

WATER & WASTEWATER INDUSTRY QUARTERLY REPORT

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Keeping You Informed About Florida

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RADEY | THOMAS | YON | CLARK

Attorneys & Counselors at Law

Commissioner Julie Brown to Serve as Chair of Study Committee By: Terry Deason

Public Service Commissioner Julie Brown has been designated by Public Service Commission Chairman Ronald Brisé to serve as Chair of the Study Committee on Investor-Owned Water and Wastewater Utility Systems. The Study Committee was created by the passage of Committee Substitute for House Bill 1389, sponsored by Representative Steven Perman, which was approved by Governor Rick Scott on April 27, 2012, as Chapter No. 2012-187.

Commissioner Brown will be the chair and a non-voting member of the Study Committee. Other non-voting members of the 18 member Study Committee include the Secretary of the Department of Environmental Protection (or designee) and the Public Counsel (or designee). The 15 voting members will include a member of the Florida Senate, a member of the Florida House of Representatives, and 13 members appointed by Governor Scott from categories designated within Chapter No. 2012-187.

The Study Committee will meet four times at a time and location to be determined by Commissioner Brown. Preliminary plans are for one meeting to be held in New Port Richey, one along the east coast of central Florida, and two in Tallahassee. Specific dates, times, and locations have not yet been announced.

The Study Committee is to prepare and submit a report of its findings and specific legislative recommendations to the Governor, the Senate President and the Speaker of the House by February 15, 2013. If an issue can be effectively addressed through agency rulemaking, the Study Committee is to submit its report and findings, including proposed rules, to the appropriate agency.

Commissioner Edgar Applies for Another Term By: Susan Clark

Commissioner Lisa Edgar is seeking another term on the Public Service Commission. Her current term ends January 1, 2013. Twenty-two other people have applied for the position, the term for which runs from January 1, 2013 to January 2017. The Florida Public Service Nominating Council will meet on July 31, 2012, in Tampa to review the list of applicants and decide on those to be interviewed. The interviews will take place on August 22, 2012, at a time and place to be determined later. The Nominating Council nominations must be submitted to the Governor by September 15, 2012, and the Nominating Council must nominate at least three people .



Upcoming Events - Mark Your Calendars

Date	Event Name	Event	Location
7/18/12 6:00 pm	Customer Meeting	120037-WS-Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke	Grand Hall at Pennbrooke Fairways, 22825 Pennbrooke Pkwy, Leesburg
7/22-25/12	NARUC	2012 NARUC Summer Committee Meetings	Hilton Portland and Executive Tower 921 SW 6th Ave Portland, OR
8/14/12 1:00 pm	Prehearing	110153-SU-Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge	Rm 148
9/10-11/12 10:00 am/6:00 pm	Service Hearing	110153-SU-Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge	Ft. Myers
9/12/12 9:30 am	Prehearing	110061-WS-Application for authority to transfer assets and Certificate Nos. 517-W and 450-S of Service Management Systems, Inc. to Aquarina Utilities, Inc., in Brevard County.	Rm 148
9/25-26/12	Service Hearing	110061-WS-Application for authority to transfer assets and Certificate Nos. 517-W and 450-S of Service Management Systems, Inc. to Aquarina Utilities, Inc., in Brevard County.	Melbourne Beach

Summaries of PSC Orders filed since April 2012

By Susan F. Clark

PSC-12-0174-FOF-WS—Date Filed: 4/2/2012

Order approves Water Management Services' of Franklin County request for installment payment plan for Regulatory Assessment Fees that were due on January 30, 2012.

PSC-12-0178-CFO-WS—Date Filed: 4/3/2012

Order grants Sanlando Utilities Corporations' request for confidential classification of information relating to individual employee compensation and benefits.

PSC-12-0181-FOF-SU—Date Filed: 4/6/2012

Order approves the transfer of wastewater facilities in Lee County from Fountain Lakes Sewer Corporation to Bonita Springs Utilities, Inc. (BSU) and cancels Certificate No. 442-S.

