he has a separate
10 fire meter system.

11 If he were to go out and rent that facility -- I
12 guess now he's had the separate tap connection, which is
13 what this is all about anyway. He didn't want to pay
14 for the separate tap for his separate fire line.

15 If he -- if, back in 2014 before he installed
16 that new meter, if he had decided to lease out the
17 remainder of the building to a small commercial
18 enterprise that used a lot of water, he had the ability
19 to pull that entire testing and his compound meter had
20 no ability to distinguish between commercial usage and
21 the fire sprinklers, which is the whole purpose and the
22 underlying crux of this statute and he doesn't have
23 that. He has not made that point his. He doesn't have
24 anything else to otherwise support his basis for
25 bringing the case.

1 THE COURT: Okay.

2 MR. BRANNON: Brief response. To say that my
3 client just didn't want to pay the \$1,000 tax fee for
4 the one-inch meter is preposterous. He was paying \$500
5 a month more in water than he should have been. Two
6 months and he's paid that fee. Your Honor, without
7 changing the building, fundamentally changing the
8 building, there's no way that that building will ever
9 use the eight-inch portion of that compound meter
10 without a fight. Thank you.

11 THE COURT: All right. Everybody pay close
12 attention to your AIS e-mail.

13 MR. BRANNON: Thank you, Your Honor.

14 (Whereupon, hearing concluded at 9:37 a.m.)

15

16 --- THIS ENDS REQUESTED TRANSCRIPT ---

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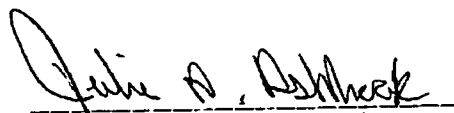
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COURT REPORTER CERTIFICATE

I, the undersigned Julie A. Ashbrook, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record to the best of my ability of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court of Common Pleas for Spartanburg County, South Carolina, on the 6th day of January, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.


Julie A. Ashbrook
Circuit Court Reporter
Seventh Judicial Circuit

STATE OF SOUTH CAROLINA

) IN THE COURT OF
) COMMON PLEAS
) OF THE SEVENTH
) JUDICIAL CIRCUIT

COUNTY OF SPARTANBURG

JOEY LEMMONS d/b/a Rugs
International,

Plaintiff,

vs.

MACEDONIA WATER WORKS, INC.,
Defendant.

) TRANSCRIPT OF RECORD
) 2014-CP-11-0938

ORIGINAL

August 7, 2017
Spartanburg, South Carolina

B E F O R E:

HONORABLE R. KEITH KELLY, Judge.

A P P E A R A N C E S:

N. DOUGLAS BRANNON, ESQUIRE
For Plaintiff

LAWRENCE EMILE FLYNN, ESQUIRE
For Defendant

Julie A. Ashbrook,
Circuit Court Reporter
Seventh Judicial Circuit

I N D E X

WITNESSPAGE

MOTION TO RECONSIDER
By Mr. Brannon

4

REPLY TO MOTION TO RECONSIDER
By Mr. Flynn

7

FURTHER ARGUMENT
By Mr. Brannon

11

COURT TAKES UNDER ADVISEMENT

11

CERTIFICATE OF REPORTER

12

EXHIBITS

MARKEDENTERED

NO EXHIBITS PROFFERED

JOEY LEMMONS VS. MACEDONIA WATER

1
2 THE COURT: Okay. Joey Lemmons versus Macedonia
3 Water.

4 MR. BRANNON: Good morning, Your Honor.

5 THE COURT: Good morning. Good morning, sir.

6 MR. BRANNON: Your Honor, this is my motion
7 asking you to reconsider your grant of summary judgment
8 in this matter. My client, Joey Lemmons, owns a
9 business right off of Interstate 85, Rugs International,
10 Your Honor. And the statute that we are arguing in this
11 matter is 58-5-390 dealing with water tap fees, Your
12 Honor. In my motion I -- my argument is twofold, that
13 you improperly address the statute to the question
14 before the Court in that you considered Part B of that
15 58-5-390, which talks about fees and charges.

16 And also, Your Honor, in your order you did, in
17 fact, cite two affidavits. One by a gentleman named
18 Bingham, the other by a gentleman named Walker. When,
19 in fact, those are not affidavits, Your Honor. They
20 were not -- they were not notarized documents. And Rule
21 56(e) talks about affidavits. Documents considered in a
22 motion such as this have to be in the form of an
23 affidavit. And, again, neither of those were, in fact,
24 notarized documents.

25 But, Your Honor, I would like to really just cut

1 to the chase. And in your order, Your Honor, I'm
2 quoting on Page 2 in Paragraph -- on Page 2 in the third
3 paragraph it says: (Reading.) The volume of water used
4 by Rugs International is measured by a single compound
5 meter that includes both the meter for an eight-inch
6 water line and a meter for a four-inch bypass water
7 line. (Ends reading.)

8 Your Honor, that's the crux of the argument right
9 there. This is, in fact, two separate meters. Your
10 Honor, I'm going to tell you about the construction of
11 my client's building. The eight-inch water line goes
12 directly into a service room on the side of the
13 building.

14 If you're driving back towards Spartanburg, my
15 client's building will be on the right-hand side of the
16 road. That meter is outside. This meter that you talk
17 about it on Page 2. But there's an eight-inch water
18 line that goes into the side of the building into a
19 service room. And there is actually a cutoff there,
20 Your Honor. A cut off for the fire service, the
21 sprinkler system.

22 And when you cut that line off, Your Honor, so
23 that that eight-inch line could not flow into the
24 building, it doesn't cut off the water to the toilets
25 and the sinks in the building, and visa versa, Your

1 Honor. The two-inch -- the smaller line also has a cut
2 off which is outside of the building in its own separate
3 box. And when you turn that water line off, Your Honor,
4 it doesn't cut off the eight-inch water line that flows
5 through the fire, the fire sprinkler.

6 Your Honor, in this case I had to show you a
7 scintilla of evidence that would take this case to the
8 jury. I presented to this Court a document, an opinion
9 from the South Carolina Attorney General's office that
10 said this code section absolutely pertains to a compound
11 meter.

12 So, Your Honor, I'm suggesting to you that even
13 in your order you claim you -- you set forth that this
14 is two separate meters in one housing or in one casing.
15 Your Honor, I believe that this case is ripe for the
16 jury and that you should allow this case to go before a
17 jury. Your Honor, my client was overbilled for water
18 services for more than seven years.

19 And, Your Honor, to make it right because we
20 couldn't get anywhere through negotiations he had to go
21 out and pay for another completely separate meter. More
22 of a residential meter to feed the sinks and the
23 toilets. So now my client has three meters servicing
24 this business. And it was the only way that he could
25 get financial relief from this water district, except

1 for the court system. And I'm asking you to reconsider
2 your order, Your Honor, and allow this matter to go
3 before the jury. Thank you.

4 THE COURT: Mr. Flynn.

5 MR. FLYNN: Thank you, Your Honor. We are back
6 in front of you today on the motion for reconsideration
7 and we would obviously argue that the order as presented
8 sets forth exactly the grounds for a lot of statutes
9 otherwise not applicable.

10 Our client, Macedonia Water Company, has been in
11 business for a really long time. There is a universal
12 standard as to the way the compound meter works. I do
13 want to point out a few flaws in Plaintiff's counsel's
14 argument. But first let's speak to the substantive
15 reasons that he set out in his motion for
16 reconsideration.

17 The first one being that the statute was
18 incorrectly applied. And in the billing section, in
19 Section B of the statute could be read separately from
20 Section A. That's just not true. The statute reads
21 specifically the way it reads you can't interpret
22 Section A without the definitional section provision in
23 Section B.

24 The actual cost determination is what makes the
25 decision as to whether or not the particular meter has

1 been properly charged.

2 The followup to that as well that, in making
3 further consideration as to the compound meter that he's
4 just simply discussed, the compound meter arrangement is
5 set up that way. It is not two separate meters. The
6 bypass line is simply to reduce or to reload flow
7 through the water system. It is not a separate meter in
8 consideration.

9 The reason that you had to come and separately
10 created separate residential meters for the water that
11 is otherwise flowing on a residential basis is because
12 that is a separate designated line. The determination
13 in Section A states that you may not charge more than
14 the specific costs of maintaining a fire sprinkler
15 system through the line that otherwise runs through that
16 system.

17 You then go on to state in the statute in Section
18 B that that's separate, that that line is a separate
19 line, which they do not have. The Court obviously
20 considered those facts when it made its determinations
21 and issued its order the first time around and nothing
22 has otherwise changed.

23 As to the discussion, substantive point number
24 two in his order -- or, excuse me, in his motion, he
25 makes the argument that neither the, neither expert had

1 been presented in the form of an affidavit. The rule
2 doesn't require affidavits to otherwise be presented.
3 And, in fact, we would argue that the memorandum from
4 the defense's expert was presented through the discovery
5 process. It was a memorandum to the Court. It was a
6 memorandum through the discovery process. And it
7 specifically states in there that the compound meter in
8 the memorandum is indeed not a separate meter
9 arrangement. The only reason for that separate bypass
10 line is to be able to read below registers of water as
11 they flow through the line.

12 In addition to that, the Plaintiff's professed
13 expert, Mr. Jeff Walker in the Campobello water company,
14 we had originally scheduled his deposition in advance of
15 being able to state on the record that he did not agree
16 with the Plaintiff's position and the statute was
17 otherwise clinical.

18 At the request of Plaintiff's counsel, in the
19 letter presented by the plaintiff's expert, he says that
20 Mr. Brannon requested him to review the report of our
21 expert. It was presented through discovery. And based
22 on his review he did not believe the statute was
23 applicable if applied. That is also a discoverable
24 item. That is not necessary. It is not necessary that
25 that be presented on an affidavit. And Rule 56 does not

1 otherwise require it.

2 So basically both of his perceived substantive
3 arguments fall on their face. The followup to that as
4 well is that is argument that wasn't even raised at the,
5 the preliminary motion hearing as well. So from a
6 procedural standpoint, I don't know how the Court can
7 consider something for reconsideration that was not
8 initially considered at the preliminary motion cycle.

9 And then two other procedural issues I think
10 otherwise need to be addressed, Rule 59(e), which is the
11 basis for filing this motion, requires that the motion
12 be made within ten days of the order, you know, being
13 filed on the parties. The order was filed and
14 electronically disseminated by the clerk of court on
15 March the 23rd. Notice was not received of this motion
16 until April the third. It was electronically filed on
17 April the 4th.

18 So either way you're reading that, that's an
19 11-day window or 12-day window, which falls outside the
20 provisions of 59(6). In addition to that, in reviewing
21 our records, 59(g) also requires that a copy of the
22 motion be filed with this court. And we don't have any
23 record in our file, at least that I've been able to
24 find, that shows that the court was actually served in
25 accordance with 59(g).

1 And so for the, you know, on the basis of the
2 fact the Court properly considered the statute,
3 determined it did not apply to the case at bar. The
4 procedural -- excuse me, the substantive grounds that
5 he's made in his, his argument otherwise don't hold
6 water against the procedural issues that are also
7 defects in the case. We would say that it would be
8 certainly grounds to deny his motion.

9 THE COURT: Yes, sir, anything else?

10 MR. BRANNON: The only thing is I think Mr. Flynn
11 suggested that I raised some points today that were not
12 raised in the motion, and I would suggest to the Court
13 that the statements that I made today about the two
14 separate cutoff valves, they're actually in the
15 defendant's briefs and arguments in support of their
16 motion. So I'm actually quoting their documents in my
17 argument, Your Honor. Thank you.

18 THE COURT: Thank you, gentlemen. Everybody pay
19 close attention to your e-mail addresses.

20 MR. BRANNON: Thank you, Your Honor.

21 THE COURT: Thank you.

22 (Whereupon, hearing concluded at 9:19 a.m.)

23

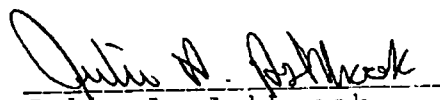
24 --- THIS ENDS REQUESTED TRANSCRIPT ---

25

COURT REPORTER CERTIFICATE

I, the undersigned Julie A. Ashbrook, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record to the best of my ability of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court of Common Pleas for Spartanburg County, South Carolina, on the 7th day of August, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.


Julie A. Ashbrook
Circuit Court Reporter
Seventh Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Joey Lemmons, d/b/a
Rugs International,

Plaintiff,

vs.

Macedonia Water Works, Inc.,

Defendant.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-11-0938MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT FOR THE DEFENDANT
MACEDONIA WATER WORKS, INC.

Pursuant to a Motion for Summary Judgment in the above captioned case dated June 16, 2016 (the "Motion"), Defendant Macedonia Water Works, Inc. ("Macedonia"), moved, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, for summary judgment on the following grounds: (1) Plaintiff Joey Lemmons d/b/a Rugs International ("Plaintiff") has misconstrued and incorrectly applied S.C. Code Ann. Section 58-5-390 (1976, as amended) to his single water line; (2) Defendant's rates comply with Section 58-5-390; and (3) Plaintiff's claim is barred by the applicable statute of limitations. Subsequent to the filing of the Motion, Plaintiff's expert, Mr. Jeffrey A. Walker, a Professional Engineer and General Manager of the Inman-Campobello Water District ("ICWD") submitted a written statement to the parties to that ICWD would not consider Plaintiff's water connection to constitute a separate fire protection line. In light of the written statement of Plaintiff's expert (a copy of which is included herewith as Exhibit 7), Defendant has prepared this Memorandum in Support of the Motion.

This Memorandum, together with the Motion, asserts Defendant's position that this Court should grant judgment as a matter of law.

CONCISE STATEMENT OF FACTS

1. Plaintiff is the owner and operator of the business known as Rugs International, LLC ("Rugs International") located in Cherokee County, South Carolina. (Comp. ¶ 1 and Defendant's Responsive Pleadings ¶ 2).
2. Plaintiff purchased the property upon which the business known as Rugs International is situated in 1999. (Comp. ¶ 10).
3. Rugs International obtains water from Defendant and is otherwise serviced for water purposes by the Defendant. (Comp. ¶ 4).
4. Rugs International receives water service through a compound water meter. (Comp. ¶ 8).
5. The Plaintiff did not purchase or install the compound water meter described in his Complaint as said compound water meter was already installed when Plaintiff purchased the Rugs International building in 1999. (Interrogatory #9).
6. S.C. Code Ann. Section 58-3-390 (2014 Supp.), which is entitled, "Tap fees for installation and maintenance of fire sprinkler system; exception," was enacted by 2008 Act No. 357 (effective June 25, 2008), as amended by Act No. 232 of 2010 (effective June 7, 2010).
7. Pursuant to the Bylaws of the Macedonia Water Works, Inc., and S.C. Code Section 33-36-280 (1976, as amended), the Defendant has independent rate making authorization and its rates are not subject to oversight or regulation by any governmental or regulatory body. (Defendant's Responsive Pleadings ¶ 6(a)).
8. Since 1999, Defendant has charged Rugs International the minimum charge for an eight-inch water meter. (Defendant's Responsive Pleadings ¶ 9).

9. Plaintiff alleges Defendant has violated Section 58-5-390 by over-billing Plaintiff for its water meter connection.
10. Section 58-5-390 states:
- (A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds actual costs associated with the water line to the system.
 - (B) For purposes of this section, actual costs include direct labor, direct material, the necessity of increased capacity, and other direct charges associated with the separate fire sprinkler line. The direct costs must be documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line. Nothing in this section may be construed as requiring a utility to provide service to support a private fire protection system.
 - (C) Nothing in this section shall give the commission or the regulatory staff any power to regulate or interfere with public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority as defined in Chapter 25 of this title or their agencies.

STANDARD OF REVIEW

Rule 56(c) of the South Carolina Rules of Civil Procedure states that summary judgment is available if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Henderson v. Allied Signal, Inc., 373 S.C. 179, 644 S.E.2d 724 (2007). "[T]he plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S.Ct. 2548, 91 L.Ed.2d 2565 (1986). Summary judgment expedites the disposition

of those cases that do not require a fact finder. Dawkins v. Fields, 354 S.C. 58, 580 S.E.2d 422 (2003). When considering a motion of summary judgment, the Court must consider all of the documents and evidence within the record, including pleadings, depositions, answers to interrogatories, admissions on file, and affidavits. Higgins v. Medical University of South Carolina, 326 S.C. 592, 486 S.E.2d 269 (Ct. App. 1997). In its consideration of a motion for summary judgment, the Court views evidence and draws all inferences in the light most favorable to the non-moving party. Tom Jenkins Realty, Inc. v. Hilton, 278 S.C. 624, 300 S.E.2d 594 (1983). However, "to survive summary judgment, the evidence presented must amount to more than mere speculation and conjecture." McKnight v. S.C. Dep't of Corrs., 385 S.C. 380, 684 S.E.2d 566 (Ct. App. 2009). Therefore, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Moore v. Barony House Restaurant, LLC, 382 S.C. 35, 674 S.E.2d 500 (Ct. App. 2009); USAA Property and Cas. Ins. Co. v. Clegg, 377 S.C. 643, 661 S.E.2d 791 (2008). In considering a motion for summary judgment, a complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial. Gauld v. O'Shaughnessy Realty Co., 380 S.C. 548, 671 S.E.2d 79 (Ct. App. 2008). Accordingly, summary judgment is then appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Fleming v. Rose, 350 S.C. 488, 567 S.E.2d 857 (2002). Moreover, a motion for summary judgment shall be granted "if pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP (emphasis added). Summary judgment is not "a disfavored procedural shortcut," but rather an important mechanism for weeding out "claims and defenses [that] have no factual basis."

Celotex, 477 U.S. at 327, 106 S.Ct. 2548.

FURTHER SUPPORT FOR DEFENDANT'S ARGUMENT IN THE MOTION THAT "PLAINTIFF HAS INCORRECTLY APPLIED SECTION 58-5-390 TO HIS SINGLE WATER LINE"

Defendant moved for summary judgment relying upon the specific language of Section 58-5-390. Plaintiff has alleged in its pleadings that the Defendant violated Section 58-5-390 and as a result over-charged the Plaintiff during the disputed billing periods. Plaintiff's entire case rests on this court's determination as to whether Plaintiff water meter connection constitutes a "separate fire sprinkler line" as contemplated by Section 58-5-390. As noted below and confirmed by Plaintiff's and Defendant's experts, the Plaintiff does not have a separate fire sprinkler line. Plaintiff's case and his allegations are without merit and no evidence has been produced by Plaintiff as to the existence of a separate fire sprinkler line.

In Paragraph 7 of Plaintiff's Complaint, Plaintiff states: "Plaintiff's business is housed in very large building which is protected by an interior sprinkler system. This sprinkler system requires an Eight (8) inch water line/water tap for fire protection needs." Moreover, Plaintiff asserts his business has a compound water meter which Plaintiff asserts is type of meter that is actually two meters in one. In Paragraph 7 of Plaintiff's Complaint, Plaintiff asserts his specific compound water meter includes an Eight (8) inch meter and a Two (2) inch meter. However, through the discovery in this case, it has been determined Plaintiff's by-pass line is actually a Four (4) inch line rather than a Two (2) inch line.

Defendant agrees that the meter at Rugs International is a "compound meter." In such a metering arrangement, there exists both a meter for an eight-inch line and a meter for a four-inch by-pass water line. A compound meter arrangement is commonly used where it is expected that the volume of water flowing through a water line will vary dramatically, because a larger water

meter, like the Plaintiff's eight-inch meter, cannot accurately measure low water volumes. Within the compound meter assemble there exists a valve that closes when flow is low, forcing all water flow into the smaller, Four (4)-inch meter; once the flow increases above a certain level, the valve opens, flow ceases to the Four (4)-inch meter and is directed through the large Eight (8)-inch meter. (Exhibit 6 at page 7). The Plaintiff's compound meter is able to meter all volumes of water flowing through its water line while permitting the volume to vary without the need for any action by the Plaintiff or Defendant.

Plaintiff states the following in Paragraph 9 of this Complaint: "Water flows through the [four] inch portion of this compound meter for regular water use or consumption. In case of a fire, the higher water flow would open the Eight (8) inch valve of this compound meter to allow the larger flow of water required by the sprinkler system." Plaintiff fails to acknowledge that the eight inch line is not limited to fire service only as the eight line serves the entire Rugs International building and that water capacity is available to the Plaintiff whenever it may be needed.

A compound meter arrangement does not create and does not constitute a separate fire line as contemplated by Section 58-5-390. Plaintiff does not have a separate fire sprinkler line. The use of a compound meter "is purely for improvement in the measurement of flow in the system and has no bearing on whether the water is used for fire sprinklers or other water consumption." (Exhibit 6, p. 7). Further, Plaintiff's compound meter has "no capability to differentiate between the volume of water consumed by the commercial usage of the facility from the volume of water consumed by the fire sprinkler system." (Exhibit 6, p. 7). Plaintiff has misconstrued, misapplied and attempts to abuse the provisions of Section 58-5-390.

Prior to the filing of this case, with the consent of Plaintiff and with Plaintiff's presence and Plaintiff's counsel's presence, Defendant employed its expert, William H. Bingham, Jr.,

Professional Engineer with American Engineering Consultants, Inc., to inspect the Plaintiff's metering pit and water service configuration. After Mr. Bingham's physical on-site inspection of the Plaintiff's system, Mr. Bingham provided the following conclusions in his engineering opinion dated June 8, 2015 (a copy of which is included as Exhibit 6):

At the Rugs International site, the installation has a single 8" x 4" compound water meter that serves both commercial water service for several different businesses inside and outside of the building as well as a fire sprinkler system. This configuration is a dual-purpose or compound commercial water and fire sprinkler service meter connection. There is no separate metering of the commercial water and the fire sprinkler water consumption. There are no backflow preventers installed outside between the 8" water meter and the 4" water meter that are a part of the compound meter assembly to separate the fire sprinkler system from the commercial potable water system.

Therefore, it is our professional engineering opinion that (1) the 8" compound meter currently in use by Rugs International is not a separate or dedicated fire service meter, (2) the provisions of SC Code Section 58-5-390 limiting the fees that may be charged for fire sprinkler service are not applicable to this installation, (3) the fee structure of Macedonia is typical and rates are reasonable, and (4) the billing for a base charge on an 8" meter by Macedonia to Rugs International is an appropriate and proper interpretation given the current installation."

(Emphasis Added; Exhibit 6 at page 11.)

Subsequently, during the pendency of this action, the deposition of Plaintiff's expert, Jeffrey A. Walker, was scheduled. Prior to the scheduled deposition and at the request of Plaintiff's counsel, Mr. Walker reviewed the report issued by American Engineering Consultants and thereafter issued a written statement dated August 10, 2016 to the parties in this case, a copy of which is included herewith as Exhibit 7. In his letter, Mr. Walker states: "since all of the water for this customer flowed through this meter assembly and therefore this was not a connection dedicated to fire protection only, the ICWD would not consider this a private fire protection line." Mr. Walker further states: "[t]herefore, given the same meter and the same or similar industry [model], the ICWD would bill the customer the minimum bill for an 8-inch meter plus any

consumption that exceeded the amount that is included in the minimum charge.” Mr. Walker further added, “[e]ven though the meter assembly is comprised of two meters, it is still considered an 8-inch meter.” (Exhibit 7).

In answering the question of whether Plaintiff maintains a separate fire sprinkler line, the Defendant and industry professionals, including the Plaintiff’s expert, Mr. Jeffrey A. Walker, have conclusively determined that the Plaintiff does not maintain a separate fire sprinkler line and the water meter owned by the Plaintiff is “not a connection dedicated to fire protection only.” (Exhibit 7, ¶ 4)

Plaintiff has no basis to assert his claim that Defendant has violated Section 56-5-390 as Plaintiff has failed to provide any evidence that Section 56-5-390 is applicable to the Defendant.

FURTHER SUPPORT FOR DEFENDANT’S ARGUMENT IN THE MOTION THAT “MACEDONIA’S RATES COMPLY WITH SECTION 58-5-390”

Plaintiff has alleged in its pleadings that the Defendant violated Section 58-5-390 and as a result over charged the Plaintiff during the disputed billing periods. Plaintiff’s allegations about over-billing are also without merit.

Although Plaintiff’s interpretation of Section 58-5-390 is incorrect, Defendant’s rate structure complies with the provision of Section 58-3-390 which permits utilities to charge fees for separate fire sprinkler lines up to the “actual cost associated with the water line to the system.” S.C. Code Ann. Section 58-5-390(A). The statute defines “actual costs” to include “direct labor, direct material, the necessity of increased capacity, and other direct charges associated with the separate fire sprinkler line.” S.C. Code Ann. Section 58-5-390(B). Utilities consider a number of various components to determine the total costs of operating and maintaining their water systems. Along with the variable costs related to the treatment of the water, a utility must include

in its cost of service the fixed capital costs of the system that are necessary to ensure that a sufficient supply of water is available to meet customers' demands. (Exhibit 6 at page 11). The rate structure adopted by Defendant takes into account the capacity demands of the various sizes of water meters and incorporates the actual cost of this capacity into its adopted rates.

In further validating the Defendant's rates and undermining the Plaintiff's claim, the report from Plaintiff's expert witness states with respect to the administration of his public utility, ICWD: "given the same meter and the same or a similar industry [model], the ICWD would bill the customer the minimum bill for an 8-inch meter plus any consumption that exceeded the amount that is included in the minimum charge." (Exhibit 7).

SUMMARY

A motion for summary judgment shall be granted "if pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."

In applying the standard of viewing all evidence in a light most favorable to the non-moving party, Plaintiff does not maintain a separate fire sprinkler line as contemplated by Section 58-5-390. The evidence and facts show the 8-inch compound meter for Rugs International, which includes a low flow portion of the meter assembly that is a 4-inch meter, does not include a connection dedicated to fire protection only. Moreover, the expert opinion of William H. Bingham, Jr., of American Engineering Consultant, Inc., which has been reviewed, confirmed and validated by Plaintiff's expert, specifically states in part "the 8" compound meter currently in use by Rugs International is not a separate or dedicated fire service meter." (Exhibit 6 at page 11).

Based upon the evidence provided by the Plaintiff and otherwise determined through the

discovery in this case, Plaintiff has produced no evidence, nor has Plaintiff otherwise proved any evidence to establish ownership of a meter or water service subject to the protection of Section 58-5-390. Based upon Plaintiff's failure to establish ownership of a meter or water service protected by Section 58-5-390, Plaintiff has failed to establish any violation of Section 58-5-390 by the Defendant.

The Plaintiff's allegations and speculations made in its Complaint against Defendant are unsupported by any evidence in this case. Therefore, moving in a light most favorable to the Plaintiff, Defendant submits, based upon the law that applies in this case and considering the Plaintiff's evidence in a light most favorable to the Plaintiff, there remains no evidence or genuine issues of material fact as to the foregoing issues and the motion for summary judgment submitted by Defendant should be granted.

Respectfully submitted,


 Joseph L. Mathis (SC Bar #11782)
 SAINT-AMAND, THOMPSON & MATHIS, LLC
 210 South Limestone Street
 Gaffney, South Carolina 29340
 Tel.: 864-489-6052


 Lawrence E. Flynn, III (SC Bar #74931)
 POPE FLYNN, LLC
 P. O. Box 11509
 Columbia, South Carolina 29211-1509
 Tel.: 803-354-4902

December 30, 2016
 Gaffney, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF CHEROKEE)

Joey Lemmons, d/b/a,
Rugs International,)

Plaintiff,)

vs.)

Macedonia Water Works, Inc.,)

Defendant.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-11-0938

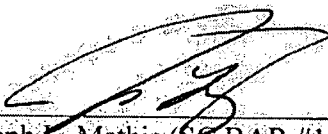
AFFIDAVIT OF JOSEPH L. MATHIS

The affiant being duly sworn states the following:

- I. I am an Attorney of Record for Macedonia Water Works, Inc., and make this Affidavit upon personal knowledge and belief, and in support of the Motion of Summary Judgment filed on behalf of Macedonia Water Works, Inc.:
- (A) The Attached Exhibit 1 is a true and correct copy of the Affidavit filed in support of Motion for Summary Judgment filed by Macedonia Water Works, Inc., on DECEMBER 29, 2016.
- (B) The Attached Exhibit 2 is a true and correct copy of "Plaintiff's Answers to First Set of Interrogatories of Defendant" dated March 10, 2015 and provided to Defendant by the Plaintiff.
- (C) The Attached Exhibit 3 is a true and correct copy of "Plaintiff's Responses to Request for Production of Documents of Defendant" dated March 10, 2015 and provided to Defendant by the Plaintiff.
- (D) The Attached Exhibit 4 is a true and correct copy of "Defendant's Answers to First Set of Interrogatories of Plaintiff" dated April 24, 2015 and provided by Defendant to Plaintiff.
- (E) The Attached Exhibit 5 is a true and correct copy of "Defendant's Responses to Request for Production of Documents of Plaintiff" dated April 24, 2015 and provided by Defendant to Plaintiff.
- (F) The Attached Exhibit 6 is a true and correct copy of "Engineering Report - Water Line Service Connection for Rugs International, Inc." prepared for Macedonia Water Works, Inc., dated June 8, 2015 and provided by Defendant to Plaintiff on

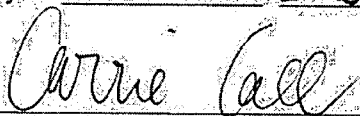
June 12, 2015.

- (G) The Attached Exhibit 7 is a true and correct copy of the letter submitted by Plaintiff's listed expert witness, Jeffrey A. Walker, Professional Engineer, with Inman Campobello Water District dated August 10, 2016 and submitted by Defendant to Plaintiff on August 12, 2016.



Joseph L. Mathis (SC BAR #11782)
Saint-Amand, Thompson & Mathis, LLC
210 South Limestone Street
Gaffney, South Carolina 29340
Tel.: 864-489-6052

Subscribed to and sworn before me this
29th day of DECEMBER, 2016.



Notary Public for South Carolina

My Commission Expires: 02/10/2022

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Joey Lemmons, d/b/a,
Rugs International,

Plaintiff,

vs.

Macedonia Water Works, Inc.,

Defendant.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-11-0938AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT
FILE ON BEHALF OF DEFENDANT
MACEDONIA WATER WORKS, INC.

The affiant, being first duly sworn on oath, hereby declares and states the following true and correct statements, all being given under the penalties of perjury and including all of the following:

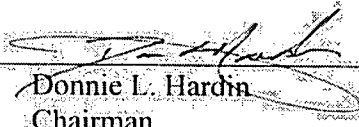
1. My name is Donnie L. Hardin and I am the Chairman of the Board for Macedonia Water Works, Inc. Macedonia Water Works, Inc., is a South Carolina Non-Profit Corporation organized pursuant to the provisions of Chapter 36 of Title 33 of the Code of Laws of South Carolina, 1976, as amended.
2. Macedonia Water Works, Inc., is engaged in the business of supplying water to a portion of Cherokee County, South Carolina, including the Plaintiff's business in this action.
3. Pursuant to the Bylaws of the Macedonia Water Works, Inc., and Section 33-36-280 of the Code of Laws of South Carolina, 1976, as amended, Macedonia Water Works, Inc., has independent rate making authorization and its rates are not subject to oversight or regulation by any governmental or regulatory body.
4. Macedonia Water Works, Inc., bills its customers different monthly minimum

charges based upon the size of the customer's water meter which is the "minimum charge." A copy of the Rate Schedule for Macedonia Water Works, Inc., was filed with the pleadings in this action.

5. The "minimum charge" includes water usage of up to 2,000 gallons without any additional charge for all tap sizes and customers are billed a volumetric charge for water usage in excess of 2,000 gallons per month.
6. The amount of the "minimum charge" for each size of meter is based upon Macedonia Water's costs of providing service to each customer and the costs to Macedonia Water's water system to ensure that sufficient water capacity is available.
7. Macedonia Water Works, Inc., charges a flat rate of \$50.00 per month for water taps that are expressly dedicated to serving fire sprinkler systems.
8. Based upon the information disclosed in this case, it is my understanding the Plaintiff purchased his property in 1999, however, the building owned by the Plaintiff was built years ago and believed to have been in the 80s.
9. The Plaintiff does not have a designated fire sprinkler line or designated fire line. The Plaintiff's property is serviced by a compound water meter that includes a meter for an eight-inch water line and a meter for a two-inch bypass water line (I think the bypass line is actually four-inch based upon the information disclosed in this case), but Plaintiff states it as being a two-inch in his pleadings. Plaintiff's meter is considered an eight-inch meter.
10. Macedonia Water Works, Inc., has charged the Plaintiff the "minimum charge" for an eight-inch water meter.

The affiant reaffirms the statements above as being true and correct and that if any of the foregoing statements made by the affiant are wilfully false, the affiant is subject to punishment.

MACEDONIA WATER WORKS, INC.

By: 
Its: Chairman

STATE OF SOUTH CAROLINA

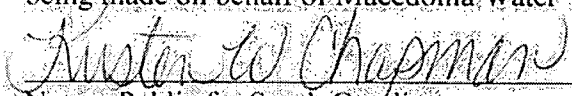
)

ACKNOWLEDGMENT

COUNTY OF CHEROKEE

)

Sworn to before me and signed in my presence this 24 day of December, 2016, the foregoing Affidavit in Support of Motion for Summary Judgment was acknowledged before me this date by Donnie L. Hardin in his capacity as Chairman of Macedonia Water Works, Inc., with said Affidavit in Support of Motion for Summary Judgment being made on behalf of Macedonia Water Works, Inc.


Notary Public for South Carolina

My Commission Expires 3-21-20

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

IN THE COURT OF COMMON PLEAS

Joey Lemmons d/b/a Rugs
International,

Plaintiff,

vs.

Macedonia Water Works, Inc.,

Defendant.

PLAINTIFF'S ANSWERS TO FIRST SET
OF INTERROGATORIES OF DEFENDANT
2014-CP-11-0938

TO: MACEDONIA WATER WORKS, INC., BY AND THROUGH ITS ATTORNEYS,
JOSEPH L. MATHIS AND LAWRENCE E. FLYNN, III

The Plaintiff hereby answers the First Set of Interrogatories of Defendant in accordance with the provisions of Rule 33 (b) of the South Carolina Rules of Civil Procedure as follows:

I. RESERVATION OF RIGHTS

1. Responding to the Interrogatories, Plaintiff does not waive any objections which may be appropriate either to (a) use by Plaintiff of any Answer to these Interrogatories for any purpose or (b) the materiality of any of the Interrogatories to any issue in this case.

2. Plaintiff specially reserves all rights to objections which may otherwise be available to him/her and further states that no response should be deemed as an admission of relevancy, materiality or admissibility into evidence of any particular interrogatory or the response thereto. Plaintiff further reserves the right to alter or amend his/her answers to be more accurate if other information becomes available to him/her at a subsequent time.

