

WATER & WASTEWATER INDUSTRY QUARTERLY REPORT

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Keeping You Informed About Florida

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Attorneys & Counselors at Law



Florida Public Service Commission Workshop, November 3, 2011 Water and Wastewater Industry Issues

By: Susan F. Clark

This workshop was the second of two workshops the FPSC convened to discuss ideas to alleviate financial stress on small water and wastewater systems with the ultimate purpose of finding for ways to lower rates through helping small companies with efficiencies and cost savings. In addition to Commissioners and staff, several Florida House of Representatives Staff members attended the workshop.

Mr. Bob Holmden, Chief of the Bureau of Water Facilities Funding within the Florida Department of Environmental Protection, briefed the Commissioners on the State Revolving Fund (SRF) that provides low-interest loans to certain types of water and wastewater facilities.

Mr. Gary Williams from the Florida Rural Water Association made a presentation describing the association, its membership and the types of services available to members as well as non-members. He described some regulatory reform initiatives taking place at the national level aimed at reducing costs to water and wastewater service providers (e.g., reducing mailing costs for consumer confidence reporting and public notices, review of Environmental Protection Agency rules relating to contaminants to establish hierarchy of risks to address; and pursuing tax-exempt financing for investor-owned water and wastewater utilities).

(Continued on Page 2)

Florida Public Service Commission Workshop, November 3, 2011 (continued)

Next, Commission staff member, Ms. JoAnn Chase walked the Commissioners through a list of “Challenges and Solutions to Increase Efficiencies in the Industry in Order to Maintain or Lower Rates or Mitigate Rate Increases.” Matters discussed were:

- a. State Revolving Fund—ideas for broadening and increasing utilization.
- b. Bulk Ordering of Equipment, Commodities and Services.
- c. Interest Rate Paid on Customer Deposits—staff is working on a rule change to reduce interest on customer accounts.
- d. Acquisitions of Existing Systems by Larger Utility—addressing factors to be considered in whether acquisitions are in the public interest.
- e. Reseller Utilities—expanding the reseller exemption to allow additional fees for such things as administrative, billing and meter reading costs. (This change would encourage resellers to charge for service on a stand-alone basis so as to incent water conservation.)
- f. Property Tax Incentive—pursuit of exemptions or different tax treatment for necessary improvements.
- g. Legislative Study Commission—possible benefits of having a group of legislators focused on a multi-faceted, balanced approach to address issues facing small water and wastewater systems.

Two representatives of regulated utilities provided further items for consideration:

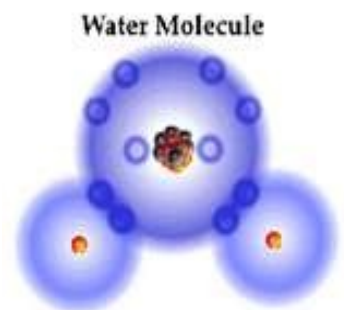
- ⇒ Possibility of surcharges to fund needed infrastructure improvements.
- ⇒ Expansion of expense items eligible for a “pass through” recovery mechanism.
- ⇒ Imposition of time limits for Commission action in limited proceeding cases.

Because of time constraints, public comment was not entertained, but written comments were invited with the comments to be filed in Docket No. 110000-OT.

Trivia By Pam Keillor

In a 100-year period, a water molecule spends 98 years in the ocean, 20 months as ice, about 2 weeks in lakes and rivers, and less than a week in the atmosphere.

<http://www.lennotech.com/water-trivia-facts.htm>



Summaries of PSC Orders filed since October 2011

By Susan F. Clark

PSC-11-0377A-PAA-WS—Date Filed: 11/10/2011

Amendatory Order reflects Docket No. 100114-WS in the header on all pages of Order PSC-11-0377-PAA-WS

PSC-11-0377B-PAA-WS—Date Filed: 11/22/2011

Amendatory Order corrects scrivener's errors on page 14 of Schedule 1 regarding plant balances for Accounts 331 and 335.

PSC-11-0440-FOF-WS—Date Filed: 10/3/2011

Order approves a regulatory assessment fee (RAF) installment payment plan for Water Management Services (WMS) for RAF that was due by August 1, 2011, so that all such fees and penalties are paid by December 31, 2011.