PSC-12-0194-FOF-WU—Date Filed: 4/13/2012

Order approves the transfer of the majority organizational control of Colina Bay Water Company in Lake County to Colina Bay Homeowners Association (HOA) and cancels Certificate No. 632-W.

PSC-12-0203-PCO-WS—Date Filed: 4/13/2012

Order Establishing Procedure for the application by Aquarina Utilities, Inc. (Aquarina) to transfer the assets and water and wastewater certificates of Service Management Systems in Brevard County to Aquarina. An objection to the transfer was made resulting in the scheduling of an administrative hearing.

PSC-12-0204-PAA-SU—Date Filed: 4/16/2012

Proposed Agency Action (PAA) order grants Farmton Water Resources (Farmton) a certificate (Certificate No. 564-S) to provide wastewater services to customers in Brevard County. Farmton's original application included providing services in Volusia County but Volusia County was excluded from the request due to a protest from Volusia County. Initial wastewater and reuse rates were also approved. Farmton's wastewater and reuse facilities are expected to be in operation by January 2014. The cost of capital of 8.7% was based on a capital structure of 100% equity.

PSC-12-0206-PAA-WS—Date Filed: 4/17/2012

Proposed Agency Action (PAA) order approving an increase in water and wastewater rates in Pasco County for Labrador Utilities Inc. ("Labrador" or "Utilities"). The overall quality of the water service was found to be satisfactory, the overall quality of the wastewater service was found to be marginal due to odor concerns and the fact utility had "not made any meaningful attempt to engage customers in exploring other solutions to the odor problem." Adjustments were made to rate base for costs related to Labrador's share of technology investments (the Phoenix Project). The water treatment plant, water distribution system and wastewater collection system were found to be 100% used and useful (U&U), and wastewater plant was found to be 79.94% U&U. The return on equity (ROE) was found to be 10.51% based on an equity ratio of 47.6%. However, due to the finding that Labrador's service was marginal, the ROE was reduced to 10.26% resulting in an overall cost of capital of 8.26%. Among the adjustments made to Net Operating Income (NOI) was a disallowance for salary increases "due to the tumultuous state of the economy." Allowed expenses were further decreased by the use of a 5-year average for computer maintenance expenses and an adjustment for the Phoenix project system maintenance charges allocated from Utilities Inc., Labrador's parent company. More than half of the requested rate case expense was disallowed through adjustments to legal, accounting and engineering costs, in-house employee fees, travel and FedEx expenses and customer notice expenses. The current rate structure of a base facilities charge (BFC) and a uniform gallonage charge was continued; 40% of the revenue requirement for water service is recovered through the BFC and 50% of the revenue requirement for wastewater service is recovered through the BFC. No refund of interim water rates was required. A refund of interim wastewater rates was required.

PSC-12-0219-PCO-WS—Date Filed: 4/25/2012

Order grants Bluefield Utilities, LLC's (Bluefield) motion for continued abatement in proceedings on their application for original certificates for water and wastewater service in Martin and St. Lucie Counties. The remaining protestants to the application, Martin and St. Lucie Counties, agreed to the extension of the abatement.

Summaries of PSC Orders filed since April 2012 (continued)

PSC-12-0222-PCO-WU—Date Filed: 4/27/2012

Order denies the Office of Public Counsel's motion for administrative hearing on Water Management Services, Inc.'s (WMS) application for rate increase for water service in Franklin County. WMS had requested the application be processed using the Proposed Agency Action (PAA) procedure. The Commission noted the statute (Section 367.081(8), F.L.S.) gives the option to the utility to request the PAA procedure and the Commission has historically deferred to the utility's selection.

