

# WATER & WASTEWATER INDUSTRY QUARTERLY REPORT

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Keeping You Informed About Florida

December 2012

**RADEY | THOMAS | YON | CLARK**

Attorneys & Counselors at Law

## Water Study Committee

By: Susan Clark

The Committee on Investor-Owned Water & Wastewater Utility Systems met seven times in the last quarter of 2012. Some meetings were telephonic and two meetings were field meetings in Eustis and New Port Richey, Florida.

The Committee continues to work on the issues required to be addressed in the report to be submitted to the Governor and Legislature by February 15, 2013. (See Section 2, Chapter 2012-187, Laws of Florida). Specific issues required to be considered are:

- ◆ The ability of a small investor-owned water or wastewater utility to achieve economies of scale when purchasing equipment, commodities, or services.
- ◆ The availability of low interest loans to a small privately owned water or wastewater utility.
- ◆ Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility.
- ◆ The impact on customer rates if a utility purchases an existing water or wastewater utility system.
- ◆ The impact on customer rates of a utility providing service through the use of a reseller.

An additional issue under consideration is the creation of a reserve fund to provide low-cost funding to investor-owned water and wastewater utilities for addressing critical infrastructure needs. The proposal is to seek legislative authority to permit the establishment of an infrastructure repair and replacement reserve for each individual utility that would be funded via a portion of the utility's rates. The fund would be secured through an escrow account or letter of credit, would be established on a case-by-case basis and would be available for specific projects approved by the FPSC.

The next meeting of the Committee is January 8, 2013, in Tallahassee from 1 pm to 5 pm. Another meeting is set for January 25, 2013, again in Tallahassee starting at 9 am. There is the possibility of further telephonic meetings after January 25, 2013.



### Upcoming Events - Mark Your Calendars

Date	Event Name	Event	Location
1/9/12	Prehearing	Docket No. 110200-WU Application for increase in water rates in Franklin County by Water Management Services, Inc.	Room 148
1/9/12	Customer Meeting	Docket No. 120183-WU Application for staff-assisted rate case in Lake County by TLP Water, Inc.	Civic Center 100 East Caroline Street Tavares
1/16/12	Service Hearing	Docket No. 110200-WU Application for increase in water rates in Franklin County by Water Management Services, Inc.	Volunteer Fire Department 324 East Pine Avenue St. George Island
2/3-6/12	NARUC	Winter Committee Meetings	Renaissance Washington Hotel Washington, D.C.



### Commissioner Begins Third Term By: Susan Clark

Commissioner Lisa Edgar will begin her third term on the Florida Public Service Commission on January 8, 2013. A swearing-in ceremony will be held at 9:30 a.m. on that day. Her appointment is subject to Senate confirmation. Commissioner Edgar was also elected as the Second Vice President of the National Association of Regulatory Utility Commissioners (NARUC) at the Association's annual meeting in November. The election as Second Vice President puts Commissioner Edgar in line to be President of NARUC beginning in November 2015.

## Summaries of PSC Orders filed since October 2012

By Susan F. Clark

### **PSC-12-0526-PCO-WU**—Date Filed: 10-3-2012

Order Establishing Procedure (OEP) in the Water Management Services, Inc. rate case. The Commission issued a proposed agency action (PAA) order in this case that was protested by the Office of Public Counsel..