PSC-11-0441-FOF-WS—Date Filed: 10/5/2011

Order grants water and wastewater Certificate Nos. 657-W and 561-S to Equity Life Style Properties (ELPI) on behalf of its subsidiary OB Utility Systems within Marion County. ELPI had previously included the cost of water and wastewater service in lot rental fees and was therefore exempt from FPSC regulation. ELPI proposes to charge separately for such service, with an appropriate decrease in lot rental fees. Initial rates and charges will be addressed at a subsequent FPSC agenda conference.

PSC-11-0444-PAA-SU—Date Filed: 10/7/2011

Proposed Agency Order approves a rate increase in a staff-assisted rate case (SARC) for S&L Utilities for wastewater service in Marion County. The quality of the service was found to be marginal due to concerns regarding proper maintenance of the percolation pond and lift stations. The treatment plant and collection system were found to be 100% used and useful. Using the Commission-approved leverage formula, the return on equity (ROE) was set at 9.93%. The Operating Ratio Methodology which sets rates based on the margin of the utility's O&M expenses, was used to set rates because setting rates pursuant to the traditional calculation of revenue requirements would not provide sufficient revenues to protect against potential variances in revenues and expenses. A rate increase of 47.7% was approved, and the utility's current rate structure of a flat rate remained unchanged. The fee for returned checks (NSF Fee) was increased and a fee for late payment was authorized. The utility was also permitted to implement a subsequent rate increase after the completion of additions to plant needed to clean the percolation pond.

PSC-11-0445-PCO-WS—Date Filed: 10/7/2011

Order acknowledges the intervention of Office of Public Counsel (OPC) on behalf of Citizens of the State of Florida in the rate case for Labrador Utilities Inc. for water and wastewater service in Pasco County.

PSC-11-0447-CO-WS—Date Filed: 10/7/2011

Consummating Order makes effective and final Order PSC-11-0377-PAA-WS approving the transfer of Horizon Homes of Central Florida, Inc. and Five Land Group LLC's water and wastewater systems to Aqua Utilities of Florida (AUF).

PSC-11-0448-CO-WS—Date Filed: 10/7/2011

Consummating Order makes effective and final Order PSC-11-0385-PAA approving in part Tradewinds Utilities, Inc.'s application for an increase in water and wastewater rates in Marion County.

PSC-11-0454-FOF-WS—Date Filed: 10/10/2011

Final Order grants water and wastewater Certificate Nos. 656-W and 560-S to Equity Life Style Properties, Inc. (ELPI) on behalf of its subsidiary MFL Utility Systems in Lake County. ELPI had previously included the cost of water and wastewater service in lot rental fees and was therefore exempt from FPSC regulation. ELPI proposes to charge separately for such service, with an appropriate decrease in lot rental fees. Initial rates and charges will be addressed at a subsequent FPSC agenda conference.

PSC-11-0474-PCO-WS—Date Filed: 10/19/2011

Order denies YES Companies, LLC d/b/a as Arredondo Farm's (YES) motion for investigation, entry of cease and desist order, and entry of order to show cause why sanctions should not be imposed against Aqua Utilities of Florida (AUF), for improperly retaliating against customers who testified at the 9/12/11 customer service hearing in Gainesville, Florida. The Commission found notices sent to customers after hearing were "routine, computer generated notices" - that dealt with failure to pay bills or documented water usage by customers not current AUF customers. The Commission noted the customers could pursue their issues through Commission complaint procedures.

PSC-11-0477-FOF-SU—Date Filed: 10/21/2011

Order dismisses the staff-assisted rate case (SARC) for Francis I Utility, LLC, and closes the docket. Staff had been unable to complete the audit of the utility's books and records or the engineering field inspection due to the lack of cooperation and responsiveness

Summaries of PSC Orders filed since October 2011 (continued)

from the utility. Additionally, the utility failed to file its 2010 Annual Report which is a consideration in determining; whether an application for a SARC will be accepted.