3. The answers herein are subject to the rights of Plaintiff to object and not be bound at any time to a demand for further response to these or other interrogatories or other discovery procedures.

II. GENERAL OBJECTION

1. Plaintiff objects to responding to any Interrogatory that seeks information which constitute confidential attorney-client communications or which falls within the scope of the attorney-work-product doctrine.

2. Plaintiff objects to responding to any Interrogatory that exceeds the scope and limits of discovery set forth in Rules 33 and 34 of the South Carolina Rules of Civil Procedure.

III. ANSWERS TO INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witness and indicate who has possession of the statements.

ANSWER:

a) Joey Lemmons, PO Box 1500, Gaffney, SC 29342. This Plaintiff will testify as to his knowledge and conversations with various employees of the Defendant, his payment history concerning his water bill with the Defendant, to the amount of water used by his business and passing through the subject meter and will testify as to his attempts to avoid litigation by meeting with the Defendant's board.

b) Donnie L. Hardin, Macedonia Water Works, Inc. This Defendant will testify as to the Defendant's billing policies, the amount of money paid by the Plaintiff to the Defendant and the number of gallons consumed by Plaintiff's business in comparison to the amount of money paid for water service by the Plaintiff.

c) Dennis Lowry, Tim Lowry, and Sharon Lowry, Lowry Utilities, Inc., 3142 Union Highway, Gaffney, SC. Their testimony will be used to describe tap fees and payment history of Plaintiff.

d) Attorney General's Office, Rembert Dennis Building, 1000 Assembly St., Room 519, Columbia, SC 29201. A representative of the Attorney General's Office to authenticate the Attorney General's opinions generated concerning this matter.

e) Representative Dennis C. Moss, SC House of Representatives, 418 Blatt Building, Columbia, SC 29201. He will testify as to his requests to the Attorney General's Office for their opinions concerning this issue.

f) Jeff Walker, General Manager of the Inman Campobello Water District, 5 Prospect St., Inman, SC 29349. Jeff Walker will testify to the regular billing practices of other water utilities for their business customers.

No written or recorded statements have been taken from these witnesses.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER:

Attached hereto is a photograph of the meter/valve.

3. In cases involving personal injury, set forth the names and addresses of all physicians who have treated the party and all hospitals to which the party has been committed in connection with said injuries and also set forth a statement of all medical costs involved.

ANSWER:

N/A

4. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of policies involved and the amount or amounts of coverage provided in each policy.

ANSWER:

N/A

5. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.

ANSWER:

\$37,500.00 plus attorney fees to be determined.

6. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

ANSWER:

Jeff Walker, General Manager of the Inman Campobello Water District, 5 Prospect St., Inman, SC 29349.

7. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witness.

ANSWER:

See Answers to Interrogatory No. 1.

8. Identify each lay witness Plaintiff intends to call to testify at the trial in this matter and the subject matter of their anticipated testimony.

ANSWER:

See Answer to Interrogatory No. 1.

9. Please state whether you installed, or paid for the installation of the compound water meter described in your Complaint.

ANSWER:

The Plaintiff did not purchase the compound water meter described in his Complaint. It was already installed when he purchased the Rugs International building in 1999. Previous owner purchased and had installed the compound water meter.

10. If you did not install the compound water meter described in your Complaint, please disclose who or what entity installed the compound water meter described in your Complaint.

ANSWER:

The Plaintiff does not have sufficient knowledge to respond. The meter was in service at the time Plaintiff purchased the subject property.

11. Please provide the manufacturer's name of the compound water meter described in your Complaint. In responding to this interrogatory, please identify year of manufacture, the model number (if applicable) and the serial number.

ANSWER:

The Plaintiff does not have sufficient knowledge to respond. However, he has inspected the water meter and has found the following information: On an elbow, there is imprinted Trinity Valley 8x8; on two of the valves, there is the name of American, Darling Valve 1988; on one of the connections, there is the name Sigma 01s3DI350 / 8x12 Sleeve; and what appears to be the main piece of hardware, is the name Hersey.

12. Please provide any and all applicable operation manuals, owners manuals or other materials distributed with the compound water meter subject to this litigation.

ANSWER:

The Plaintiff does not have any material and/or plans concerning the water or compound meter equipment which is installed at his location.

Respectfully submitted.

KENNEDY & BRANNON, PA

By:

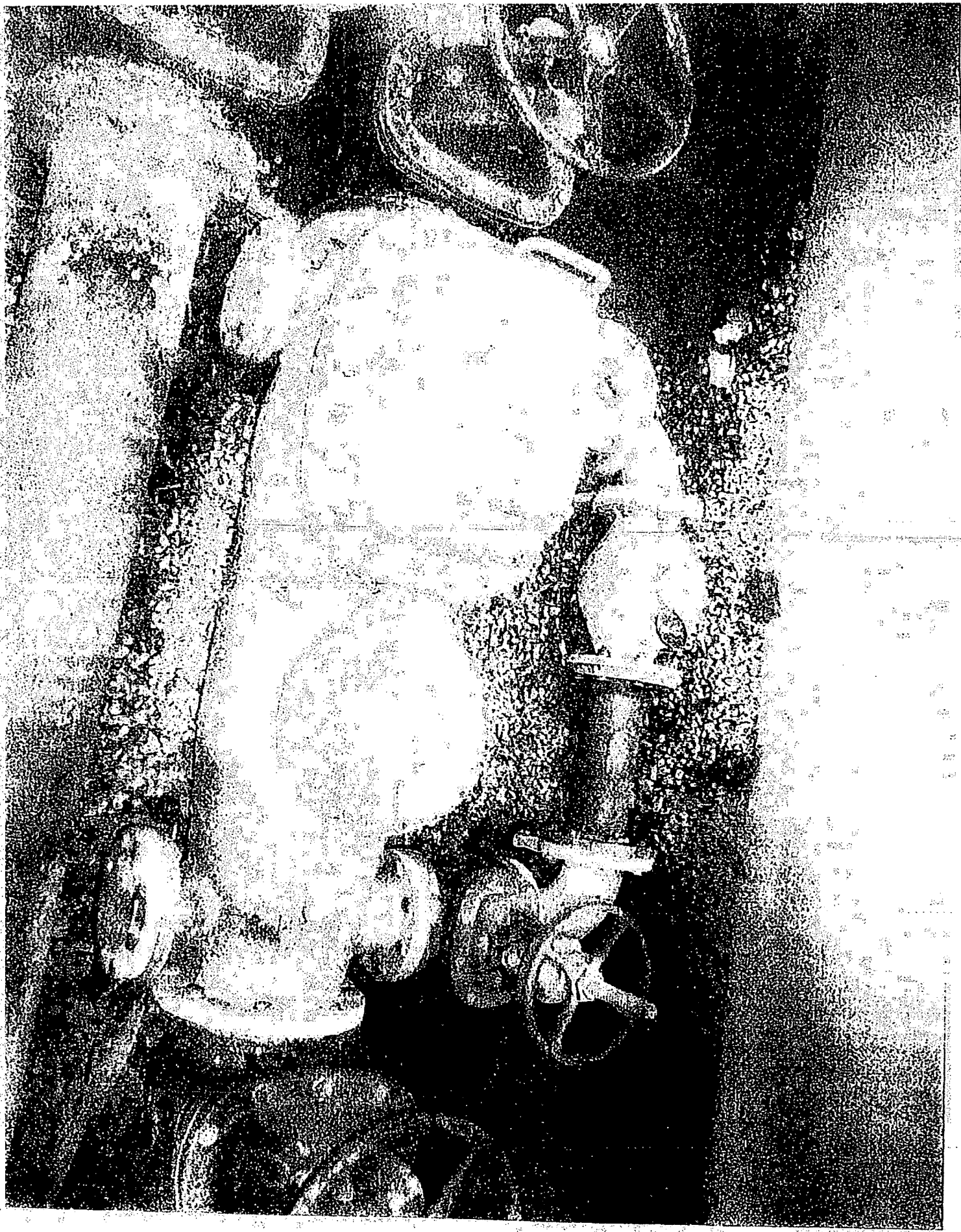
N. Douglas Brannon

N. Douglas Brannon
PO Box 3254
Spartanburg, SC 29304
(864)707-2020
(864)707-7030

Spartanburg, SC

March 10, 2015

ELECTRONICALLY FILED - 2016 Dec 30 3:39 PM - CHEROKEE - COMMON PLEAS - CASE#2014CP1100938



STATE OF SOUTH CAROLINA)

COUNTY OF CHEROKEE)

IN THE COURT OF COMMON PLEAS

Joey Lemmons d/b/a Rugs
International,)

Plaintiff,)

vs.)

Macedonia Water Works, Inc.,)

Defendant.)

PLAINTIFF'S RESPONSES TO
REQUEST FOR PRODUCTION OF
DOCUMENTS OF DEFENDANT
2014-CP-11-0938TO: MACEDONIA WATER WORKS, INC. AND ITS ATTORNEY, JOSEPH L. MATHIS
AND LAWRENCE E. FLYNN, IIIThe Plaintiff, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, hereby
respond to Defendant's First Request for Production of Documents as follows:

1. Produce any and all documents relied upon by Plaintiff in answering the interrogatories:

RESPONSE:

See Answers to Interrogatories.

2. Produce all photographs and/or videos of the compound water meter subject to this
litigation.

RESPONSE:

See Answers to Interrogatories.

3. Produce all written and recorded statements obtained by Plaintiff, Plaintiff's counsel, or
any agent acting on Plaintiff's behalf, related to the compound water meter subject to this litigation.

RESPONSE:

a) E-mail from Jonathan W. Yarborough with SC DHEC to Dennis Moss dated February 7,
2013 regarding tap fees.

b) Letter from Representative Dennis C. Moss, SC House of Representatives dated February 6, 2013.

c) Letter from Representative Dennis Moss to Donnie Hardin dated July 26, 2011.

d) Letter from Donnie Hardin with Macedonia Water Works, Inc. to Joey Lemmons dated January 22, 2013.

e) Letter from Anita Smith Fair, Assistant Attorney General to Representative Dennis Moss dated November 20, 2012.

f) E-mail from Joey Lemmons to Representative Dennis Moss dated January 9, 2013.

g) Letter from Joey Lemmons to Macedonia Water Company dated January 8, 2013.

4. Produce copies of any and all design drawings, contracts, work orders, invoices, bills, records, or other documents relating in any way to the installation of, repair of, modifications to or other work relating to the compound water meter subject to this litigation.

RESPONSE:

N/A

5. Produce copies of any reports or documents in your possession regarding the compound water meter subject to this litigation.

N/A

6. Produce copies of each document, writing, depiction, drawing, graph, summary, chart, audio or videotape, photograph, tangible things, calculations, or other items that Plaintiff will or may offer into evidence at trial.

RESPONSE:

Various bills from Macedonia Water Works, Inc.

7. Produce all documents provided to and relied upon by each and every expert Plaintiff expects to call at trial. Responsive documents should include, but not be limited to, the expert's file, report(s) containing the expert's opinions and analysis, and the expert's current Curriculum Vitae.

RESPONSE:

None as of this time.

8. Produce any documents in possession of Plaintiff related to this case.

RESPONSE:

a) SC Code of Laws § 58-5-390 regarding tap fees for installation and maintenance of fire sprinkler system.

b) Office of the Attorney General's opinion to Representative Dennis Moss dated May 18, 2011.

Respectfully submitted.

KENNEDY & BRANNON, PA

N. Douglas Brannon

By: _____

N. Douglas Brannon
PO Box 3254
Spartanburg, SC 29304
(864)707-2020
(864)707-7030

Spartanburg, SC

March 10, 2015

Dennis Moss

From: Yarborough, Jonathan [jyarborough@dhec.sc.gov]
Sent: Thursday, February 07, 2013 5:03 PM
To: Dennis Moss
Subject: Tap Fees

Representative Moss,

DHEC does not have tap fees. Any suggestion that we have mandated tap fees for water utilities is simply incorrect. If you have any questions, please do not hesitate to contact me.

Sincerely,

--
Jonathan W. Yarborough
Director of External Affairs
SC DHEC
803-609-4327 (m)
803-898-9119 (o)



South Carolina House of Representatives
Dennis Carroll Moss

Wednesday, February 06, 2013

RE: Section 58-5-390

(Tap fees for installation and maintenance of fire sprinkler system; exception)

Dear Mr. Joey Lemmons:

It is always a pleasure to hear from concerned citizens. Thank you for trusting me to respond to your concerns. As I understand, you would like to know the effective date of Section 58-5-390. It actually has two effective dates. It was first created by 2008 Act No. 357, Section 1 which was effective June 25, 2008; it was subsequently amended by 2010 Act No. 232, Section 3 which was effective June 7, 2010. Basically, it boils down to this: the first two paragraphs of the statute were effective in 2008 and the third paragraph of the statute was added in 2010. Enclosed please find an annotated copy of the statute, indicating which parts of the statute were enacted on what dates. Also enclosed please find copies of both the Acts.

It is my understanding from a review of online public information with the South Carolina Secretary of State's Office that Macedonia Water Works, Inc., is a nonprofit company in good standing that was incorporated in 1985. Enclosed is a copy of the information available from the Secretary of State's website. I appreciate your taking the time to update me with how the company responded to your providing them with a copy of the Attorney General Opinion pertaining to Section 58-5-390. Unfortunately, this experience has illustrated for you that an Attorney General Opinion is just what the name implies - an opinion. Here is a better description of an Attorney General Opinion from South Carolina Attorney General Alan Wilson's website:

An Attorney General's opinion is thus a written public document responding to a specific legal question asked by a public official. All opinions have been reviewed by the Opinions Section and represent the highest standards of research. An Attorney General's opinion attempts to resolve questions of law as the author believes a court would decide the issue. Unlike a court, however, Attorney General opinions cannot decide factual disputes.

As I believe your additional question may benefit other members of the public, I will seek an opinion from the Attorney General's Office as to whether or not a nonprofit water company may provide a free month of water to its residential customers but not to its business customers. I will forward a copy of any response I receive from the Attorney General's Office.



South Carolina House of Representatives
Dennis Carroll Moss

Also, this week I had a meeting with the Director of the South Carolina Department of Health and Environmental Control, Catherine Templeton. It is my impression from this conversation that DHEC does not set tap fees and rates but checks for water quality. In the near future, Director Templeton will be providing me with something in writing regarding DHEC's role. I will forward a copy of this correspondence when I receive it.

Thank you for trusting me to respond to your concerns. I hope the enclosed information is helpful to you, and I look forward to providing you with the forthcoming information from DHEC and any response from the Attorney General's Office pertaining to your additional question. I greatly appreciate all that you do to help me fulfill the honor and responsibility of voicing the concerns of our community in the South Carolina House of Representatives.

Sincerely,

Dennis C. Moss
Dennis C. Moss
Representative for District 29

Enclosures

Tuesday, July 26, 2011

Mr. Donnie Hardin
Macedonia Water Works
3142 Union Highway
Gaffney, South Carolina 29340

Dear Mr. Hardin:

I would like to thank you for assisting Ms. Lorraine Perry in finding a positive resolution with her issue concerning the minimum monthly fee associated with a fire sprinkler. It is my understanding that it was your suggestion to charge a \$50 maintenance fee for servicing a fire sprinkler system line and that it was also your recommendation for Gaffney Entertainment Center to receive a credit. Ms. Perry asked me to express her gratitude to you as well.

Your kindness in this matter is greatly appreciated. As the poet James Russell Lowell once remarked, "All the beautiful sentiments in the world weigh less than a single lovely action." Please do not hesitate to contact me, if I may be of assistance to you.

Sincerely,

Dennis Moss

cc: Ms. Lorraine Perry
62 Society Street
Charleston, South Carolina 29401

Macedonia Water Works, Inc.

Post Office Box 1955
Gaffney, South Carolina 29342-1955

January 22, 2013

Mr. Joey Lemmons
Rugs International
Post Office Box 1500
Gaffney, South Carolina

RE: January 8, 2013 Letter & Meeting

Dear Joey,

I am writing in response to the letter referenced above and your appearance before the Macedonia Water Works Board on the same date. In your letter and at the meeting you questioned the Macedonia Water Works policy to qualify for a fire sprinkler service and requested a refund of funds you felt had been overpaid as a result of the misapplication of your water rate.

As per our discussion at the meeting, the Macedonia Water Works requires a water tap to supply a "dedicated" fire sprinkler system in order to qualify for the reduced monthly fire sprinkler rate. In this case the word "dedicated" means fire sprinkler service only, no other facilities or services may be metered by the same tap and meter. The entertainment center you referenced has a dedicated fire line and a separate meter for other uses. In the case of the Rugs International facility, there are multiple facilities, services, and buildings which are supplied water service from a single water meter and tap. There is no way to separate out the fire sprinkler system from the multiple other uses of the water provided through this one meter. Therefore in accordance with policy, the Board originally determined this water service does not qualify for the dedicated fire sprinkler system rate through this single meter and tap.

Based on our discussion, the Board agreed to seek additional information to determine if our current policy complies with the requirements of the 2008 South Carolina Laws Act 357 referencing fire sprinkler system meters. We have contacted the administrative and legal departments of municipal and state associations representing water utilities. All of these entities have legislative and legal staffs that review changes in South Carolina and Federal legislation and advise water utilities. In addition, we surveyed several South Carolina water utilities, including Spartanburg, Greenville, SJWD, Inman-Campobello, Easley, and Columbia to obtain their requirements to qualify for their fire sprinkler service meter rates. Without exception, all the associations and utilities require a "dedicated" fire sprinkler system to qualify for their fire sprinkler rate. The Macedonia Water Works policy requiring "dedicated" sprinkler system metering mirrors every utility surveyed. These associations and the larger utilities have legal and legislative staffs that have reviewed this legislation and have determined this policy is in compliance with the law. It is hard to believe that every water utility, including water

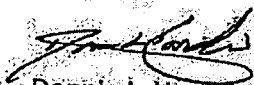
districts, commissions of public works, city utilities, regional water authorities, and multiple water utility associations are all incorrectly applying this law.

In reference to water metering, you also asked why the Premium Outlets owners were allowed to have multiple businesses and buildings on one meter and why you should not be allowed to add an additional "double wide" building to this existing water service. There was no preferential treatment of one property owner over the other as implied. The original owners of both properties, Prime Outlets and Mr. Williams, requested and were granted special water service provisions when they were originally constructed. The original World of Clothing included several types of property within one building including retail space, a restaurant or grill, offices, and residential living apartments. The Prime Outlets property obviously included multiple businesses. Both properties were granted an exception to the one meter per unit or building policy for all construction completed at that time in the original project. Modifications to the original buildings and all additional parcels developed or buildings constructed at any later date are required to purchase a separate water tap and meter. When additional property at the outlet mall property was developed separate water taps and meters were purchased and installed for Outback and the entertainment center as per policy. In addition, individual taps were purchased for Rug and Home, Cracker Barrel, and the Mel's Diner building. When you added the additional unattached "double wide" building on the World of Clothing property, the water service for an additional facility was connected to your existing water meter service from the original building in violation of policy.

In summation, based on all the information obtained, the Board feels our current policy is in compliance with the provisions of the 2008 South Carolina Laws Act 357 and no adjustment is warranted. If another water service tap and meter is purchased to supply water to all water services within the original building, other than the fire sprinkler service, and the current tap and meter serves only the separate and distinct "dedicated" fire sprinkler service, the monthly rate for the fire sprinkler service will be placed on the fire sprinkler system rate. In addition, a separate water tap and meter is required for the separate "double wide" building improperly connected to the original building's water service.

If you have any questions or if you would like to discuss this further, please feel free to contact me.

Sincerely,



Donnie L. Hardin
Chairman

Cc: The Honorable Dennis Moss
Macedonia Water Works Board
Lowry Utilities, Inc.
File



ALAN WILSON
ATTORNEY GENERAL

November 20, 2012

The Honorable Dennis C. Moss
Member, House of Representatives
306 Silver Circle
Gaffney, South Carolina 29340

Dear Representative Moss:

Attorney General Alan Wilson has referred your letters of October 19, 2012 & November 9, 2012 to the Opinions section for a response. The following is this Office's understanding of your questions presented and the opinion of this Office concerning the issues based on that understanding.

Issue:

- 1) In order for South Carolina Code § 58-5-390 to apply, does a tap have to be dedicated solely to a fire sprinkler or may the tap also supply other water uses and have separate meters?
- 2) If a business has a larger tap only for the purpose of the fire sprinkler system, would the business be required to pay a fee based on the larger tap or for the size of tap that would be required for the normal day-to-day water use?

Short Answer:

- 1) South Carolina Code § 58-5-390 would most likely apply to any fire sprinkler system, regardless of whether the tap supplies only the fire sprinkler or not.
- 2) This office does not answer factual questions, but if your constituent is not able to resolve these issues with the utility company, the other possible venue would be for a court to answer these factual questions.

Law/Analysis:

1) This Office previously addressed a similar question for you in 2011 concerning fire sprinklers. In that opinion, this Office reiterated the law in stating that a minimum monthly fee for a fire sprinkler may not exceed the actual costs of the water line. Ops. S.C. Atty. Gen., 2011 WL 2214071 (May 18, 2011).

As a background on statutory interpretation, the cardinal rule in statutory interpretation is to ascertain the intent of the Legislature and to accomplish that intent. Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 39, 577 S.E.2d 202, 207 (2003). The true aim and intention of the legislature controls the literal meaning of a statute. The historical background and circumstances at the time a statute was passed can be used to assist in interpreting a statute. An entire statute's interpretation must be "practical, reasonable, and fair" and consistent with the purpose, plan and reasoning behind its making. Greenville Baseball v. Bearden, 200 S.C. 363, 20 S.E.2d 813, 816 (1942). Statutes are to be interpreted with a "sensible construction," and a "literal application of language which leads to absurd consequences should be avoided whenever a reasonable application can be given consistent with the legislative purpose." U.S. v. Rippetoe, 178 F.2d 735, 737 (4th Cir. 1950). This Office looks at the plain meaning of the words, rather than analyzing

The Honorable Dennis C. Moss
 Page 2
 November 20, 2012

statutes within the same subject matter when the meaning of the statute appears to be clear and unambiguous. Sloan v. SC Board of Physical Therapy Exam., 370 S.C. 452, 636 S.E.2d 598 (2006).

South Carolina Code § 58-5-390 says:

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

In analyzing the statute, the plain meaning of the words is clear. There is no ambiguity as to what utilities may charge fees for fire sprinkler systems because it applies to all utility companies. There are no exceptions for charging more than the installation and maintenance charges.

The next place to look is at the legislative intent. The legislative intent is unambiguous. It reads "...it is the purpose of this act to create meaningful incentives for the installation of fire sprinkler systems." 2008 South Carolina Laws Act 357 (H.B. No. 4470). The legislative intent would support a finding that the statute applies to all fire sprinkler systems without exception, even if the tap supplies other water uses.

South Carolina Code § 58-5-390(A) provides that fees for the installation and maintenance of a fire sprinkler system may not exceed the "actual costs associated with the water line to the system." The "actual costs" include the following:

- 1) direct labor;
- 2) direct material;
- 3) the necessity of increased capacity; and
- 4) other direct charges associated with the separate fire sprinkler line.

The statute also requires the direct costs to be "documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line." S.C. Code § 58-5-390(B). The language in this part of the statute is also clear and would imply the burden of showing the cost of the installation and maintenance of the sprinkler line would be with the utility company to provide the documentation supporting the charges.

2) The size of a tap needed and whether or not an individual would be required to pay a larger fee based on a larger tap needed for a sprinkler system is a factual question. The issue would need to be resolved with the utility company. If your constituent is not satisfied with the answer from the utility company, a court may be able to resolve these factual issues and answer the underlying questions. As you may well be aware, this Office does not issue factual opinions. Op. S.C. Atty. Gen., 1996 WL 599391 (September 6, 1996) (citing Op. S.C. Atty. Gen., 1983 WL 182076 (December 12, 1983)).

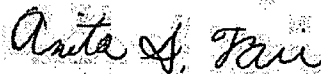
Please note if the water company is a public utility, as defined in South Carolina Code § 58-5-10(4), then then any issues should be addressed with the public service commission. Ops. S.C. Atty. Gen., 1978 WL 34948 (June 19, 1978).

The Honorable Dennis C. Moss:
Page 3
November 20, 2012

Conclusion:

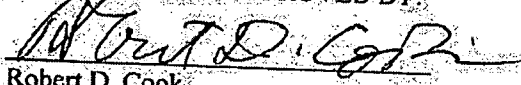
Based on the conclusion that South Carolina Code § 58-5-390 applies to any fire sprinkler taps, a utility company may not charge more than the actual costs of the installation and maintenance of the fire sprinkler system. The other factual issues should be addressed with the utility company or by a court. However, this office is only issuing a legal opinion. Until a court or the legislature specifically addresses the issues presented in your letter, this is only an opinion on how this office believes a court would interpret the law in the matter. If it is later determined otherwise or if you have any additional questions or issues, please let me know.

Sincerely,



Anita Smith Fair
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General

Dennis Moss

From: Joey [krlemmons@cs.com]
 Sent: Wednesday, January 09, 2013 12:25 PM
 To: Dennis Moss
 Subject: from Joey Lemmons
 Attachments: Macedonia Water board.doc; LemmonsUtilityAmortization(1).xls; GEDC3916.JPG

Dennis:

I have attached the cover letter request that I gave Macedonia Water Board members last night. Also, I have attached an amortization table to show the principle and interest that this overbilling has cost Rugs International. I told the board members that I am willing to discuss some options for repayment, tax credits, water bill credits etc. to resolve this matter. Most of the board members listened to my concerns and my dad spoke with Paul Patterson this morning and Paul says that this was the first that he has heard about my complaint about my water bill. Paul told my dad that he is disappointed that Donnie had not shared with the other board members that I had met with him in November concerning my minimum tap fee. However, Paul indicated to my dad that if I had been overcharged that I should be repaid and that we would work out a payback arrangement / settlement.

In addition to the cover letter and amortization schedule, I gave them several of my bills, and copies of the opinions from the Attorney General's office. Also, I gave them a picture of my water meter to show that there are two meters. The meter that goes the sprinkler system only has a register of 12 gallons have been used since the meter was put in. This 12 gallons would have been used when the annual valve test on the sprinkler system were done. All the other water use has gone thru the other meter that the water company reads for my water bill. The meter reader has not been reading my meter each month and this is why some of the bills show more water useage while some months show very little. One month the meter reader put down 500 gallons. I have asked the Lowry's to run a report on how much water I used in 2011 and 2012 so that I see what is the average monthly usage.

Thanks for your help,

Sincerely,

Joey Lemmons

Rugs International LLC

January 8, 2013

Macedonia Water Company
Board of Directors
Gaffney SC 29341

Dear Board Members:

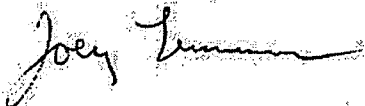
I would like to request that my minimum water tap fee be reduced beginning with my next month's bill to adhere to South Carolina code 58-5-390. I have received an opinion from the SC attorney general office and a letter is attached to support my request.

I have been overcharged on my water bill for the time I have operated Rugs International LLC at 138 Webber Road, Gaffney SC beginning April 1, 1999. I have paid a minimum tap fee of \$650 per month for the past 166 months. Per the Attorney General's code interpretation, I have been overcharged \$630 per month each month for a total of \$104,580 over the last 166 months. I am requesting the refund of these over paid funds with interest. I have enclosed an amortization schedule that shows principle and interest incurred due to this error in billing is \$191,513.23.

I met with Donnie Hardin at the Board of Public Works in November to discuss the minimum tap fee I am being billed. I was told that my business does not qualify under South Carolina Code 58-5-390 until I install a tap designated to my sprinkler system. I paid a \$1,000 fee to Lowry's Utilities to install an additional tap. However, after further clarification from the SC Attorney Generals office, an additional tap is not required to meet the qualifications of South Carolina Code 58-5-390. Currently, my tap has two meters to allow you to measure the flow to my sprinkler system and the water usage to toilets and other use. Therefore, since there is no need to install a second tap, I am requesting the refund of the \$1,000.

I request that these funds be refunded within 30 days. I am willing to discuss a short term payment plan since the overcharge is very large. Please let me know how you wish to proceed to correct this billing error.

Sincerely,



Joey Lemmons
Rugs International LLC

MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
10/05/2012	08/05/2012	10950-00	10/19/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6117900	6107000	10900	678.48
		PREV BAL	0.00
			0.00

Account not paid by 11/11/2012 will be disconnected.
Reconnection fee \$75.00 second offense \$100.00

PAST DUE AFTER

11/05/2012

CU 73.25

678.48

After Due Date

WE NOW OFFER BANK DRAFT CALL

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
09/05/2012	08/05/2012	10950-00	09/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6107000	6099100	7900	669.11
		PREV BAL	0.00
			0.00

Account not paid by 10/14/2012 will be disconnected.
Reconnection fee \$75.00 second offense \$100.00

PAST DUE AFTER

10/05/2012

669.11

After Due Date

WE NOW OFFER BANK DRAFT CALL

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
2/5/11	1/5/11	10950	2/18/11
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5892800	5875800	17,000	\$695.25

Accounts not paid by 3/9/11 will be disconnected. Reconnect fee \$75 second offense \$100

PAST DUE AFTER

3/5/11

CU 676.5

\$695.25

After Due Date

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
11/05/2012	10/05/2012	10950-00	11/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6123700	6117900	5800	662.33
		PREV BAL	0.00
			0.00

Account not paid by 12/10/2012 will be disconnected.
Reconnection fee \$75.00 second offense \$100.00

PAST DUE AFTER

12/05/2012

662.33

After Due Date

WE NOW OFFER BANK DRAFT CALL

OFFICE FOR MORE DETAILS

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

6786

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
8/5/11	7/5/11	10950	8/19/11
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6007100	5998800	8,300	\$670.48

Accounts not paid by 9/12/11 will be disconnected reconnection fee \$75 second offense \$100

PAST DUE AFTER

9/5/11

\$670.48

After Due Date

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
7/5/11	6/5/11	10950	7/21/11
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5998800	5998300	500	\$650.00

Accounts not paid by 8/15/11 will be disconnected reconnection fee \$75 second offense \$100

PAST DUE AFTER

8/5/11

\$650.00

After Due Date

MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
03/05/2012	02/05/2012	10950 00	03/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6077000	6069000	8000	669.50
		PREV BAL	0.00
			0.00

Account not paid by 04/10/2012 will be disconnected.
Reconnection fee \$75.00 second offense \$100.00.

PAST DUE AFTER
04/05/2012

AMOUNT DUE
669.50

After Due Date

PLEASE NOTE YOUR ACCOUNT #
HAS CHANGED

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
05/05/2012	04/05/2012	10950 00	05/18/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6079800	6079200	600	650.00
		PREV BAL	0.00
			0.00

Account not paid by 06/11/2012 will be disconnected.
Reconnection fee \$75.00 second offense \$100.00.

PAST DUE AFTER
06/05/2012

AMOUNT DUE
650.00

After Due Date

ANNUAL MEETING JULY 17 @ 6PM

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
08/05/2012	07/05/2012	10950 00	08/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6099100	6097300	1800	650.00
		PREV BAL	0.00
			0.00

Account not paid by 09/11/2012 will be disconnected.
Reconnection fee \$75.00 second offense \$100.00.

PAST DUE AFTER
09/05/2012

AMOUNT DUE
650.00

After Due Date

715.00

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
12/5/11	11/5/11	10950	12/16/11
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6029100	6021100	8,000	\$669.50
		PREV BAL	0.00
			0.00

THANK YOU FOR PROMPT PAYMENT.
PAYMENTS ARE DUE BY THE 5TH.

PAST DUE AFTER
1/5/12

AMOUNT DUE
\$669.50

After Due Date

42+1300

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
04/05/2012	03/05/2012	10950 00	04/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6079200	6077000	2200	650.00
		PREV BAL	0.00
			0.00

Account not paid by 05/09/2012 will be disconnected.
Reconnection fee \$75.00 second offense \$100.00.

PAST DUE AFTER
05/05/2012

AMOUNT DUE
650.00

After Due Date

WE ARE NOW OFFERING BANK DRAFT
CALL OUR OFFICE FOR MORE INFO

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
06/05/2012	05/05/2012	10950 00	06/18/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6080900	6079800	1100	650.00
		PREV BAL	0.00
			0.00

Account not paid by 07/16/2012 will be disconnected.
Reconnection fee \$75.00 second offense \$100.00.