### **PSC-12-0533-PAA-WU**—Date Filed: 10-9-2012

Proposed Agency Action (PAA) Order approving a rate increase for water customers of Sunrise Utility, LLC (Sunrise or Utility) in Polk County in a staff-assisted rate case (SARC). The overall quality of service of the Utility was found to be marginal, but no adjustment was made to operating expenses. The water treatment plant and water distribution system were found to be 100% used and useful (U&U). The return on equity (ROE) was established at 10.25% based on the Commission-approved leverage formula; however, the Commission used the Operating Ratio Methodology (ORM) of 10% of O&M expenses to determine the Utility's revenue requirement. The President's salary was reduced based on an assessment of his duties and responsibilities. Adjustments were made to purchased power and chemical expenses due to excessive unaccounted for water (EUW). The Commission continued the use of a base facilities charge (BFC) and three-tier inclining block rate structure for the residential class; however, the BFC cost recovery percent was reduced from 46 to 34 percent. The rate structure for the non-residential class was a continuation of the current BFC/uniform gallonage charge rate. A repression adjustment to test year consumption was made and the Utility is required to file monthly reports detailing consumption by customer class, usage block and meter size. A returned check fee consistent with the statutorily allowed amount was approved. An additional rate increase was approved to go into effect after specified plant additions are completed.

### **PSC-12-0539-CO-WU**—Date Filed: 10-15-2012

Consummating Order makes effective and final Order PSC-12-0475-PAA-WU approving the transfer of Certificate No. 588-W from Pinecrest Ranches, Inc. in Polk County to Pinecrest Utilities, L.L.C. and setting netbook value of the transferred system.

### **PSC-12-0551-FOF-WS**—Date Filed: 10-17-2012

Order approves amendments to Certificates Nos. 631-W and 540-S for Central Sumter Utility Company to include additional service territory and corrects the name of the utility on the certificates.

### **PSC-12-0554-PCO-WS**—Date Filed: 10-17-2012

Order suspends the requested rate increase by Pluris' Wedgefield, Inc. (Pluris' or Utility) and approves interim rates.

### **PSC-12-0571-FOF-WS**—Date Filed: 10-24-2012

Order approves the transfer of majority organization control of Tymber Creek Utilities, Inc., a water and wastewater utility in Volusia County, from Joseph Stanley Shirah and Steve P. Shirah to Joseph Stanley Shirah and amends Certificate Nos. 303-W and 252-S to reflect the transfer. Although Tymber Creek failed to obtain an amended certificate prior to proving service outside of its territory in violation of section 367.045, F.S., the Commission declined to initiate a show cause proceeding.

### **PSC-12-0577-PAA-WS**—Date Filed: 10-25-2012

Order approves the transfer of the assets and certificates (Nos. 517-W and 450-S) of Service Management Systems, Inc. (SMS or Utility) providing water and wastewater service in Brevard County, from FL-Service Management, LLC to Aquarina. Objections to the transfer by the Aquarina Community Services Association (ACSA) and Mr. James J. Minnes were subsequently withdrawn. Current rates and charges of the Utility are unchanged. Under the proposed agency action (PAA) portion of the order the Commission set the net book value of the transferred assets. The purchase price of the system exceeded the net book value, but no positive acquisition adjustment was requested and none was authorized.

### **PSC-12-0577A-PAA-WS**—Date Filed: 10-25-2012

Amendatory Order corrects the date for filing a protest to the order from November 8, 2012, to October 25, 2012.

### **PSC-12-0580-PAA-SU**—Date Filed: 10-26-2012

Order approves the application for an original certificate for Harbor Waterworks, Inc. (HWW or Utility) for an existing wastewater system in Lake County that was previously exempt from Commission regulation. A customer protest to the application was subsequently withdrawn. Under the proposed agency action (PAA) portion of the order the Commission set initial rates and charges for the wastewater service.

## Summaries of PSC Orders filed since October 2012 (continued)

### **PSC-12-0587-PAA-WU**—Date Filed: 10-29-2012

Order approves the transfer of the assets and certificate (No. 522-W) of Harbor Hills Utility, L.P., water system providing water service in Lake County to Harbor Waterworks, Inc. (HWW). The proposed agency action (PAA) portion of the order approves the continuation of current rates and charges for water service, but the billing cycle is changed from bi-monthly to monthly, and a return check charge consistent with section 832.08(5), F.S., is established.

