

# WATER & WASTEWATER INDUSTRY QUARTERLY REPORT

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Keeping You Informed About Florida

June 2016



## Florida Public Service Commission Adopts Rules Affecting Water and Wastewater Utilities

By Susan Clark

Three bills affecting the water and wastewater industry were passed in the 2016 Regular Session of the Florida Legislature. Those bills are now Chapters 2016-44, 2016-124 and 2016-226, Laws of Florida.

Chapter 2016-44, Laws of Florida (Committee Substitute for Senate Bill 416) requires a state or local government to bear the cost of utility work to eliminate an unreasonable interference of the utility located within right-of-way if the utility is lawfully located within an existing and valid utility easement granted by recorded plot, regardless of whether such land was subsequently acquired by the governmental authority by dedication, transfer of fee or otherwise.

Chapter 2016-124, Laws of Florida (Committee Substitute for House Bill 347) establishes “Utility Cost Containment Bonds” a new financing mechanism for “legal entities created by interlocal agreements to finance or refinance on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity water or wastewater projects.” These financing mechanisms (referred to as securitization) are designed to lower interest rates and achieve more favorable terms for bonds issued to finance water and wastewater projects.

Chapter 2016-226, Laws of Florida (Committee Substitute for Committee Substitute for Committee Substitute for House Bill 491) revises several provisions within Chapter 367, Florida Statutes. In addition Section 159.8105, Florida Statutes, is created to require the State Division of Bond Finance “to review the allocation of private activity bonds to determine the availability of additional allocation or reallocation of bonds for water and wastewater infrastructure projects.” The sections of Chapter 367 that are amended are as follows:

- Section 367.022 is amended by adding subsection (9) which exempts from Florida Public Service Commission (FPSC or Commission) regulation resellers of water service if the fee for such service “does not exceed the actual purchase price of the water plus the actual cost of meter reading and billing, not to exceed 9 percent of the actual cost of service.”

[Continued on next page.]

## Florida Public Service Commission Adopts Rules Affecting Water and Wastewater Utilities (cont'd)

By Susan Clark

- Section 367.0981 is amended to:
  - Allow the Commission to authorize regulated water or wastewater utilities to create a reserve fund for infrastructure repair or replacement. The Commission is required to adopt rules to govern the implementation, management and use of the fund.
  - Expand the categories of expenses a utility may include in an automatic rate increase or decrease (pass-through proceeding) and allows the Commission to adopt rules to further expand the categories of expenses that may be included in a pass-through proceeding.
  - Require that recovery of rate case expense be apportioned over four years “unless a longer period can be justified and is in the public interest,” and prohibits a utility from earning a return on the unamortized balance of the rate case expense.
- Section 367.0814 is amended to prohibit the recovery of rate case expense in a staff assisted rate case (SARC) incurred prior to the issuance of the initial staff report unless the Office of Public Counsel (OPC) has intervened; and authorizes the Commission to award rate case expenses in a SARC for expenses incurred after the initial staff report is made available.
- Section 367.111 is amended to authorize the Commission to review secondary drinking water quality standards and review issues of odor, noise, aerosol drift or lighting as it pertains to wastewater.
- Section 367.165 is amended to make the provisions on utility abandonment applicable to all utilities in the state, not just those regulated by the FPSC.

At the Florida Public Service Commission’s June 9, 2016, Internal Affairs Meeting, the FPSC Staff stated they would begin rulemaking proceedings to implement the provision of Chapter 2016-226, Laws of Florida, relating to rate case expense in a SARC proceeding, additional expenses eligible for recovery in a pass-through proceeding, and the establishment and use of utility reserve funds for infrastructure repair or replacement.

## Summaries of PSC Orders filed since April 2016

### **PSC-16-0135-PCO-WS**—Date Filed: 4/4/2016

Order acknowledges the intervention of the Office of Public Counsel in the application for a limited proceeding for a water rate increase in Marion, Pasco and Seminole Counties by Utilities, Inc. of Florida (Docket No. 150264-WS).

### **PSC-16-0142-CO-WU**—Date Filed: 4/11/2016

Consummating Order makes effective and final Order No. PSC-16-0107-PAA-WU approving the application of Sanlando Utilities Corporation to extend its service territory in order to provide water service to the Myrtle Lake Hills Subdivision in Seminole County (Docket No. 150230-WS).