PAST DUE AFTER
07/05/2012

AMOUNT DUE
650.00

MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

ELECTRONICALLY FILED - 2016 Dec 30 3:41 PM - CHEROKEE - COMMON PLEAS - CASE#2014CP1100938

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
3/5/10	2/5/10	10950	3/19/10
METER READINGS		CONSUMPTION	AMOUNT
PRESNT 5780100	PREVIOUS 5765800	14,300	\$587.82
Accounts not paid by 4/12/10 will be disconnected Reconnection fee \$75 second offense \$100			
PAST DUE AFTER 4/5/10		AMOUNT DUE \$687.82	
After Due Date		\$756.60	

6375

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
6/5/11	5/5/11	10950	6/17/11
METER READINGS		CONSUMPTION	AMOUNT
PRESNT 5998300	PREVIOUS 5970300	28,000	\$725.50
Accounts not paid by 7/18/11 will be disconnected reconnection fee \$75 second offense \$100 Annual meeting will be held 7/19/11 6:00pm at MVFD Office closed for vacation July 11-15			
PAST DUE AFTER 7/5/11		AMOUNT DUE \$725.50	
After Due Date		\$798.05	

6912

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
12/5/09	11/5/09	10950	12/17/09
METER READINGS		CONSUMPTION	AMOUNT
PRESNT 5736000	PREVIOUS 5728100	7,900	\$669.18
THANK YOU FOR PROMPT PAYMENT. PAYMENTS ARE DUE BY THE 5TH.			
PAST DUE AFTER 1/5/10		AMOUNT DUE \$669.18	
After Due Date		\$736.10	

6242

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
9/5/09	8/5/09	10950	9/19/09
METER READINGS		CONSUMPTION	AMOUNT
PRESNT 5446300	PREVIOUS 5440900	5,400	\$661.05
Accounts not pd by 10th subject for disconnect cut off- reconnect fee \$75 -2nd offense \$100			
PAST DUE AFTER 10/5/09		AMOUNT DUE \$661.05	
After Due Date		\$727.16	

4744

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
1/5/08	12/5/07	10950	1/16/08
METER READINGS		CONSUMPTION	AMOUNT
PRESNT 5512300	PREVIOUS 5459800	52,500	\$792.88
Accounts not paid by the 10th are subject to disconnect. Reconnect fee \$75 Second offense \$100			
PAST DUE AFTER 2/5/08		AMOUNT DUE \$792.88	
After Due Date		\$872.17	

5018

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
12/5/07	11/5/07	10950	12/18/07
METER READINGS		CONSUMPTION	AMOUNT
PRESNT 5459800	PREVIOUS 5454300	5,500	\$661.38
THANK YOU FOR PROMPT PAYMENT. PAYMENTS ARE DUE BY THE 5TH.			
PAST DUE AFTER 1/5/08		AMOUNT DUE \$661.38	
After Due Date		\$727.52	

5924

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
4/5/08	3/5/08	10950	4/19/08
METER READINGS			
PRESENT 5520000	PREVIOUS 5518200	CONSUMPTION 1,800	AMOUNT \$650.00
Accounts not paid by the 10th are subject to disconnect. Reconnect fee \$75 Second offense \$100			
PAST DUE AFTER 5/5/08		AMOUNT DUE	
After Due Date		\$650.00	
		\$715.00	

CHK
5209

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
6/5/08	5/5/08	10950	6/19/08
METER READINGS			
PRESENT 5525400	PREVIOUS 5522700	CONSUMPTION 2,700	AMOUNT \$652.28
Our office will be closed June 30-July 4 please use drop box in front for payment. Macedonia annual meeting July 15 6pm MVF Dept			
PAST DUE AFTER 7/5/08		AMOUNT DUE	
After Due Date		\$652.28	
		\$717.51	

CHK
5809

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
5/5/08	4/5/08	10950	5/19/08
METER READINGS			
PRESENT 5515900	PREVIOUS 5512300	CONSUMPTION 3,600	AMOUNT \$655.20
Accounts not paid by the 10th are subject to disconnect. Reconnect fee \$75 Second offense \$100			
PAST DUE AFTER 3/5/08		AMOUNT DUE	
After Due Date		\$655.20	
		\$720.72	

CHK
5089

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
3/5/08	2/5/08	10950	3/19/08
METER READINGS			
PRESENT 5518200	PREVIOUS 5515900	CONSUMPTION 2,300	AMOUNT \$650.98
Accounts not paid by the 10th are subject to disconnect. Reconnect fee \$75 Second offense \$100			
PAST DUE AFTER 4/5/08		AMOUNT DUE	
After Due Date		\$650.98	
		\$716.08	

CHK *5141*

MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

WEBBER AND MACEDONIA ROADS

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
2/5/07	1/6/07	10950	2/19/07
METER READINGS		CONSUMPTION	AMOUNT
5412200	5405300	6,900	\$665.92
PRICE CHANGE 7-1-06 RECONNECT FEE/ CUTOFF \$75.00/ SECOND OFFENSE \$100.00			
PAST DUE AFTER		AMOUNT DUE	
3/3/07		\$665.92	
After Due Date		\$732.51	

Chk 4546

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
1/5/07	12/5/06	10950	1/17/07
METER READINGS		CONSUMPTION	AMOUNT
5405300	5390400	14,900	\$689.48
PRICE CHANGE 7-1-06 RECONNECT FEE/ CUTOFF \$75.00/ SECOND OFFENSE \$100.00			
PAST DUE AFTER		AMOUNT DUE	
2/5/07		\$689.48	
After Due Date		\$758.43	

Chk 4227

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
11/5/07	10/5/07	10950	11/19/07
METER READINGS		CONSUMPTION	AMOUNT
5454300	5450500	3,800	\$655.85
Accounts not paid by the 10th are subject to disconnect. Reconnect fee \$75 Second offense \$100			
PAST DUE AFTER		AMOUNT DUE	
12/5/07		\$655.85	
After Due Date		\$721.44	

Chk 4826

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
5/5/07	4/5/07	10950	5/15/07
METER READINGS		CONSUMPTION	AMOUNT
5428700	5423100	5,600	\$661.70
To all Customers: Plan to attend the Annual Meeting - July 10, 6pm - Macedonia VF Dept.			
PAST DUE AFTER		AMOUNT DUE	
6/5/07		\$661.70	
After Due Date		\$727.87	

Chk 4311



1 of 1 DOCUMENT

SOUTH CAROLINA CODE OF LAWS ANNOTATED BY LEXISNEXIS(R)

*** This document is current through all Legislation enacted in the 2012 Session ***
 *** The most current annotation is dated May 29, 2013 ***

TITLE 58. PUBLIC UTILITIES, SERVICES AND CARRIERS
 CHAPTER 5. GAS, HEAT, WATER, SEWERAGE COLLECTION AND DISPOSAL, AND STREET RAILWAY
 COMPANIES
 ARTICLE 3. REGULATION OF RATES AND SERVICES GENERALLY

GO TO SOUTH CAROLINA STATUTES ARCHIVE DIRECTORY

S.C. Code Ann. § 58-5-390 (2012)

§ 58-5-390. Tap fees for installation and maintenance of fire sprinkler system; exception.

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

(B) For purposes of this section, actual costs include direct labor, direct material, the necessity of increased capacity, and other direct charges associated with the separate fire sprinkler line. The direct costs must be documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line. Nothing in this section may be construed as requiring a utility to provide service to support a private fire protection system.

(C) Nothing in this section shall give the commission or the regulatory staff any power to regulate or interfere with public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority as defined in Chapter 25 of this title or their agencies.

HISTORY: 2008 Act No. 357, § 1, eff June 25, 2008; 2010 Act No. 232, § 3, eff June 7, 2010.

NOTES: Effect of Amendment

The 2010 amendment added the subsection designators and added subsection (C), relating to public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority.

2011 WL 2214071 (S.C.A.G.)

Office of the Attorney General
State of South Carolina

*1 May 18, 2011

The Honorable Dennis Moss
South Carolina House of Representatives
District 29
418A Blatt Building
Columbia, SC 29211

Dear Representative Moss:

We are in receipt of your letter requesting an opinion of this Office regarding an interpretation of S.C. CODE ANN. § 58-5-390. Specifically, you ask: (1) whether a water company may charge a monthly minimum fee for a water line associated with a fire sprinkler and (2) if so, whether the monthly minimum fee may exceed the actual costs associated with the water line to the system. This opinion addresses the relevant statutory law.

Law/Analysis

S.C. CODE ANN. § 58-5-390(A) provides: "A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system." The words used in [a] statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation." Wortman v. Spartanburg, 310 S.C. 1, 3, 425 S.E.2d 18, 19 (1992). The plain language of S.C. CODE ANN. § 58-5-390(A) clearly contemplates fees associated with the installation and maintenance of fire sprinkler systems and specifically references "tap fee[s]," "other fee [s]," and "recurring maintenance fee[s]" of any nature or however described." Accordingly, based on the language of the statute, it appears that a water company may charge a monthly minimum fee for a water line associated with a fire sprinkler. Moreover, the statute clearly states that such a fee may not exceed the actual costs associated with the water line to the system.

Further, section B of S.C. CODE ANN. § 58-5-390 describes specifically which costs may be included in the "actual costs" associated with the water line to the fire sprinkler system and section C of the statute provides the caveat that "[n]othing in this section shall give the commission or the regulatory staff any power to regulate or interfere with public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority as defined in Chapter 25 of this title [Regional Transportation Authorities] or their agencies."

Conclusion

Based on the language of the statute, and assuming your constituent is not inquiring as to a public utility governed by Chapter 25 of Title 58 [Regional Transportation Authorities] or their agencies, it is the opinion of this Office that a water company may charge a monthly minimum fee for a water line associated with a fire sprinkler; however, that fee may not exceed the actual costs, as defined by S.C. CODE ANN. § 58-5-390(B), associated with the water line to the

system.

Sincerely,
Elizabethann L. Felder
Assistant Attorney General

REVIEWED AND APPROVED BY:

*2 Robert D. Cook
Deputy Attorney General

2011 WL 2214071 (S.C.A.G.)

END OF DOCUMENT



ALAN WILSON
ATTORNEY GENERAL

November 20, 2012

The Honorable Dennis C. Moss
Member, House of Representatives
306 Silver Circle
Gaffney, South Carolina 29340

Dear Representative Moss:

Attorney General Alan Wilson has referred your letters of October 19, 2012 & November 9, 2012 to the Opinions section for a response. The following is this Office's understanding of your questions presented and the opinion of this Office concerning the issues based on that understanding.

Issue:

- 1) In order for South Carolina Code § 58-5-390 to apply, does a tap have to be dedicated solely to a fire sprinkler or may the tap also supply other water uses and have separate meters?
- 2) If a business has a larger tap only for the purpose of the fire sprinkler system, would the business be required to pay a fee based on the larger tap or for the size of tap that would be required for the normal day-to-day water use?

Short Answer:

- 1) South Carolina Code § 58-5-390 would most likely apply to any fire sprinkler system, regardless of whether the tap supplies only the fire sprinkler or not.
- 2) This office does not answer factual questions, but if your constituent is not able to resolve these issues with the utility company, the other possible venue would be for a court to answer these factual questions.

Law/Analysis:

- 1) This Office previously addressed a similar question for you in 2011 concerning fire sprinklers. In that opinion, this Office reiterated the law in stating that a minimum monthly fee for a fire sprinkler may not exceed the actual costs of the water line. Ops. S.C. Atty. Gen., 2011 WL 2214071 (May 18, 2011).

As a background on statutory interpretation, the cardinal rule in statutory interpretation is to ascertain the intent of the Legislature and to accomplish that intent. Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 39, 577 S.E.2d 202, 207 (2003). The true aim and intention of the legislature controls the literal meaning of a statute. The historical background and circumstances at the time a statute was passed can be used to assist in interpreting a statute. An entire statute's interpretation must be "practical, reasonable, and fair" and consistent with the purpose, plan and reasoning behind its making. Greenville Baseball v. Bearden, 200 S.C. 363, 20 S.E.2d 813, 816 (1942). Statutes are to be interpreted with a "sensible construction," and a "literal application of language which leads to absurd consequences should be avoided whenever a reasonable application can be given consistent with the legislative purpose." U.S. v. Rippetoe, 178 F.2d 735, 737 (4th Cir. 1950). This Office looks at the plain meaning of the words, rather than analyzing

The Honorable Dennis C. Moss

Page 2

November 20, 2012

statutes within the same subject matter when the meaning of the statute appears to be clear and unambiguous. Sloan v. SC Board of Physical Therapy Exam., 370 S.C. 452, 636 S.E.2d 598 (2006).

South Carolina Code § 58-5-390 says:

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

In analyzing the statute, the plain meaning of the words is clear. There is no ambiguity as to what utilities may charge fees for fire sprinkler systems because it applies to all utility companies. There are no exceptions for charging more than the installation and maintenance charges.

The next place to look is at the legislative intent. The legislative intent is unambiguous. It reads "...it is the purpose of this act to create meaningful incentives for the installation of fire sprinkler systems." 2008 South Carolina Laws Act 357 (H.B. No. 4470). The legislative intent would support a finding that the statute applies to all fire sprinkler systems without exception, even if the tap supplies other water uses.

South Carolina Code § 58-5-390(A) provides that fees for the installation and maintenance of a fire sprinkler system may not exceed the "actual costs associated with the water line to the system." The "actual costs" include the following:

- 1) direct labor;
- 2) direct material;
- 3) the necessity of increased capacity; and
- 4) other direct charges associated with the separate fire sprinkler line.

The statute also requires the direct costs to be "documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line." S.C. Code § 58-5-390(B). The language in this part of the statute is also clear and would imply the burden of showing the cost of the installation and maintenance of the sprinkler line would be with the utility company to provide the documentation supporting the charges.

2) The size of a tap needed and whether or not an individual would be required to pay a larger fee based on a larger tap needed for a sprinkler system is a factual question. The issue would need to be resolved with the utility company. If your constituent is not satisfied with the answer from the utility company, a court may be able to resolve these factual issues and answer the underlying questions. As you may well be aware, this Office does not issue factual opinions. Op. S.C. Atty. Gen., 1996 WL 599391 (September 6, 1996) (citing Op. S.C. Atty. Gen., 1983 WL 182076 (December 12, 1983)).

Please note if the water company is a public utility, as defined in South Carolina Code § 58-5-10(4), then any issues should be addressed with the public service commission. Ops. S.C. Atty. Gen., 1978 WL 34948 (June 19, 1978).



Wells Fargo Business Online®

ELECTRONICALLY FILED - 2016 Dec 30 3:41 PM - CHEROKEE - COMMON PLEAS - CASE#2014CP1100938

View Check Copy

Check Number 7386 Date Posted 11/09/12 Check Amount \$1,000.00 Account Number CUSTOM BUSINESS CHECKING XXXXXXXXX6947

RUGS INTERNATIONAL LLC
P.O. BOX 150
CANTON, OH 44705
PH 330-877-0001

7386
NOV 9 2012

DATE Nov 2, 2012

PAY TO THE ORDER OF Macedonia Water Work \$ 1,000.00

One Thousand & 00/100

MACEDONIA

FOR Dep. install

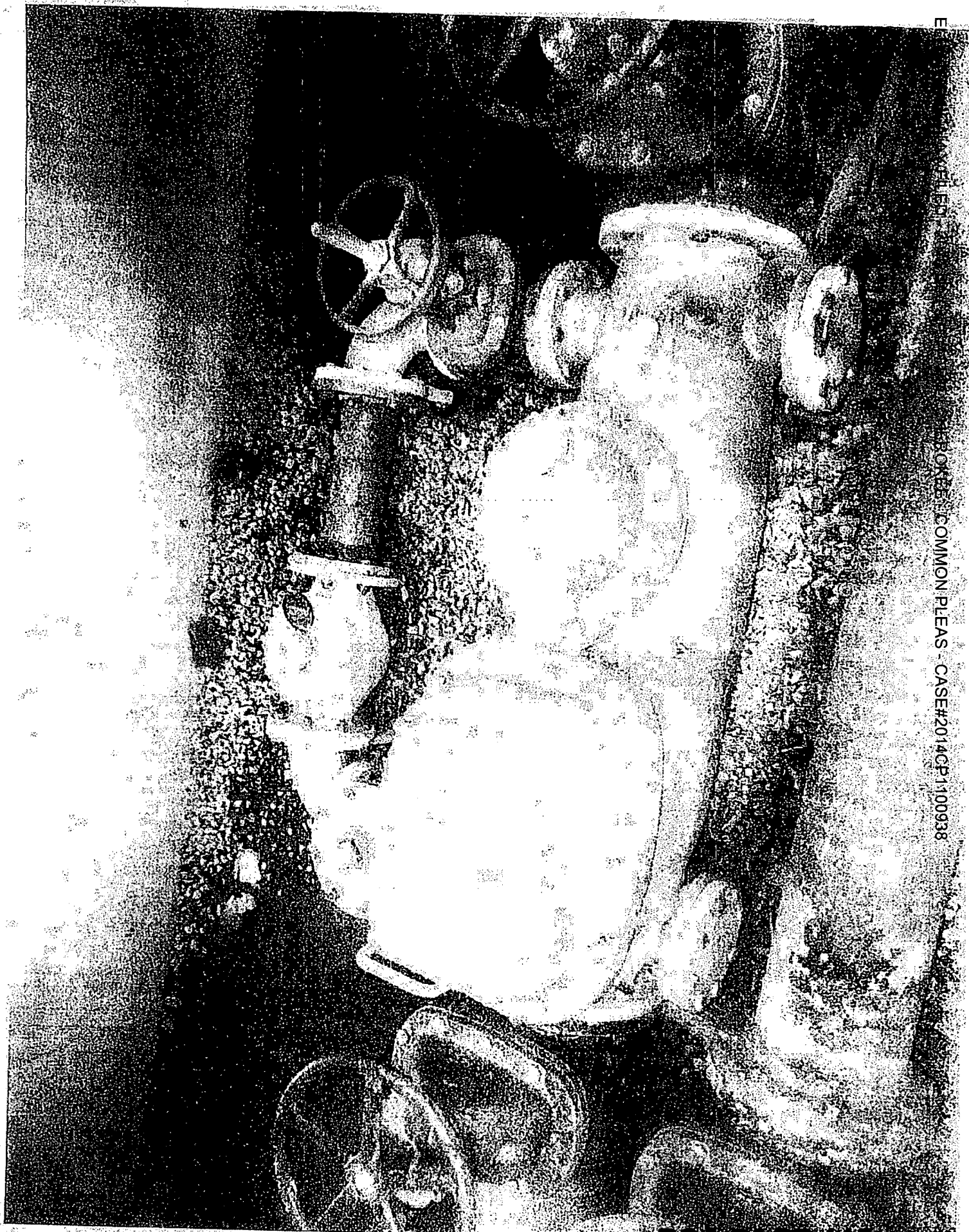
Ad. L.

PAY TO THE ORDER OF
FIRST FEDERAL
PER DEPOSIT ONLY
MACEDONIA WATER WORKS INC.
0303114204

553

Equal Housing Lender
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STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Joey Lemmons d/b/a Rugs International,

Plaintiff,

vs.

Macedonia Water Works, Inc.,

Defendant.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-11-0938DEFENDANT'S ANSWERS TO FIRST
SET OF INTERROGATORIES OF
PLAINTIFFTO: JOEY LEMMONS D/B/A RUGS INTERNATIONAL, BY AND THROUGH ITS
ATTORNEY, N. DOUGLAS BRANNON

The Defendant hereby answers the First Set of Interrogatories of Defendant in accordance with the provisions of Rule 33(b) of the South Carolina Rules of Civil Procedure as follows:

I. RESERVATION OF RIGHTS

1. Responding to the Interrogatories, Defendant does not waive any objections which may be appropriate either to (a) use by Defendant for any Answer to these Interrogatories for any purpose or (b) question the materiality of any of the Interrogatories to any issue in this case.

2. Defendant specifically reserves all rights to objections which may otherwise be available to it and further states that no response should be deemed as an admission of relevancy, materiality or admissibility into evidence of any particular interrogatory or the response thereto. Defendant further reserves the right to alter or amend its answers to be more accurate if other information becomes available to it at a subsequent time.

3. The answers herein are subject to the rights of Defendant to object and not be bound at any time to a demand for further response to these or other interrogatories or other discovery procedures.

II. GENERAL OBJECTION

1. Defendant objects to responding to any Interrogatory that seeks information which constitute confidential attorney-client communications or which falls within the scope of the attorney-work-product doctrine.

2. Defendant objects to responding to any Interrogatory that exceeds the scope and limits of discovery set forth in Rules 33 and 34 of the South Carolina Rules of Civil Procedure.

III. ANSWERS TO INTERROGATORIES

1. Give the names and addresses of persons known to the party or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

Answer:

- A. Donnie L. Hardin, Chairman - Macedonia Water Works, Inc. Mr. Hardin will testify in his capacity as Chairman of Macedonia Water Works, Inc., regarding water system operations, including water lines, water meters, installation and billing for water services.
- B. Juanita Hough, Secretary - Macedonia Water Works, Inc. Ms. Hough will testify regarding the records of Macedonia Water Works, Inc.
- C. Dennis Lowry, Tim Lowry, and Sheron Lowry - Lowry Utilities - Their testimony will be used to described types of lines and taps installed in the water system for Macedonia Water Works, Inc.
- D. William H. Bingham, Jr., P.E., of American Engineering Consultants, Inc. Mr. Bingham is expected to testify regarding his inspection of Plaintiff's water meter, housing and relevant appurtenances which are the subject of this litigation. Mr. Bingham is expected to testify in his professional capacity as to the operations of compound meters, taps, separate or designated fire lines, ratemaking and general engineering matters associated with the operation of a water utility.

2. Set forth a list of photographs, plats, or other prepared documents in your possession that relate to the claim (or the defense) in the case.

Answer: Enclosed.

3. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

Answer: N/A

4. Set forth the names and addresses of all self insured companies related to this claim and set forth the amounts of coverage provided by each such company.

Answer: N/A

5. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

Answer: William H. Bingham, Jr., P.E.
American Engineering Consultants, Inc.
1300 12th Street
P. O. Box 2299
Cayce, SC 29171

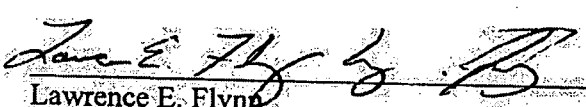
6. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witness.

Answer - See Item 1 above.

7. If the Defendant(s) is/are improperly identified, give the property identification and state whether counsel will accept service of an amended Summons and pleadings reflecting the correct information.

Answer - Defendant has been properly identified.


Joseph L. Mathis
Saint-Amand, Thompson & Mathis, LLC
210 South Limestone Street
Gaffney, South Carolina 29340
Tel.: 864-489-6052
Fax: 864-489-5406


Lawrence E. Flynn
Pope Flynn Group
1411 Gervais Street, Suite 300
P. O. Box 11509
Columbia, South Carolina 29211
Tel.: 803-354-4900
Fax: 803-354-4899

April 24, 2015
Gaffney, South Carolina

Attorneys for Defendant

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Joey Lemmons d/b/a Rugs International,

Plaintiff,

vs.

Macedonia Water Works, Inc.,

Defendant.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-11-0938

DEFENDANT'S RESPONSES TO
REQUEST FOR PRODUCTION OF
DOCUMENTS OF PLAINTIFF

TO: JOEY LEMMONS D/B/A RUGS INTERNATIONAL, BY AND THROUGH ITS
ATTORNEY, N. DOUGLAS BRANNON

The Defendant, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, hereby responds to the Plaintiff's First Request for Production of Document as follows:

1. Please produce all documents that Defendant relied on, or referred to, in responding to Plaintiff's discovery requests.

RESPONSE: Enclosed.

2. Provide all photographs, plats, sketches or other prepared documents in the possession of the Defendant or his counsel that relate to all claims and defenses in the case.

RESPONSE: Enclosed.

3. Provide copies of any and all investigative materials which you allege indicate no liability in this case.

RESPONSE: N/A

4. Provide copies of any and all documents which Defendant intends to use in any manner at the trial of this case and in any deposition in this case.

RESPONSE: Enclosed.

5. All documents and records which constitute the basis for, and/or which support, any and all claims and defenses in the case.

RESPONSE: Enclosed.

6. All statements, written and/or recorded, of any party and witnesses in this case.

RESPONSE: Enclosed.

7. All reports of all experts, with a current Curriculum vitae, data, and other information considered by the expert in forming opinions, all exhibits to be used as a summary of or support for the opinions, and all treatises, texts or authorities upon which the expert especially relied.

RESPONSE: To be provided.

8. Please produce a privilege log with author, recipients, subject matter, date and complete basis for any privilege asserted for each document upon which any privilege is claimed.

RESPONSE: None at this time.

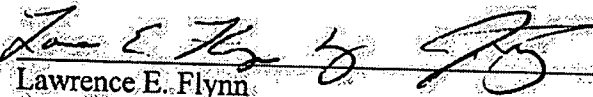
9. For the past four (4) years, set forth the total amount of fees paid by Plaintiff to the Defendant for water service.

RESPONSE: See enclosed statement.

10. Provide the number of gallons of water that have passed through the compound meter each month for the past four (4) years.

RESPONSE: See enclosed statement.


Joseph L. Mathis
Saint-Amand, Thompson & Mathis, LLC
210 South Limestone Street
Gaffney, South Carolina 29340
Tel.: 864-489-6052
Fax: 864-489-5406


Lawrence E. Flynn
Pope Flynn Group
1411 Gervais Street, Suite 300
P. O. Box 11509
Columbia, South Carolina 29211
Tel: 803-354-4900
Fax: 803-354-4899

Attorneys for Defendant

April 24, 2015
Gaffney, South Carolina

COPY COPY

BYLAWS
OF
MACEDONIA WATER WORKS, INC.

ARTICLE I

General Purposes

The purpose for which this corporation is formed, and the powers which it may exercise are set forth in the articles of incorporation of the corporation.

ARTICLE II

Name and Location

Section 1. The name of this corporation is the MACEDONIA WATER WORKS, INC.

Section 2. The principal office of this corporation shall be located in the County of Cherokee, State of South Carolina.

ARTICLE III

Seal

Section 1. The seal of the corporation shall have inscribed thereon the name of the corporation, the year of its organization and the words, "Corporation Not For Profit, Macedonia Water Works, Inc."

Section 2. The secretary of the corporation shall have custody of the seal.

Section 3. The seal may be used for causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE IV

Fiscal Year

The fiscal year of the corporation shall begin the 1st day of January in each year.

ARTICLE V

Membership

Section 1. Membership will be limited to those who obtain the organization's services, acquire a tangible interest in its assets in proportion to the business done with the organization and have a voice in its management.

Section 2. Every person (which word as used herein includes any legal entity) who is a record owner of a fee or undivided fee interest, or having a substantial possessory interest, in a property served by the water system may become a member of the corporation upon signing such applications and agreements for the purchase of water as may be provided and required by the corporation and upon the payment of such connection fee as may be imposed by the board of directors provided that only one membership at a time may be held for each property served. A single membership may be issued to all persons owning or having a substantial possessory interest in the property. Only one membership may be held with respect to property at one time. The board of directors shall cause to be issued appropriate certificates of membership provided that membership shall not be denied because of the applicant's race, color, creed, sex, age, marital status, or national origin. Membership may be denied if capacity of the corporation's water system is

exhausted by the need of its existing members, or, if the proposed use of the applicant is such that it would interfere with existing uses previously authorized by the board of directors.

A. A substantial possessory interest is one where the person or persons have a legal right to control and occupancy of a property but do not have the legal or the equitable ownership of the property. It may be under a lease or similar right to possession.

(1) Before membership is allowed to one or more persons claiming such an interest, the corporation will endeavor to obtain the application for membership from the owner of such property.

(2) Where membership is granted to one or more persons having a substantial possessory interest, the corporation, as a condition to the membership, may require such applicant to post such collateral or bond as the directors determine necessary to fully protect the corporation from any additional risk that may be involved to the corporation by reason of the lack of legal ownership in the applicant.

Section 3. Each member shall have only one membership for each property served, regardless of the number of service connections the member may obtain to serve the property. Each membership certificate shall represent one vote. When more than one person holds the interest in a property served, the vote shall be exercised by the person in whose name the certificate is registered or by such person as the several persons may designate, but in no event shall more than one vote be cast with respect to any property.

*I vote
property*

*I vote
for
@prop*

Section 4. Membership shall be transferable but the transfer shall be effective only when noted on the books of the corporation. Such transfer will be made only by a person who obtains a qualifying

interest in the property. A member will transfer membership in the corporation to a successor in interest as part of the transaction whereby the member disposes of any interest to said property. The secretary, upon request, will make note of such transfer upon the records of the corporation but need not issue a new certificate to the successor in interest of the previous existing member.

Section 5. When membership in the corporation is not transferred, it shall terminate upon the disposition or other termination of the member's interest in the property, regardless of whether or not the certificate is surrendered to the corporation. Membership also may be terminated by action of the board of directors where the use of the property is changed so as to materially increase the amount of water consumed to the prejudice of other existing members or to the prejudice of the orderly operation of the system.

Section 6. Termination of membership will not result in forfeiture of the former member's rights and interest in the organization's assets and the former member will not be precluded from receiving a proportionate share of any subsequent distribution of such assets by the organization.

Section 7. The termination of the membership of any member shall not disqualify for membership any other person who has or obtains an interest in the property of the terminated member and who otherwise meets the requirements of these bylaws.

Section 8. In the event a member's property interest is divested other than by voluntary means, such member's membership will pass to the trustee, receiver, executor, or the like who will be entitled either in person or through a designated representative

to exercise all of the rights incident to such membership, but subject to such duties and liabilities also applicable to the membership. The trustee, receiver, executor, or the like, may terminate such membership by written notice to such effect delivered or mailed to the secretary of the corporation. Upon the final disposition of such property rights, the owner thereof shall be entitled to membership in like manner as if the membership had been transferred to the owner by the original member as set forth in Section 4 above.

Section 9. Upon the transfer of a membership, the corporation will not look to the successor in interest for the payment of any past due amounts. The corporation will seek collection only from the individual who incurred such charges or assessments or from the property itself if a judgment lien had been duly perfected against such property.

ARTICLE VI

Membership Certificates

Section 1. This corporation shall not have capital stock. Membership in the corporation shall be represented by membership certificates. Such certificates shall represent the right to use and enjoy the benefits of the corporation's water supply system upon the payment of necessary assessments, if any, and of reasonable charges based upon such use, provided such use and enjoyment are consistent with the rules, regulations, and contracts affecting the same as may from time to time be prescribed by the board of directors.

Section 2. A membership certificate shall be issued to each holder of fully paid membership, numbered consecutively in accordance with the order of issue, and bear on its face the following statement:

This membership certificate is issued and accepted in accordance with and subject to the conditions and restrictions stipulated in the articles of incorporation and bylaws and amendments to the same of the Macedonia Water Works, Inc.

ARTICLE VII

Meetings of Members

Section 1. The annual meeting of the members of this corporation shall be held at the County of Cherokee, State of South Carolina at 7:00 o'clock P.M., on the second Tuesday in March of each year, if not a legal holiday, or if a legal holiday on the next business day following. The place, day, and time of the annual meeting may be changed to any other convenient place, day, and time in the county by the board of directors giving notice thereof to each member not less than ten (10) days in advance thereof.

Section 2. Special meetings of the members may be called at any time by the action of the board of directors and such meetings must be called whenever a petition requesting such meetings is signed by at least ten percent of the members and presented to the secretary or to the board of directors. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted thereat except such as is specified in the notice.

Section 3. Notice of meetings of members of the corporation, both regular and special, shall be given by notice mailed by first-class mail to each member of record, directed to the address shown upon the books of the corporation, not less than ten (10) nor more than forty (40) days prior to such meeting. Such a notice shall state the nature, time, place and purpose of the meeting, but no failure or irregularity of notice of

any annual meeting, regularly held, shall affect any proceedings taken thereat.

Section 4. The majority of the members present and voting at a meeting shall constitute a quorum.

Section 5. Directors of this corporation shall be elected at the annual meeting of the members as provided in Article VIII, Section 1. No cumulative voting shall be allowed.

Section 6. The order of business at the regular meetings and so far as possible at all other meetings shall be:

1. Calling to order and proof of quorum.
2. Proof of notice of meeting.
3. Reading and action on any unapproved minutes.
4. Reports of officers and committees.
5. Election of directors.
6. Unfinished business.
7. New business.
8. Adjournment.

ARTICLE VIII

Directors and Officers

Section 1. The board of directors of this corporation shall consist of nine (9) members, all of whom shall be members of the corporation. The directors named in the articles of incorporation shall serve until the first annual meeting of the members and until their successors are elected and have qualified. At the first annual meeting of the members, three (3) directors shall be elected for a term of one year; three (3) directors for a term of two years; and three (3) directors for a term of three years. At each annual meeting thereafter, the members shall elect

for a term of three years the number of directors whose terms of office have expired. Each director shall hold office for the term for which elected and until a successor shall have been elected and qualified.

Section 2. The board of directors shall meet within ten (10) days after the annual election of directors and shall elect a president, vice-president, secretary and a treasurer, from among themselves, each of whom shall hold office until the next annual meeting and until the election and qualification of a successor unless sooner removed by death, resignation, or for cause.

Section 3. If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, or otherwise, except by removal from office, a majority of the remaining directors, shall by a majority vote, choose a successor who shall hold office until the next regular meeting of the members of the corporation, at which time the members shall elect a director for the unexpired term or terms.

Section 4. A majority of the board of directors shall constitute a quorum at any meeting of the board. The affirmative vote of the majority of the directors at a meeting at which a quorum is present shall be the act of the board.

Section 5. Compensation of officers may be fixed only at any regular or special meeting of the members of the corporation. Directors shall receive no compensation for their services as such.

Section 6. Officers and directors may be removed from office in the following manner: Any member, officer or director may present charges against a director or officer by filing them in writing with the secretary of the corporation. If presented by a member, the charges must be accompanied by a petition signed by ten percent of the members of the

corporation. Such removal shall be voted on at the next regular or special meeting of the members and shall be effective if approved by a vote of a majority of those voting if a quorum is present. The director or officer against whom such charges have been presented shall be informed in writing, of such charges at least twenty days prior to the meeting, and shall have the opportunity at such meeting to be heard in person or by counsel and to present witnesses; and the person or persons presenting such charges shall have the same opportunity. If the removal of a director is approved, such action shall also vacate any other office held by the removed director in the corporation. A vacancy in the board thus created shall immediately be filled by a vote of a majority of the members present and voting at such meeting. A vacancy in any office thus created shall be filled by the board of directors from among their number so constituted after the vacancy in the board has been filled.

ARTICLE IX

Duties of Directors

Section 1. The board of directors, subject to restrictions of law, the articles of incorporation, and these bylaws, shall exercise all of the powers of the corporation, and, without prejudice to or limitation upon their general powers, it is hereby expressly provided that the board of directors shall have, and are hereby given full power and authority in respect to the matters as hereinafter set forth to be exercised by resolution duly adopted by the board:

A. To approve membership applications and to issue appropriate certificates and to permit the connection of properties to the system in the future in cases involving proposed construction or may issue

such certificates prior to the commencement of the proposed construction.

B. To select and appoint all agents or employees of the corporation, remove such agents or employees of the corporation, prescribe such duties and designate such powers as may not be inconsistent with these bylaws, fix their compensation and pay for faithful services.

C. To borrow from any sources, money, goods, or services and to make and issue notes and other negotiable or non-negotiable instruments evidencing indebtedness of the corporation; to make and issue mortgages, deeds of trust, pledges of revenue, trust agreements, security agreements and financing statements and other instruments evidencing a security interest in the assets of the corporation; and, to do every act and thing necessary to effectuate the same.

D. To prescribe, adopt and amend, from time to time such equitable uniform rules and regulations as, in its discretion, may be deemed essential or convenient for the conduct of the business and affairs of the corporation and the guidance and control of its officers and employees, and to prescribe adequate penalties for the breach thereof.

E. To order, at least once each year, an audit of the books and accounts of the corporation by a competent public auditor or accountant. The report prepared by such auditor or accountant shall be submitted to the members of the corporation at their annual meeting, together with a proposed budget for the ensuing year. Copies of such audits and budgets shall be submitted to such parties as may be required by other agreements.

F. To fix and alter the charges to be paid by each member for services rendered by the corporation to the member, including connection or reconnection fees where such are deemed to be necessary by the directors, and to fix and alter the method of billing, time of payment, manner of

collection, and penalties for late or nonpayment of the same. The board may establish one or more classes of users. All charges shall be uniform and nondiscriminating within each class of users.

G. To require all officers, agents, and employees charged with responsibility for the custody of any of the funds of the corporation to give adequate bonds, the cost thereof to be paid by the corporation, and it shall be mandatory upon the directors to so require.

