

# WATER & WASTEWATER INDUSTRY QUARTERLY REPORT

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**RADEY**  
ATTORNEYS & COUNSELORS at LAW

## Proposed Legislation for 2014 Legislative Session

By: Susan Clark

### **Senate Bill 272**

On October 15, 2013, Senate Bill (SB) 272 was filed by Senator Simpson. The bill amends Section 367.081, Florida Statutes, providing that rates for water and wastewater utilities may not exceed the rates of a government-owned water or wastewater utility located in the same county. If there is more than one government-owned utility, the maximum rate that can be charged is the average of the government-owned utilities' rates. The Public Service Commission (PSC) is required to adjust the rates of a water or wastewater utility that exceeds the rates charged by the government-owned utility, the rates are to be adjusted retroactively to the date of the most recent rate adjustment of the government-owned utility and refunds of the amount in excess of the government-owned utility rates must be made to customers within 12 months.

The bill also creates Section 367.0812, Florida Statutes, to provide that in fixing rates the PSC is to consider the extent to which a water utility provides service that meets secondary water quality standards for taste, odor, color and corrosiveness and a wastewater utility provides service to its customers without generating odor, noise, aerosol draft, or light that adversely affects customers. A utility not meeting these criteria is to meet with its customers to discuss estimated costs and benefits of plausible solutions to meet the criteria. The PSC is given rulemaking authority to implement this new section including authority to prescribe penalties, such as fines and a reduction of the utility's return on equity.

This bill is on the January 14, 2014, Agenda of the Senate Communications, Energy and Public Utilities Committee.



### **House Bill 357**

On December 3, 2013, House Bill (HB) 357 was filed by Representative Santiago. The bill creates Section 159.810, Florida Statutes, requiring the Division of Bond Finance of the State Board of Administration to review private activity bonds to determine the availability of bonds for water and wastewater infrastructure projects.

Section 212.08, Florida Statutes, is amended to exempt from sales taxes sales or leases to an investor-owned water or wastewater utility owned or operated by a Florida corporation if the sale or primary function of the corporation is to construct, maintain or operate a water or wastewater system in the state and the goods or services purchased or leased are used within the state.

Section 367.022, Florida Statutes, is amended to exempt from Public Service Commission (PSC) regulation the resale of water service to tenants or individually metered residents if the fee for such service does not exceed the actual cost of meter reading and billing or 9% of the purchase price.

Section 367.081, Florida Statutes, is amended to require the PSC determine if a water utility provides service that meets secondary water quality standards for taste, odor, color and corrosiveness and a wastewater utility provides service to its customers without generating odor, noise, aerosol draft, or light that adversely affects customers. A utility not meeting these criteria is to meet with its customers to discuss estimated costs and benefits of plausible

# Proposed Legislation for 2014 Legislative Session, continued

By: Susan Clark

## House Bill 357

solutions to meet the criteria. The PSC is given rulemaking authority to implement this new provision including authority to prescribe penalties, such as fines and a reduction of the utility's return on equity. Also, in setting rates for a water or wastewater utility, the PSC may authorize and adopt rules for the creation of a reserve fund for capitol improvements, and expenses eligible for an automatic increase or decrease pursuant to the PSC approved price increase or decrease index are specified. The PSC is given rulemaking authority to add to the list of eligible expenses, and those additions must be reviewed at least every five years to determine if they should continue. Additionally, rate case expenses allowed must not exceed the total rate increase approved by the PSC exclusive of the rate case expense.

Regarding staff assisted rate cases (SARC), Section 367.0814, Florida Statutes, is amended to prohibit recovery of rate case expense for attorneys or outside consultants for the preparation or filing of the case unless the Office of Public Counsel (OPC) or interested parties have intervened. Fees for attorneys and outside consultants may be allowed after the initial staff report of if there is a protest of appeal by a party other than the utility of the PSC decision in the SARC. The PSC is to adopt rules to administer this amendment.