### **PSC-16-0143-FOF-WS**—Date Filed: 4/12/2016

Order acknowledges the reorganization of and approves a name change for Cypress Lake Utilities, Inc., Utilities, Inc. of Eagle Ridge, Utilities, Inc. of Florida, Labrador Utilities, Inc., Lake Placid Utilities, Inc., Lake Utility Services, Inc., Utilities, Inc. of Longwood, Mid-County Services, Inc., Utilities, Inc. of Pennbrooke, Utilities, Inc. of Sandalhaven, Sanlando Utilities Corporation, and Tierra Verde Utilities, Inc. The utilities have been merged with Utilities, Inc. of Florida. The reorganization and name change do not affect any prior orders, commitments or other obligations of service of each of the individual utilities (Docket No. 150235-WS).

### **PSC-16-0151-FOF-SU**—Date Filed: 04/18/2016

Order approves the stipulation and settlement agreement (SSA) entered into between Utilities, Inc. of Sandalhaven (Utility or Sandalhaven) and the Office of Public Counsel (OPC). The SSA provides that the revenue requirement approved in the FPSC's Proposed Agency Action order are accepted with the exception of the Allowance for Funds Prudently Invested (AFPI) charges. The AFPI charges will remain at the level they were when the FPSC obtained jurisdiction of the Utility, the Utility will not seek a rate increase based upon the 2016 Price Index and the Utility will not recover any additional rate case expense incurred as a result of OPC's petition and the Utility's cross petition for an administrative hearing (Docket No. 150102-SU).

### **PSC-16-0162-CO-WU**—Date Filed: 04/25/2016

Consummating Order makes effective and final Order No. PSC-16-0126-PAA-WU approving a rate increase for water service by Sunrise Utilities, LLC in Polk County (Docket No. 140220-WU).

### **PSC-16-0163-CO-WU**—Date Filed: 04/25/2016

Consummating Order makes effective and final Order No. PSC-16-0128-PAA-WU approving a rate increase for water service in Polk County by Alturas Utilities, LLC in a staff-assisted rate case (Docket No. 140219-WU).

### **PSC-16-0169-PAA-WU**—Date Filed: 04/28/2016

Proposed Agency Action Order approves the transfer of the water system in Lake County from Black Bear Reserve Water Corporation to Black Bear Waterworks. The existing rates and charges for water service remain in effect; however, the FPSC approved a \$2.60 convenience fee for customers paying by credit or debit card by phone or online. A netbook value for the transferred system was established, and no acquisition adjustment was included in rate base (Docket No. 150166-WU).

### **PSC-16-0189-PCO-WS**—Date Filed: 05/10/2016

Order acknowledges the intervention of the Office of Public Counsel (OPC) in the application for rate increase in water and wastewater service in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk and Seminole Counties provided by Utilities, Inc. of Florida (Docket No. 160101-WS).

## Summaries of PSC Orders filed since April 2016 (continued)

### **PSC-16-0194-PCO-SU**—Date Filed: 5-17-16

Order establishes procedures regarding filing procedures, notice and public information, testimony and exhibits, discovery, and prehearing, hearing and post-hearing procedures in KW Resort Utilities Corporation's application for an increase in wastewater rates in Monroe County (Docket No. 150071-SU).

### **PSC-16-0204-FOF-SU**—Date Filed: 05/19/2016

Order grants the request of Crooked Lake Park Sewerage Company for an extension of time to complete construction of Phase II plant additions to July 31, 2016 (Docket No. 130178-SU).

### **PSC-16-0207-CO-WU**—Date Filed: 05/23/2016

Consummating Order makes effective and final Order PSC-16-0169-PAA-WU approving the transfer of water system of Black Bear Reserve Water Corporation in Lake County to Black Bear Waterworks (Docket No. 150166-WU).

### **PSC-16-0209-PCO-WU**—Date Filed: 05/24/2016

Order suspends the request of Sunny Shores Water Company, Inc. to establish a late payment charge (Docket No. 160023-WU).