H. To select one or more banks to act as depositories of the funds of the corporation and to determine the manner of receiving, depositing, and disbursing the funds of the corporation and the form of checks and the person or persons by whom the same shall be signed, with the power to change such banks and the person or persons signing such checks and the form thereof at will.

I. To levy assessments against the members of the corporation in such manner and upon such proportional basis as the directors deem equitable, and to enforce collection of such assessments by the suspension of water service or other legal methods. The board of directors shall have the option to suspend the service of any member who has not paid such assessment within 30 days from the date the assessment was due, provided the corporation must give the member at least 15 days' written notice at the address of the member on the books of the corporation of its intention to suspend such service if the assessment is not paid. Upon payment of such assessments, any penalties applicable thereto, and a reconnection charge, if one is in effect, service will be promptly restored to such member.

ARTICLE X

Duties of Officers

Section 1. Duties of President. The President shall preside over all meetings of the corporation and the board of directors, call special meetings of the board of directors, perform all acts and duties usually performed by an executive and presiding officer, and sign all membership certificates and such other papers as may be authorized or directed to sign by the board of directors, provided the board of directors may authorize any person to sign any or all checks, contracts, and other instruments in writing on behalf of the corporation. The President shall perform such other duties as may be prescribed by the board of directors.

Section 2. Duties of the Vice-President. In the absence or disability of the President, the Vice-President shall perform the duties of the President, provided, however, that in case of death, resignation, or disability of the President, the board of directors may declare the office vacant and elect a successor.

Section 3. Duties of the Secretary. The Secretary shall keep a complete record of all meetings of the corporation and of the board of directors and shall have general charge and supervision of the books and records of the corporation. The Secretary shall attest the President's signature on all membership certificates and other papers pertaining to the corporation unless otherwise directed by the board of directors. The Secretary shall serve, mail, or deliver all notices required by law and by these bylaws and shall make a full report of all matters and business pertaining to the office to the members at the annual meeting or at such other time or times as the board of directors may require. The Secretary shall keep the corporate seal and membership certificates issued and affix said corporate seal to all papers requiring a seal. The Secretary shall keep a proper membership certificate record, showing the

name of each member of the corporation and date of issuance, surrender, transfer, termination, cancellation, or forfeiture. The Secretary shall make all reports required by law and shall perform such other duties as may be required by the corporation or the board of directors. Upon the election of a successor, the Secretary shall turn over to the successor all books and other property belonging to the corporation that the Secretary may possess.

Section 4. Duties of the Treasurer. The Treasurer shall receive all monies of the corporation; shall keep an accurate record of receipts and expenditures; and shall pay out funds as authorized by the corporation. The Treasurer shall present a financial statement every meeting of the board of directors and at other times when requested by the board and shall make a full report at the annual meeting. The Treasurer shall furnish the corporation a fidelity bond in an amount equal to the largest sum of funds in his possession at any one time. Also, the Treasurer shall perform any other duties with respect to the finances of the corporation as may be prescribed by the board of directors.

ARTICLE XI

Benefits and Duties of Members

Section 1. The corporation will install, maintain and operate a main distribution pipeline or lines from the source of the water supply and service lines from the main distribution pipeline or lines to the property line of each member of the corporation, at which points, designated as delivery points, meters to be purchased, installed, owned and maintained by the corporation shall be placed. The cost of the service line or lines from the main distribution pipeline or lines of the corporation to the property line of each member shall be paid by

the corporation. The corporation also may purchase and install a cutoff valve in each service line from its main distribution line or lines, such cutoff valve to be owned and maintained by the corporation and to be installed on some portion of the service line owned by the corporation. The corporation shall have the sole and exclusive right to use of such cutoff valve. However, the provisions of this section shall not be construed to require the acquisition or installation of meters or cutoff valves where the directors determine under the circumstances of the system and the nature of the membership that the use of either or both devices is impractical, unnecessary to protect the system and the rights of the membership, and/or economically not feasible.

Section 2. Each member will be required to dig or to have dug a ditch for the connection of the service line or lines from the property line of the member to member's dwelling or other portion of the member's premises, and to purchase and have installed the portion of the service line or lines from the member's property line to the place of use on the member's premises. The member will maintain such portion of such service line or lines which shall be owned by the member, at the member's own expense. The corporation may, if the board of directors so determines, purchase the pipe for and install such portion of such service line or lines, the cost of which will, however, be paid by the individual members. In addition, each member shall pay such connection charge, if any, as may have been imposed by the board of directors before such member will be entitled to receive water from the system.

Section 3. Each member may be permitted to have additional service lines from the corporation's water system in the discretion of the board of directors upon proper application therefore and the tender or payment

not to exceed the then existing connection charge. The approval by the board of directors of additional service lines to an existing member may be made conditional upon such provisions as the board of directors determines necessary to protect the interest of other members and to allow for the orderly expansion and extension of the system. Each service line shall connect the corporation's water system at the nearest available place to the place of desired use by the member if the corporation's water system has sufficient capacity to permit the delivery of water through a service line at that point without interfering with the delivery of water through a prior service line. If the corporation's water system is inadequate to permit the delivery of water through a service line installed at such place without interfering with the delivery of water through a prior service line, then such service line shall be installed at such place designated by the corporation.

Section 4. Each member may be permitted to purchase from the corporation, pursuant to such agreement as may from time to time be provided and required by the corporation, such water as is needed for domestic, commercial, agricultural, industrial or other purposes as a member may desire, subject, however, to the provisions of these bylaws and to such rules and regulations as may be prescribed by the board of directors. Each member shall be entitled to have delivered, through the member's service lines, only such water as may be necessary to supply the needs of each member, including the member's family, business, agricultural or industrial requirements. The water delivered through each service line may be metered separate, irrespective of the number of service lines owned by a member.

Section 5. In the event the total water supply shall be insufficient

to meet all of the needs of the member or in the event there is a shortage of water, the corporation may prorate the water available among the various members on such basis as is deemed equitable by the board of directors, and may also prescribe a schedule of hours covering use of water for commercial, agricultural or industrial purposes by particular members and require adherence thereto or prohibit the use of water for commercial, agricultural or industrial purposes; provided, that if at any time the total water supply shall be insufficient to meet all of the needs of all of the members for domestic, livestock, commercial, agricultural or industrial purposes, the corporation must first satisfy all of the reasonable needs of the members for domestic purposes before supplying any water for livestock purposes and must satisfy all of the needs of all of the members for domestic and livestock purposes before supplying any water for commercial or industrial purposes; and, provided further, that where a member has more than one service line, the corporation may cut off the flow of water to the nondomestic servicelines until such time as the supply of water from the system is sufficient to meet the needs of all of the members for domestic and livestock purposes. During such periods of shutoff of additional service lines there shall be no minimum fee charges to the members having such additional service lines and the cost, if any, of resuming the flow of water to such additional service lines shall be borne by the corporation.

Section 6. The board of directors shall, with the consent of the Farmers Home Administration, so long as it shall either hold any obligations or insure any financing of the system, prior to the beginning of each calendar year, determine the flat minimum monthly rate to be charged each member during the following calendar year for a specified quantity

of water, such flat minimum monthly rate to be payable irrespective of whether any water is used by a member during any month, the amount of additional charges, if any, for additional water which may be supplied the member, and the amount of penalty for late payments, and shall fix the date for the payment of such charges. A member to be entitled to the delivery of water shall pay such charges at the office designated by the corporation at or prior to the dates fixed by the board of directors. The failure to pay water charges duly imposed shall result in the automatic imposition of the following penalties.

A. Nonpayment within ten days from the due date will be subject to a penalty of ten (10) percent of the delinquent account, which percent may be changed at the discretion of the board of directors.

B. Nonpayment within thirty days from the due date will result in the water being shut off from the member's property, provided the corporation has given the member at least 15 days written notice, as provided in Article IX, Section 1, Paragraph 1. Upon the payment by the delinquent member of past due water charges, penalties thereon and any reconnection charge, such member shall be entitled to resumption of the water supply. During the time of such suspension of water to a member, such member shall have no right to vote in the affairs of the corporation.

Section 7. The board of directors shall be authorized to require each member to enter into water users agreements which shall embody the principles set forth in the foregoing provisions of these bylaws.

ARTICLE XII

Distribution of Surplus Funds

Section 1. It is not anticipated that there will be any surplus

funds or net income to the corporation at the end of the fiscal year after provisions are made for the payment of the expenses of operation and maintenance and the funding of the various reserves for depreciation, debt retirement, and other purposes, including those required by the terms of any borrowing transaction. The occurrence in subsequent fiscal years of surplus funds or net income above the requirements of the corporation as above mentioned, including, if any, a reserve for improvements and extension of the facilities shall be taken into consideration by the board of directors in determining the water rates to be charged the members.

Section 2. The organization will provide services substantially at cost. Dividends shall not be paid on the basis of membership or shares of stock in the organization. All funds from whatever sources remaining at the end of the year in excess of those needed to meet current losses and expenses will be distributed to members in proportion to the amount of business done by them during the year subject to concurrence of the Farmers Home Administration or will be retained for such purposes as retiring indebtedness incurred in acquiring assets, expanding the organization's services, maintaining reserves for necessary purposes or reducing subsequent year's water rates. However, the organization will maintain records from which each member's rights and interest in the retained funds and assets acquired with such funds in proportion to the member's business with the organization can be determined at any time. Required records for this purpose include financial records that show the organization's revenues from all sources for each year and records, such as bills or receipts, showing the amount of each member's business annually with the organization.

Section 3. Upon dissolution, after paying off all debts and obligations, members and former members will be entitled to receive their equitable share of all the proceeds remaining to the extent practicable as reflected by the records.

ARTICLE XLII

Amendments

These bylaws may be repealed or amended by a vote of the majority of the members present at any regular meeting of the corporation, or at any special meeting of the corporation called for that purpose, except that so long as any indebtedness is held by or guaranteed by the Farmers Home Administration, the members shall not have the power to change the purposes of the corporation so as to decrease its rights and powers under the laws of the State, or to waive any requirement of bond or other provisions for the safety and security of the property and funds of the corporation of its members, or so to amend the bylaws as to effect a fundamental change in the policies of the corporation without the prior approval of the Farmers Home Administration in writing.

We certify that the foregoing bylaws were duly adopted by the members on January 15, 19 86, that the same are in full force and effect and have not been amended.

Given under our hands and the seal of the corporation this 15th day of January, 198 6.

Kepler H. Hamplowicz
Secretary

Charles A. Cogeland
President

STATE OF SOUTH CAROLINA
Secretary of State
ARTICLES OF INCORPORATION

COPY

Filing Fee \$10.00
Certified Copy 8.50
Total Fee Due \$18.50

OF

MACEDONIA WATER WORKS, INC.

For Use By
The Secretary of State

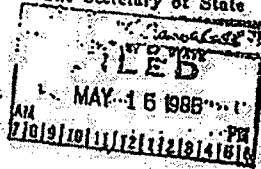
(File This Form in
Duplicate Originals)

This Space For Use By
The Secretary of State

File No. _____

(Sect. 12-771, 1002 Code
as Amended)

Fee Paid \$ _____



Date _____

(1) Name of corporation MACEDONIA WATER WORKS, INC.

(2) Address of corporation Route 3, Box 740, Gaffney, SC 29340

This corporation is a nonprofit organization which is financed in whole or in part by a loan made under the provisions of the Consolidated Farmers Home Administration Act of 1901, as amended, and no part of the income or assets of which shall be distributed to its members.

(3) The purposes for which the corporation is organized are as follows:
To form a non-profit corporation for the mutual benefit of its members by constructing, maintain, and operating a water system to supply water to its members and thereafter sell any surplus water to non-members and to engage in all activities necessary for the maintenance, operation and construction of such water system in conformity with the power vested in such corporation by the Statutory Laws of the State of South Carolina.

Date MAY 16 1986
CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THE OFFICE OF THE
SECRETARY OF STATE, SOUTH CAROLINA

SECRETARY OF STATE, SOUTH CAROLINA

(4) The period of duration of the corporation shall be perpetual (XXXXXXXXXXXXXXXXXX)

(5) The names and residences of the subscribers are as follows:

<u>Charles A. Copeland</u>	<u>Route 3, Box 740, Gaffney, SC</u>
<u>Louis Caggiano, Jr.</u>	<u>Route 7, Box 558, Gaffney, SC</u>
<u>Kesfer H. Humphries</u>	<u>Route 1, Box 730, Gaffney, SC</u>
<u>H. L. Frieza, Jr.</u>	<u>Route 1, Box 76, Gaffney, SC</u>

(6) The qualifications of the members and the manner of their admission to the corporation shall be as follows:

Individuals, corporations and political subdivisions having reasonable accessibility to the facilities and services of the corporation who comply with the requirements for membership as may be contained within the By-Laws of the Corporation and approved by a majority of the members of the Board of Directors of the Corporation.

(7) The affairs of the corporation shall be managed by what officers? President, Vice-President, Secretary and Treasurer

(8) The dates on which the above managing officers will be elected or appointed shall be at the annual meeting of the corporation.

- (9) The names of the officers who are to serve until the first election or appointment under the Articles of Incorporation are as follows: Charles A. Copeland, President, Louis Caggiano, Jr., Vice President, Keefer H. Humphries, Secretary and Frieze, Jr., Treasurer.
- (10) The number of persons constituting the first Board of Directors, Managers, or Trustees (which shall not be less than three) are nine (9) and their names and addresses are as follows:

See Attached "A"

- (11) The by-laws of the corporation are to be made, altered or rescinded by a majority of voting members present and voting in a regular meeting or in a special meeting called for that purpose.

- (12) Amendments to the Articles of Incorporation may be proposed and adopted by the members of the corporation in the following manner: By a majority of the voting members present and voting in any regular or special meeting.

- (13) Provisions which the incorporators may choose to insert for the conduct of the affairs of the corporation and any provision creating, dividing, limiting and regulating the powers of the corporation, the Directors, Managers or Trustees and the members, including, but not limited to provisions establishing classes of membership and limiting voting rights to one or more of such classes are as follows: See Schedule "B" attached hereto and made a part hereof, which is the geographical area to be served by the facilities and services of the corporation

Charles A. Copeland
Charles A. Copeland
Louis Caggiano, Jr.
Louis Caggiano, Jr.
Keefer H. Humphries
Keefer H. Humphries
H. L. Frieze, Jr.
H. L. Frieze, Jr.

- (14) Personally appeared before me, the above named incorporators, do hereby certify that they are the incorporators of the within named corporation and are authorized to execute this document, that each for himself does hereby further certify that he has read the foregoing document, understands the meaning and purport of the statements therein contained and the same are true to the best of his information and belief.

Sworn to and subscribed before me this

8th day of May 1985

William Z. Wirth
Notary Public of S. C.

My Commission expires: September 8, 1993

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RUGS INTERNATIONAL
138 WEBBER ROAD
GAFFNEY SC 29340

DATE	TRANS	AMOUNT	BALANCE	PREV READ	CUR READ	USAGESERV FROM	SERV TO	CHECK #	RECEIPT #
04/21/2014	BILLING	30.93	30.93						
05/05/2014	PAYMENT	30.93	0.00		2900	2900 03/06/2014			
05/19/2014	BILLING	29.85	29.85	2900	5470	2570			67123
06/04/2014	PAYMENT	47.85	-18.00						
06/17/2014	BILLING	34.18	16.18	5470	9370	3900			69272
07/06/2014	PAYMENT	34.18	-18.00						
07/09/2014	ADJUSTMENT	18.00	0.00						71542
07/15/2014	ADJUSTMENT	50.00	50.00						
07/16/2014	BILLING	33.75	83.75	9370	13140	3770			
08/12/2014	PAYMENT	83.75	0.00						
08/19/2014	BILLING	47.79	47.79	13140	21230	8090			74059
09/08/2014	PAYMENT	47.79	0.00						
09/15/2014	ADJUSTMENT	50.00	50.00						76623
09/17/2014	BILLING	38.82	88.82	21230	26560	5330			
10/07/2014	PAYMENT	88.82	0.00						
10/16/2014	ADJUSTMENT	50.00	50.00						78726
10/20/2014	BILLING	57.74	107.74	26560	37920	11360			
11/10/2014	PAYMENT	107.74	0.00						
11/19/2014	ADJUSTMENT	50.00	50.00						81123
11/20/2014	BILLING	51.37	101.37	37920	47110	9190			
12/08/2014	PAYMENT	101.37	0.00						
12/17/2014	ADJUSTMENT	50.00	50.00						83135
12/18/2014	BILLING	53.61	103.61	47110	56990	9880			
12/30/2014	PAYMENT	103.61	0.00						
01/20/2015	BILLING	61.18	61.18	56990	69600	12610			84731
02/05/2015	PAYMENT	61.18	0.00						
02/10/2015	ADJUSTMENT	50.00	50.00						87967
02/12/2015	BILLING	68.41	118.41	69600	84840	15240			
03/05/2015	PAYMENT	118.41	0.00						
03/18/2015	ADJUSTMENT	50.00	50.00						89963
03/19/2015	BILLING	57.77	107.77	84840	96210	11370			

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138 WEBBER ROAD
GAFFNEY SC 29341

DATE	TRANS	AMOUNT	BALANCE	PREV READ	CUR READ	USAGE SERV FROM	SERV TO	CHECK #	RECEIPT #
04/21/2014	BILLING	20.00	20.00			03/06/2014			
05/05/2014	PAYMENT	22.00	-2.00						
05/19/2014	BILLING	20.00	-18.00						67124
06/04/2014	PAYMENT	150.00	-132.00						
06/17/2014	BILLING	20.00	-112.00						69273
07/06/2014	PAYMENT	20.00	-132.00						
07/09/2014	ADJUSTMENT	132.00	0.00						71541
07/16/2014	BILLING	20.00	20.00						
08/12/2014	PAYMENT	20.00	0.00						
08/19/2014	BILLING	20.00	20.00						74058
09/08/2014	PAYMENT	20.00	0.00						
09/17/2014	BILLING	20.00	20.00						76624
10/07/2014	PAYMENT	20.00	0.00						
10/20/2014	BILLING	20.00	20.00						78727
11/10/2014	PAYMENT	20.00	0.00						
11/20/2014	BILLING	20.00	20.00						81124
12/08/2014	PAYMENT	20.00	0.00						
12/18/2014	BILLING	20.00	20.00						83136
12/30/2014	PAYMENT	20.00	0.00						
01/20/2015	BILLING	20.00	20.00						84730
02/05/2015	PAYMENT	20.00	0.00						
02/12/2015	BILLING	20.00	20.00						87968
03/05/2015	PAYMENT	20.00	0.00						
03/19/2015	BILLING	20.00	20.00						89964

ROA PAGE 143

8" Meter

Customer Historical Record
***** Macedonia *****

Account Number 10950

Resident Name RUGS INTERNATIONAL

Meter Location WEBBER AND MACEDONIA ROADS

Meter No. 7231517

Current Billing Period:			Cost + Balance	Current Reading	Previous Reading	Gallons Used	Date Paid	Amt Paid	Svc Chg	Adjust	Balance
			\$669.50	6029100	6021100	8,000	1/4/2012	\$669.50	\$0.00	\$0.00	\$0.00
Acct History	Year	Month	Cost + Balance	Current Reading	Previous Reading	Gallons Used	Date Paid	Amt Paid	Svc Chg	Adjust	Balance
	2011	11	\$659.42	6021100	6016200	4,900	12/6/2011	\$659.42	\$0.00	\$0.00	\$0.00
	2011	10	\$667.55	6016200	6008800	7,400	11/3/2011	\$667.55	\$0.00	\$0.00	\$0.00
	2011	9	\$650.00	6008800	6007100	1,700	10/5/2011	\$650.00	\$0.00	\$0.00	\$0.00
	2011	8	\$670.48	6007100	5998800	8,300	9/6/2011	\$670.48	\$0.00	\$0.00	\$0.00
	2011	7	\$650.00	5998800	5998300	500	8/4/2011	\$650.00	\$0.00	\$0.00	\$0.00
	2011	6	\$725.50	5998300	5970300	28,000	7/5/2011	\$725.50	\$0.00	\$0.00	\$0.00
	2011	5	\$763.72	5970300	5928400	41,900	6/6/2011	\$763.72	\$0.00	\$0.00	\$0.00
	2011	4	\$710.10	5928400	5906000	22,400	5/5/2011	\$710.10	\$0.00	\$0.00	\$0.00
	2011	3	\$684.80	5906000	5892800	13,200	4/5/2011	\$684.80	\$0.00	\$0.00	\$0.00
	2011	2	\$695.25	5892800	5875800	17,000	3/7/2011	\$695.25	\$0.00	\$0.00	\$0.00
	2011	1	\$671.12	5875800	5867300	8,500	2/7/2011	\$671.12	\$0.00	\$0.00	\$0.00
	2010	12	\$695.80	5867300	5850100	17,200	1/5/2011	\$695.80	\$0.00	\$0.00	\$0.00

Thursday, March 26, 2015

Page 1 of 6

ROA PAGE 144

10950 0
RUGS INTERNATIONAL
PO BOX 1500
% JOEY LEMMONS
GAFFNEY SC 29342

ROA PAGE 145

DATE	TRANS	AMOUNT	BALANCE	PREV READ	CUR READ	USAGESERV FROM	SERV TO	CHECK #	RECEIPT #
01/12/2012	xBalance	0.00	0.00						
01/18/2012	BILLING	689.48	689.48	6029100	6044000	14900	01/05/2012		
02/06/2012	PAYMENT	689.48	0.00						
02/16/2012	BILLING	717.25	717.25	6044000	6069000	25000 01/05/2012	02/07/2012	7154	1255
03/06/2012	PAYMENT	717.25	0.00						
03/19/2012	BILLING	669.50	669.50	6069000	6077000	8000 02/07/2012		7184	3986
04/05/2012	PAYMENT	669.50	0.00						
04/19/2012	BILLING	650.65	650.65	6077000	6079200	2200	04/07/2012	7227	6459
05/07/2012	PAYMENT	650.65	0.00						
05/17/2012	BILLING	650.00	650.00	6079200	6079800	600 04/07/2012		7249	8959
06/05/2012	PAYMENT	650.00	0.00						
06/14/2012	BILLING	650.00	650.00	6079800	6080900	1100	06/07/2012		11701
07/16/2012	PAYMENT	650.00	0.00						
07/19/2012	BILLING	693.60	693.60	6080900	6097300	16400 06/07/2012			13650
08/06/2012	PAYMENT	693.60	0.00						
08/16/2012	BILLING	650.00	650.00	6097300	6099100	1800			16411
09/06/2012	PAYMENT	650.00	0.00						
09/20/2012	BILLING	669.18	669.18	6099100	6107000	7900			19155
10/04/2012	PAYMENT	669.18	0.00						
10/18/2012	BILLING	678.48	678.48	6107000	6117900	10900			21184
11/05/2012	PAYMENT	678.48	0.00						
11/20/2012	BILLING	662.35	662.35	6117900	6123700	5800			23629
12/06/2012	PAYMENT	662.35	0.00						
12/17/2012	BILLING	691.40	691.40	6123700	6139300	15600			26307
01/07/2013	PAYMENT	691.40	0.00						
01/17/2013	BILLING	668.53	668.53	6139300	6147000	7700			29032
02/06/2013	PAYMENT	668.53	0.00						
02/20/2013	BILLING	663.00	663.00	6147000	6153000	6000			31570
03/05/2013	PAYMENT	663.00	0.00						
03/20/2013	BILLING	697.73	697.73	6153000	6170900	17900			33164

Time 09:42:20

10950 0
RUGS INTERNATIONAL
PO BOX 1500
% JOEY LEMMONS
GAFFNEY SC 29342

DATE	TRANS	AMOUNT	BALANCE	PREV READ	CUR READ	USAGE SERV FROM	SERV TO	CHECK #	RECEIPT #
04/03/2013	PAYMENT	697.73	0.00						
04/18/2013	BILLING	674.70	674.70	6170900	6180500	9600			35572
05/06/2013	PAYMENT	674.70	0.00						
05/21/2013	BILLING	674.70	674.70	6180500	6190100	9600			38438
06/04/2013	PAYMENT	674.70	0.00						
06/20/2013	BILLING	658.78	658.78	6190100	6194800	4700			40934
07/08/2013	PAYMENT	663.00	-4.22						
07/18/2013	BILLING	656.50	652.28	6194800	6198800	4000			43574
08/05/2013	PAYMENT	652.28	0.00						
08/20/2013	BILLING	707.35	707.35	6198800	6220200	21400			44981
09/05/2013	PAYMENT	707.35	0.00						
09/19/2013	BILLING	737.33	737.33	6220200	6252500	32300			48254
10/07/2013	PAYMENT	737.33	0.00						
10/21/2013	BILLING	727.15	727.15	6252500	6281100	28600			50545
11/05/2013	PAYMENT	727.15	0.00						
11/19/2013	BILLING	815.98	815.98	6281100	6342000	60900			52706
12/09/2013	PAYMENT	815.98	0.00						
12/18/2013	BILLING	700.20	700.20	6342000	6360800	18800			55555
01/07/2014	PAYMENT	700.20	0.00						
01/16/2014	BILLING	763.73	763.73	6360800	6402700	41900			58200
02/05/2014	PAYMENT	763.73	0.00						
02/20/2014	BILLING	762.35	762.35	6402700	6444100	41400			60097
03/04/2014	PAYMENT	762.35	0.00						
03/20/2014	BILLING	707.63	707.63	6444100	6465600	21500			61931
04/03/2014	PAYMENT	707.63	0.00						
07/06/2014	PAYMENT	50.00	-50.00						64526
07/09/2014	ADJUSTMENT	50.00	0.00						71540

ROA PAGE 146



ALAN WILSON
ATTORNEY GENERAL

August 29, 2013

The Honorable Dennis Moss
Member, South Carolina House of Representatives
306 Silver Circle
Gaffney, South Carolina 29340

Dear Representative Moss:

Attorney General Alan Wilson has referred your letter of February 11, 2013 to the Opinions section for a response. The following is our understanding of your question presented and the opinion of this Office concerning the issue based on that understanding.

Issue: May a nonprofit water company provide a month of free water to its residential customers but not to its business customers?

Short Answer: The test used by South Carolina courts in the past concerning water rates has been the reasonableness test. Therefore, the answer to your question will likely depend on whether a court interprets the water rate as reasonable or not.

Law/Analysis:

As this Office has mentioned before, if an administrative agency's interpretation of a statutory provision is reasonable, this Office generally defers to an agency's construction. Op. S.C. Atty. Gen., 2006 WL 269609 (January 20, 2006). However, it is this Office's understanding that according to your correspondence with the Office of Regulatory Staff, there is no administrative agency concerning nonprofit water companies such as the one you are dealing with. Included in your correspondence was a letter from the Office of Regulatory Staff that stated the Public Service Commission and the Office of Regulatory Staff do not have the authority to regulate the rates of a nonprofit water company. One statute cited in your correspondence was South Carolina Code § 33-36-280 (1976 Code, as amended), which says:

The rates charged for services furnished by a nonprofit corporation created for the purpose of providing water supply or sewage disposal, or a combination of those services, are not subject to supervision or regulation by a state board, commission, or agency or department or division of it.

The Honorable Dennis Moss

Page 2

August 29, 2013

Therefore, since the water company is a nonprofit corporation, if there is no state board, commission or agency to supervise the rates, the rates would, at minimum, be regulated by the contract with the customers and would also be regulated, at minimum, by the courts. While this Office has written numerous opinions concerning rates, those were written for special purpose districts, municipalities and commissions concerning their statutes and limitations, not for a nonprofit corporation furnishing water pursuant to South Carolina Code § 33-36-280. See, e.g. Ops. S.C. Atty. Gen., 2006 WL 1207272 (April 21, 2006); 2002 WL 31341808 (September 26, 2002); 1963 WL 11115 (March 12, 1963). Nevertheless, as this Office has stated before, "[a] nonresident purchaser of water from a municipality has only those rights set forth or necessarily implied from the contract to sell and furnish water and the nonresident has no rights beyond the contract." Ops. S.C. Atty. Gen., 2006 WL 1877124 (June 30, 2006) (citing Childs v. City of Columbia, 87 S.C. 566, 70 S.E. 296 (1911)). Thus, reasonableness would be the standard for the water rates. Water meter rates in ordinances are presumed to be reasonable. Poole v. Paris Mountain Water Co., 81 S.C. 438, 62 S.E. 874 (1908). Moreover, our South Carolina Supreme Court said:

As we have heretofore pointed out, the Constitution, while investing municipalities with the right to operate waterworks systems, has limited their power to charge, by directing that "reasonable" rates must be maintained. But even in the absence of this constitutional restriction, the court would hold that the rates charged must be reasonable. A waterworks is a public utility, and it makes no difference whether such utility be operated by a municipality or by a private corporation. Both are bound by the rule of reasonableness. ... "Water rates are imposed and collected merely as compensation or equivalent to be paid, by those who choose to receive and use the water." 27 R.C.L. 1436. A municipality may charge a rate that will yield a fair profit, just the same as a private corporation. The fact that it makes a profit does not show that the rate is unreasonable. The service received is the test. 67 C.J. 1243.

Simons v. City Council of Charleston, 181 S.C. 353, 187 S.E. 545 (1936). As you are likely aware, this Office does not make factual determinations. This Office only issues legal opinions. Op. S.C. Atty. Gen., 1996 WL 599391 (September 6, 1996) (citing Op. S.C. Atty. Gen., 1983 WL 182076 (December 12, 1983)). Therefore, this Office will leave it up to the courts to determine whether the rates are reasonable.

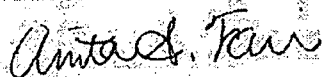
However, please note Tennessee's Attorney General's Office issued an opinion in 2012 opining that utility providers could give discounted water and sewer rates to senior citizens. Op. Tenn. Atty. Gen., 2012 WL 719468 (February 29, 2012). That same opinion also notes that discounted water rates are not authorized for charitable institutions pursuant to a Tennessee statute that requires "reasonable rates" and based on their common law principle that rates may not be "unjustly discriminatory." Id. (citing 99-026, 97-129 and referencing City of Parsons v. Perryville Utility District, 594 S.W.2d 401, 406-407 (Tenn. Ct. App. 1979)).

Conclusion: The test used by South Carolina courts in the past concerning water rates has been the reasonableness test. Therefore, the answer to your question will likely depend on whether a court interprets the water rate as reasonable or not. However, this Office is only issuing a legal opinion. Until a court or the legislature specifically addresses the issues presented in your letter, this is only an opinion.

The Honorable Dennis Moss
Page 3
August 29, 2013

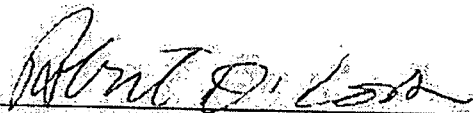
on how this Office believes a court would interpret the law in the matter. If it is later determined otherwise or if you have any additional questions or issues, please let us know.

Sincerely,



Anita Smith Fair
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General

COMMISSIONERS
John D. Edmondson, Sr.
K. Michael Ford
David E. Gibson
Michael R. Raven
C. Lane Wilson



GENERAL MANAGER
Jeffrey A. Walker

OPERATIONS MANAGER
H. Steve Poleat

OFFICE MANAGER
Sharon K. Hodge

Mr. Joe Mathis, Esq.
210 South Limestone Street
Gaffney, SC 29340

August 10, 2016

RE: Joey Lemmons vs. Macedonia Water Works, Inc.

Dear Mr. Mathis:

Per your request, the purpose of this letter is to confirm what we discussed earlier this week regarding the lawsuit referenced above.

Attorney Doug Brannon asked me to review the report regarding this matter and completed by American Engineering Consultants, Inc., and provide him with my opinion as to the manner in which the Inman-Campobello Water District (ICWD) or most other water systems that I am aware of, would charge Mr. Lemmons. As I understand it, Mr. Lemmons is served by an 8-inch compound meter in which the low flow portion of the meter assembly is a 4-inch meter.

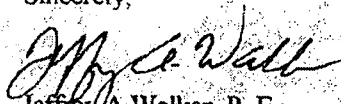
I have not been provided access to any of the billing information regarding Mr. Lemmons account. However, I understand that Macedonia bills its customers based on water consumption and has a minimum bill based on the meter size. The ICWD bills in the same manner. It is my understanding that Mr. Lemmons was billed based upon the 8-inch meter and thus was paying at least the minimum bill for an 8-inch meter.

As we discussed, among other reasons, since all of the water for this customer flowed through this meter assembly and therefore, this was not a connection dedicated to fire protection only, the ICWD would not consider this a private fire protection line. At the ICWD, a private fire protection line is solely dedicated to fire protection and consumption virtually never occurs with these types of connections, unless there is a fire. For this reason, accounts of this type are charged much less than accounts that are not solely dedicated to fire protection.

Therefore, given the same meter and the same or a similar industry, the ICWD would bill the customer the minimum bill for an 8-inch meter plus any consumption that exceeded the amount that is included in the minimum charge. Even though the meter assembly is comprised of two meters, it is still considered an 8-inch meter. The smaller meter is in place to capture lower flows that the 8-inch meter cannot detect.

I trust that the above information is what you needed but if you should have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeffrey A. Walker". The signature is fluid and cursive, with the first name "Jeffrey" being more prominent.

Jeffrey A. Walker, P. E.

General Manager

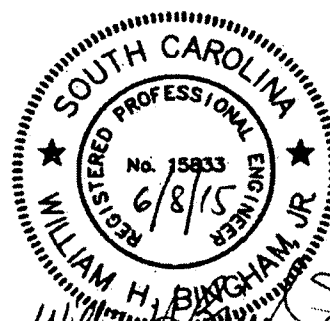
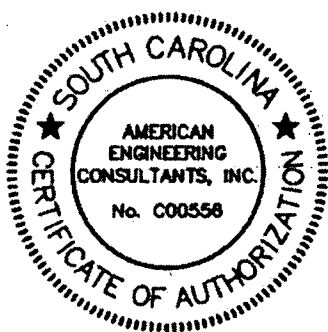
Engineering Report

Water Line Service Connection for Rugs International, Inc.