PSC-12-0224-PAA-WS—Date Filed: 4/30/2012

Proposed Agency Action (PAA) Order grants original certificates (Certificate Nos. 658-W and 563-S) to Grove Land Utilities, LLC for water and wastewater services in Indian River, Okeechobee and St. Lucie Counties. The utility is owned by Evans Utilities Company, Inc. which is a subsidiary of Evans properties. Objections to the applications filed by Indian River, St. Lucie and Okeechobee Counties were subsequently withdrawn, as was an objection by Fort Pierce Utility Authority (FPUA). The Commission found the agreements the Utility entered into with St. Lucie County and Indian River County to secure the withdrawal of their objections were reasonable. Initial rates for water and wastewater service were approved. The cost of capital was set at 8.06% based on a cost of equity of 11.16% and a capital structure of 60% equity.

PSC-12-0231-PCO-WU—Date Filed: 5/10/2012

Order grants Water Management Services' motion for temporary protective order for information related to individual employee salaries provided to Office of Public Counsel.

PSC-12-0240-CO-WS—Date Filed: 5/15/2012

Consummating Order makes Order PSC-12-0206-PAA-WS granting an increase in water and wastewater rates in Pasco County by Labrador Utilities Inc. effective and final.

PSC-12-0255-CO-WS—Date Filed: 5/24/2012

Order makes Order PSC-12-0224-PAA-WS granting Grove Land Utilities' application for an original certificate to provide water and wastewater service in Indian River, Okeechobee and St. Lucie Counties effective and final.

PSC-12-0256-CFO-WS—Date Filed: 5/24/2012

Order grants CAP Utilities' request for confidential classification of information related to the contract for purchase of the utility and mobile home park.

PSC-12-0259-FOF-WS—Date Filed: 5/29/2012

Order grants Aqua Utilities of Florida's (AUF) Motion for Reconsideration in its entirety and reconsiders and corrects several errors. AUF's Motion outlined nine items requiring reconsideration or correction. The Commission made corrections regarding the calculation of rate decreases for certain water rate bands, the rate case expense calculation, and the narrative in the order relating to the post-repression revenue requirement. The Commission also corrected several "scrivener errors." A further correction, on the Commission's own motion, was made to reconsider the rates for Wastewater Rate Band 2, resulting in a refund to some wastewater customers and a surcharge on others.

PSC-12-0260-PAA-WU—Date Filed: 5/29/2012

Order approves the transfer of the Bentwood Water System from Raintree Utilities, Inc. (Raintree) to the Bentwood Homeowners Association (BHA) and the transfer of the Raintree Water System to Raintree Harbor Utilities (RHU); order also contains a Proposed Agency Action approving the net book value of the water system transferred to RHU.

PSC-12-0263-CO-SU—Date Filed: 05/29/2012

Consummating Order makes Order PSC-12-0204-PAA-SU setting initial rates and charges for wastewater service provided by Farmton Water Resources in Volusia and Brevard Counties effective and final.

Summaries of PSC Orders filed since April 2012 (continued)

PSC-12-0265-PCO-WS—Date Filed: 5/30/2012

Order suspends the proposed rate increase by Utilities Inc. of Pennbrook (Utility) for water and wastewater service in Lake County and requires the utility to hold certain water revenues subject to refund pending outcome of the case.

PSC-12-0283-FOF-WU—Date Filed: 6/1/2012

Order acknowledges the transfer of C & H Utilities, Inc.'s (C&H) water facilities to City of Sebring as a matter of right, pursuant to Section 367.071(4)(a), F.S., and cancels Certificate No. 536-W.

PSC-12-0285-PCO-WS—Date Filed: 6/4/2012

Order acknowledges intervention of the Office of Public Counsel (OPC) in the request of Aqua Utilities of Florida (AUF) for approval of a single residential wastewater only rate for all systems contained within each rate band.

PSC-12-0316-PCO-WU—Date Filed: 6/19/2012

Order by the Prehearing Officer (Commissioner Brown) denies Office of Public Counsel's (OPC) Motion to Establish Discovery Procedures and Motion to Compel Discovery Responses in Water Management Services' application for a rate increase for water service in Franklin County. The Prehearing Officer noted the case was being processed under the Proposed Agency Action (PAA) process, OPC's request would substantially enlarge the number of interrogatories and production of documents (POD) allowed under rules of civil procedure, and allowing such a large number of interrogatories and PODs would significantly increase rate case expense and would not streamline the rate setting process..