Section 367.0816, Florida Statutes, is amended to provide for the forfeiture of any unamortized rate case expense before the implementation of any rate case expense for a subsequent rate case, other than a limited proceeding case.

Finally, Section 403.8532, Florida Statutes, is amended to make the drinking water state revolving loan fund available to for-profit privately owned or investor-owned water systems.



### Upcoming Events - Mark Your Calendars

Date	Event Name	Event	Location
1/16/14 6:00 pm	Customer Meeting	Docket No. 130153-WS Application for staff-assisted rate case in Highlands County, by L.P. Utilities Corporation c/o LP Waterworks, Inc	Lake View Clubhouse 231 Shoreline Drive Lake Placid, FL
2/4/14	Customer Meeting	Docket No. 130210-WS Application for staff-assisted rate case in Polk County by CHC VII, Ltd.	5:00 pm
2/5/14	Customer Meeting	Docket No. 130211-WS Application for staff-assisted rate case in Polk County by S.V. Utilities, Ltd	6:00 pm
2/19-20/14	PURC	41st Annual PURC Conference - Politics & Policy: What is Next for Utilities?	Gainesville

## Trivia

By Pam Keillor

The weight of a water molecule depends on the number of moles present, as it is 18 grams per mole.



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

## Summaries of PSC Orders filed since October 2013

By Susan F. Clark

### **PSC-13-0448-PCO-WS**—Date Filed: 10/2/2013

Order grants Useppa's request for extension of time to complete required pro forma construction. The extension of time is based on the fact the permit application at the Department of Environmental Protection (DEP) is pending. The extension is granted to January 31, 2014, and authorization is given to staff to administratively approve additional extensions of time as may be needed based on further delays in the permitting process. Phase II rates will not go into effect until the pro forma work is completed.

### **PSC-13-0449-PAA-WS**—Date Filed: 10/3/2013

Proposed Agency Action Order approves an Amended Settlement Agreement (Settlement) between the utility, Four Points Utility Corp. (Four Points), the Office of Public Counsel (OPC) and the Island Club West Homeowners Association (HOA). The Settlement was filed in an effort to facilitate the substitution of the Florida Governmental Utility Authority (FGUA) as the receiver for Four Points, and the resolution of Four Points' application for a staff-assisted alternative rate setting (SAARs) increase. The Settlement provides for a 5 percent increase in residential and commercial water and wastewater rates for customers in Polk County, modifies the inclining block rate structure to a two-tiered structure, and removes the gallonage cap of 7,000 gallons for general service wastewater customers.

### **PSC-13-0484-FOF-WS**—Date Filed: 10/15/2013

Order grants Consolidated Services of Hendry and Collier, LLC's (Consolidated Services) application for certificates to provided water and wastewater services in Hendry and Collier Counties in a territory entirely owned by Consolidated Services. Consolidated Services anticipates commencing service in May 2017 and will serve 5,000 residential units, 1.025 million square feet of commercial space, 750,000 square feet of industrial space and 400 hotel rooms when buildout is reached. Consolidated Services must submit information to meet requirements of Rule 25-30.033 (i), (h), (m), (o), (t), (u), (v), and (w), F.A.C., and submit a separate application to set initial rates and charges within 36 months of the issuance of the order.

### **PSC-13-0470-CO-WU**—Date Filed: 10/14/2013

Consummating Order makes effective and final Order PSC-13-0427-TRF-WU approving the tariff amendment of Pinecrest Utilities, L.L.C. of Polk County authorizing a service charge of \$2.50 for customers who opt to pay their wastewater bill by debit or credit card via telephone.

### **Order PSC-13-0471-CO-WS**—Date Filed: 10/14/2013

Consummating makes Order effective and final PSC-13-0428-TRF-WS approving the tariff amendment of Four Points Utility Corp. of Polk County authorizing a service charge of \$2.50 for customers who opt to pay their wastewater bill by debit or credit card via telephone.