Prepared For

Macedonia Water Works, Inc.
Gaffney, SC

Jun 8, 2015

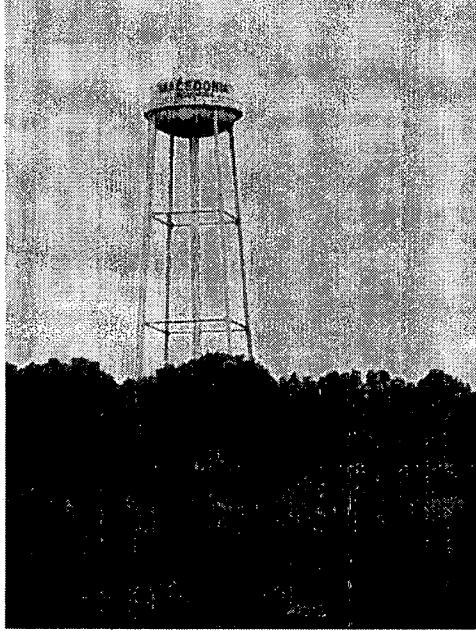


Prepared by:

American Engineering Consultants, Inc.
William H. Bingham, Jr., PE

Introduction

Macedonia Water Works, Inc. (Macedonia) is a public water utility located in Cherokee County, South Carolina. Macedonia is a non-profit corporation created for the purpose



of providing water service to its members in the unincorporated areas of Cherokee County generally located between Spartanburg County and the Town of Gaffney. Mr. Donnie Hardin serves as the Chairman of Macedonia Water Works Board, the governing body of Macedonia, which is an elected position. Mr. Hardin is employed serving as the manager of the Gaffney Board of Public Works, which supplies the potable water to the Macedonia water system. Macedonia currently provides water service to approximately 1300 customers and one of their customers is Rugs International, Inc (Rugs International). Rugs International is a retail business located at 138 Webber Road, Gaffney, SC, adjacent to Exit 87 on Interstate I-85 and is owned by Mr. Joey Lemmons. In addition to the

business of warehousing and selling rugs, the Rugs International facility houses several other businesses all operating within the single building structure. Exterior signage indicates that these additional businesses include a café and a pallet truck parts business. There is the possibility of others as well, but all the businesses are connected to the single water meter that serves the entire facility.

Macedonia contracted with American Engineering Consultants, Inc. (AEC) and Mr. William H. Bingham, Jr., PE, to provide an independent engineering opinion concerning the water service from Macedonia to the Rugs International facility. AEC is an environmental engineering consulting firm that specializes in all types of water and wastewater infrastructure projects. Mr. William H. Bingham, Jr., PE is a principal and the president of the firm with a master's degree in environmental engineering and over 35 years of experience in water and wastewater infrastructure construction and engineering. It is our understanding that Macedonia desired to consult with an engineer that has conducted no prior business with Macedonia or Rugs International and has no personal connection with anyone from Macedonia or Rugs International. Prior to this engagement, AEC and its employees have never performed any work for Rugs International, Mr. Lemmons, Macedonia, its Board members, or the Gaffney Board of Public Works.

AEC was first contacted in September, 2013 to request a site visit for the purpose of giving an unbiased engineering opinion regarding meter billing issues and whether the water service installation at Rugs International qualified as a separate fire sprinkler line as specified under SC Code § 58-5-390 based on accepted engineering practice and industry standards.

Macedonia provided AEC with a copy of a letter written by Mr. Lemmons to Macedonia claiming that he is due a credit for being overcharged on his water bill. The dispute arises over billing issues regarding fire service and commercial water service metering. Mr. Lemmons claims that he is currently billed for a single 8" water meter that serves both his commercial water needs for business and his fire sprinkler system. He further claims that since he has two meters on his tap he should only be charged for normal commercial water service on the smaller of the two meters and should be charged only for fire service on the larger of the two meters. Mr. Lemmons cites SC Code § 58-5-390 and contends that this statute applies to the installation for his business.

On November 1, 2013, Mr. Bingham visited the Rugs International site to observe the metering pit and water service configuration. Also present during the site visit was Mr. Donnie Hardin, Mr. Joe Mathis, Esq., the attorney for Macedonia, Mr. Lawrence Flynn, Esq., co-counsel for Macedonia, Mr. Joey Lemmons, the owner of Rugs International, and Mr. Doug Brannon, Esq., the attorney for Rugs International. During the visit, Mr. Bingham visually inspected the water meter pit and the connection to the facility and fire sprinkler system. Mr. Bingham verbally provided his professional opinion that the existing configuration is not considered a separate fire service line but would rather be classified as a dual purpose or combined water service line; further, Mr. Bingham determined that such configuration does not meet the requirements set forth in SC Code § 58-5-390 that would limit the fees imposed by Macedonia for the service connection or Macedonia's criteria for a dedicated fire service line.



In March 2015, Macedonia requested that AEC prepare this written report to formalize AEC's findings and give the basis for our professional engineering opinion regarding the service to the Rugs International facility after Mr. Lemmons filed a legal claim against Macedonia. Mr. Bingham conducted a subsequent site visit on May 12, 2015 for the purpose of collecting additional information needed for this report.

Water Meters and Connections

Water meters are generally provided between a utility provider's main potable water lines to each customer to provide a measurement of the volume of water consumed for billing purposes only. Water meters vary in size and style from 5/8" to over 36" with the size referring to the inlet and outlet pipeline size. In many cases, commercial and industrial buildings are required to have automatic fire sprinkler systems. When an automatic fire sprinkler system is required, the supply to the fire sprinkler system may be from a separate tap on the public utility's main water line or the supply to the fire sprinkler system may be from the domestic water supply line that services the other parts of the facility.

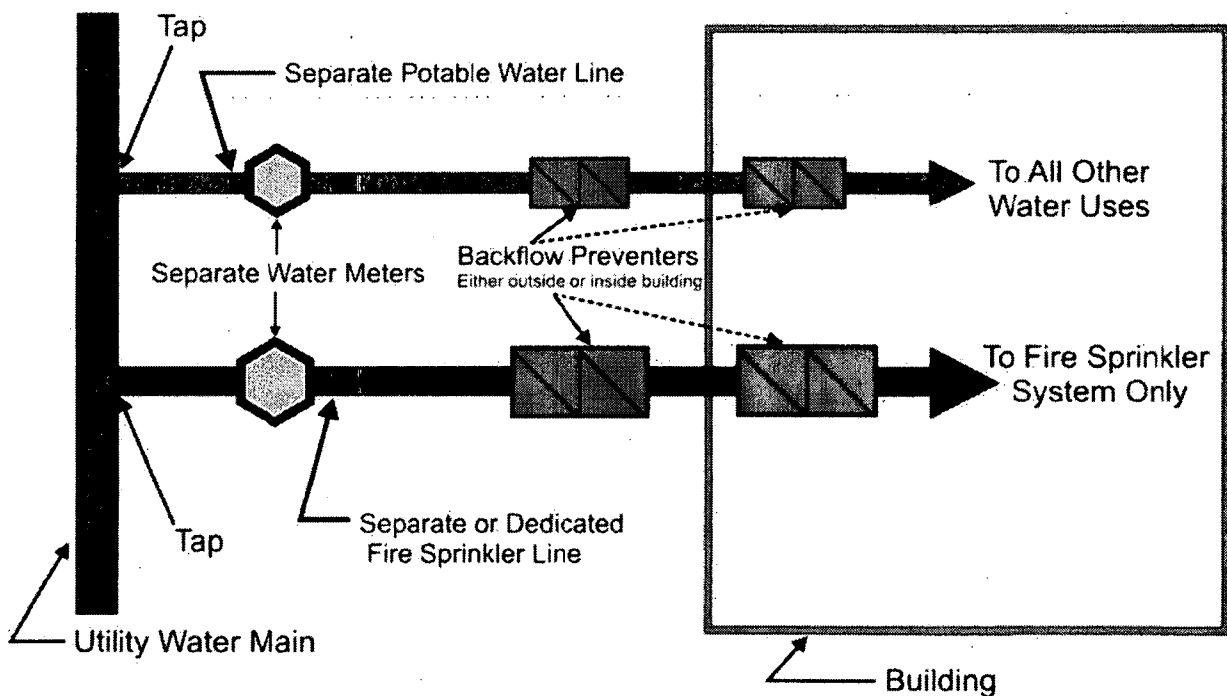


Figure 1 - Separate Commercial and Fire Sprinkler Service Piping Schematic

If the automatic fire sprinkler system's water is supplied directly from a separate tap onto the public utility's water main with a meter that serves nothing other than the fire sprinkler system, then that supply connection is referred to as a separate or dedicated fire line connection. When a facility is supplied with a separate or dedicated fire line, then a second tap and meter is also installed for the sole purpose of serving all other commercial or process water to be used by the facility. The schematic drawing of this configuration is shown in Figure 1 - Separate Commercial and Fire Sprinkler Service Piping Schematic. It should be noted that in this configuration the water consumed by

all water sources other than the fire sprinkler system is measured by one meter and a separate meter measures the fire sprinkler system water consumption.

If the automatic fire sprinkler system's water and the commercial water for a facility is supplied from a single tap onto the public utility's water main which then branches into separate metering for the commercial water service line and the fire supply service line, then that supply connection is referred to as a single tap, branched commercial and fire service connection. The schematic drawing of this configuration is shown in Figure 2 - Single Tap, Branched Commercial and Fire Sprinkler Service Piping Schematic. Just as in the separate tap schematic, this arrangement allows the utility to measure the water consumption from commercial demands separately from the water consumed in the fire sprinkler system piping.

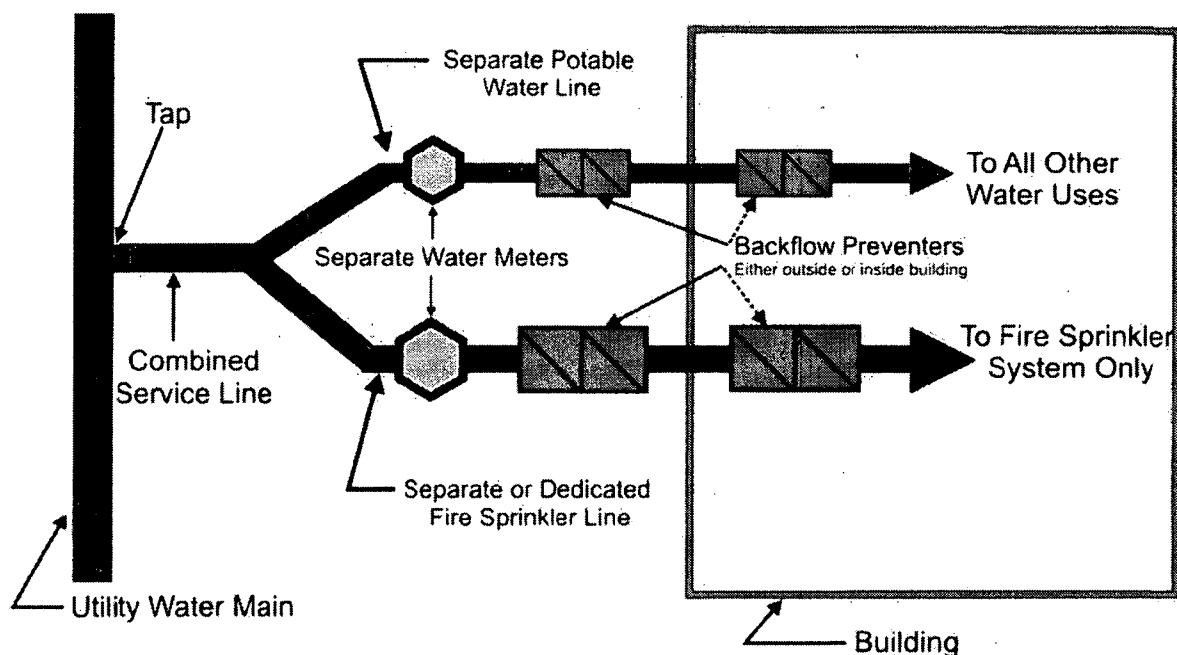


Figure 2 - Single Tap, Branched Commercial and Fire Sprinkler Service Piping Schematic

Many commercial and industrial customers use larger volumes of water for business purposes than the volumes of water that may be required for fire sprinkler systems. The water utility system has no duty to continuously monitor the operations of the customer to determine if the amount of water supplied to the facility is for business operations or fire sprinkler operation. Prior consumption history is no guarantee of future consumption. The only way that a utility can properly monitor the usage for each type of consumption is for separate water meters to be installed on the commercial water line and the fire sprinkler system supply line as shown in either Figure 1 or Figure 2.

When the automatic fire sprinkler system is supplied from a single tap on the public utility's water main with only one water meter that also serves parts of the facility other than just the fire sprinkler system, the supply connection is referred to as a dual purpose or combined service connection. The schematic drawing of this configuration is shown in Figure 3 - Dual-Purpose or Combined Commercial and Fire Sprinkler Service Schematic. In this configuration, there is no way to differentiate between the water used for commercial consumption and the water used for fire sprinkler service.

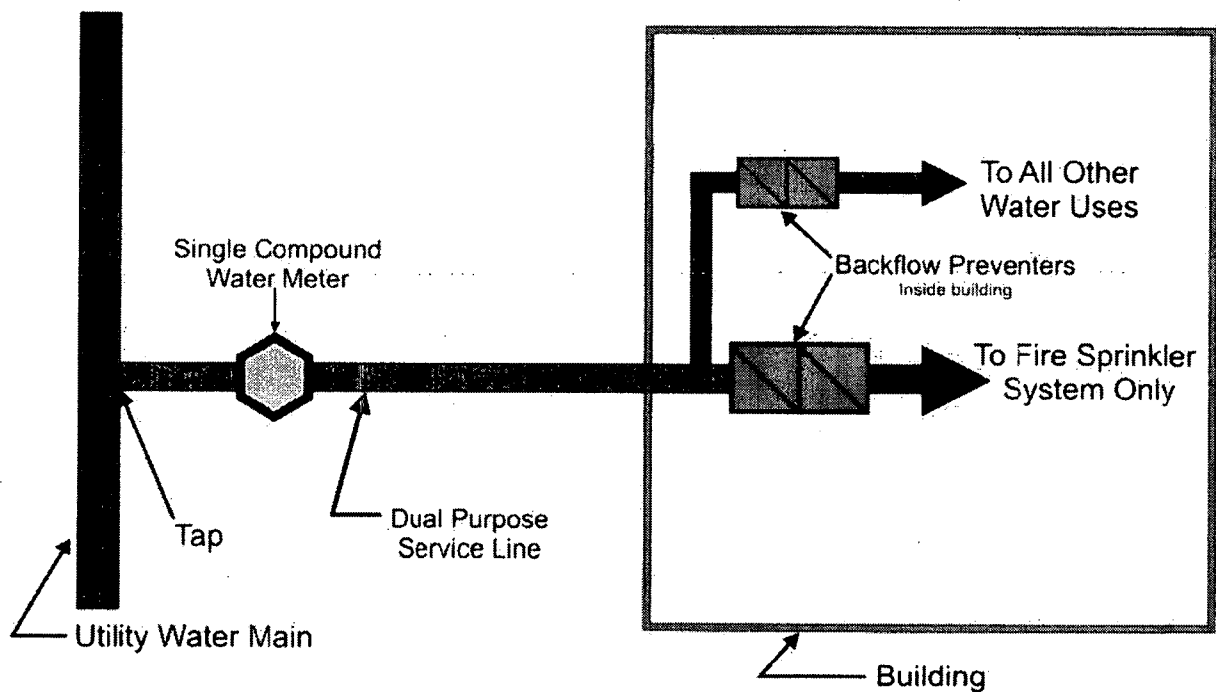


Figure 3 - Dual-Purpose or Combined Commercial and Fire Sprinkler Service Schematic

Public Utilities vary on the requirements of metering of separate or dedicated fire lines. The decision of whether or not to meter dedicated fire lines is at the sole discretion of the local water utility and is based on the tradeoff between the extra cost of reading the meters and additional headloss versus improved accountability for the water used. In some areas, public utilities will allow "detector" check valves to be used on dedicated fire lines. However, Macedonia requires the use of water meters on both dedicated fire lines and dual-purpose service lines.

Meters for any installation should be designed for the intended purpose and sized correctly for the anticipated flow to the facility. Whether they are located in dedicated fire lines or dual purpose lines, flow meters should be approved by the local fire official, must meet American Water Works Association AWWA C-703 – Cold-Water Meters – Fire-Service Type, must be FM approved, and must comply with the requirements of the National Sanitation Foundation NSF/ASTM 61 – Drinking Water System Components –

Health Effects. Using a large water meter works well for high flows in the service line, however, low flows in the line will not be measured accurately.

Installing a water meter smaller than the supply line size or downsizing water meters on dedicated or dual purpose lines can increase the accuracy of metering at lower flows but doing so interferes with the supply of higher flows and adequate fire flows because of additional friction and headloss through the smaller meter. Therefore, when a wide range of flow is expected, as in the case of a dual-purpose service line, it is usually preferable to install an approved meter assembly, which is complete with a smaller sized bypass meter to register low flows. This type of water meter is generally referred to as a compound water meter or compound fire service meter since the total flow through the meter is a compounding of the readings between the large diameter flow meter and the smaller diameter flow meter. Refer to Figure 4 - Single Compound Water Meter Schematic.

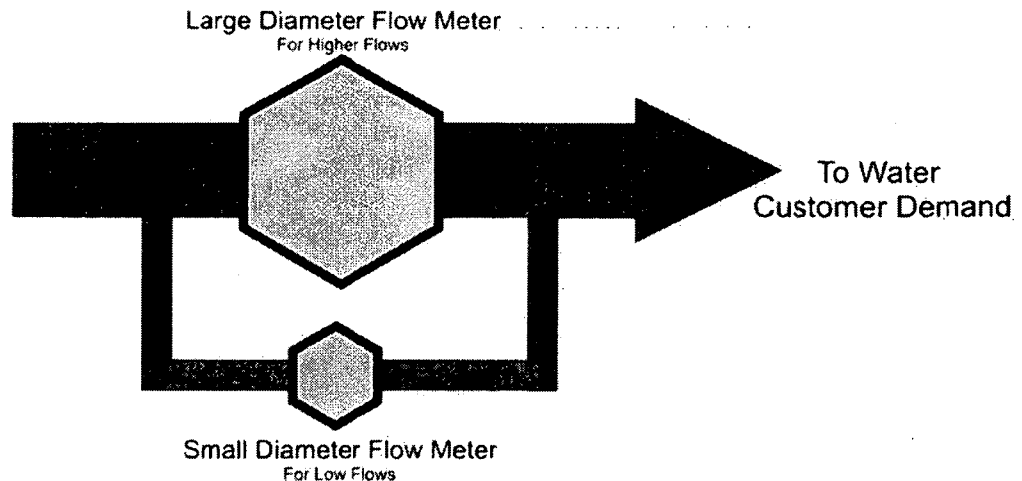


Figure 4 - Single Compound Water Meter Schematic

The water meter installed at the Rugs International service connection is an 8" Hersey Model MFM II Compound water meter with a 4" bypass meter. (See Figure 5 - Rugs International Compound Meter) A copy of the manufacturer's catalog information on this meter has been provided in the Appendix of this report. This type of water meter is primarily designed for use in both dedicated fire lines and dual-purpose water service lines. These same meters are also used in many systems as master meters for industrial facilities; entire water systems; for water system zone flow measurement; dedicated automatic sprinkler systems and fire services; and for domestic or process water systems or any application where low pressure loss and dependable accuracy over a very wide flow range are essential. The benefit of this style of meter is that it will meet AWWA specifications for measurement accuracy over flows ranging from as low as 5 gpm (gallons per minute) to flows as high as 4000 gpm. This style of meter

provides the highest and most accurate flow range available in a single meter assembly. It measures the flow using the register on the smaller sized bypass water meter when the water flowrate is relatively low and once the flowrate increases, the larger diameter meter will measure the flow. Within the meter assembly is a mainline valve that closes when the flow is low, forcing all of the water to flow through the smaller meter. Once the flow increases beyond the point that the mainline valve opens, then flow is stopped through the small meter and all flow is directed through the larger meter.

Since this style of water meter is used on both separate fire lines and dual purpose service lines, a determination of the type of water service for a given customer cannot be made simply by observing whether the meter assembly is comprised of a single meter

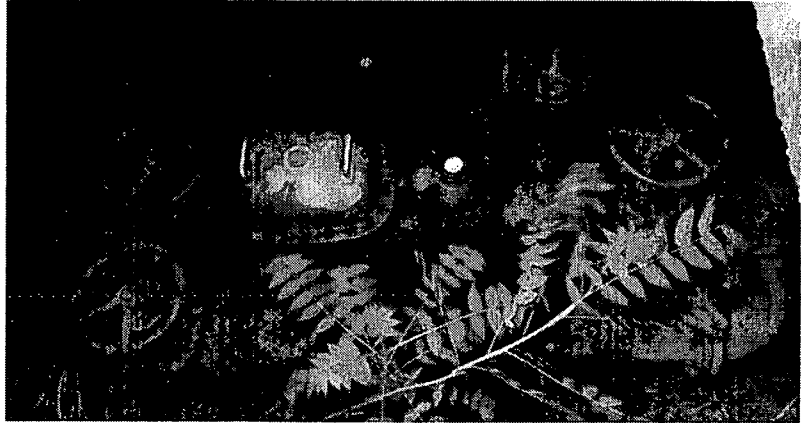


Figure 5 - Rugs International Compound Meter

or a compound meter. The use of two meters in the compound meter assembly is purely for improvement in the measurement of flow in the system and has no bearing on whether the water is used for fire sprinklers or other water consumption. Compound meters on dual-purpose service lines have no capability to differentiate between the volume of water consumed by the commercial usage of a facility from the volume of water consumed by the fire sprinkler system. There can be no assumption that the smaller meter reads the commercial water consumption and the larger diameter meter only reads the fire sprinkler consumption.

Backflow Prevention of Fire Sprinkler Systems

To provide for cross connection control and maintain safe drinking water for potable water systems the South Carolina State Primary Drinking Water Regulations R61-58, promulgated by the South Carolina Department of Health and Environmental Control, require the use of a backflow prevention device between a potable water system and a fire sprinkler system. A backflow prevention device is a special apparatus that keeps dirty water that may be in the fire sprinkler system or in industrial processes from entering and contaminating the potable water lines that serve the building or the public utilities entire potable water supply. The following excerpts from the State Drinking Water Regulations apply to fire lines and indicate that the fire sprinkler system begins after the location of the backflow preventer.

R.61-58.B.40 – "Dedicated Fire Line" means a water line connected to a public water system which is designed and used solely for a fire protection system. Such lines must be provided with an acceptable and approved backflow prevention device and must not connect at any point downstream of that device with water lines or fixtures that are used for potable water.

R.61-58.1.B.14 – A dedicated fire line protected by an approved backflow prevention device located at the point of connection to the public water system's distribution line will not require a permit to construct.

R.61-58.7.F.5 – Fire Sprinkler Systems – Fire line sprinkler systems, except those in the high hazard category shall be protected by an approved double check valve assembly. High hazard category fire sprinkler systems shall include, but not be limited to: antifreeze systems, foam systems, systems charged from or tied into ponds, lakes, streams, or any water source other than the approved public water supply. High hazard category fire sprinkler systems shall comply with the requirements of Paragraph (4) above.

In addition to the SC DHEC Regulations, the International Plumbing Code, which has been adopted by the state of South Carolina, also requires that fire sprinkler systems must be separated from the potable water supply.

International Plumbing Code, Section 608.16.4 – The potable water supply to automatic fire sprinkler and standpipe systems shall be protected against backflow by a double check-valve assembly or a reduced pressure principle backflow preventer.

Exceptions:

1. Where systems are installed as a portion of the water distribution system in accordance with the requirements of this code and are not provided with a fire department connection, isolation of the water supply system shall not be required.
2. Isolation of the water distribution system is not required for deluge, preaction or dry pipe systems.

At the Rugs International facility, there are no backflow preventers located inside the meter pit nor outside of the building between the meter and the facility. Therefore, it is assumed that the backflow preventers required by SC DHEC and building code are located inside of the facility and separate the fire sprinkler system from the potable commercial water systems.

Water Service Lines vs Fire Sprinkler Systems

A water service line is the portion of a potable waterline that precedes the backflow preventer supplying water to the fire sprinkler system. The National Fire Prevention Association (NFPA) provides the recommended specifications governing all types of fire protection systems and building systems configurations. A typical fire sprinkler riser diagram from NFPA 13 has been provided in the Appendix to this report which graphically depicts the parts of a fire sprinkler system. The water service line to the system can be either a dedicated fire service line or a dual-purpose water service line.

In either case, the fire sprinkler system is the portion of the system that follows after the backflow preventer separating the fire sprinkler system from the potable water system. The fire department connection (FDC) is an integral part of the fire sprinkler system. The FDC is a quick wye connection located as a part of the fire sprinkler system where the fire department can connect the fire truck and pump water into the fire sprinkler system, if necessary, during a fire event. The FDC is situated after the backflow preventer so that any contamination from the fire truck water will not contaminate the potable water. The backflow preventer is the transition between the potable water system and the fire sprinkler system. The backflow preventer is the point where the potable water system ends and the fire sprinkler system begins.

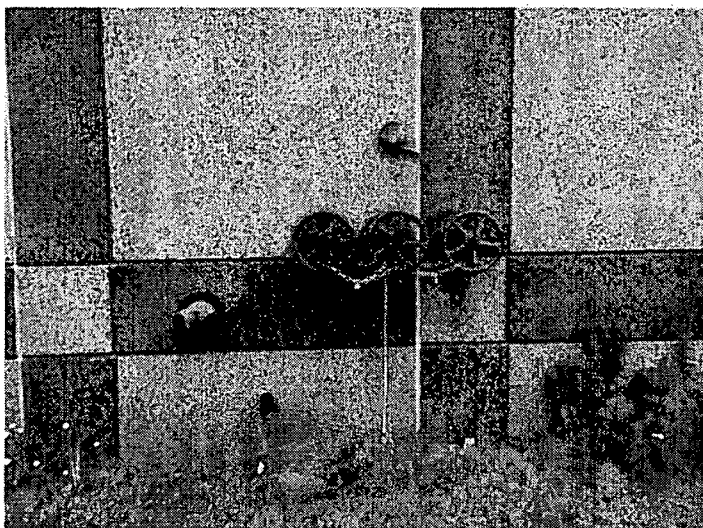


Figure 6 - Fire Sprinkler Isolation Valves and FDC at Rugs International

At the Rugs International facility, there are no backflow preventers on the outside of the facility and the FDC and the isolation valves for the fire sprinkler system are on the side wall of the building. (See Figure 6 - Fire Sprinkler Isolation Valves and FDC at Rugs International). Therefore, common engineering practice assumes that the transition between the potable water system and the fire sprinkler system occurs inside of the building.

South Carolina Limitations on Billing for Separate Fire Service Lines

In 2008, the SC Code § 58-5-390 was enacted by the South Carolina General Assembly. The purpose of this legislation was to limit a public utility's ability to charge maintenance and capacity fees for separate or dedicated fire service lines in excess of the actual direct costs for providing the service.

§ 58-5-390. Tap fees for installation and maintenance of fire sprinkler system; exception.

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

(B) For purposes of this section, actual costs include direct labor, direct material, the necessity of increased capacity, and other direct charges associated with the separate fire sprinkler line. The direct costs must be documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line. Nothing in this section may be construed as requiring a utility to provide service to support a private fire protection system.

(C) Nothing in this section shall give the commission or the regulatory staff any power to regulate or interfere with public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority as defined in Chapter 25 of this title or their agencies.

HISTORY: 2008 Act No. 357, Section 1, eff June 25, 2008; 2010 Act No. 232, Section 3, eff June 7, 2010.

The Municipal Association of South Carolina has developed guidance for water service providers concerning SC Code § 58-5-390 cited above. The guidance for is provided as follows:

What does law § 58-5-390 require?

- Requires that cost be documented by either invoice or work order.
- Costs must be specifically assigned to the separate fire sprinkler line.
- The law does not apply to combined fire and domestic lines or dual-purpose lines that serve more than fire.

Public water systems have a great deal of latitude with regard to the setting of water rates and the structure of the utilities rate schedule. Utilities determine the various components that comprise the total cost of providing the water system. Those costs include the capital costs for installation of the system and for having a sufficient supply of water available in the event of a fire. The costs also include all of the operation and maintenance costs for the purchase or treatment of the potable water and the upkeep necessary for the system. Based on these factors, the utility sets its rates to recover the total cost of providing the service. The methodology used for the rate structure varies among water providers. Macedonia utilizes a base charge that is based upon the meter size and a unit consumption charge per thousand gallons of water for all water used. This methodology for rate setting is quite common and standard for the water utility industry.

Conclusions and Engineering Opinion

At the Rugs International site, the installation has a single 8" x 4" compound water meter that serves both commercial water service for several different businesses inside and outside of the building as well as a fire sprinkler system. This configuration is a dual-purpose or compound commercial water and fire sprinkler service meter connection. There is no separate metering of the commercial water and the fire sprinkler water consumption. There are no backflow preventers installed outside between the 8" water meter and the 4" water meter that are a part of the compound meter assembly to separate the fire sprinkler system from the commercial potable water system.

Therefore, it is our professional engineering opinion that (1) the 8" compound meter currently in use by Rugs International is not a separate or dedicated fire service meter, (2) the provisions of SC Code § 58-5-390 limiting the fees that may be charged for fire sprinkler service are not applicable to this installation, (3) the fee structure of Macedonia is typical and rates are reasonable, and (4) the billing for a base charge on an 8" meter by Macedonia to Rugs International is an appropriate and proper interpretation given the current installation.

APPENDIX

Model MFMII™

Mueller SYSTEMS

Fire Line Meter

Sizes 4", 6", 8", 10", 12"

Features

APPLICATIONS: The Hersey Model MFMII® was designed for use as a combined fire and domestic service meter where one water line serves both fire and domestic, or process needs. Also as a master meter for an entire water system; for water system zones; automatic sprinkler systems and fire services; for domestic or process water systems where low pressure loss and dependable accuracy over a very wide flow range are essential. Hersey Water Meters will measure accurately at full pipe capacity and have the highest flow capability available.

CONSTRUCTION: Hersey MFM II Water Meters consist of a mainline meter to measure high-flow rates, a bypass meter to measure the lower flow rates; and a weight and lever valve (mainline valve) to automatically control the point at which the larger mainline meter registers. The valve is self-aligning and self-adjusting. The bypass includes a resilient seated isolation valve, a swing check valve, and depending upon the bypass meter, either a Hersey Model MVR™ Meter or Hersey Horizon™ Meter. The mainline meter maincase is cast iron with epoxy coating inside and out.

The MFM II is designed with an unobstructed full flow that eliminates the need for an external strainer. An internal strainer protects each measuring element.

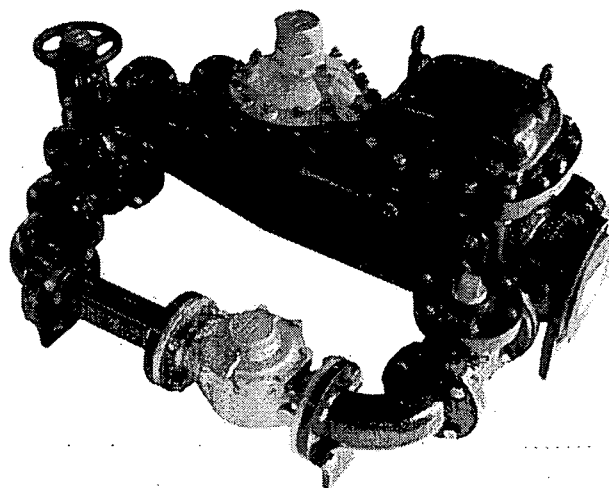
REGISTERS: Separate mainline and bypass registers are provided. Permanently sealed registers use proven magnetic drive design and the exclusive Hersey triple seal to provide clarity and error free meter reading. Internal gears in all assemblies are self-lubricating, molded plastic for long life and minimum friction. The standard registers include a straight reading, odometer-type, totalization display, a 360 degree test circle with center sweep hand, and a low-flow indicator. The Calibrator Gear Train permits accuracy calibration on MFM II mainlines and bypasses. For accuracy calibration on MVR and Horizon bypasses, consult the appropriate meter sections. All Hersey models are available with electronic meter reading systems for increased meter reading efficiency. (See Automatic Meter Reading Equipment)

OPERATION: In normal operation, during low flow rates all water flows through the bypass section and is registered by a model MVR vertical turbine meter or a Hersey Horizon Meter (see separate data pages for description of these meters). When pressure loss through the bypass section approaches 4 PSI, the mainline lever valve automatically opens permitting the torrent proportional mainline meter to measure flow. When flow rate decreases sufficiently, the mainline lever valve closes, and all lower flows are again measured by the bypass meter.

The exclusive automatic lever valve is controlled by a specially designed weight which locks the valve in the closed position until a predetermined pressure loss overcomes the weight and opens the valve. A venturi effect causes a precise portion of the total volume to pass through the torrent proportional mainline meter. The self-aligning rubber-faced valve clapper assures a positive seal for accurate bypass meter registration.

MAINTENANCE: The Hersey MFM II and bypass meters are designed and manufactured to provide long service life with low maintenance. All parts are accessible for in-line service if needed.

CONNECTIONS: ANSI class 125 flanges standard.



MFM II

Materials and Specifications

MODEL DESIGNATION	MFM II
SIZES	4" 6" 8" 10" 12"
STANDARDS	Manufactured and tested to meet or exceed all applicable parts of AWWA C703, FM approved mainline; UL listed, ULC classified.
INSTALLATION	Horizontal only with 8x pipe diameter of straight pipe (same size as meter) on inlet side of meter.
OPERATING FLOW RANGE	See Charts on the following pages
ACCURACY	See Charts on the following pages
MAXIMUM WORKING PRESSURE	175 PSI
TEMPERATURE RANGE	33°F to 100°F water temperature
MEASURING ELEMENT	Mainline — Torrent Wheel MVR — Rotor Horizon — Rotor
REGISTER TYPE	Permanently sealed, straight reading, magnetic drive with low flow indicator. Remote reading units optional.
METER CONNECTIONS	ANSI class 125 standard end flanges.
MATERIALS	Maincase — epoxy-coated cast iron; Bypass meter case — bronze UNSC84400; Valve weight, Swing arm and Seats — bronze UNSC84400; Valve discs — elastomer; Casing bolts — steel.
OPTIONS	AMR/AMI Reading Systems.

Meter Registration

Meter Size	Initial Dial*	Capacity	Initial Dial*	Capacity
4"	1000 Gal.	100 Million	100 Cubic Ft.	10 Million
6"	1000 Gal.	1 Billion	100 Cubic Ft.	100 Million
8"	1000 Gal.	1 Billion	100 Cubic Ft.	100 Million
10"	1000 Gal.	1 Billion	100 Cubic Ft.	100 Million
12"	1000 Gal.	1 Billion	100 Cubic Ft.	100 Million

*Registration equal to one full revolution of the sweep hand.

NOTE: Mainline Meter Size is reflected in the chart above for MVR or Horizon bypass meters. See appropriate sections.