### **PSC-12-0589-FOF-WS**—Date Filed: 10-30-2012

Order approves the joint application for the transfer of water and wastewater facilities of Paradise Lakes to Florida Governmental Utility Authority (FGUA) in Pasco County and cancels Certificate Nos. 458-W and 392-S.

### **PSC-12-0590-FOF-WS**—Date Filed: 10-30-2012

Order approves the joint application for the transfer of water and wastewater facilities of Mad Hatter Utilities to Florida Governmental Authority (FGUA) in Pasco County; cancels Certificate Nos. 340-W and 297-S.

### **PSC-12-0591-PCO-WS**—Date Filed: 10-31-2012

Order grants motion for continued abatement of Bluefield Utilities, Inc.'s (Bluefield) application for certificates for proposed water and wastewater systems in St. Lucie and Martin counties. The abatement was requested to allow continued negotiations with Martin County, which had protested the application.

### **PSC-12-0594-CO-WU**—Date Filed: 11-1-2012

Order makes effective and final Order PSC-12-0533-PAA-WU approving a rate increase for water customers of Sunrise Utility, LLC, in Polk County.

### **PSC-12-0604-PCO-WS**—Date Filed: 11-6-2012

Order grants Utilities, Inc. and OPC's joint motion to extend the informal investigatory period in the generic docket established to analyze Utilities, Inc.'s financial accounting and customer service computer system (the Phoenix Project). The proceeding is held in abeyance through 2/28/13.

### **PSC-12-0605-PCO-WS**—Date Filed: 11-6-2012

Order acknowledges the implementation of rates approved in PAA Order No. PSC-12-0435-PAA-WU by Water Management Services, Inc. (WMSI). The docket remains open to the complete hearing process.

### **PSC-12-0614-CO-WS** - Date Filed: 11/16/2012

Consummating Order makes effective and final Order PSC-12-0577-PAA-WS approving the transfer of assets and certificates of Services Management Systems, Inc., from FL-Service Management LLC to Aquarina.

### **PSC-12-0620-PCO-WU** - Date Filed: 11/19/2012

Order denies Water Management Services, Inc.'s (WMSI) motion to dismiss the protest of the Office of Public Counsel (OPC) alleging OPC has no standing to protest the PAA Order because it does not represent any customers of WMSI. The Order finds OPC is a party to the proceedings "by virtue of its statutory authority."

### **PSC-12-0624-PCO-WU**—Date Filed: 11/20/2012

Order grants in part and denies in part OPC's first and second motions to compel in the Water Management Services, Inc.'s (WMSI) rate case. The Order also revises Order Establishing Procedure (OEP); Order PSC-12-0526-PCO-WU, to allow additional time for filing intervenor, staff and rebuttal testimony.

### **PSC-12-0632-FOF-WS**—Date Filed: 11/28/2012

Order approves Pluris Wedgefield, Inc.'s request, pursuant to Rule 25-30.110(1)(b), F.A.C., to maintain accounting records outside of Florida.

### **PSC-12-0633-CO-WU**—Date Filed: 11/28/2012

Consummating Order makes effective and final Order PSC-12-0587-PAA-WU approving the transfer of assets and certificate from Harbor Hills Utility, LP, to Harbor Waterworks, Inc.

### **PSC-12-0634-CO-SU**—Date Filed: 11/29/2012

Consummating Order makes effective and final Order PSC-12-0580-PAA-SU granting an original certificate to Harbor Waterworks, Inc. to provide wastewater service in Lake County.

## Summaries of PSC Orders filed since October 2012 (continued)

### **PSC-12-0635-FOF-WU**—Date Filed: 11/30/2012

Final Order adopts the Final Order of the Division of Administrative Hearings (DOAH) Law Judge (ALJ) regarding the installation of a dedicated line and irrigation meter by East Marion Sanitary Services (East Marion) for Intervenors Terry Will and Millicent Mallon. East Marion did not participate in or submit evidence at the DOAH hearing. The ALJ's final order required East Marion to install a dedicated line and irrigation meter for the Intervenors at the prior tariff rate of \$70.00.