### **PSC-13-0472-CO-SU**—Date Filed: 10/14/2013

Consummating Order makes effective and final Order PSC-13-0426-TRF-SU approving the tariff amendment of West Lake Wastewater, Inc. of Polk County authorizing a service charge of \$2.50 for customers who opt to pay their wastewater bill by debit or credit card via telephone.

### **PSC-13-0473-CO-WS**—Date Filed: 10/15/2013

Consummating Order makes effective and final Order PSC-13-0425-PAA-WS approving the transfer of water and wastewater systems in Lake County from Shangri-La by the Lake Utilities, Inc. to Lakeside Waterworks and continuing the existing rates for service.

### **PSC-13-0549-PCO-WS**—Date Filed: 10/30/2013

Order acknowledges the intervention the Office of Public Counsel (OPC) in Docket No. 120209-WS, Utilities, Inc. of Florida's (UI) application for an increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas and Seminole Counties.

## Summaries of PSC Orders filed since October 2013 (continued)

### **PSC-13-0574-CO-WS**—Date Filed: 10/30/2013

Consummating Order makes effective and final Order PSC-13-0449-PAA-WS approving the Amended Settlement Agreement between Four Points Utility Corporation (Four Points), Office of Public Counsel (OPC) and the Island Club West Homeowners Association (HOA) providing for an increase in water and wastewater rates by Four Points and facilitating the substitution of the Florida Governmental Utility Authority (FGUA) as receiver for Four Points.

### **PSC-13-0611-PAA-WS**—Date Filed: 11/19/2013

Proposed Agency Action Order approves an increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC (NI or Utility). The quality of service with regard to the water system in Lee County was found to be marginal due to the Utility's continued failure to resolve billing and service problems both quickly and politely. The quality of service with regard to the wastewater system in Pasco County was found to be satisfactory. The Commission staff is to meet the Utility, customers and the Office of Public Counsel (OPC) six months from the date of the order to evaluate quality of service issues discussed in the order. In response to Staff's audit report, the Utility agreed to several adjustments to rate base and operating expenses. The water distribution and wastewater collection systems were found to be 100% used and useful (U&U). Adjustments were made to working capital amounts for the water and wastewater systems. Using the current Commission approved leverage formula the return on equity (ROE) was set at 9.42 percent, however, that ROE was reduced to 9.3 percent based on the finding that the quality of water service was marginal. Reductions were made in the overhead expenses of the parent company allocated to the Utility. Other expense adjustments included, among other things, the exclusion of costs related to acquisitions or transfers not related to the jurisdictional utility, the exclusion of equity sponsor fees based on finding the fee was recovered through the approved ROE), disallowance of some employee compensation expenses, 50% of Director and Officer Liability Insurance (DOL), a decrease in rate case expense, and adjustments to bad debt expense. An increase in rates of 4.86 percent for water service and an increase of 9.1 percent for wastewater service was approved. The rate structure for water service of a base facility charge (BFC) and an inclining block rate for residential customers was continued. The existing rate structure for wastewater of a BFC and gallonage charge was likewise continued.

### **PSC-13-0617-CFO-WS**—Date Filed: 11/25/2013

Order grants Consolidated Services of Hendry and Collier, LLCs (Consolidated Services) request for confidential classification of the Comparative Balance Sheet of Consolidated Citrus Limited Partnership and Comparative Statement of Operations finding the documents to be proprietary confidential business information.

### **PSC-13-0631-CFO-WS**—Date Filed: 11/27/2013

Order grants Sunlake Estate Utilities, LLC's (Sunlake) request for confidential classification of the Balance Sheet supporting the pro forma cost of capital calculations of Sunlake's sister company from whom the Sunlake will be transferred, finding the information to be proprietary confidential business information.