Mueller Systems offers remote and AMR registers as options for new meters and retrofit applications. See Meter-Reading Systems section for more details. These options offer the utmost in remote reading flexibility, allowing for diverse combinations of remote read systems, as well as the ability to upgrade or migrate from one system to another.

Flow Characteristics

MFM II /Vertical Turbine			
Meter Size	Typical Low Flow (95% Minimum)	Typical Operating Range (100% ± 3.0%)	Maximum Intermittent Flow
4"x2"	1/4 GPM	3-1000 GPM	1250 GPM or full pipe capacity
6"x2"	2 GPM	3-2000 GPM	2600 GPM or full pipe capacity
6"x3"	2-1/2 GPM	4-2000 GPM	2600 GPM or full pipe capacity
8"x4"	3-1/2 GPM	5-4000 GPM	5000 GPM or full pipe capacity
10"x6"	5 GPM	15-6200 GPM	7750 GPM or full pipe capacity
12"x6"	5 GPM	15-6400 GPM	8000 GPM or full pipe capacity

MFM II /Horizontal Turbine			
Meter Size	Typical Low Flow (95% Minimum)	Typical Operating Range (100% ± 3.0%)	Maximum Intermittent Flow
4"x2"	2-1/2 GPM	4-1000 GPM	1250 GPM or full pipe capacity
6"x3"	3 GPM	6-2000 GPM	2600 GPM or full pipe capacity
8"x4"	4 GPM	8-4000 GPM	5000 GPM or full pipe capacity
10"x6"	9 GPM	15-6200 GPM	7750 GPM or full pipe capacity
12"x6"	9 GPM	15-6400 GPM	8000 GPM or full pipe capacity

*Performance curves are typical only and not a guarantee of performance.

**Minimum to Maximum

Model MFMII™

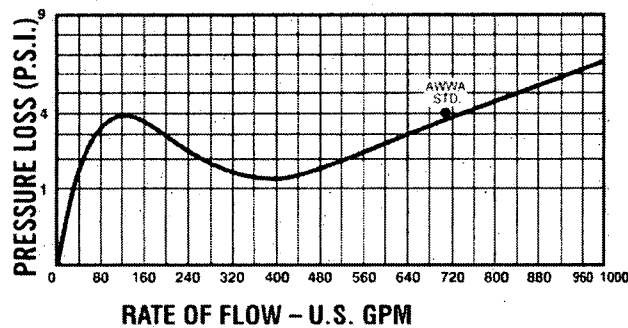
Mueller SYSTEMS

Fire Line Meter

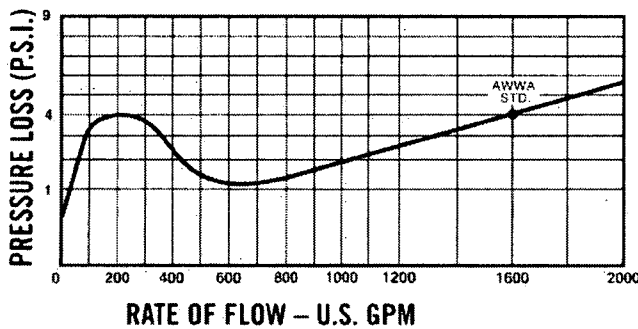
Sizes 4", 6", 8", 10", 12"

Performance

Head loss – 4" MFM II with 2" MVR

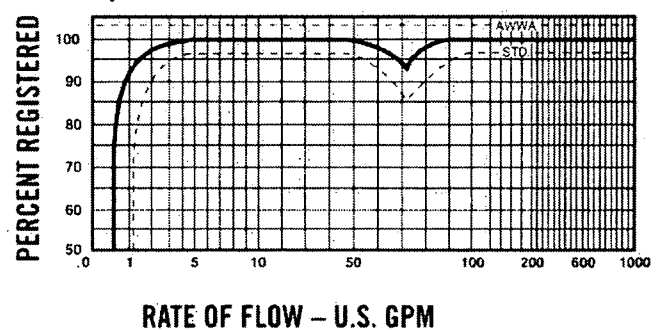


Head loss – 6" MFM II with 2" MVR

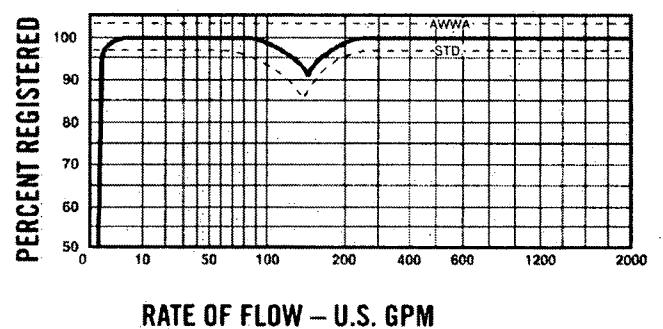


Performance

Accuracy – 4" MFM II with 2" MVR



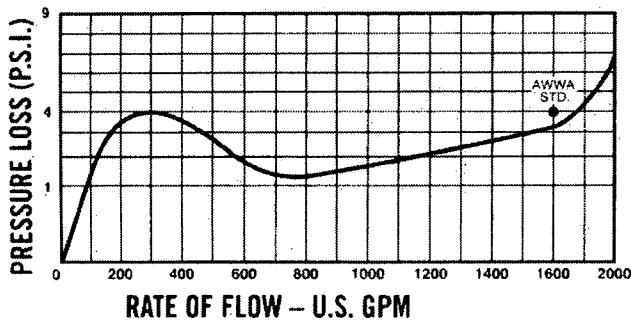
Accuracy – 6" MFM II with 2" MVR



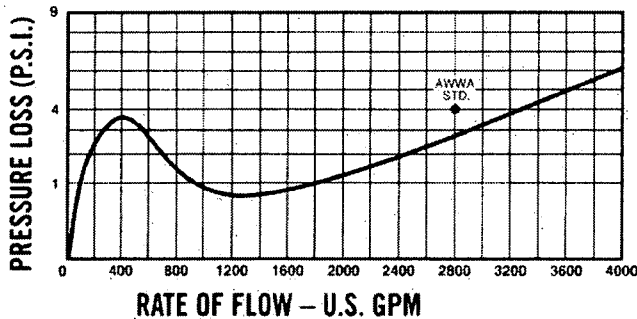
Model MFMII

Performance

Head loss – 6" MFM II with 3" MVR

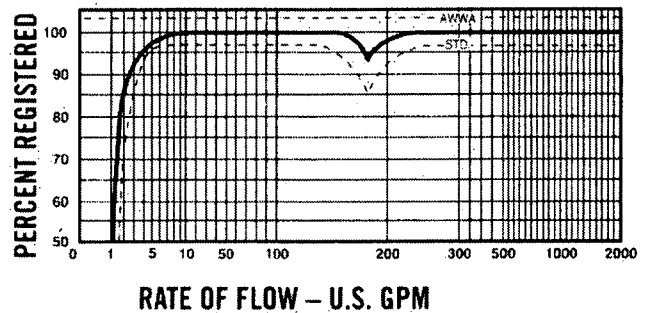


Head loss – 8" MFM II with 4" MVR

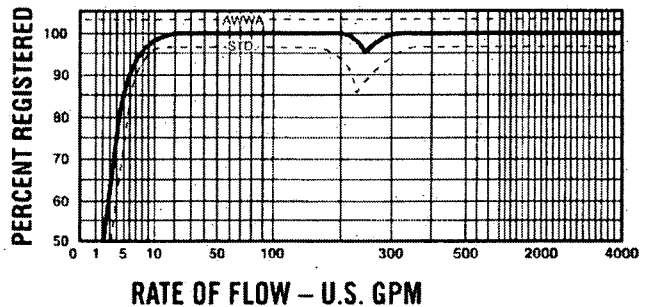


Performance

Accuracy – 6" MFM II with 3" MVR



Accuracy – 8" MFM II with 4" MVR



Model MFMII™

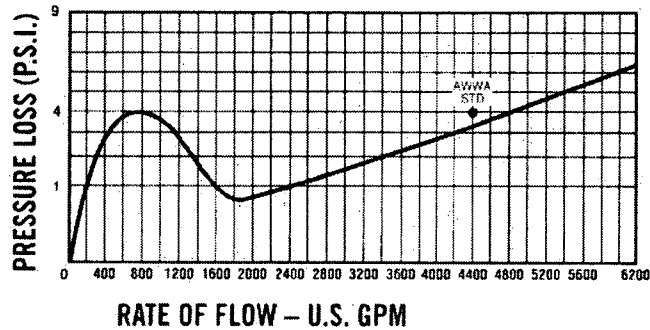
Mueller SYSTEMS

Fire Line Meter

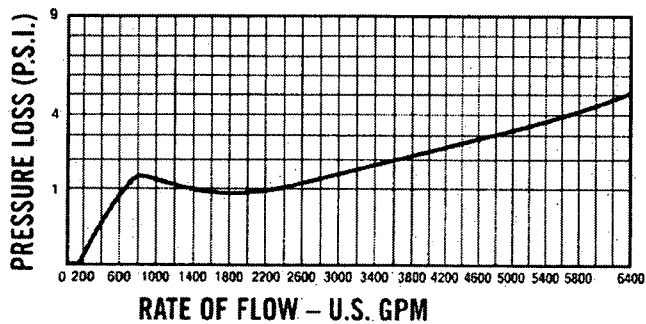
Sizes 4", 6", 8", 10", 12"

Performance

Head loss – 10" MFM II with 6" MVR



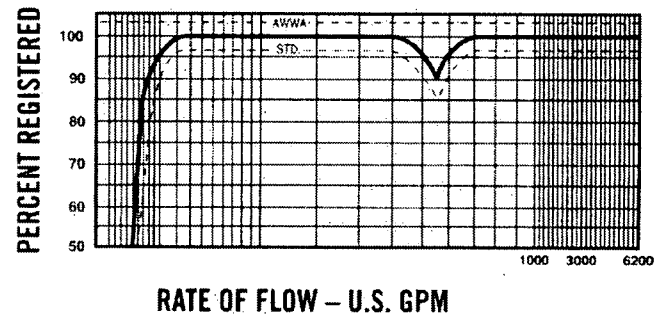
Head loss – 12" MFM II with 6" MVR



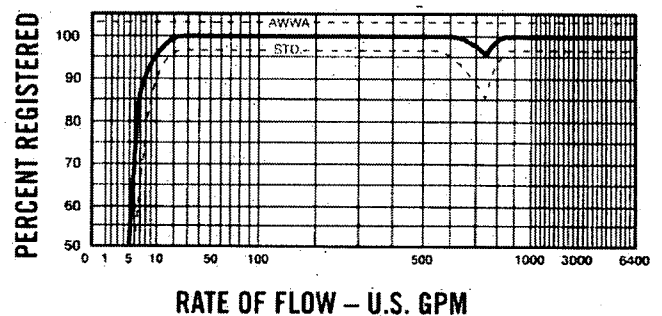
*Performance curves are typical only and not a guarantee of performance.

Performance

Accuracy – 10" MFM II with 6" MVR



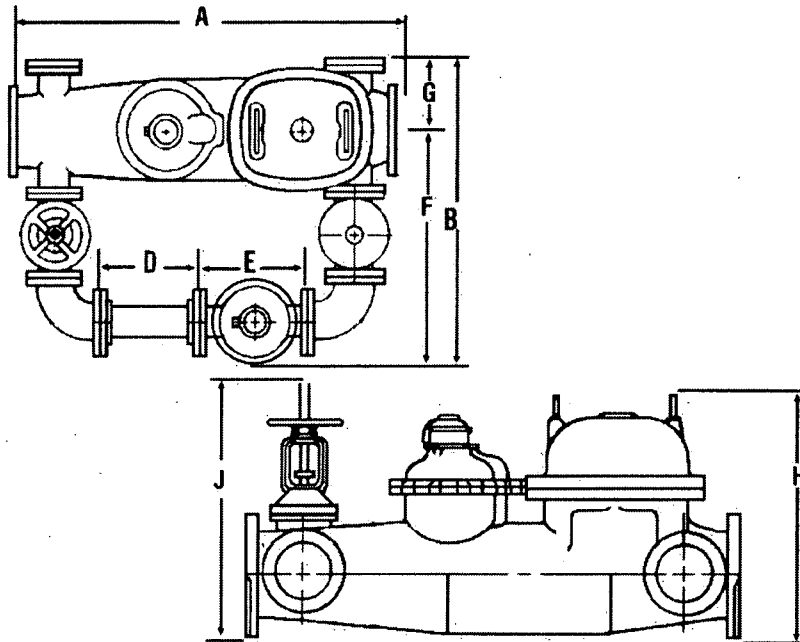
Accuracy – 12" MFM II with 6" MVR



Model MFMII

Dimensions and Weights

Model MFM II with Vertical Turbine Bypass



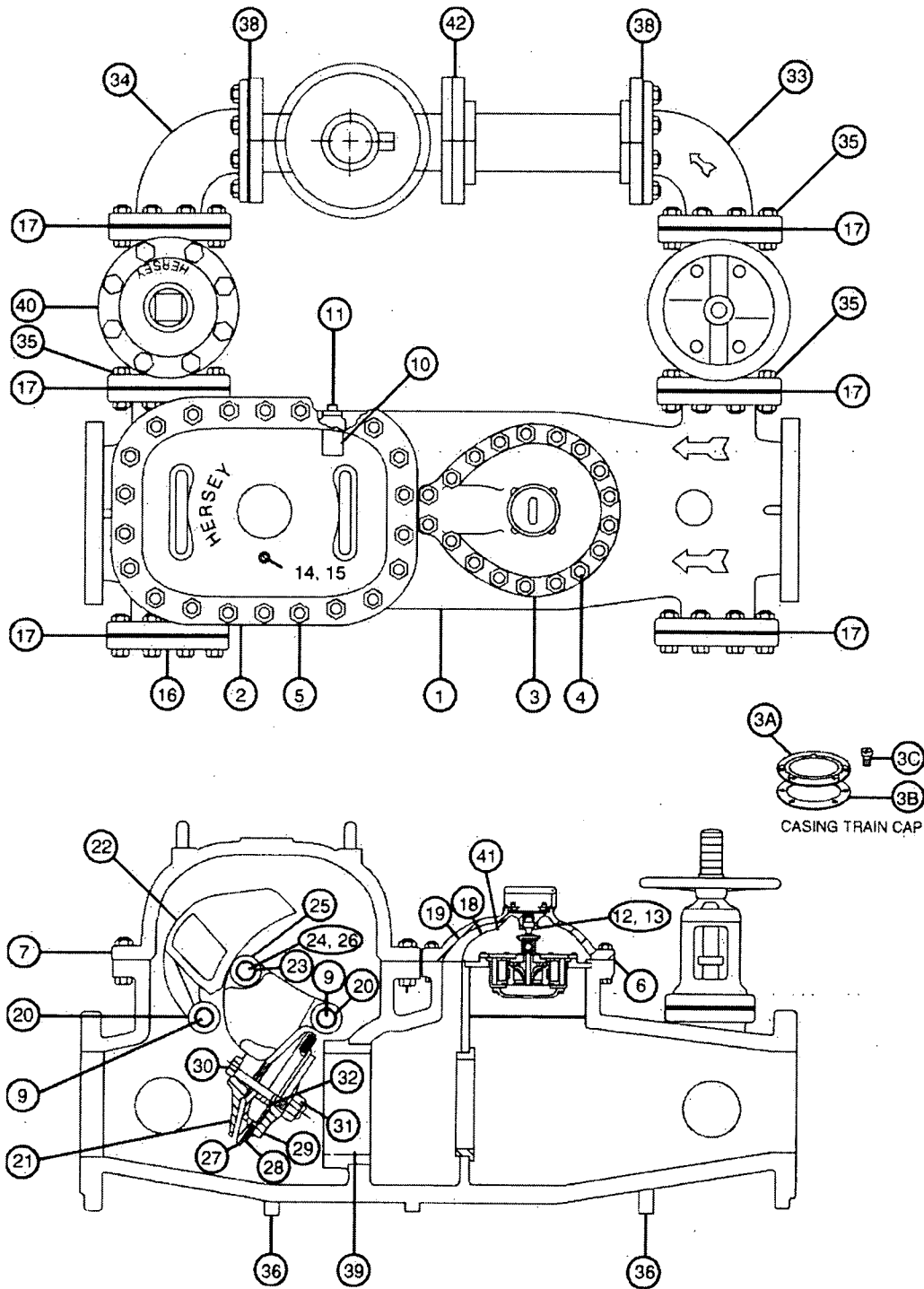
Compressed Size	4" x 2"	6" x 2"	6" x 3"	8" x 4"	10" x 6"	12" x 6"
A	33"	45"	45"	53"	68"	68"
B-Vertical Turbine	28"	34-1/2"	35"	41-3/4"	53-1/4"	53-1/4"
D-Vertical Turbine Spool	7"	N/A	12"	15"	18-1/2"	18-1/2"
E-Vertical Turbine	10"	10"	12"	14"	18"	18"
F-Vertical Turbine	20-3/4"	26	26-1/2"	32-7/8"	39-3/4"	39-3/4"
G	7-1/4"	8-1/2"	8-1/2"	10-3/8"	13-1/2"	13-1/2"
H	17-1/2"	23-1/2"	23-1/2"	30-1/2"	36-1/2"	40"
J Open	19"	N/A	25	31-1/2"	41"	43"
Net wt. with Vertical Turbine	433	1030	878	1602	2860	2925

Model MFMII™

Fire Line Meter Parts

Sizes 4", 6", 8", 10", 12"

Mueller SYSTEMS



Model MFMII

Ref. No.	Description	4" Model	6" Model	8" Model	10" Model	12" Model
1	Bottom Case Assembly Epoxy	55715	56515	57515	58515	58915
2	Dome Epoxy	55760	56560	57560	58560	58560
3	Mainline Top Case Train Cap Train Cap Gasket Train Cap Screw	55785 - - -	56585 - - -	57585 - - -	58554 59069 59046 90166 (6)	58554 59069 59046 90166 (6)
4	Mainline Bolt	90189 (10) 90180 (2)	90129 (14)	90131 (18)	90130 (16)	90130 (16)
4	Mainline Nut	90159 (10)	90159 (14)	90219 (18)	90219 (16)	90219 (16)
5	Dome Bolt Dome Nut	90135 (12) 90251 (12)	90135 (16) 90251 (16)	90342 (22) 90301 (22)	90347 (28) 90301 (28)	90347 (28) 90301 (28)
6	Mainline Top Case Gasket	55756	56556	57556	58559	58559
7	Dome Ring Gasket	55727	56527	57427	58427	58427
9	Weight & Swing Arm Hinge Pin	55379 (2)	56379 (2)	57379 (2)	58379 (2)	58379 (2)
10	Hinge Pin Bushing	55707 (4)	56507 (4)	57307 (4)	58307 (4)	58307 (4)
11	Pipe Plug, taped	59006 (4)	59007 (4)	59008 (4)	59009 (4)	59009 (4)
12	Lower Magnetic Drive Assembly	33170	33170	33170	33170	33170
13	Magnetic Lower Drive Retaining Ring	50139	50139	50139	50139	50139
14	Vent Screw	59003 (2)	59003 (2)	59003 (2)	59003 (2)	59003 (2)
15	Nylon Vent Screw Washer	59073 (4)	59073 (4)	59073 (4)	59073 (4)	59073 (4)
16	Blank Flange Epoxy	59063 (2)	59064 (2)	59065 (2)	59066 (2)	59066 (2)
17	Flange Ring Gasket	59051 (6)	59052 (8)	59053 (8)	59054 (8)	59054 (8)
18	Torrent Adapter Ring	-	56511	56511	-	-
19	Torrent Adapter	-	56512	57512	-	-
20	Weight and Swing Arm Bushing	55325 (4)	56325 (4)	57325 (4)	58325 (4)	58325 (4)
21	Swing Arm	55313	56313	57313	58313	58313
22	Weight, full (MVR as bypass)	55327	56327	57328	58328	58328
23	Swing Arm Roller Assembly	55362	56362	57362	58362	58362
24	Swing Arm Roll Pin	55345	56384	57384	58384	58384
25	Swing Arm Roll Pin Washer	55323 (2)	56323 (2)	57323 (2)	58323 (2)	58323 (2)
26	Swing Arm Roll Pin Clip	55326 (2)	56383 (2)	57383	58383 (2)	58383 (2)
27	Clapper	55365	56315	57315	58315	58315
28	Clapper Rubber	55366	56316	57316	58316	58316
29	Clapper Disc	55367	56317	57317	58317	58317
30	Clapper Bolt	55318	56318	57318	58318	58318
31	Clapper Bolt Stop Nut Cotter Pin*	59147 54320	59148 56320	59149 57320	59150 58320	59150 58320
32	O-Ring	55396	56396	57396	58396	58396
33	Inlet Elbow Epoxy	54558	56558	57558	58571	58571
34	Outlet Elbow Epoxy	54549	56549	57549	58549	58549
35	Bypass Flange Bolt	90135 (8) 90132 (16)	90133 (28)	90135 (59)**	90139 (68)	90139 (68)
35	Bypass Flange Nut	90251 (24)	90251 (28)	90251 (65)	90301 (68)	90301 (68)
36	Bypass Support Support Bolt (not shown) Support Nut (not shown)	55746 (2) 90132 (4) 90251 (4)	56546 (2) 90136 (4) 90251 (4)	57546 (2) 90136 (4) 90251 (4)	58558 (2) 90347 (4) 90301 (4)	58558 (2) 90347 (4) 90301 (4)
37	OS&Y Gate Valve	96206	96217	96218	96219	96219
38	Flange Gasket	95123 (2)	59052 (8)	59053 (8)	59054 (8)	59054 (8)
39	Seat Ring	55769	56368	57369	58369	58369
40	Check Valve Assembly Epoxy***	54590E	56590E	57590E	58593	58593
41	Torrent Interior with Strainer***	44676	44676	44676	44782	44782
42	Bypass Meter - MVR	Refer to MVR or Horizon Parts List		-	-	-

*Older style, for meter manufactured prior to 1988.

**When replacing bypass flange bolts.

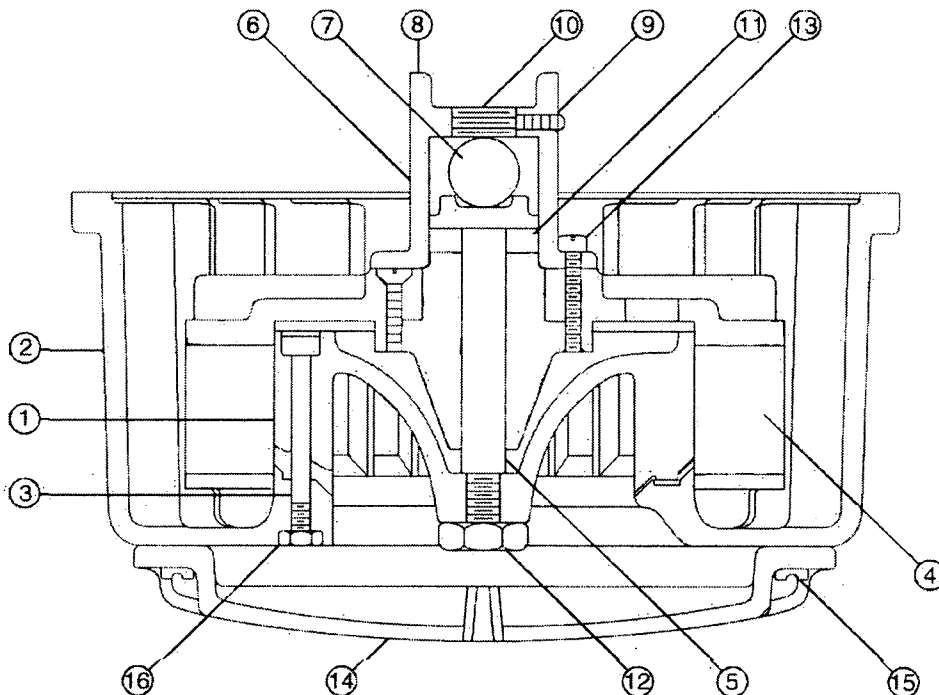
***See the following pages for component parts.

Model MFMII™

Mueller SYSTEMS

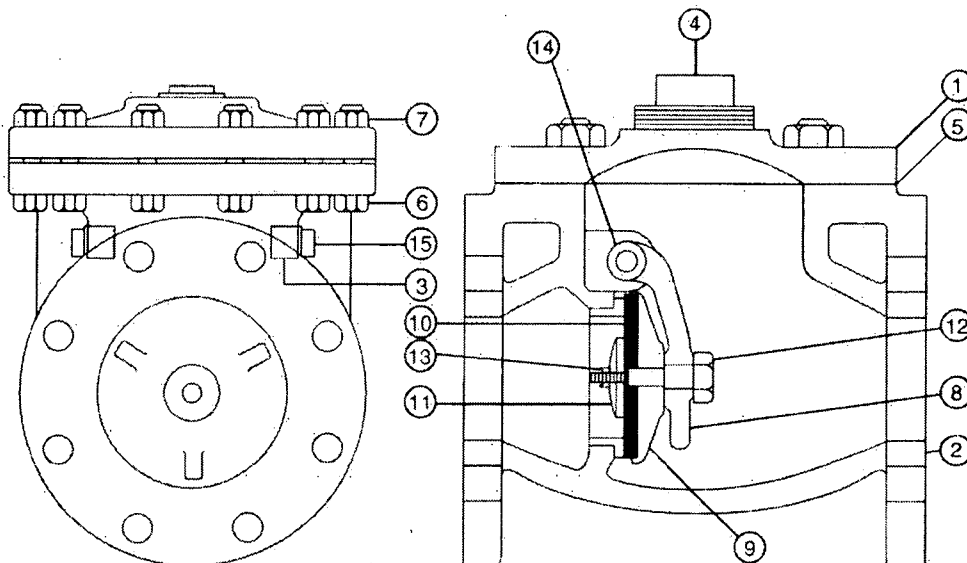
Torrent Interior with Strainer

Sizes 4", 6", 8", 10", 12"



Ref. No.	Description	4" Model	6" Model	8" Model	10" & 12" Model
	Torrent Interior with Strainer	44676	44676	44676	44782
	Torrent Spindle Assembly	44681	44681	44681	44793
1	Torrent Deflector	44672	44672	44672	44797
2	Torrent Receptor	44673	44673	44673	44798
3	Deflector/Receptor Assembly Screw	98379 (3)	98379 (3)	98379 (3)	98441 (3)
4	Torrent Wheel and Bushing Assembly	44663	44663	44663	44715
	Torrent Wheel	44669	44669	44669	44769
	Wheel Bushing	44634	44634	44634	44734
	Bushing Screw	A5729 (4)	A5729 (4)	A5729 (4)	A5730 (4)
5	Torrent Spindle	44667	44667	44667	44767
6	Torrent Spindle Head	44668	44668	44668	44770
7	Torrent Bearing Ball	44626	44626	44626	44726
8	Torrent Spindle Cap	44675	44675	44675	44754
9	Set Screw	99920	99920	99920	99921
10	Torrent Interior Adjusting Screw	44658	44658	44658	44758
11	Torrent Thrust Washer	44632	44632	44632	44732
12	Torrent Check Nut	98033	98033	98033	44756
13	Cap Screw	98177 (4)	98177 (4)	98177 (4)	98179 (4)
14	Torrent Strainer	44674	44674	44674	44774
15	Strainer Attachment Screws	98394 (2)	98394 (2)	98394 (2)	98395 (2)
16	Deflector/Receptor Assembly Nut	98032 (3)	98032 (3)	98032 (3)	98032 (3)

NOTE: If more than one part is required per assembly, quantity is noted after part number (in parenthesis)



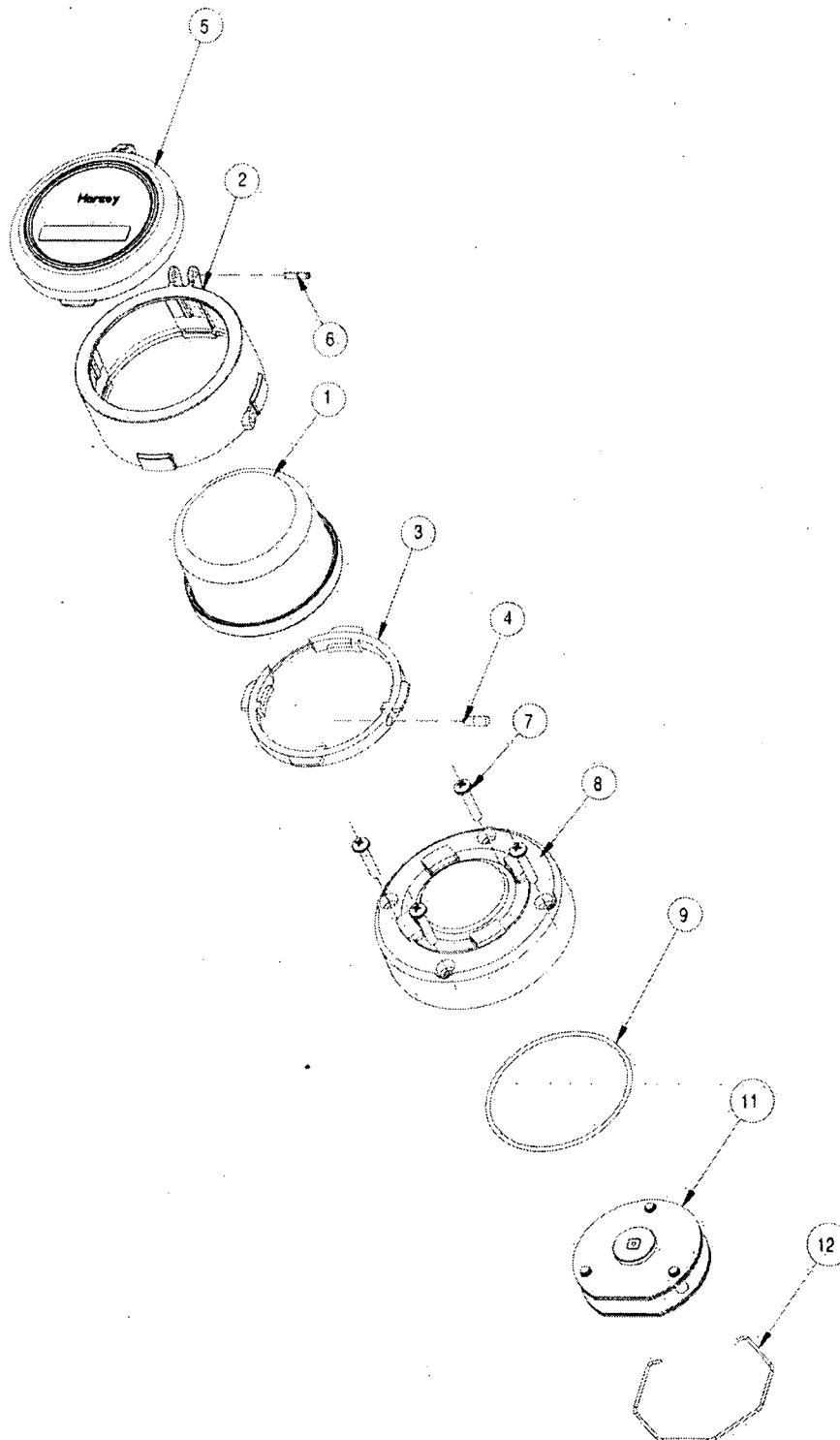
Ref. No.	Description	4" Model 2" CV	6" Model 3" CV	8" Model 4" CV	10" Model 6" CV	12" Model 6" CV
	Check Valve Assembly – Epoxy Coated	54590E	56590E	57590E	58593	58593
1	Cover – Epoxy Coated	54540	56540	57540	58540	58540
2	Bottom Case – Epoxy Coated	54550	56550	57550	58550	58550
3	Hinge Pin Bushing	54538 (2)	54507 (2)	55707 (2)	56507 (2)	56507 (2)
4	Hollow Plug – Bronze Plug	59010	59010	5907A	5907A	5907A
5	Case Gasket	54563	56563	57563	58563	58563
6	Hex HD Bolt	90127 (4)	90129 (6)	90131 (8)	90135 (12)	90135 (12)
7	Nut	90151 (4)	90151 (6)	90212 (8)	90251 (12)	90251 (12)
8	Swing Arm	54534	56534	57534	58534	58534
9	Clapper	53815	54365	55365	56315	56315
10	Clapper Rubber	53816	54366	55366	56316	56316
11	Clapper Disc	53817	54367	55367	56317	56317
12	Clapper Bolt	53818	54318	55318	56318	56318
13	Lock Nut	59145	59146	59147	59148	59148
14	Hinge Pin	54552	56569	57552	58575	58575
15	Square HD Pipe Plug	59005 (2)	59011 (2)	59006 (2)	59007 (2)	59007 (2)

*NOTE: If more than one part is required per assembly, quantity is noted after part number (in parenthesis).