PSC-12-0319-PCO-WS—Date Filed: 6/22/2012

Order acknowledges intervention of the Office of Public in Utilities, Inc.'s (UI) Petition for Establishment of Generic Docket to address the impact of divested systems on recovery of the cost of UI's financial accounting and customer service computer system (Phoenix Project).

PSC-12-0333-CO-WU—Dated Filed: 6/26/2012

Consummating Order makes Order PSC-12-0260-PAA-WU approving the transfer of Bentwood Water System from Raintree Utilities to Bentwood Homeowners Association and the transfer of Raintree Harbor Water System to Raintree Harbor Utilities and establishing net book value for the facilities transferred to Raintree Harbor Utilities effective and final.

PSC-12-0339-PAA-WS—Date Filed: 6/28/2012

Order is a Proposed Agency Action order establishing authorized range of returns on common equity for water and wastewater utilities. The order continues the range of returns on common equity of 8.74 to 11.16 percent as established in 2011 by Order No. PSC-11-0287. The Commission declined to use updated financial information finding "the updated leverage formula was not optimal for determining to appropriate ROE for water and wastewater utilities at this time."

PSC-12-0340-PAA-WS—Date Filed: 6/28/2012

Order is a Proposed Agency Action order approving in part Utilities, Inc.'s request for waiver of certain provisions of Commission rules on notice and information to be provided in requests for transfer of majority organizational control.

FPSC W/W Dockets **Opened** (since April 2012)

120070-WU—Docketed: 4/2/2012

Application for transfer of water Certificate No. 536-W under facilities in Highlands County from C & H Utilities, Inc. to City of Sebring.

120076-SU—Docketed: 4/4/2012

Investigation of rates of Mid-County Services, Inc. in Pinellas County for possible overearnings.

120078-SU—Docketed: 4/9/2012

Application for staff-assisted rate case in Brevard County by TKCB.

120080-WS—Docketed: 4/9/2012

Application for amendment of Certificate Nos. 634-W and 544-S to add territory in Polk County by Four Points Utility Corporation.

120082-WU—Docketed: 4/12/2012

Application for staff-assisted rate case in Gadsden County by Joyland Water System.

120084-WS—Docketed: 4/13/2012

Application of Utilities, Inc. for authority to transfer majority organizational control of Hydro Star, LLC to Corix Utilities (Illinois), LLC.

120104-WU—Docketed: 4/19/2012

Notice of abandonment of water system in Lee County by Bayshore Utilities, Inc.

120148-WU—Docketed: 5/3/2012

Application for approval of transfer of Harbor Hills Utility, LP water system to Harbor Waterworks, Inc., and for amendment of Certificate No. 522-W, in Lake County.

120152-WS—Docketed: 5/10/2012

Application for increase in water and wastewater rates in Orange County by Pluris Wedgefield, Inc.

120157-WS—Docketed: 5/16/2012

Request by Aqua Utilities Florida, Inc. to establish residential wastewater only rates.

120158-SU—Docketed: 5/17/2012

Application for approval of transfer, and original certificate for an existing wastewater system, requesting initial rates and charges in Lake County by Harbor Waterworks, Inc.

120161-WS—Docketed: 5/24/2012

Analysis of Utilities, Inc.'s financial accounting and customer service computer system.

120162-WS—Docketed: 5/29/2012

Application for transfer of facilities, and Certificate Nos. 524-W and 459-S, from Silver Fox Utility Company, LLC, to Hometown Canada Utility, Inc., in Pasco County.