PSC-11-0478-PAA-WU—Date Filed: 10/24/2011

Order declines to initiate a show cause proceeding for operating without a certificate and approves application for water certificate by Black Bear Reserve Water Corporation (BBRWC) in Lake County. BBRWC was previously exempt from FPSC jurisdiction as a nonprofit corporation providing service only to members owning and controlling the corporation. The addition in 2009 of service to homeowners not part of the corporation required the filing of a certificate application. Objections to the application were resolved by stipulation of the parties. The FPSC declined to refund Regulatory Assessment Fees (RAFs) for 2010 that were paid during the pendency of the application process finding BBRWC was subject to FPSC jurisdiction and therefore owed the RAFs. The Commission also approved water service rates, service availability charges, initial customer deposits, and tap-in and meter installation charges, miscellaneous service charges and backflow prevention charges.

PSC-11-0479-CO-WS—Date Filed: 10/24/2011

Consummating Order makes effective and final Order PSC-11-0436-PAA-WS approving a rate increase for water and wastewater customers of Heather Hills Estates Utilities in Manatee County in a staff-assisted rate case.

PSC-11-0482-PCO-WS—Date Filed: 10/25/2011

Order is a temporary protective order for all documents or information received by OPC regarding Aqua Utility of Florida's (AUF's) response to Office of Public Counsel's (OPC) discovery request (Nos. 175 and 194) provided in AUF's rate case.

PSC-11-0483-CFO-WS—Date Filed: 10/25/2011

Order grants Aqua Utility of Florida's (AUF) request for confidential classification for Exh TR-3 included in prefiled testimony of AUF's witness Rendell for 18 months from issuance date of order.

PSC-11-0484-PCO-WS—Date Filed: 10/25/2011

Order allows parties to Aqua Utility of Florida's (AUF's) rate case to file, by 11/4/11, a memorandum addressing the inclusion of an issue on whether the "resulting rates" are affordable with the meaning and intent of fair, just and reasonable pursuant to Sections 367.081 and 367.121, Fla. Stat.

PSC-11-0501-PCO-WS—Date Filed: 10/26/2011

Order denies Aqua Utilities of Florida's (AUF's) and Steve Grisham's joint motion to quash subpoena and notice of deposition of Steve Grisham served by YES Companies, LLC d/b/a Arredondo Farms (YES). Mr. Grisham is an AUF field technician and has not filed testimony in the case. In denying the motion to quash, the prehearing officer found "Mr. Grisham's testimony could be important on the issue of quality of service provided by AUF to the residents in YES's park."

PSC-11-0504-PCO-WS—Date Filed: 10/27/2011

Order denies YES Companies, LLC d/b/a Arredondo Farms' (YES) motion for entry of order setting a date for customer testimony at technical hearings in the Aqua Utilities of Florida (AUF) rate case. The prehearing officer noted the motion to set dates for certain customer testimony at the Technical Hearings was premature and the best dates for testimony from those customers would be taken up at the Prehearing Conference. However, only prefiled customer testimony will be taken up the Technical Hearings.

PSC-11-0510-CO-SU—Date Filed: 11/1/2011

Consummating Order makes effective and final Order PSC-11-0444-PAA-SU granting a rate increase to S&L Utilities, Inc. for water and wastewater service in Marion County.

PSC-11-0514-PAA-WS—Date Filed: 11/3/2011

Order approves a rate increase for water service and a rate decrease for wastewater services in Lake County by Lake Utility Services, Inc. (LUSI), a subsidiary of Utilities, Inc. (UI). The quality of the service was found to be satisfactory. Several adjustments were made to rate case and net operating income including adjustments to account for impacts of the divestiture of other UI subsidiaries, and proforma plant additions. The water treatment plants and storage and distribution systems were found to be 100% used and useful (U&U). The wastewater plant was found to be 53% U&U, and the wastewater collection plant was 100% U&U. Using the 2011 leverage formula, the ROE was set at 10.8%. Citing the "tumultuous state of the economy," proforma adjustments for pay increases were disallowed, and the expense for Directors and Officers (D&O) liability insurance was shared between ratepayers and shareholders. Several adjustments were made to rate case expense relating to legal, engineering and accounting fees, and travel and FedEx expenses. The existing inclining block rate structure for water service with a 20% base facilities charge (BFC) was continued. Rates for wastewater were decreased but the existing rate structure was continued. A repression adjustment for water service was ap

Summaries of PSC Orders filed since October 2011 (continued)

proved and the utility was required to file semi-annual reports on water consumption. Changes were also made to water and wastewater serve availability charges. A refund of interim rates was required.