Model MFMII™

Mueller SYSTEMS

Visual Register Options for MFMII
Sizes 4", 6", 8", 10", 12"



Model MFMII

Ref	Description	4" MFMII Mainline	2" MVR Bypass	2" Horizon Bypass
1	Visual Register Gallons Cubic Feet	D353217 D353317	See MVR Section pg. 4.1	See Horizon Section pg. 3.1
2	Register Housing Base (Bronze)	C5772	See MVR	See Horizon
2	Register Housing Base (Plastic)	C5769	See MVR	See Horizon
3	Register Housing Insert	C5770	See MVR	See Horizon
4	Register Locking Pin (Bronze Plastic)	A126581	See MVR	See Horizon
4	Register Locking Pin (Blue Color Plastic)	A12558	See MVR	See Horizon
5	Lid (Bronze)	C5774	See MVR	See Horizon
5	Lid (Plastic)	C5768	See MVR	See Horizon
6	Roll Pin	AS41122	AS41122	AS41122
7	Calibrator Mounting Screws (4)	A13014	A13014	A13014
8	Calibrator Housing	C6523	C6523	C6523
9	Calibrator O-ring	19210	19210	19210
10	Calibrator Holding Ring	19106	19106	19106
11	Calibrator Gear Train	C6534XX***	C6534XX***	C6534XX***
12	Calibrator Housing Kit (includes 7-10)	B7860	B7860	B7860

Ref	Description	6" MFMII	3" MVR	3" Horizon
1	Visual Register Gallons Cubic Feet	D35327 D35337	See MVR Section pg. 4.1	See Horizon Section pg. 3.1
2	Register Housing Base (Bronze)	C5772	See MVR	See Horizon
2	Register Housing Base (Plastic)	C5769	See MVR	See Horizon
3	Register Housing Insert	C5770	See MVR	See Horizon
4	Register Locking Pin (Bronze Plastic)	A126581	See MVR	See Horizon
4	Register Locking Pin (Blue Color Plastic)	A12558	See MVR	See Horizon
5	Lid (Bronze)	C5774	See MVR	See Horizon
5	Lid (Plastic)	C5768	See MVR	See Horizon
6	Roll Pin	AS41122	See MVR	See Horizon
7	Calibrator Mounting Screws (4)	A13014	See MVR	See Horizon
8	Calibrator Housing	C6523	See MVR	See Horizon
9	Calibrator O-ring	19210	See MVR	See Horizon
10	Calibrator Holding Ring	19106	See MVR	See Horizon
11	Calibrator Gear Train	C6534XX***	See MVR	See Horizon
12	Calibrator Housing Kit (includes 7-10)	B7860	See MVR	See Horizon

***Call Mueller Systems Customer Service for the appropriate Calibrator Gear Train.

Model MFMII™

Mueller SYSTEMS

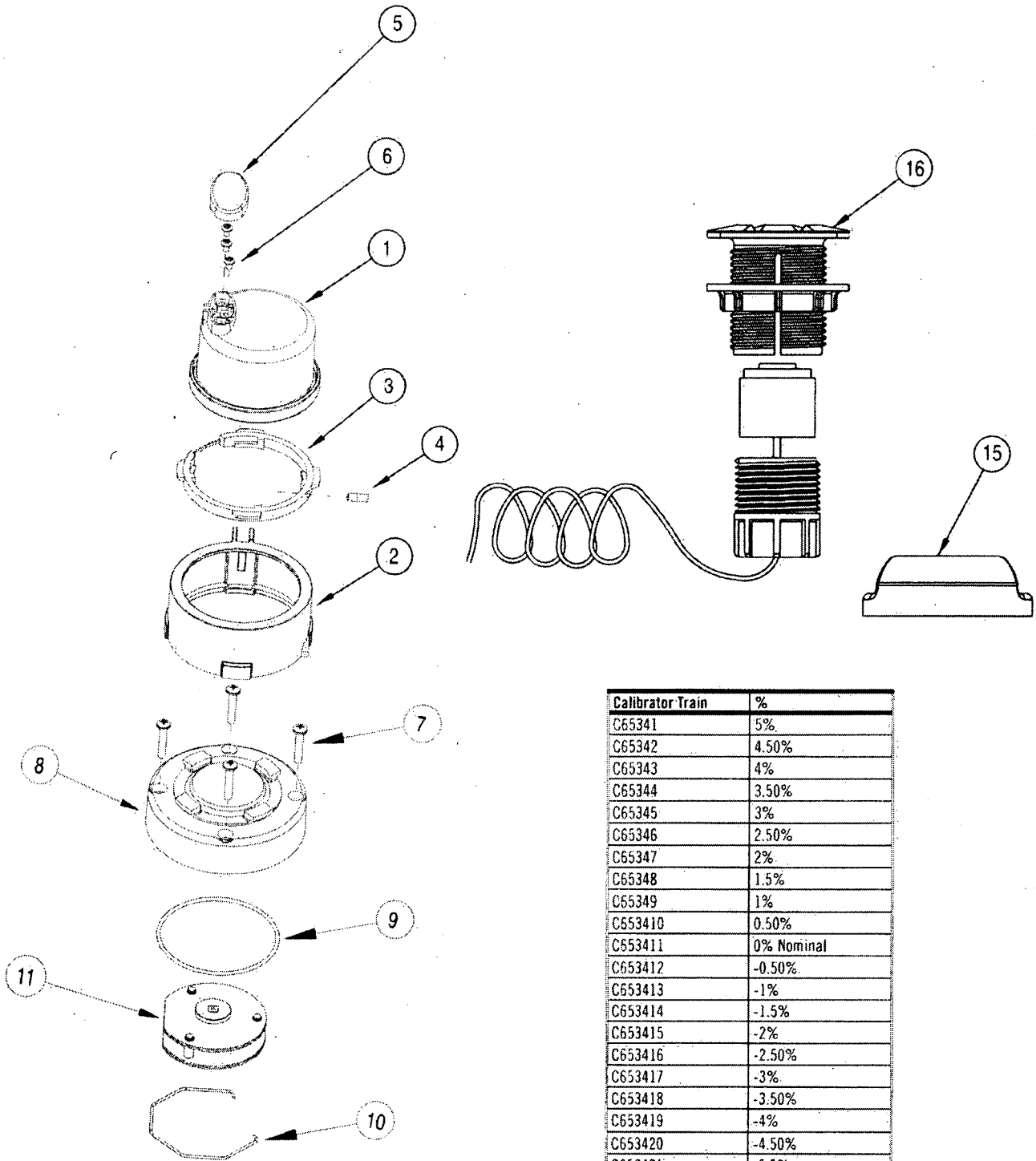
Visual Register Options for MFMII
 Sizes 4", 6", 8", 10", 12"

Model MFMII

Ref	Description	8" MFMII Mainline	4" MVR Bypass	4" Horizon Bypass
1	Visual Register			
	Gallons	D35324	See MVR	See Horizon
	Cubic Feet	D35334	See MVR	See Horizon
2	Register Housing Base (Bronze)	C5772	See MVR	See Horizon
2	Register Housing Base (Plastic)	C5769	See MVR	See Horizon
3	Register Housing Insert	C5770	See MVR	See Horizon
4	Register Locking Pin (Bronze Plastic)	A126581	See MVR	See Horizon
4	Register Locking Pin (Blue Color Plastic)	A12558	See MVR	See Horizon
5	Lid (Bronze)	C5774	See MVR	See Horizon
5	Lid (Plastic)	C5768	See MVR	See Horizon
6	Roll Pin	AS41122	See MVR	See Horizon
7	Calibrator Mounting Screws (4)	A13014	See MVR	See Horizon
8	Calibrator Housing	C6523	See MVR	See Horizon
9	Calibrator O-ring	19210	See MVR	See Horizon
10	Calibrator Holding Ring	19106	See MVR	See Horizon
11	Calibrator Gear Train	C6534XX***	See MVR	See Horizon
12	Calibrator Housing Kit (includes 7-10)	B7860	See MVR	See Horizon

Ref	Description	10" MFMII Mainline	12" MFMII Mainline	6" MVR Bypass	6" Horizon Bypass
1	Visual Register				
	Gallons	D35321	D35321	See MVR	See Horizon
	Cubic Feet	D35331	D35331	See MVR	See Horizon
2	Register Housing Base (Bronze)	C5772	C5772	See MVR	See Horizon
2	Register Housing Base (Plastic)	C5769	C5769	See MVR	See Horizon
3	Register Housing Insert	C5770	C5770	See MVR	See Horizon
4	Register Locking Pin (Bronze Plastic)	A126581	A126581	See MVR	See Horizon
4	Register Locking Pin (Blue Color Plastic)	A12558	A12558	See MVR	See Horizon
5	Lid (Bronze)	C5774	C5774	See MVR	See Horizon
5	Lid (Plastic)	C5768	C5768	See MVR	See Horizon
6	Roll Pin	AS41122	AS41122	See MVR	See Horizon
7	Calibrator Mounting Screws (4)	A13014	A13014	See MVR	See Horizon
8	Calibrator Housing	C6523	C6523	See MVR	See Horizon
9	Calibrator O-ring	19210	19210	See MVR	See Horizon
10	Calibrator Holding Ring	19106	19106	See MVR	See Horizon
11	Calibrator Gear Train	C6534XX***	C6534XX***	See MVR	See Horizon
12	Calibrator Housing Kit (includes 7-10)	B7860	B7860	See MVR	See Horizon

***Call Mueller Systems Customer Service for the appropriate Calibrator Gear Train.



Calibrator Train	%
C65341	5%
C65342	4.50%
C65343	4%
C65344	3.50%
C65345	3%
C65346	2.50%
C65347	2%
C65348	1.5%
C65349	1%
C653410	0.50%
C653411	0% Nominal
C653412	-0.50%
C653413	-1%
C653414	-1.5%
C653415	-2%
C653416	-2.50%
C653417	-3%
C653418	-3.50%
C653419	-4%
C653420	-4.50%
C653421	-5.0%

Model MFMII™

Translator Register Options for MFMII

Mueller SYSTEMS

Model MFMII

Ref	Description	4" MFMII Mainline	2" MVR Bypass	2" Horizon Bypass
1	Translator Register Gallons* Cubic Feet*	D353417xxx D353517xxx	See MVR Section	See Horizon Section
2	Register Housing Base (Plastic)	C5769	See MVR	See Horizon
3	Register Housing Insert	C5770	See MVR	See Horizon
4	Register Locking Pin (Bronze Plastic)	A126581	See MVR	See Horizon
4	Register Locking Pin (Blue Color Plastic)	A12658	See MVR	See Horizon
5	Lens Terminal Cover	B8447	See MVR	See Horizon
6	Terminal Lug Screw	98197 (3)	See MVR	See Horizon
7	Calibrator Mounting Screws	A13014	See MVR	See Horizon
8	Calibrator Housing	C6523	See MVR	See Horizon
9	Calibrator O-ring	19210	See MVR	See Horizon
10	Calibrator Holding Ring	19106	See MVR	See Horizon
11	Calibrator Gear Train	C6534XX*	See MVR	See Horizon
12	Calibrator Housing Kit (includes 7-10)	B7860	See MVR	See Horizon
13	TrueRead (not shown)	C6551G	See MVR	See Horizon
14	1,000' Spool of Wire	AS755	See MVR	See Horizon
15	Wall Pad	T1234	See MVR	See Horizon
16	Pit Pad with 3' of wire	T1235	See MVR	See Horizon

Ref	Description	6" MFMII Mainline	3" MVR Bypass	3" Horizon Bypass
1	Translator Register Gallons* Cubic Feet*	D353407xxx D353507xxx	See MVR Section	See Horizon Section
2	Register Housing Base (Plastic)	C5769	See MVR	See Horizon
3	Register Housing Insert	C5770	See MVR	See Horizon
4	Register Locking Pin (Bronze Plastic)	A126581	See MVR	See Horizon
4	Register Locking Pin (Blue Color Plastic)	A12658	See MVR	See Horizon
5	Lens Terminal Cover	B8447	See MVR	See Horizon
6	Terminal Lug Screw	98197 (3)	See MVR	See Horizon
7	Calibrator Mounting Screws	A13014	See MVR	See Horizon
8	Calibrator Housing	C6523	See MVR	See Horizon
9	Calibrator O-ring	19210	See MVR	See Horizon
10	Calibrator Holding Ring	19106	See MVR	See Horizon
11	Calibrator Gear Train	C6534XX*	See MVR	See Horizon
12	Calibrator Housing Kit (includes 7-10)	B7860	See MVR	See Horizon
13	TrueRead (not shown)	C6551G	See MVR	See Horizon
14	1,000' Spool of Wire	AS755	See MVR	See Horizon
15	Wall Pad	T1234	See MVR	See Horizon
16	Pit Pad with 3' of wire	T1235	See MVR	See Horizon

*Call Mueller Systems Customer Service for the appropriate Translator Register, AMR device and Calibrator Gear Train part numbers.

Ref	Description	8" MFMII Mainline	4" MVR Bypass	4" Horizon Bypass
1	Translator Register Gallons* Cubic Feet*	D353404xxx D353504xxx	See MVR Section	See Horizon Section
2	Register Housing Base (Plastic)	C5769	See MVR	See Horizon
3	Register Housing Insert	C5770	See MVR	See Horizon
4	Register Locking Pin (Bronze Plastic)	A126581	See MVR	See Horizon
4	Register Locking Pin (Blue Color Plastic)	A12658	See MVR	See Horizon
5	Lens Terminal Cover	B8447	See MVR	See Horizon
6	Terminal Lug Screw	S98197 (3)	See MVR	See Horizon
8	Calibrator Housing	C6523	See MVR	See Horizon
9	Calibrator O-ring	I9210	See MVR	See Horizon
10	Calibrator Holding Ring	I9106	See MVR	See Horizon
11	Calibrator Gear Train	C6534XX*	See MVR	See Horizon
12	Calibrator Housing Kit (includes 7-10)	B7860	See MVR	See Horizon
13	TrueRead (not shown)	C6551G	See MVR	See Horizon
14	1,000' Spool of Wire	AS755	See MVR	See Horizon
15	Wall Pad	T1234	See MVR	See Horizon
16	Pit Pad with 3' of wire	T1235	See MVR	See Horizon

Ref	Description	10" MFMII Mainline	12" MFMII Mainline	6" MVR Bypass	6" Horizon Bypass
1	Translator Register — 25' wire only Gallons Cubic Feet	D353401xxx D353501xxx	D353401xxx D353501xxx	See MVR Section	See Horizon Section
2	Register Housing Base (Plastic)	C5769	C5769	See MVR	See Horizon
3	Register Housing Insert	C5770	C5770	See MVR	See Horizon
4	Register Locking Pin (Bronze Plastic)	A126581	A126581	See MVR	See Horizon
4	Register Locking Pin (Blue Color Plastic)	A12658	A12658	See MVR	See Horizon
5	Lens Terminal Cover	B8447	B8447	See MVR	See Horizon
6	Terminal Lug Screw	98197 (3)	98197 (3)	See MVR	See Horizon
7	Calibrator Mounting Screws	A13014	A13014	See MVR	See Horizon
8	Calibrator Housing	C6523	C6523	See MVR	See Horizon
9	Calibrator O-ring	I9210	I9210	See MVR	See Horizon
10	Calibrator Holding Ring	I9106	I9106	See MVR	See Horizon
11	Calibrator Gear Train	C6534XX*	C6534XX*	See MVR	See Horizon
12	Calibrator Housing Kit (includes 7-10)	B7860	B7860	See MVR	See Horizon
13	TrueRead (not shown)	C6551G	C6551G	See MVR	See Horizon
14	1,000' Spool of Wire	AS755	AS755	See MVR	See Horizon
15	Wall Pad	T1234	T1234	See MVR	See Horizon
16	Pit Pad with 3' of wire	T1235	T1235	See MVR	See Horizon

*Call Mueller Systems Customer Service for the appropriate Translator Register, AMR device and Calibrator Gear Train part number.

Model MFMII™

Mainline Standard Conversion Kits

Mueller SYSTEMS

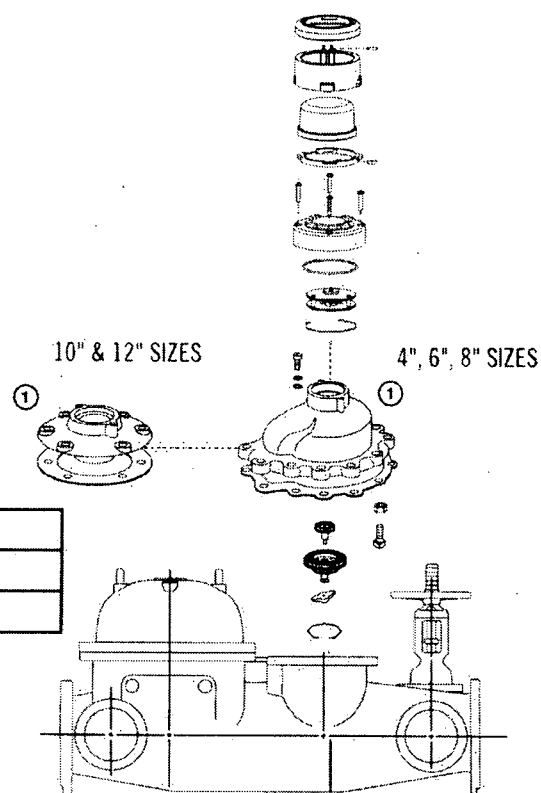
Model MFMII

Parts supplied in a Hersey Fireline Conversion Kit:

1. New complete top case with gasket, nuts and bolts.
2. New sealed registers.
3. New register bayonet style housing with locking pin.
4. New calibrator gear train and housing.

Description	4"	6"	8"	10" & 12"
U.S. Gallon	PCS0201	PCT0201	PCU0201	PCV0201
Cubic Foot	PCS0101	PCT0101	PCU0101	PCV0101

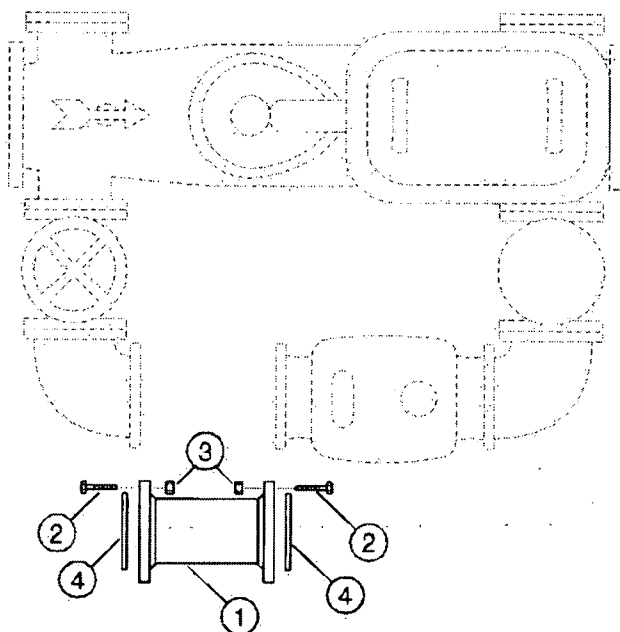
*Part numbers listed are for standard read registers.
Contact customer service for optional AMR registers.



Mainline Weights Necessary for Converting to Different Bypass Meters

Original Bypass Meter	Conversion to	Part Number
CT/MCT/MCTII	MVR	No Need to Change Weight
CT/MCT/MCTII - 2"	HORIZON - 2"	55328
CT/MCT/MCTII - 3"	HORIZON - 3"	56328
CT/MCT/MCTII - 4"	HORIZON - 4"	57327
CT/MCT/MCTII - 6"	HORIZON - 6"	58327
MHR OR HORIZON - 2"	MVR - 2"	55731
MHR OR HORIZON - 3"	MVR - 3"	56327
MHR OR HORIZON - 4"	MVR - 4"	57328
MHR OR HORIZON - 6"	MVR - 6"	58328
MVR - 2"	HORIZON - 2"	55328
MVR - 3"	HORIZON - 3"	56328
MVR - 4"	HORIZON - 4"	57327
MVR - 6"	HORIZON - 6"	58327

NOTE: Using anything other than a genuine Hersey bypass meter may affect performance, may void approvals and test data.

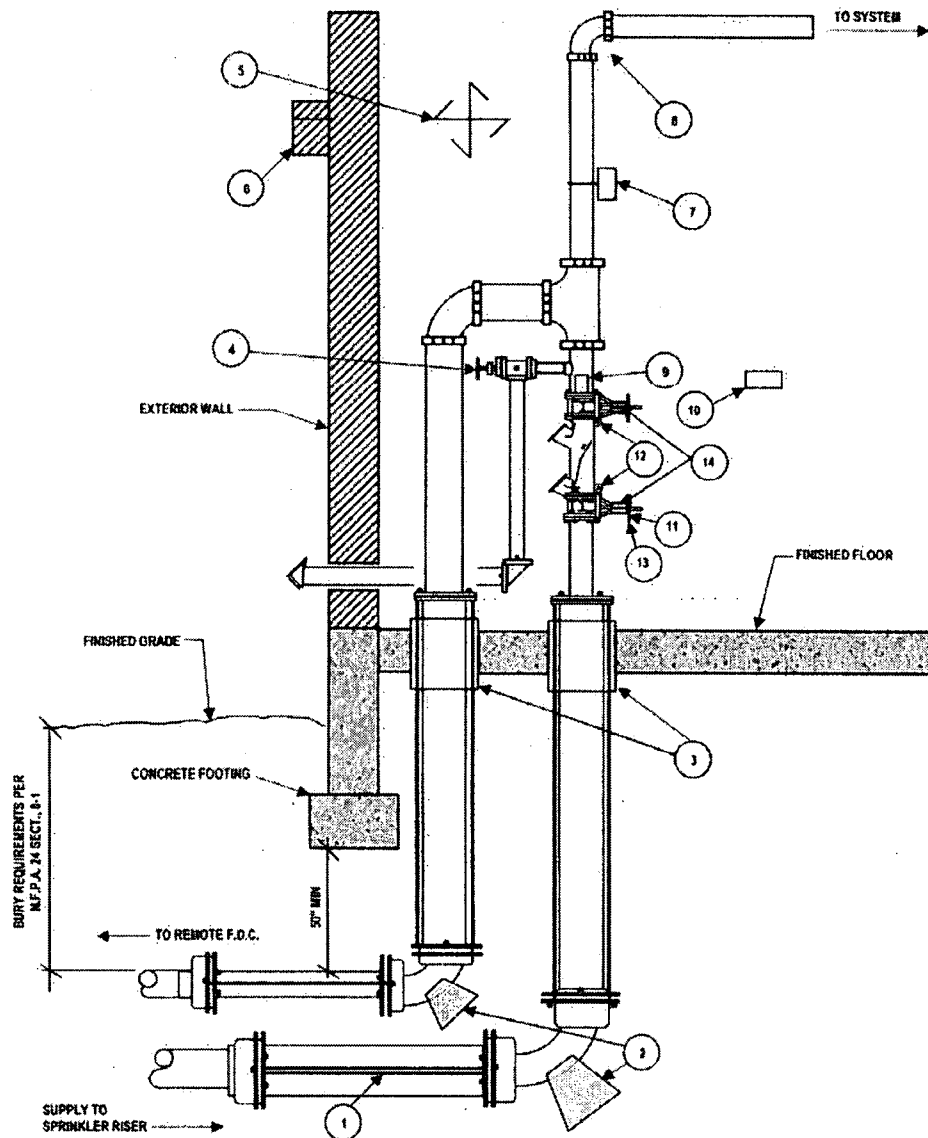


Ref.	Description	Part Number
1	2" Adapter * for Replacement of Compound or Disc Bypass Meter on 4" FM/MFM/MFMII	95340 (Epoxy Coated)
1	3" Adapter for Replacement of Compound or Disc Bypass Meter (with MVR) on 6" FM/MFM/MFMII	95341 (Epoxy Coated)
1	4" Adapter for Replacement of Compound or Disc Bypass Meter (with MVR) on 8" FM/MFM/MFMII	95344 (Epoxy Coated)
1	6" Adapter for Replacement of Compound or Disc Bypass Meter (with MVR) on 10", 12" FM/MFM/MFMII	95343 (Epoxy Coated)
2	Bolt for 2" Bypass Meter Connection	90136 (4) 90135 (2)
2	Bolt for 3" Bypass Meter Connection	90135 (4) 90133 (8)
2	Bolt for 4" Bypass Meter Connection	90136 (4) 90135 (20)
2	Bolt for 6" Bypass Meter Connection	90347 (4) 90139 (20)
3	Nut for 2" Bypass Meter Connection	90251 (6)
3	Nut for 3" Bypass Meter Connection	90251 (12)
3	Nut for 4" Bypass Meter Connection	90251 (24)
3	Nut for 6" Bypass Meter Connection	90301 (24)
4	Gasket for 2" Bypass Meter Connection	95123 (3)
4	Gasket for 3" Bypass Meter Connection	59052 (3)
4	Gasket for 4" Bypass Meter Connection	59053 (3)
4	Gasket for 6" Bypass Meter Connection	59054 (3)

*Not needed if replacement is 2" MVR-160 flanged meter.

NOTE: If more than one part is required per assembly, quantity is noted after part number (in parenthesis).

NFPA 13 Fire Sprinkler Riser Detail



RISER KEY NOTES

- ① 5'-0" DUCTILE IRON STUB-OUT FEED
- ② THRUST BLOCK
- ③ SLEEVE THRU FLOOR
- ④ 2" MAIN DRAIN WITH ANGLE VALVE
- ⑤ 4-WAY SWAY BRACE
- ⑥ EXTERIOR HORN/STROBE
- ⑦ FLOW SWITCH
- ⑧ GROOVED ELBOW
- ⑨ HYDRAULIC DESIGN DATA PLATE
- ⑩ SPARE SPRINKLER BOX
- ⑪ DOUBLE CHECK VALVE ASSY
- ⑫ 300 PSI PRESSURE GAUGES
- ⑬ LISTED SYSTEM CONTROL VALVE WITH TAMPER
- ⑭ TAMPER SWITCH

NOTES:

1. FIRE SPRINKLER SYSTEM TO BE ELECTRONICALLY MONITORED BY U.L. OR F.M. LISTED CENTRAL STATION FOR FLOW, TAMPER AND TROUBLE.
2. PROVIDE A 3'-0" CLEARANCE AROUND FIRE SPRINKLER RISER FOR MINIMUM ACCESS.
3. ALL VALVES SHALL BE A MAX. OF 7'-0" A.F.F.

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF CHEROKEE	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
Joey Lemmons d/b/a Rugs	)	
International,	)	
	)	
Plaintiff(s),	)	
	)	
vs.	)	AFFIDAVIT OF JOEY LEMMONS
	)	2014-CP-11-0938
Macedonia Water Works, Inc.,	)	
	)	
Defendant(s)	)	

I am the Plaintiff in the above captioned matter. The purpose of this Affidavit is to dispute the Defendant's Motion for Summary Judgment. I am a citizen and resident of Cherokee County, South Carolina. I am the owner of a commercial building in Cherokee County and operate a business called Rugs International. I purchased this building in 1999. Since the date of purchase through March of 2014, my average monthly water bill was \$622. I was being billed by the Defendant this amount because they were billing me for a 8" water meter. While it is true that my building was in fact serviced by an 8" water meter, this meter is known as a compound meter. My building is equipped with a fire suppression sprinkler system. The 8" portion of this compound meter is there to supply water in case of a fire and the use of the sprinkler system. For all other water use, the water passes through the 2" portion of the compound meter. Since I purchased my building, less than 100 gallons of water have passed through the 8" portion of that meter. In 2008, the South Carolina Legislature passed a bill known as Code § 58-5-390. This bill was enacted as the result of the tragic fire in Charleston, SC at a furniture store where 9 firemen were killed. The purpose of the bill is to allow businesses to install fire sprinkler systems without the fear of being over-billed for water service. A copy of Code § 58-5-390 is

attached for the Court's review.

In early to mid 2012, I became aware of Code § 58-5-390. I immediately began communicating with the Defendant in hopes of resolving my water bill situation. I was unable to come to any resolution with the Defendant until I installed a new 1" meter to my business. I now pay \$50.00 per month to the Defendant for the privilege of having the 8" sprinkler system meter and another \$20.00 per month for the 1" meter providing water to the building. On the 1" meter, if my business exceeds 2000 gallons of water for a billing period I am charged additionally for the gallons above 2,000.

The paragraph above shows you the math. I was over billed \$572 per month for water from the date Code § 58-5-390 was enacted until March 2014 when I cut my losses and installed the 1" water meter.

Several years ago, State Representative Dennis Moss sent a letter to the Attorney General asking if Code § 58-5-390 would apply to a compound meter. By letter dated November 20, 2012, the Attorney General's office says "South Carolina Code § 58-5-390 would most likely apply to any sprinkler system regardless of whether the tapp supplies on the fire sprinkler or not.

My business has suffered significant monetary damage as a result of the Defendant's over billing for water service. I ask the court to deny the Defendant's Motion for Summary Judgment and allow this matter to go to trial.

Joey Lemmons
Joey Lemmons

SWORN to before me this 5
day of Jan., 2017.

Johnny D. Hildebrand (SEAL)
Notary Public for South Carolina
My Commission Expires: 2/4/20

SECTION 58-5-390. Tap fees for installation and maintenance of fire sprinkler system; exception.

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

(B) For purposes of this section, actual costs include direct labor, direct material, the necessity of increased capacity, and other direct charges associated with the separate fire sprinkler line. The direct costs must be documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line. Nothing in this section may be construed as requiring a utility to provide service to support a private fire protection system.

(C) Nothing in this section shall give the commission or the regulatory staff any power to regulate or interfere with public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority as defined in Chapter 25 of this title or their agencies.

HISTORY: 2008 Act No. 357, Section 1, eff June 25, 2008; 2010 Act No. 232, Section 3, eff June 7, 2010.

Dennis Moss

From: Yarborough, Jonathan [jyarborough@dhec.sc.gov]
Sent: Thursday, February 07, 2013 5:03 PM
To: Dennis Moss
Subject: Tap Fees

Representative Moss,

DHEC does not have tap fees. Any suggestion that we have mandated tap fees for water utilities is simply incorrect. If you have any questions, please do not hesitate to contact me.

Sincerely,

--

Jonathan W. Yarborough
Director of External Affairs
SC DHEC
803-609-4327 (m)
803-898-9119 (o)



South Carolina House of Representatives
Dennis Carroll Moss

Wednesday, February 06, 2013

RE: Section 58-5-390

(Tap fees for installation and maintenance of fire sprinkler system; exception)

Dear Mr. Joey Lemmons:

It is always a pleasure to hear from concerned citizens. Thank you for trusting me to respond to your concerns. As I understand, you would like to know the effective date of Section 58-5-390. It actually has two effective dates. It was first created by 2008 Act No. 357, Section 1 which was effective June 25, 2008; it was subsequently amended by 2010 Act No. 232, Section 3 which was effective June 7, 2010. Basically, it boils down to this: the first two paragraphs of the statute were effective in 2008 and the third paragraph of the statute was added in 2010. Enclosed please find an annotated copy of the statute, indicating which parts of the statute were enacted on what dates. Also enclosed please find copies of both the Acts.

It is my understanding from a review of online public information with the South Carolina Secretary of State's Office that Macedonia Water Works, Inc., is a nonprofit company in good standing that was incorporated in 1985. Enclosed is a copy of the information available from the Secretary of State's website. I appreciate your taking the time to update me with how the company responded to your providing them with a copy of the Attorney General Opinion pertaining to Section 58-5-390. Unfortunately, this experience has illustrated for you that an Attorney General Opinion is just what the name implies - an opinion. Here is a better description of an Attorney General Opinion from South Carolina Attorney General Alan Wilson's website:

An Attorney General's opinion is thus a written public document responding to a specific legal question asked by a public official. All opinions have been reviewed by the Opinions Section and represent the highest standards of research. An Attorney General's opinion attempts to resolve questions of law as the author believes a court would decide the issue. Unlike a court, however, Attorney General opinions cannot decide factual disputes.

As I believe your additional question may benefit other members of the public, I will seek an opinion from the Attorney General's Office as to whether or not a nonprofit water company may provide a free month of water to its residential customers but not to its business customers. I will forward a copy of any response I receive from the Attorney General's Office.

ELECTRONICALLY FILED - 2017 Jan 05 3:14 PM - CHEROKEE - COMMON PLEAS - CASE#2014CP1100938

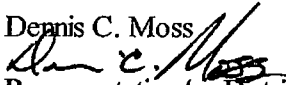


South Carolina House of Representatives
Dennis Carroll Moss

Also, this week I had a meeting with the Director of the South Carolina Department of Health and Environmental Control, Catherine Templeton. It is my impression from this conversation that DHEC does not set tap fees and rates but checks for water quality. In the near future, Director Templeton will be providing me with something in writing regarding DHEC's role. I will forward a copy of this correspondence when I receive it.

Thank you for trusting me to respond to your concerns. I hope the enclosed information is helpful to you, and I look forward to providing you with the forthcoming information from DHEC and any response from the Attorney General's Office pertaining to your additional question. I greatly appreciate all that you do to help me fulfill the honor and responsibility of voicing the concerns of our community in the South Carolina House of Representatives.

Sincerely,

Dennis C. Moss

Representative for District 29

Enclosures

Tuesday, July 26, 2011

Mr. Donnie Hardin
Macedonia Water Works
3142 Union Highway
Gaffney, South Carolina 29340

Dear Mr. Hardin:

I would like to thank you for assisting Ms. Lorraine Perry in finding a positive resolution with her issue concerning the minimum monthly fee associated with a fire sprinkler. It is my understanding that it was your suggestion to charge a \$50 maintenance fee for servicing a fire sprinkler system line and that it was also your recommendation for Gaffney Entertainment Center to receive a credit. Ms. Perry asked me to express her gratitude to you as well.

Your kindness in this matter is greatly appreciated. As the poet James Russell Lowell once remarked, "All the beautiful sentiments in the world weigh less than a single lovely action." Please do not hesitate to contact me, if I may be of assistance to you.

Sincerely,

Dennis Moss

cc: Ms. Lorraine Perry
62 Society Street
Charleston, South Carolina 29401

Macedonia Water Works, Inc.

**Post Office Box 1955
Gaffney, South Carolina 29342-1955**

January 22, 2013
Mr. Joey Lemmons
Rugs International
Post Office Box 1500
Gaffney, South Carolina

RE: January 8, 2013 Letter & Meeting

Dear Joey,

I am writing in response to the letter referenced above and your appearance before the Macedonia Water Works Board on the same date. In your letter and at the meeting you questioned the Macedonia Water Works policy to qualify for a fire sprinkler service and requested a refund of funds you felt had been overpaid as a result of the misapplication of your water rate.

As per our discussion at the meeting, the Macedonia Water Works requires a water tap to supply a "dedicated" fire sprinkler system in order to qualify for the reduced monthly fire sprinkler rate. In this case the word "dedicated" means fire sprinkler service only, no other facilities or services may be metered by the same tap and meter. The entertainment center you referenced has a dedicated fire line and a separate meter for other uses. In the case of the Rugs International facility, there are multiple facilities, services, and buildings which are supplied water service from a single water meter and tap. There is no way to separate out the fire sprinkler system from the multiple other uses of the water provided through this one meter. Therefore in accordance with policy, the Board originally determined this water service does not qualify for the dedicated fire sprinkler system rate through this single meter and tap.

Based on our discussion, the Board agreed to seek additional information to determine if our current policy complies with the requirements of the 2008 South Carolina Laws Act 357 referencing fire sprinkler system meters. We have contacted the administrative and legal departments of municipal and state associations representing water utilities. All of these entities have legislative and legal staffs that review changes in South Carolina and Federal legislation and advise water utilities. In addition, we surveyed several South Carolina water utilities, including Spartanburg, Greenville, SJWD, Inman-Campobello, Easley, and Columbia to obtain their requirements to qualify for their fire sprinkler service meter rates. Without exception, all the associations and utilities require a "dedicated" fire sprinkler system to qualify for their fire sprinkler rate. The Macedonia Water Works policy requiring "dedicated" sprinkler system metering mirrors every utility surveyed. These associations and the larger utilities have legal and legislative staffs that have reviewed this legislation and have determined this policy is in compliance with the law. It is hard to believe that every water utility, including water

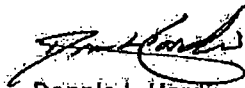
districts, commissions of public works, city utilities, regional water authorities, and multiple water utility associations are all incorrectly applying this law.