### **PSC-12-0641-PCO-WU**—Date Filed: 12/4/2012

Order grants in part and denies in part Water Management System, Inc.'s (WMSI) motion to allow withdrawals from escrow for the Department of Environmental Protection Agency (DEP) loan repayment and Centennial Bank recurring payments. The request is denied until such time as there are funds in the escrow account, when funds are available staff is permitted to authorize payments to DEP and Centennial Bank. The docket is to remain open to complete the hearing process.

### **Order PSC-12-0644-FOF-WS**—Date Filed: 12/7/2012

Order authorizes Ni Florida, LLC to maintain accounting records outside the State of Florida pursuant to Rule 25-30.110 (1)(b), F.A.C.

### **Order PSC-12-0662-TRF-WS**—Date Filed: 12/19/2012

Order approves rates for Residential Wastewater Only rates for Aqua Utilities of Florida (AUP) applicable to systems in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Sumter, Volusia and Washington Counties.

### **Order PSC-12-0667-PAA-WS**—Date Filed: 12/26/2012

Proposed Agency Action (PAA) Order grants in part the application of Utilities Inc. of Pennbrooke for an increase in water and wastewater rates in Lake County. The overall quality of service was found to be satisfactory, but due to water pressure and water quality aesthetics the Utility was required to "continue to engage its customers to discuss potential options and associated costs." The Utility agreed to certain adjustments to rate base and operating expenses based on the staff's audit report and other correspondence. Further adjustments to rate base relating to the investment in the financial accounting and customer service computer system (The Phoenix Project) and a pro forma adjustment for a new well were made. The water and wastewater plants and water distribution and wastewater collection systems were found to be 100% used and useful (U&U). The return on equity (ROE) was set at 10.37 percent consistent with the commission-approved leverage formula. Citing the "tumultuous state of the economy" the Commission denied recovery of salary and wage increases beyond that already granted in previous index rate increases. Further adjustments to O&M expenses were made for purchased power, regulatory expense, bad debt expense and miscellaneous expenses. Rate case expense was reduced by half. The existing four tier rate structure for residential water service was continued and the base facilities charge (BCF)/uniform gallonage charge structure for non-residential water service were continued. The existing rate structure for wastewater service, a BCF/gallonage charge, was continued. No repression adjustments were made.

**FPSC W/W Dockets OPENED (since October 2012)**



**120246-WS**—Docketed: 10-3-2012  
Revision to Rule 25-30.335, Customer Billing, Revision to Rule 25-30.350, Backbilling, Adoption of Rule 25-30.351, Unauthorized Use, F.A.C.

**120259-WS**—Docketed: 10-16-2012  
Request for authorization to maintain accounting records outside of the State of Florida, pursuant to Rule 25-30.110(1)(b), F.A.C., by Ni Florida, LLC.

**120269-WU**—Docketed: 10-25-2012  
Application for staff-assisted rate case in Polk County by Pinecrest Utilities, LLC.



**120270-SU**—Docketed: 10-25-2012  
Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC.

**120271-WS**—Docketed 10-25-2012  
Application for transfer of water and wastewater facilities of Damon Utilities, Inc. to the City of Avon Park in Highlands County, and request of cancellation of Certificate Nos. 499-W and 433-S.

**120272-WS**—Docketed: 10-25-2012  
Joint application for expedited approval of transfer of Aqua Utilities Florida, Inc.'s water and wastewater facilities serving the Arredondo Farms Mobile Home Park in Alachua County, to YES Companies, LLC, an exempt entity under Section 367.022(5), F.S., and cancel Certificate No. 479-S; amend Certificate No. 549-W.