PSC-11-0519-PCO-SU—Date Filed: 11/4/2011

Order acknowledges intervention of Office of Public Counsel (OPC) in Application of Utilities Inc. of Eagle Ridge for an increase in wastewater rates in Lee County.

PSC-11-0520-PCO-WS—Date Filed: 11/4/2011

Order denies joint motion of Office of Public Counsel (OPC), Attorney General (AG), Pasco County and YES Companies LLC d/b/a as Arredondo Farms (YES) to move brief filing; however, dates for the provision of some transcripts were changed to have them available earlier.

PSC-11-0521-FOF-WS—Date Filed: 11/7/2011

Order amends Indiantown Company Inc's Certificate Nos. 387-W and 331-S to include additional territory in a new development adjacent to its existing territory. No new capacity additions were required to serve this territory.

PSC-11-0522-FOF-SU—Date Filed: 11/7/2011

Final Order grants wastewater Certificate No. 562-S to TKCB Inc. as an original certificate to provide wastewater service in Brevard County.

PSC-11-0537-CO-WU—Date Filed: 11/17/2011

Consummating Order makes effective and final Order PSC-11-0478-PAA-WU granting Black Bear Water Reserve Corporation's (BBWRC) application for a certificate to provide water service in Lake County.

PSC-11-0540-PCO-WS—Date Filed: 11/21/2011

Order denies YES Arredondo Farms' motion to compel AUF's responses to Arredondo's 3rd set of interrogatories and 3rd request to produce.

PSC-11-0541-SC-WS—Date Filed: 11/22/2011

Order initiates a show cause proceeding against Four Points Utility Corporation (Four Points) in Polk County for violation of various statutes and FPSC rules and orders and requires Four Points to file a compliance plan for remedying the enumerated regulatory compliance problems.

PSC-11-0542-PAA-WS—Date Filed: 11/22/2011

Proposed Agency Action Order denies Bimini Bay's application for water and wastewater certificates to provide serve in Polk County finding that the applicant had not demonstrated the required financial and technical ability to provide the service. The Applicant may seek certificates in the future when it is better prepared to meet certificate application and regulatory requirements.

PSC-11-0543-PCO-WS—Date Filed: 11/23/2011

Order temporarily protects all documents received by the Office of Public Counsel (OPC) from Aqua Utilities of Florida (AUF) in response to OPC's 10th request for PODs (no. 228).

PSC-11-0544-PHO-WS—Date Filed: 11/23/2011

Order is the prehearing Order issued in the request by Aqua Utilities of Florida (AUF) for an increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia and Washington Counties.

PSC-11-0548-CO-WS—Date Filed: 11/29/2011

Consummating Order makes effective and final Order PSC-11-0514-PAA-WS approving a water rate increase and a wastewater rate decrease of Lake Utility Service, Inc. (LUSI) in Lake County.

PSC-11-0550-PCO-WS—Date Filed: 12/5/2011

Order suspends the rate increase proposed by Mad Hatter Utility for water and wastewater customers in Pasco County.

PSC-11-0552-FOF-WU—Date Filed: 12/7/2011

Order approves transfer of water certificate No. 339-W from Brendenwood Water System to Brendenwood Utilities, LLC located in Lake County. The purchase price exceeded the rate base; however, the applicant did not request a positive acquisition adjustment, therefore none was approved. Existing rates and charges were continued.

Summaries of PSC Orders filed since October 2011 (continued)

PSC-11-0566-AS-WU—Dated Filed: 12/12/2011

Order approves a settlement filed by East Marion Sanitary System and various parties with regard to the installation of irrigation meters and the charge therefore. A further hearing will be held with regard to the protest of two customers also relating to the timing of their request for installation of irrigation meters and the charge therefore.

PSC-11-0573-PCO-WS—Date Filed: 12/12/2011

Order suspends the requested water and wastewater rate increase by Labrador Utilities, Inc. for customers in Pasco County and grants an interim rate increase.