In reference to water metering, you also asked why the Premium Outlets owners were allowed to have multiple businesses and buildings on one meter and why you should not be allowed to add an additional "double wide" building to this existing water service. There was no preferential treatment of one property owner over the other as implied. The original owners of both properties, Prime Outlets and Mr. Williams, requested and were granted special water service provisions when they were originally constructed. The original World of Clothing included several types of property within one building including: retail space, a restaurant or grill, offices, and residential living apartments. The Prime Outlets property obviously included multiple businesses. Both properties were granted an exception to the one meter per unit or building policy for all construction completed at that time in the original project. Modifications to the original buildings and all additional parcels developed or buildings constructed at any later date are required to purchase a separate water tap and meter. When additional property at the outlet mall property was developed separate water taps and meters were purchased and installed for Outback and the entertainment center as per policy. In addition, individual taps were purchased for Rug and Home, Cracker Barrel, and the Mel's Diner building. When you added the additional unattached "double wide" building on the World of Clothing property, the water service for an additional facility was connected to your existing water meter service from the original building in violation of policy.

In summation, based on all the information obtained, the Board feels our current policy is in compliance with the provisions of the 2008 South Carolina Laws Act 357 and no adjustment is warranted. If another water service tap and meter is purchased to supply water to all water services within the original building, other than the fire sprinkler service, and the current tap and meter serves only the separate and distinct "dedicated" fire sprinkler service, the monthly rate for the fire sprinkler service will be placed on the fire sprinkler system rate. In addition, a separate water tap and meter is required for the separate "double wide" building improperly connected to the original building's water service.

If you have any questions or if you would like to discuss this further, please feel free to contact me.

Sincerely,


Donnie L. Hardin
Chairman

Cc: The Honorable Dennis Moss
Macedonia Water Works Board
Lowry Utilities, Inc.
File



ALAN WILSON
ATTORNEY GENERAL

November 20, 2012

The Honorable Dennis C. Moss
Member, House of Representatives
306 Silver Circle
Gaffney, South Carolina 29340

Dear Representative Moss:

Attorney General Alan Wilson has referred your letters of October 19, 2012 & November 9, 2012 to the Opinions section for a response. The following is this Office's understanding of your questions presented and the opinion of this Office concerning the issues based on that understanding.

Issue:

- 1) In order for South Carolina Code § 58-5-390 to apply, does a tap have to be dedicated solely to a fire sprinkler or may the tap also supply other water uses and have separate meters?
- 2) If a business has a larger tap only for the purpose of the fire sprinkler system, would the business be required to pay a fee based on the larger tap or for the size of tap that would be required for the normal day-to-day water use?

Short Answer:

- 1) South Carolina Code § 58-5-390 would most likely apply to any fire sprinkler system, regardless of whether the tap supplies only the fire sprinkler or not.
- 2) This office does not answer factual questions, but if your constituent is not able to resolve these issues with the utility company, the other possible venue would be for a court to answer these factual questions.

Law/Analysis:

- 1) This Office previously addressed a similar question for you in 2011 concerning fire sprinklers. In that opinion, this Office reiterated the law in stating that a minimum monthly fee for a fire sprinkler may not exceed the actual costs of the water line. Ops. S.C. Atty. Gen., 2011 WL 2214071 (May 18, 2011).

As a background on statutory interpretation, the cardinal rule in statutory interpretation is to ascertain the intent of the Legislature and to accomplish that intent. Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 39, 577 S.E.2d 202, 207 (2003). The true aim and intention of the legislature controls the literal meaning of a statute. The historical background and circumstances at the time a statute was passed can be used to assist in interpreting a statute. An entire statute's interpretation must be "practical, reasonable, and fair" and consistent with the purpose, plan and reasoning behind its making. Greenville Baseball v. Bearden, 200 S.C. 363, 20 S.E.2d 813, 816 (1942). Statutes are to be interpreted with a "sensible construction," and a "literal application of language which leads to absurd consequences should be avoided whenever a reasonable application can be given consistent with the legislative purpose." U.S. v. Rippetoe, 178 F.2d 735, 737 (4th Cir. 1950). This Office looks at the plain meaning of the words, rather than analyzing

The Honorable Dennis C. Moss

Page 2

November 20, 2012

statutes within the same subject matter when the meaning of the statute appears to be clear and unambiguous. Sloan v. SC Board of Physical Therapy Exam., 370 S.C. 452, 636 S.E.2d 598 (2006).

South Carolina Code § 58-5-390 says:

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

In analyzing the statute, the plain meaning of the words is clear. There is no ambiguity as to what utilities may charge fees for fire sprinkler systems because it applies to all utility companies. There are no exceptions for charging more than the installation and maintenance charges.

The next place to look is at the legislative intent. The legislative intent is unambiguous. It reads "...it is the purpose of this act to create meaningful incentives for the installation of fire sprinkler systems." 2008 South Carolina Laws Act 357 (H.B. No. 4470). The legislative intent would support a finding that the statute applies to all fire sprinkler systems without exception, even if the tap supplies other water uses.

South Carolina Code § 58-5-390(A) provides that fees for the installation and maintenance of a fire sprinkler system may not exceed the "actual costs associated with the water line to the system." The "actual costs" include the following:

- 1) direct labor;
- 2) direct material;
- 3) the necessity of increased capacity; and
- 4) other direct charges associated with the separate fire sprinkler line.

The statute also requires the direct costs to be "documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line." S.C. Code § 58-5-390(B). The language in this part of the statute is also clear and would imply the burden of showing the cost of the installation and maintenance of the sprinkler line would be with the utility company to provide the documentation supporting the charges.

2) The size of a tap needed and whether or not an individual would be required to pay a larger fee based on a larger tap needed for a sprinkler system is a factual question. The issue would need to be resolved with the utility company. If your constituent is not satisfied with the answer from the utility company, a court may be able to resolve these factual issues and answer the underlying questions. As you may well be aware, this Office does not issue factual opinions. Op. S.C. Atty. Gen., 1996 WL 599391 (September 6, 1996) (citing Op. S.C. Atty. Gen., 1983 WL 182076 (December 12, 1983)).

Please note if the water company is a public utility, as defined in South Carolina Code § 58-5-10(4), then then any issues should be addressed with the public service commission. Ops. S.C. Atty. Gen., 1978 WL 34948 (June 19, 1978).

Dennis Moss

From: Joey [krlemmons@cs.com]
Sent: Wednesday, January 09, 2013 12:25 PM
To: Dennis Moss
Subject: from Joey Lemmons
Attachments: Macedonia Water board.doc; LemmonsUtilityAmortization(1).xls; GEDC3916.JPG

Dennis:

I have attached the cover letter request that I gave Macedonia Water Board members last night. Also, I have attached an amortization table to show the principle and interest that this overbilling has cost Rugs International. I told the board members that I am willing to discuss some options for repayment, tax credits, water bill credits etc. to resolve this matter. Most of the board members listened to my concerns and my dad spoke with Paul Patterson this morning and Paul says that this was the first that he has heard about my complaint about my water bill. Paul told my dad that he is disappointed that Donnie had not shared with the other board members that I had met with him in November concerning my minimum tap fee. However, Paul indicated to my dad that if I had been overcharged that I should be repaid and that we would work out a payback arrangement / settlement.

In addition to the cover letter and amortization schedule, I gave them several of my bills, and copies of the opinions from the Attorney General's office. Also, I gave them a picture of my water meter to show that there are two meters. The meter that goes the sprinkler system only has a register of 12 gallons have been used since the meter was put in. This 12 gallons would have been used when the annual valve test on the sprinkler system were done. All the other water use has gone thru the other meter that the water company reads for my water bill. The meter reader has not been reading my meter each month and this is why some of the bills show more water useage while some months show very little. One month the meter reader put down 500 gallons. I have asked the Lowry's to run a report on how much water I used in 2011 and 2012 so that I see what is the average monthly usage.

Thanks for your help,

Sincerely,

Joey Lemmons

Rugs International LLC

January 8, 2013

Macedonia Water Company
Board of Directors
Gaffney SC 29341

Dear Board Members:

I would like to request that my minimum water tap fee be reduced beginning with my next month's bill to adhere to South Carolina code 58-5-390. I have received an opinion from the SC attorney general office and a letter is attached to support my request.

I have been overcharged on my water bill for the time I have operated Rugs International LLC at 138 Webber Road, Gaffney SC beginning April 1, 1999. I have paid a minimum tap fee of \$650 per month for the past 166 months. Per the Attorney General's code interpretation, I have been overcharged \$630 per month each month for a total of \$104,580 over the last 166 months. I am requesting the refund of these over paid funds with interest. I have enclosed an amortization schedule that shows principle and interest incurred due to this error in billing is \$191,513.23.

I met with Donnie Hardin at the Board of Public Works in November to discuss the minimum tap fee I am being billed. I was told that my business does not qualify under South Carolina Code 58-5-390 until I install a tap designated to my sprinkler system. I paid a \$1,000 fee to Lowry's Utilities to install an additional tap. However, after further clarification from the SC Attorney Generals office, an additional tap is not required to meet the qualifications of South Carolina Code 58-5-390. Currently, my tap has two meters to allow you to measure the flow to my sprinkler system and the water usage to toilets and other use. Therefore, since there is no need to install a second tap, I am requesting the refund of the \$1,000.

I request that these funds be refunded within 30 days. I am willing to discuss a short term payment plan since the overcharge is very large. Please let me know how you wish to proceed to correct this billing error.

Sincerely,



Joey Lemmons
Rugs International LLC

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
10/05/2012	09/05/2012	10950-00	10/19/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6117900	6107000	10900	678.48
PREV BAL			0.00
			0.00
Account not paid by 11/11/2012 will be disconnected. Reconnection fee \$75.00 second offense \$100.00			
PAST DUE AFTER		AMOUNT DUE	
11/05/2012		678.48	

After Due Date

WE NOW OFFER BANK DRAFT CALL

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
2/5/11	1/5/11	10950	2/18/11
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5892800	5875800	17,000	\$695.25
Accounts not paid by 3/9/11 will be disconnected. Reconnect fee \$75 second offense \$100			
PAST DUE AFTER		AMOUNT DUE	
3/5/11		\$695.25	
After Due Date		\$764.78	

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
8/5/11	7/5/11	10950	8/19/11
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6007100	5998800	8,300	\$670.48
Accounts not paid by 9/12/11 will be disconnected reconnection fee \$75 second offense \$100			
PAST DUE AFTER		AMOUNT DUE	
9/5/11		\$670.48	
After Due Date		\$737.53	

After Due Date

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
09/05/2012	08/05/2012	10950 00	09/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6107000	6099100	7900	669.11
PREV BAL			0.00
			0.00
Account not paid by 10/14/2012 will be disconnected. Reconnection fee \$75.00 second offense \$100.00			
PAST DUE AFTER		AMOUNT DUE	
10/05/2012		669.11	

After Due Date

WE NOW OFFER BANK DRAFT CALL

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
11/05/2012	10/05/2012	10950 00	11/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6123700	6117900	5800	662.31
PREV BAL			0.00
			0.00
Account not paid by 12/10/2012 will be disconnected. Reconnection fee \$75.00 second offense \$100.00			
PAST DUE AFTER		AMOUNT DUE	
12/05/2012		662.31	
After Due Date		728.55	

After Due Date

WE NOW OFFER BANK DRAFT CALL

OFFICE FOR MORE DETAILS

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
7/5/11	6/5/11	10950	7/27/11
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5998800	5998300	500	\$650.00
Accounts not paid by 8/15/11 will be disconnected reconnection fee \$75 second offense \$100			
PAST DUE AFTER		AMOUNT DUE	
8/5/11		\$650.00	
After Due Date		\$715.00	

After Due Date

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MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
03/05/2012	02/05/2012	10950 00	03/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6077000	6069000	8000	669.50
		PREV BAL	0.00
			0.00
Account not paid by 04/10/2012 will be disconnected.			
Reconnection fee \$75.00 second offense \$100.00.			
PAST DUE AFTER		AMOUNT DUE	
04/05/2012		669.50	

After Due Date,

PLEASE NOTE YOUR ACCOUNT #
 HAS CHANGED

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
05/05/2012	04/05/2012	10950 00	05/18/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6079800	6079200	600	650.00
		PREV BAL	0.00
			0.00
Account not paid by 06/11/2012 will be disconnected.			
Reconnection fee \$75.00 second offense \$100.00.			
PAST DUE AFTER		AMOUNT DUE	
06/05/2012		650.00	

After Due Date

ANNUAL MEETING JULY 17 @ 6PM

WE ARE NOW OFFERING BANK DRAFT

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
08/05/2012	07/05/2012	10950 00	08/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6099100	6097300	1800	650.00
		PREV BAL	0.00
			0.00
Account not paid by 09/11/2012 will be disconnected.			
Reconnection fee \$75.00 second offense \$100.00.			
PAST DUE AFTER		AMOUNT DUE	
09/05/2012		650.00	

After Due Date

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
12/5/11	11/5/11	10950	12/16/11
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6029100	6021100	8,000	\$669.50
		PREV BAL	0.00
			0.00
THANK YOU FOR PROMPT PAYMENT.			
PAYMENTS ARE DUE BY THE 5TH.			
PAST DUE AFTER		AMOUNT DUE	
1/5/12		\$669.50	

After Due Date

42+1500

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
04/05/2012	03/05/2012	10950 00	04/20/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6079200	6077000	2200	650.65
		PREV BAL	0.00
			0.00
Account not paid by 05/09/2012 will be disconnected.			
Reconnection fee \$75.00 second offense \$100.00.			
PAST DUE AFTER		AMOUNT DUE	
05/05/2012		650.65	

After Due Date

WE ARE NOW OFFERING BANK DRAFT
 CALL OUR OFFICE FOR MORE INFO

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR

WEBBER AND MACEDONIA ROAD

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
06/05/2012	05/05/2012	10950 00	06/18/2012
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
6080900	6079800	1100	650.00
		PREV BAL	0.00
			0.00
Account not paid by 07/16/2012 will be disconnected.			
Reconnection fee \$75.00 second offense \$100.00.			
PAST DUE AFTER		AMOUNT DUE	
07/05/2012		650.00	

ROA PAGE 198

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 CHEROKEE - COMMON PL

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
 WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
4/5/08	3/5/08	10950	4/17/08
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5520000	5518200	1,800	\$650.00
Accounts not paid by the 10th are subject to disconnect. Reconnect fee \$75 Second offense \$100			
PAST DUE AFTER		AMOUNT DUE	
5/5/08		\$650.00	
After Due Date		\$715.00	

Chk
5209

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
 WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
6/5/08	5/5/08	10950	6/19/08
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5525400	5522700	2,700	\$652.28
Our office will be closed June30-July4 please use drop box in front for payment. Macedonia annual meeting July15 6pm MVF Dept			
PAST DUE AFTER		AMOUNT DUE	
7/5/08		\$652.28	
After Due Date		\$717.51	

Chk
5809

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
 WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
2/5/08	1/5/08	10950	2/20/08
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5515900	5512300	3,600	\$655.20
Accounts not paid by the 10th are subject to disconnect. Reconnect fee \$75 Second offense \$100			
PAST DUE AFTER		AMOUNT DUE	
3/5/08		\$655.20	
After Due Date		\$720.72	

Chk
5087

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
 P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
 WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
3/5/08	2/5/08	10950	3/19/08
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5518200	5515900	2,300	\$650.98
Accounts not paid by the 10th are subject to disconnect. Reconnect fee \$75 Second offense \$100			
PAST DUE AFTER		AMOUNT DUE	
4/5/08		\$650.98	
After Due Date		\$716.08	

Chk *5141*

ROA PAGE 200

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
2/8/07	1/8/07	10950	2/19/07
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5412200	5405300	6,900	\$665.92
PRICE CHANGE 7-1-06 RECONNECT FEE/ CUTOFF \$75.00/ SECOND OFFENSE \$100.00			
PAST DUE AFTER			AMOUNT DUE
3/5/07			\$665.92
After Due Date			\$732.51

CH 4546

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
1/5/07	12/5/06	10950	1/17/07
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5405300	5390400	14,900	\$689.48
PRICE CHANGE 7-1-06 RECONNECT FEE/ CUTOFF \$75.00/ SECOND OFFENSE \$100.00			
PAST DUE AFTER			AMOUNT DUE
2/5/07			\$689.48
After Due Date			\$758.43

CH 4227

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

MAKE CHECK PAYABLE AND MAIL TO:
MACEDONIA WATER WORKS, INC.
P.O. Box 1955, Gaffney, S.C. 29342-1955

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
11/5/07	10/5/07	10950	11/19/07
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5454300	5450500	3,800	\$655.85
Accounts not paid by the 10th are subject to disconnect. Reconnect fee \$75 Second offense \$100			
PAST DUE AFTER			AMOUNT DUE
12/5/07			\$655.85
After Due Date			\$721.44

CH 4876

SERVICE BILL FOR
WEBBER AND MACEDONIA ROADS

SERVICE TO	SERVICE FROM	ACCOUNT NO.	DATE OF BILL
5/5/07	4/5/07	10950	5/15/07
METER READINGS		CONSUMPTION	AMOUNT
PRESENT	PREVIOUS		
5428700	5423100	5,600	\$661.70
To all Customers: Plan to attend the Annual Meeting - July 10, 6pm - Macedonia VF Dept.			
PAST DUE AFTER			AMOUNT DUE
6/5/07			\$661.70
After Due Date			\$727.87

CH 4311

ELECTRONICALLY FILED - 2017 Jan 05 3:14 PM - CHEROKEE - COMMON PLEAS - CASE#2014CP1100938



1 of 1 DOCUMENT

SOUTH CAROLINA CODE OF LAWS ANNOTATED BY LEXISNEXIS(R)

*** This document is current through all Legislation enacted in the 2012 Session ***

*** The most current annotation is dated May 29, 2013 ***

TITLE 58. PUBLIC UTILITIES, SERVICES AND CARRIERS
CHAPTER 5. GAS, HEAT, WATER, SEWERAGE COLLECTION AND DISPOSAL, AND STREET RAILWAY
COMPANIES

ARTICLE 3. REGULATION OF RATES AND SERVICES GENERALLY

GO TO SOUTH CAROLINA STATUTES ARCHIVE DIRECTORY

S.C. Code Ann. § 58-5-390 (2012)

§ 58-5-390. Tap fees for installation and maintenance of fire sprinkler system; exception.

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

(B) For purposes of this section, actual costs include direct labor, direct material, the necessity of increased capacity, and other direct charges associated with the separate fire sprinkler line. The direct costs must be documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line. Nothing in this section may be construed as requiring a utility to provide service to support a private fire protection system.

(C) Nothing in this section shall give the commission or the regulatory staff any power to regulate or interfere with public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority as defined in Chapter 25 of this title or their agencies.

HISTORY: 2008 Act No. 357, § 1, eff June 25, 2008; 2010 Act No. 232, § 3, eff June 7, 2010.

NOTES: Effect of Amendment

The 2010 amendment added the subsection designators and added subsection (C), relating to public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority.

2011 WL 2214071 (S.C.A.G.)

Office of the Attorney General
State of South Carolina

*1 May 18, 2011

The Honorable Dennis Moss
South Carolina House of Representatives
District 29
418A Blatt Building
Columbia, SC 29211

Dear Representative Moss:

We are in receipt of your letter requesting an opinion of this Office regarding an interpretation of S.C. CODE ANN. § 58-5-390. Specifically, you ask: (1) whether a water company may charge a monthly minimum fee for a water line associated with a fire sprinkler and (2) if so, whether the monthly minimum fee may exceed the actual costs associated with the water line to the system. This opinion addresses the relevant statutory law.

Law/Analysis

S.C. CODE ANN. §58-5-390(A) provides: "A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system." The words used in [a] statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation." Wortman v. Spartanburg, 310 S.C. 1, 3, 425 S.E.2d 18, 19 (1992). The plain language of S.C. CODE ANN. §58-5-390(A) clearly contemplates fees associated with the installation and maintenance of fire sprinkler systems and specifically references "tap fee[s]," "other fee [s]," and "recurring maintenance fee[s]" of any nature or however described." Accordingly, based on the language of the statute, it appears that a water company may charge a monthly minimum fee for a water line associated with a fire sprinkler. Moreover, the statute clearly states that such a fee may not exceed the actual costs associated with the water line to the system.

Further, section B of S.C. CODE ANN. §58-5-390 describes specifically which costs may be included in the "actual costs" associated with the water line to the fire sprinkler system and section C of the statute provides the caveat that "[n]othing in this section shall give the commission or the regulatory staff any power to regulate or interfere with public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority as defined in Chapter 25 of this title [Regional Transportation Authorities] or their agencies."

Conclusion

Based on the language of the statute, and assuming your constituent is not inquiring as to a public utility governed by Chapter 25 of Title 58 [Regional Transportation Authorities] or their agencies, it is the opinion of this Office that a water company may charge a monthly minimum fee for a water line associated with a fire sprinkler; however, that fee may not exceed the actual costs, as defined by S.C. CODE ANN. § 58-5-390(B), associated with the water line to the

system.

Sincerely,
Elizabethann L. Felder
Assistant Attorney General

REVIEWED AND APPROVED BY:

*2 Robert D. Cook
Deputy Attorney General

2011 WL 2214071 (S.C.A.G.)

END OF DOCUMENT

ELECTRONICALLY FILED - 2017 Jan 05 3:14 PM - CHEROKEE - COMMON PLEAS - CASE#2014CP1100938



ALAN WILSON
ATTORNEY GENERAL

November 20, 2012

The Honorable Dennis C. Moss
Member, House of Representatives
306 Silver Circle
Gaffney, South Carolina 29340.

Dear Representative Moss:

Attorney General Alan Wilson has referred your letters of October 19, 2012 & November 9, 2012 to the Opinions section for a response. The following is this Office's understanding of your questions presented and the opinion of this Office concerning the issues based on that understanding.

Issue:

- 1) In order for South Carolina Code § 58-5-390 to apply, does a tap have to be dedicated solely to a fire sprinkler or may the tap also supply other water uses and have separate meters?
- 2) If a business has a larger tap only for the purpose of the fire sprinkler system, would the business be required to pay a fee based on the larger tap or for the size of tap that would be required for the normal day-to-day water use?

Short Answer:

- 1) South Carolina Code § 58-5-390 would most likely apply to any fire sprinkler system, regardless of whether the tap supplies only the fire sprinkler or not.
- 2) This office does not answer factual questions, but if your constituent is not able to resolve these issues with the utility company, the other possible venue would be for a court to answer these factual questions.

Law/Analysis:

- 1) This Office previously addressed a similar question for you in 2011 concerning fire sprinklers. In that opinion, this Office reiterated the law in stating that a minimum monthly fee for a fire sprinkler may not exceed the actual costs of the water line. Ops. S.C. Atty. Gen., 2011 WL 2214071 (May 18, 2011).

As a background on statutory interpretation, the cardinal rule in statutory interpretation is to ascertain the intent of the Legislature and to accomplish that intent. Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 39, 577 S.E.2d 202, 207 (2003). The true aim and intention of the legislature controls the literal meaning of a statute. The historical background and circumstances at the time a statute was passed can be used to assist in interpreting a statute. An entire statute's interpretation must be "practical, reasonable, and fair" and consistent with the purpose, plan and reasoning behind its making. Greenville Baseball v. Bearden, 200 S.C. 363, 20 S.E.2d 813, 816 (1942). Statutes are to be interpreted with a "sensible construction," and a "literal application of language which leads to absurd consequences should be avoided whenever a reasonable application can be given consistent with the legislative purpose." U.S. v. Rippetoe, 178 F.2d 735, 737 (4th Cir. 1950). This Office looks at the plain meaning of the words, rather than analyzing

The Honorable Dennis C. Moss

Page 2

November 20, 2012

statutes within the same subject matter when the meaning of the statute appears to be clear and unambiguous. Sloan v. SC Board of Physical Therapy Exam., 370 S.C. 452, 636 S.E.2d 598 (2006).

South Carolina Code § 58-5-390 says:

(A) A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system.

In analyzing the statute, the plain meaning of the words is clear. There is no ambiguity as to what utilities may charge fees for fire sprinkler systems because it applies to all utility companies. There are no exceptions for charging more than the installation and maintenance charges.

The next place to look is at the legislative intent. The legislative intent is unambiguous. It reads "...it is the purpose of this act to create meaningful incentives for the installation of fire sprinkler systems." 2008 South Carolina Laws Act 357 (H.B. No. 4470). The legislative intent would support a finding that the statute applies to all fire sprinkler systems without exception, even if the tap supplies other water uses.

South Carolina Code § 58-5-390(A) provides that fees for the installation and maintenance of a fire sprinkler system may not exceed the "actual costs associated with the water line to the system." The "actual costs" include the following:

- 1) direct labor;
- 2) direct material;
- 3) the necessity of increased capacity; and
- 4) other direct charges associated with the separate fire sprinkler line.

The statute also requires the direct costs to be "documented by either an invoice or work order that specifically assigns the costs to the separate fire sprinkler line." S.C. Code § 58-5-390(B). The language in this part of the statute is also clear and would imply the burden of showing the cost of the installation and maintenance of the sprinkler line would be with the utility company to provide the documentation supporting the charges.

2) The size of a tap needed and whether or not an individual would be required to pay a larger fee based on a larger tap needed for a sprinkler system is a factual question. The issue would need to be resolved with the utility company. If your constituent is not satisfied with the answer from the utility company, a court may be able to resolve these factual issues and answer the underlying questions. As you may well be aware, this Office does not issue factual opinions. Op. S.C. Atty. Gen., 1996 WL 599391 (September 6, 1996) (citing Op. S.C. Atty. Gen., 1983 WL 182076 (December 12, 1983)).

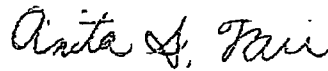
Please note if the water company is a public utility, as defined in South Carolina Code § 58-5-10(4), then then any issues should be addressed with the public service commission. Ops. S.C. Atty. Gen., 1978 WL 34948 (June 19, 1978).

The Honorable Dennis C. Moss
Page 3
November 20, 2012

Conclusion:

Based on the conclusion that South Carolina Code § 58-5-390 applies to any fire sprinkler taps, a utility company may not charge more than the actual costs of the installation and maintenance of the fire sprinkler system. The other factual issues should be addressed with the utility company or by a court. However, this office is only issuing a legal opinion. Until a court or the legislature specifically addresses the issues presented in your letter, this is only an opinion on how this office believes a court would interpret the law in the matter. If it is later determined otherwise or if you have any additional questions or issues, please let me know.

Sincerely,



Anita Smith Fair
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General



Wells Fargo Business Online®

View Check Copy

Check Number	Date Posted	Check Amount	Account Number
7386	11/09/12	\$1,000.00	CUSTOM BUSINESS CHECKING XXXXXXXX6847

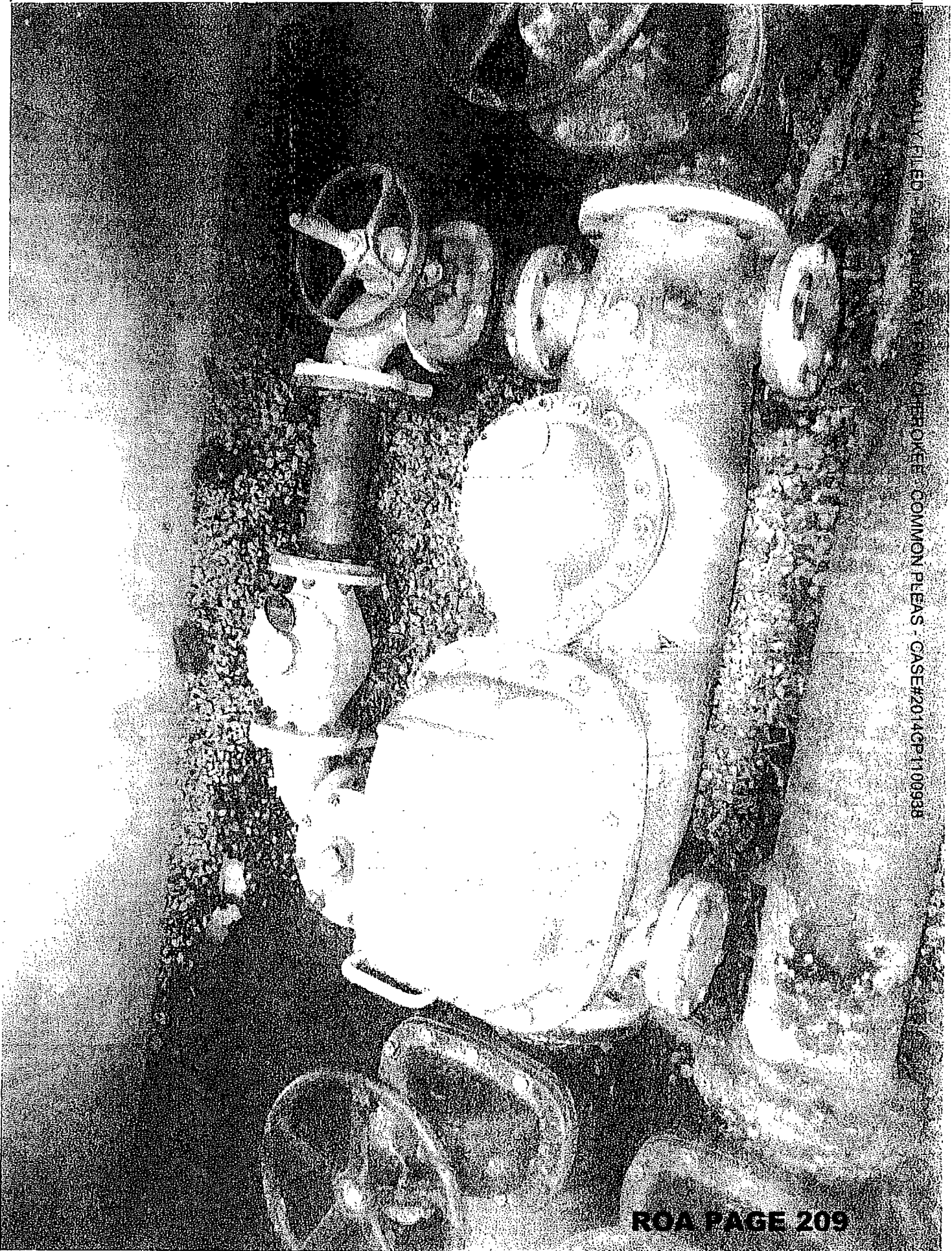
RUGS INTERNATIONAL LLC P.O. BOX 190 GAITHERSBURG, MD 20878 PH: 301-481-6041		7386 NOV 20 2012 PAID BY CF
DATE <u>Nov 2, 2012</u>		
PAY TO THE ORDER OF <u>Macedonia Under Work</u>		\$ <u>1,000.00</u>
<u>One Thousand & 00/100</u>		DOLLARS
FOR <u>top install</u>		

	533	PAY TO THE ORDER OF FIRST NATIONAL FOR DEPOSIT ONLY MACEDONIA WATERWORKS INC. PROUDLY 1/2/2014
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Equal Housing Lender

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ELECTRONICALLY FILED - 2017 Jan 05 3:14 PM - CHEROKEE - COMMON PLEAS - CASE#2014CP1100938



Carrie Call

From: efiledonotreply@sccourts.org
Sent: Thursday, March 23, 2017 12:00 PM
To: joemathis@satmlc.com
Cc: carrie@satmlc.com
Subject: Courtesy NEF RE: 2014CP1100938

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2014CP1100938

Official File Stamp: 03-23-2017 11:59:52 AM
Court: CIRCUIT COURT
Common Pleas
Cherokee
Case Caption: Joey Lemmons, D/B/A , plaintiff, et al VS Macedonia Water Works, Inc.
Document(s) Submitted: Order/Summary Judgment
Filed by or on behalf of: R. Keith Kelly

This notice was automatically generated by the courts auto-notification system.

The following people were served electronically:

Joseph L. Mathis for Macedonia Water Works, Inc.
N. Douglas Brannon for Joey Lemmons, D/B/A
Lawrence Emile Flynn, III for Macedonia Water Works, Inc.

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Rugs International, Inc.
Lee S. Alford

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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM CHEROKEE COUNTY  
COURT OF COMMON PLEAS  
The Honorable R. Keith Kelly, Circuit Court Judge

Appellate Case No.: 2017-002171  
Case No. 2014-CP-11-0938

**RECEIVED**  
AUG 24 2018  
SC Court of Appeals

Joey Lemmons, d/b/a  
Rugs International, ..... Appellant,

v.

Macedonia Water Works, Inc., ..... Respondent.

CERTIFICATE OF SERVICE

I certify that on July 28, 2018, I served the Record on Appeal on the Respondent by placing a copy into the U.S. Mail, first-class postage prepaid, addressed to the Respondent's counsel of record as follows, and to others if indicated, and by facsimile if indicated:

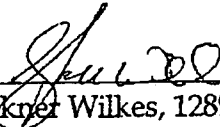
Joseph L. V. Johnson  
Joseph L. Mathis  
Saint-Amand Thompson & Mathis, LLC  
210 Limestone Street, Suite 1  
Gaffney, SC 29340-3014

Lawrence E. Flynn, III  
Pope Flynn, LLC  
P.O. Box 11509  
Columbia, SC 29211-1509

and to:

Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

CLERK OF COURT  
JUL 28 2018  
JUL 28 2018

  
\_\_\_\_\_  
J. Falkner Wilkes, 12893  
114 Whitsett Street  
Greenville, SC 29601  
(864) 282-1292  
*Counsel for Appellant*

July 28, 2018.

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM CHEROKEE COUNTY  
COURT OF COMMON PLEAS  
The Honorable R. Keith Kelly, Circuit Court Judge

Appellate Case No.: 2017-002171  
Circuit Court Case No. 2014-CP-11-0938

RECEIVED  
AUG 24 2018  
SC Court of Appeals

Joey Lemmons, d/b/a  
Rugs International, ..... Appellant,

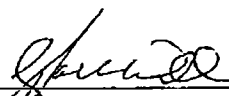
v.

Macedonia Water Works, Inc., ..... Respondent.

CERTIFICATE OF COUNSEL

I certify that the Record on Appeal has been redacted in accordance with the  
Supreme Court's Order on the redaction of personal identifiers and private data.

I further certify that the Record on Appeal contains all of the matter designated  
by counsel and no irrelevant matter or matter that was not presented to the lower court.

  
\_\_\_\_\_  
J. Falkner Wilkes, 12893  
114 Whitsett Street  
Greenville, SC 29601  
(864) 282-1292  
Counsel for Appellant

July 28, 2018.