### **PSC-16-0213-FOF-WS**—Date Filed: 06/03/2016

Order acknowledges the transfer of the water and wastewater facilities of Continental Utility, Inc. in Sumter County to the City of Wildwood (Docket No. 160036-WS).

### **PSC-16-0249-PCO-WS**—Date Filed: 06/29/2016

Order suspends Ni Florida's request for a rate increase for water and wastewater service in Pasco County, and grants and interim rate increase for both water service (38.98%) and wastewater service (17.21%) (Docket No. 160030-WS).

### **PSC-16-0253-TRF-WS**—Date Filed: 06/29/2016

Order approves a late payment charge of \$5.25 and a graduated Non Sufficient Funds Charge for the collection of worthless checks, drafts, or orders of payment by Utilities Inc. of Florida for water and wastewater service in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, and Seminole Counties (Docket No. 160104-WS).

### **PSC-16-0254-PAA-WS**—Date Filed: 06/29/2016

Proposed Agency Action Order continues the current leverage formula for establishing ranges of returns on common equity for water and wastewater utilities in Florida. The range of returns approved is 8.74% to 11.16% (Docket No. 160006-WS).

### **PSC-16-0256-PAA-WU**—Date Filed: 06/30/2016

Proposed Agency Action Order grants a rate increase to Raintree Waterworks Inc. (Raintree or Utility) for water service in Lake County. The overall quality of the water service was found to be satisfactory. The water treatment plant and distribution system were found to be 100% used and useful (U&U). Adjustments were made to rate base and operating expenses including an 8.5% downward adjustment in operating expenses for chemicals and purchased power for Excessive Unaccounted for Water (EUW). The return on equity (ROE) was set at 8.74% based on the Commission-approved leverage formula. A rate increase of 10.7% was approved. The rate structure approved was a base facility charge (BFC) designed to recover 40% of the revenue requirement and a 3-tiered inclining block rate. A repression adjustment was included in the calculation of rates. Also approved was an initial customer deposit of \$64 for residential customers and two-times the average estimated bill for all other customers (Docket No. 150199-WU).

**FPSC W/W Dockets OPENED (since April 2016)**



**160075-WU**—Date Opened: 4/5/2016  
 Joint application for authority to transfer assets and Certificate No. 623-W in Orange and Lake Counties from Oak Springs, LLC and Oak Springs MHC, LLC.



**160095-SU**—Date Opened: 4/21/2016  
 Application for amendment of Certificate No. 162-S to extend territory in Duval County by Commercial Utilities/ A Division of Grace & Company, Inc.



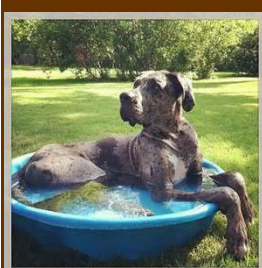
**160101-WS**—Date Opened: 4/28/2016  
 Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.



**160104-WS**—Date Opened: 4/29/2016  
 Application for NSF and late payment charges in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities Inc. of Florida.



**160130-WU**—Date Opened: 5/24/2016  
 Application for transfer of water facilities to the City of Tavares, and amendment of Certificate No. 644-W, by TLP Water, Inc.



**160143-WU**—Date Opened: 06/03/2016  
 Application for staff-assisted rate case in Hardee County by Charlie Creek Utilities, Inc.



**160144-WU**—Date Opened: 6/06/2016  
 Application for transfer of Certificate No. 288-W in Pasco County from Orangeland Water Supply to Orange Land Utilities, LLC.



**160145-WU**—Date Opened: 06/07/2016  
 Application for limited revenue proceeding in St. Johns County, by Camachee Island Company, Inc d/b/a Camachee Cove Yacht Harbor Utility.

## FPSC W/W Dockets CLOSED (since April 2016)

**140031-WS**—Date Opened: 2/10/2014—Date Closed: 5/20/2016  
Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities.



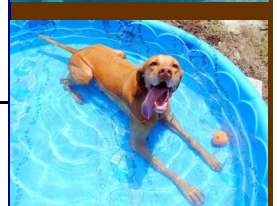
**140239-WS**—Date Opened: 12/11/2014—Date Closed: 4/29/2016  
Application for staff-assisted rate case in Polk County by Orchid Springs Development Corporation.