PSC-11-0580-PAA-WS—Date Filed: 12/19/2011

Proposed Agency Action Order grants a rate increase for water and wastewater customers of OB Utility Systems, LLC (OB Utility) in Ocala. (OB Utility is a newly regulated utility having been previously exempt from Commission jurisdiction.) The utility prepared an original cost study because there was no documentation regarding the original costs of the water and wastewater systems. Rates were based on the original cost estimate, less depreciation; however, the order stated the decision did not serve to “formally establish rate base.” The cost of equity of 10.85 percent was established using the Commission-approved leverage formula. The utilities proposed rates and rate structure were found to be reasonable and various miscellaneous service charges were established.

PSC-11-0582-CO-WS—Dated Filed: 12/19/2011

Order makes effective and final Order No. PSC-11-0542 denying Bimini Bay’s application for water and wastewater certificates in Polk County.

PSC-11-0583-PAA-WS—Date Filed: 12/20/2011

Proposed Agency Action Order approves initial rates for water and wastewater service in Lake County by COL Utility Systems, LLC (COL Utility). COL Utility is a wholly-owned subsidiary of Equity Life Styles Properties, Inc. (ELPI). ELPI had historically provided water and wastewater service to mobile home customers as part of customers’ lot rental fees and was therefore exempt from Commission regulation. The newly established rates and charges for water and wastewater service will be offset with an appropriate decrease in rental fees. Rate base was established through an original cost study with appropriate adjustments for accumulated depreciation; the cost of capital was found to be 10.85% using the current Commission-approved leverage formula; and rates were established for various service charges.

PSC-11-0584-PAA-WU—Date Filed: 12/21/2011

Order approves the transfer of Water Certificate 428-W and assets in Levy County from Inglewood Water System to Hash Utilities LLC. The net book value of the system based on Inglewood’s books and records exceeded the purchase price, but since the purchase price was greater than 80% of that net book value a negative acquisition adjustment was not made. The existing rates and charges were continued; however, a change to bi-monthly billing was approved, and a meter installation charge was approved.

PSC-11-0585-FOF-WU—Date Filed: 12/21/2011

Order approves Marion Utilities, Inc.’s application to amend Water Certificate No. 347-W to delete territory consisting of an apartment complex that has separate water treatment facilities and is not longer economically feasible to serve.

PSC-11-0586-PAA-WS—Dated Filed: 12/21/2011

Proposed Agency Action Order approves MFL Utility Systems, LLC’s (MFL) application for certificates to provide water and wastewater service in Lake County. MFL is a wholly-owned subsidiary of Equity Life Styles Properties, Inc. (ELPI). ELPI had historically provided water and wastewater service to mobile home customers as part of customers’ lot rental fees and was therefore exempt from Commission regulation. The newly established rates and charges for water and wastewater service will be offset with an appropriate decrease in rental fees. Rate base was established through an original cost study with appropriate adjustments for accumulated depreciation; the cost of capital was found to be 10.85% using the current Commission-approved leverage formula; and rates were established for various service charges.

PSC-11-0587-PAA-SU—Dated Filed: 12/21/2011

Order grants an increase in wastewater rates in Lee County to Utilities Inc. of Eagle Ridge (Eagle Ridge or Utility). The overall quality of the service was found to be satisfactory. The Utility agreed to several rate base adjustments resulting from the Commission staff audit, including an adjustment for the investment in the “Phoenix Project” the purpose of which was to improve accounting, customer service, customer billing and financial and regulatory functions of Utilities Inc. (UI) and its subsidiaries, including Eagle Ridge. The wastewater treatment plants, reuse system and collection systems were found to be 100% used and useful. The cost of capital was determined to be 10.60% based on the Commission approved leverage formula. Several adjustments were made to rate case expense. The current rate structure was continued with the rate increase applied as an “across-the-board increase” to the rates for services; a refund of interim rates was required.



110282-WS—Docketed: 10/3/2011
Application for staff-assisted rate case in Duval County by Regency Utilities, Inc.

110298-SU—Docketed: 10/27/2011
Application for certificate to provide wastewater service in Volusia and Brevard Counties by Farmton Water Resources LLC.