120172-WS—Docketed: 6/14/2012

Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

FPSC W/W Dockets Closed (since April 2012)

090385-WU—Docketed: 7/24/2009—Date Closed: 4/13/2012

Application for transfer of majority organization control of Colina Bay Water Company, LLC to Colina Bay Homeowners Association, Inc. and cancellation of Certificate No. 632-W, in Lake County.

090445-WS—Docketed: 9/11/2009—Date Closed: 5/24/2012

Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Indian River, Okeechobee and St. Lucie counties by Grove Land Utilities, LLC.

100426-WS—Docketed: 10/22/2010—Date Closed: 6/25/2012

Application for increase in water and wastewater rates in Lake County by Lake Utility Services, Inc.

110042-WS—Docketed: 1/26/2011—Date Closed: 4/5/2012

Application for staff-assisted rate case in Okeechobee County by Pine Ridge Management Corporation.

110140-WS—Docketed: 5/10/2011—Date Closed: 4/4/2012

Application for staff-assisted rate case in Polk County by River Ranch Water Management, L.L.C.

110298-SU—Docketed: 10/27/2011—Date Closed: 5/31/2012

Application for certificate to provide wastewater service in Volusia and Brevard Counties by Farmton Water Resources LLC.

110302-WU—Docketed: 11/1/2011—Date Closed: 6/27/2012

Application by Raintree Utilities, Inc. in Lake County for the transfer of the Bentwood water facilities to the Bentwood Homeowners Association, Inc., and the transfer of the Raintree Harbor water facilities and Certificate No. 539-W to Raintree Harbor Utilities, LLC.

120031-WS—Docketed: 1/25/2012—Date Closed: 4/2/2012

Request for Regulatory Assessment Fee installment payment play by Water Management Services, Inc.

120060-SU—Docketed: 3/23/2012—Date Closed: 4/26/2012

Petition by K. W. Resort Utilities Corporation for declaratory statement regarding capacity reservation charges and unpaid invoices, by Monroe County, Florida.

120066-WU—Docketed: 3/29/2012—Date Closed: 4/2/2012

Application for transfer of the Brentwood water facilities from Raintree Utilities, Inc. to Brentwood Home-Owners Association, Inc. in Lake County, and cancellation of Certificate No. 539-W.

120070-WU—Docketed: 4/2/2012—Date Closed: 6/1/2012

Application for transfer of water facilities to City of Sebring, in Highlands County, and cancellation of Certificate No. 536-W, by C & H Utilities, Inc.

We're on the Web at
www.radeylaw.com

301 South Bronough Street
Suite 200
Tallahassee, FL 32301
850-425-6654 - Phone
850-425-6694 - Fax

Editors & Contributors



Susan F. Clark
sclark@radeylaw.com
850-425-6661



Terry Deason*
tdeason@radeylaw.com
850-425-6658



Lisa C. Scoles
lscoles@radeylaw.com
850-425-6652

Pam Keillor*
pkeillor@radeylaw.com
850-425-6663

*not an attorney

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RADEY | THOMAS | YON | CLARK

Attorneys & Counselors at Law

Experience. Service. Success.

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.

Trivia By Pam Keillor

If all the world's water were fit into a gallon jug, the fresh water available for us to use would equal only about one tablespoon.

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



RTYC Family News

Shareholders Donna E. Blanton and Lisa C. Scoles spoke to the Government Bar Association on April 25, 2012, about State Agency Procurements in Florida. The presentation focused on Florida procurement laws and bid protests that are subject to the Florida Administrative Procedure Act (Chapter 120, Florida Statutes). The firm regularly represents parties to Florida bid disputes.

[State Agency Procurements in Florida](#)

Donna E. Blanton, Christopher B. Lunny and Harry O. Thomas have been

named to the "Florida Super Lawyers 2012" list compiled by Thomson Reuters. No more than 5 percent of the lawyers in the state are selected by Super Lawyers. Super Lawyers is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. Mr. Thomas was also selected to the 2012 Super Lawyers Business Edition.



Donna E. Blanton



Lisa C. Scoles



Christopher B. Lunny



Harry O. Thomas