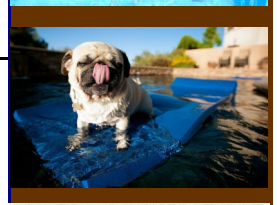
**150091-WS**—Date Opened: 3/20/2015—Date Closed: 4/15/2016  
Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utilities, LLC, in Marion County.



**150102-SU**—Date Opened: 4/01/2015—Date Closed: 4/18/2015  
Proposed amendments to Rule 25-6.0436, F.A.C., Depreciation, Rule 25-6.04364, F.A.C., Electric Utilities Dismantlement Studies, Rule 25-7.045, F.A.C., Depreciation, and Rule 25-7.046, F.A.C., Subcategories of Gas Plant for Depreciation.



**150166-WU**—Date Opened: 07/13/2015—Date Closed: 6/23/2016  
Application for transfer of water system and Certificate No. 654-W in Lake County from Black Bear Reserve Water Corporation to Black Bear Waterworks, Inc.



**150230-WU**—Date Opened: 10/27/2015—Date Closed: 5/9/2016  
Application for amendment of Certificate of Authorization No. 247-W, to extend water service area to include land in Seminole County, by Sanlando Utilities Corporation.



**150235-WS**—Date Opened: 11/02/2015—Date Closed: 4/12/2016  
Joint application for acknowledgement of corporate reorganization and request for approval of name changes on water and/or wastewater certificates of Cypress Lakes Utilities, Inc. in Polk County; Utilities, Inc. of Eagle Ridge in Lee County; Utilities, Inc. of Florida in Marion, Orange, Pasco, Pinellas, and Seminole Counties; Labrador Utilities, Inc. in Pasco County; Lake Placid Utilities, Inc. in Highlands County; Lake Utility Services, Inc. in Lake County; Utilities, Inc. of Longwood in Seminole County; Mid-County Services, Inc. in Pinellas County; Utilities, Inc. of Pennbrooke in Lake County; Utilities, Inc. of Sandalhaven in Charlotte County; Sanlando Utilities Corporation in Seminole County; and Tierra Verde Utilities, Inc. in Pinellas County, to Utilities, Inc. of Florida.



**150260-WS**—Date Opened: 12/10/2015—Date Closed: 4/29/2016  
Request for approval of late payment charges and return check (NSF) charge and request for approval of amendment to tariff sheets for miscellaneous service charges in Lake County by Brendenwood Waterworks, Inc., Harbor Waterworks, Inc., Lake Idlewild Waterworks, Inc., and Raintree Waterworks, Inc., and in Highlands County by Country Walk Utilities, Inc.



**160036-WS**—Date Opened: 2/22/2016—Date Closed: 6/03/2016  
Application for transfer of water and wastewater facilities to the City of Wildwood in Sumter County, and cancellation of Certificate Nos. 506-W and 440-S, by Continental Utility, Inc.



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The Radey Law Firm believes that service to clients must be efficient and dedicated. Our location in Tallahassee, Florida, provides us the opportunity to be at the heart of the regulatory, legislative, and judicial arenas. The Water & Wastewater Industry Quarterly Report is provided to our clients and friends in a condensed summary format and should not be relied upon as a complete report nor be considered legal



### Upcoming Events - Mark Your Calendars

Date	Event	Location
7/25-27	National Association of Regulatory Utility Commissioners Summer Meeting	Nashville, TN
7/27 6:00 pm	Docket No. 160030-WS—Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC—Customer Meeting	New Port Richey
7/28 6:00 pm	Docket No. 160030-WS—Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC—Customer Meeting	North Ft. Myers

## Radey Family News



Brittany Adams Long

Brittany Adams Long and Angela Miles have become shareholders of the firm. Both Brittany and Angela have done an outstanding job in serving our clients and in contributing to the development of the firm. We are excited to have them join as shareholders as we continue to work toward a bright future.



Angela Miles

### Trivia By Pam Keillor

When water contains a lot of calcium and magnesium, it is called hard water. Hard water is not suited for all purposes water is normally used for.



<http://www.stateofflorida.com/facts.aspx>