110302-WU—Docketed: 11/1/2011
Application by Raintree Harbor Utilities, LLC for approval of transfer of Raintree Utilities, Inc.'s Harbor water system, and granting an initial certificate in Lake County.

110311-WU—Docketed: 11/28/2011
Application for transfer of Certificate No. 588-W from Pinecrest Ranches, Inc., in Polk County, to Pinecrest Utilities, LLC.

110317-WS—Docketed: 12/12/2011
Application for transfer of majority organizational control of Tymber Creek Utilities, Inc., holder of Certificate Nos. 303-W and 525-S in Volusia County, from Steve P. Shirah to Joseph Stanley Shirah.



FPSC W&W Dockets **Closed** (since October 2011)

<p>090424-WS—Docketed: 8/31/2009—Date Closed: 12/19/2011 Application for certificates to provide water and wastewater service in Polk County by Bimini Bay Utilities Corporation</p>			
<p>100085-WU—Docketed: 2/19/2010—Date Closed: 12/1/2011 Application for certificate to operate water utility in Lake County by Black Bear Reserve Water Corporation.</p>			
<p>100114-WS—Docketed: 3/10/2010—Date Closed: 11/15/2011 Application for approval of transfer of Horizon Homes of Central Florida, Inc. and Five Land Group, LLCs water and wastewater systems to Aqua Utilities Florida, Inc., and for amendment to Certificate Nos. 507-W and 441-S, in Sumter County.</p>			
<p>100126-WU—Docketed: 3/15/2010—Date Closed: 11/17/2011 Application for increase in water rates in Marion County by C.F.A.T, H2O, Inc.</p>			
<p>100127-WS—Docketed: 3/15/2010—Date Closed: 11/17/2011 Application for increase in water and wastewater rates in Marion County by Tradewinds Utilities, Inc.</p>			
<p>100149-WU—Docketed: 3/29/2010—Date Closed: 11/28/2011 Application for increase in water rates in Lee County by Ni Florida, LLC.</p>			
<p>100408-WS—Docketed: 9/29/2010—Date Closed: 11/7/2011 Application for amendment of Certificate Nos. 387-W and 331-S to extend water and wastewater territory in Martin County by Indiantown Company, Inc.</p>			
<p>100442-SU—Docketed: 11/16/2011—Date Closed: 11/7/2011 Application for certificate to provide wastewater service in Brevard County by TKCB.</p>			
<p>110086-SU—Docketed: 3/29/2011—Date Closed: 10/21/2011 Application for staff-assisted rate case in Highlands County by Francis I Utility, LLC.</p>			
<p>110130-WS—Docketed: 4/26/2011—Date Closed: 10/14/2011 Application for staff-assisted rate case in Lake County by Shangri-La By The Lake Utilities, Inc.</p>			
<p>110216-WU—Docketed: 7/1/2011—Date Closed: 12/21/2011 Application for amendments of Certificate No. 347-W to delete territory in Marion County by Marion Utilities, Inc.</p>			
<p>110237-WS—Docketed: 7/27/2011—Date Closed: 10/3/2011 Request for Regulatory Assessment Fee installment payment plan by Water Management Services, Inc.</p>			
<p>110266-WS—Docketed: 9/8/2011—Date Closed: 12/15/2011 Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.</p>			

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Radey Thomas Yon & Clark, P.A. 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 advice or opinion.



Upcoming Events - Mark Your Calendars

Date	Event Name	Event	Location
1/10/12	Session	Legislative Session Begins	
1/18/12 6:00 pm	Customer Meeting	Docket No. 110264-WS—Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.	Lake Estates Community Clubhouse, 6429 Forest Lake Drive, Zephyrhills
2/5/12— 2/8/12	NARUC	NARUC Winter Meetings	Washington, D.C.
2/9/12 6:00 pm	Customer Meeting	Docket No. 110165-SU—Application for staff-assisted rate case in Highlands County by Utility Corporation of Florida, Inc.	Sebring
2/29/12	Customer Meeting	Docket No. 110260-WS—Application for staff-assisted rate case in Lee County by Useppa Island Utilities Co., Inc.	Bokeelia
3/9/12	Session	Legislative Session Ends	