**120285-SU**—Docketed: 11-09-2012  
Application to transfer wastewater facilities and Certificate No. 137-S in Brevard County from Colony Park Utilities, Inc. to Colony Park Development Utilities, LLC.

**120286-WS**—Docketed: 11-13-2012  
Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by Four Points Utility Corp.



**120287-WU**—Docketed: 11-13-2012  
Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by Sunrise Utilities, LLC.

**120288-WU**—Docketed: 11-13-2012  
Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by Alturas Utilities, LLC.

**120289-SU**—Docketed: 11-13-2012  
Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by West Lakeland Wastewater, LLC.



**120290-WU**—Docketed: 11-13-2012  
Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by Pinecrest Utilities, LLC.

**120317-WS** - Docketed: 12-20-2012  
Application for approval to transfer water and wastewater Certificate Nos. 567-W and 494-S in Lake County from Shangri-La by the Lake Utilities, Inc. to Lakeside Waterworks, Inc.

**FPSC W/W Dockets CLOSED (since October 2012)**

**080562-WU**—Docketed: 8-19-08—Date Closed: 11-30-2012

Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems Inc.

**110311-WU**—Docketed: 11-28-2011—Date Closed: 10-15-2012

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—Date Closed: 10-24-2012

Application for transfer of majority organizational control of Tymber Creek Utilities, Incorporated, holder of Certificate Nos. 303-W and 252-S in Volusia County, from Joseph Stanley and Steve P. Shirah to Joseph Stanley Shirah.

**120191-WS**—Docketed: 7-17-2012—Date Closed: 10-24-2012

Application for amendment of Certificate Nos. 303-W and 252-S to add territory in Volusia County by Tymber Creek Utilities, Incorporated.

**120148-WU**—Docketed: 5-3-2012—Date Closed: 11-28-2012

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

**120158-SU**—Docketed: 5-17-2012—Date Closed: 11-29-2012

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

**120205-WS**—Docketed: 7-26-2012—Date Closed: 10-30-2012

Joint application for transfer of water and wastewater facilities of Paradise Lakes Utility, L.L.C. to Florida Governmental Utility Authority in Pasco County, and request of cancellation of Certificates 458-W and 392-S.

**120206-WS**—Docketed: 7-26-2012—Date Closed: 10-30-2012

Joint application for transfer of water and wastewater facilities of Mad Hatter Utility, Inc. to Florida Governmental Utility Authority in Pasco County, and request of cancellation of Certificates 340-W and 297-S.

**120207-WS**—Docketed: 7-27-2012—Date Closed: 10-17-2012

Application for amendment of Certificate Nos. 631-W and 540-S to extend service area in Sumter County by Central Sumter Utility Company, L.L.C., and correction to name to Central Sumter Utility Company, LLC.

**120232-WS**—Docketed: 9-4-2012—Date Closed: 11-28-2012

Request for authorization to maintain accounting records outside of the State of Florida, pursuant to Rule 25-30.110 (1)(b), F.A.C., by Pluris Wedgefield, Inc.

**120235-WS**—Docketed: 9-19-2012—Date Closed: 11-28-2012

Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC.

**120259-WS**—Docketed: 10-16-2012—Date Closed: 12-7-2012

Request for authorization to maintain accounting records outside of the State of Florida, pursuant to Rule 25-30.110 (1)(b), F.A.C., by Ni Florida, LLC.



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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

Water is the only substance that is found naturally on earth in three forms: liquid, gas, solid.

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



### RTYC Family News



Mr. Patrick Flemming and Ms. Brittany Adams Long have joined the firm as new associates. Mr. Flemming graduated with high honors from The Florida State University College of Law in May 2012, where he served as executive editor of The Florida State University Law Review.

Ms. Long graduated with high honors from the Florida State College of Law in 2001 and was editor-in-chief of the Law Review. Her legal experience includes law clerk to Judge Robert T. Benton of the First District Court of Appeal, Assistant General Counsel at the Department of Health and at the Department of Management Services.