### **PSC-13-0646-PAA-WU**—Date Filed: 12/5/2013

Proposed Agency Action Order grants an increase in rates to Placid Lakes Utilities, Inc. (Placid Lakes or Utility) for water service in Highlands County. The overall quality of the service provided by Placid Lakes was found to be satisfactory. The water treatment plant was found to be 100% used and useful (U&U) and the water distribution was found to be 79.09% U&U. Based on staff's audit, adjustments were made to rate base and operating expenses. Adjustments were also made to rate case expense and pro forma expense items. The return on equity was set at 10.19 percent based on the current Commission-approved leverage formula. A 7.75 percent increase in rates was authorized. The existing rate structures for residential rates, a base facility charge (BFC) and a three-tier inclining block rate, and for general service customers, a BFC and uniform gallonage charge, were continued, and a late fee and a Non-Sufficient Fund (NSF) fee were approved.

### **PSC-13-0647-PAA-WU**—Date Filed: 12/5/2013

Proposed Agency Action Order approves the application for a limited proceeding pursuant to § 367.081, Florida Statutes, to increase rates for water service in Escambia County by Peoples Water Service Company of Florida, Inc. (Peoples or Utility). The increase approved is based on recovery of the revenue requirement previously authorized by the Commission

## Summaries of PSC Orders filed since October 2013 (continued)

in Order No. PSC-10-0117-PAA-WU, index increases, rate case expense for the limited proceeding and regulatory assessment fees. Due to decreases in customer usage well beyond those anticipated in the repression adjustments underlying the rates established in 2010, the Utility has been unable to achieve the revenues authorized in 2010.

**PSC-13-0653-CO-WS**—Date Filed: 12/11/2013

Consummating Order makes effective and final Order No. PSC-13-0611-PAA-WS approving an increase in water rates in Lee County and wastewater rates in Pasco County by N. Florida, LLC.

**PSC-13-0657-PCO-SU**—Date Filed: 12/12/2013

Order grants Monroe County's fifth unopposed motion for extension of time to respond to KW Resort Utilities Corporation's (KWRU) complaint. The County and KWRU entered into a settlement agreement, which the County Commission has approved, but more time is needed for the County to formally execute the agreement. An extension to March 5, 2014, was approved.

**PSC-13-0673-FOF-WS**—Date Filed: 12/19/2013

Order suspends proposed final rates for Cypress Lakes Utilities, Inc. for water and wastewater service in Polk County, and approves an interim rate increase, subject to refund, for water service.

**PSC-13-0683-CO-WU**—Date Filed: 12/27/2013

Consummating Order makes effective and final Order No. PSC-13-0646-PAA-WU granting an increase in rates by Placid Lakes Utilities for water service in Highlands County.

**PSC-13-0684-CO-WU**—Date Filed: 12/30/2013

Consummating Order makes effective and final Order No. PSC-13-0647-PAA-WU granting Peoples Water Service Company of Florida, Inc.'s application for a limited proceeding and increasing rates for water service in Escambia County.

**FPSC W/W Dockets OPENED (since October 2013)**



**130250-WU**—Date Docketed: 10/9/2013  
Application for approval of amendment to miscellaneous service charges in Pasco County by Holiday Gardens Utilities, Inc.



**130251-WU**—Date Docketed: 10/9/2013  
Application for approval of amendment to miscellaneous service charge in Pasco County, by Crestridge Utility Corporation.



**130261-WU**—Date Docketed: 10/24/2013  
Application for amendment of Certificate No. 401-W in Highlands County, by Placid Lakes Utilities, Inc.



**130265-WU**—Date Docketed: 11/4/2013  
Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.



**130269-WU**—Date Docketed: 11/8/2013  
Joint application for authority to transfer the assets of Venture Associates Utilities Corp. and Certificate No. 488-W in Marion County, Florida to Ocala Palms Utilities, LLC.



**130272-WU**—Date Docketed: 11/15/2013  
Request to remove the fines imposed for the delay of filing annual reports for Cedar Acres, Inc.



**130276-SU**—Date Docketed: 11/20/2013  
Application for approval of new class of service for reuse water service in Lee County, by Forest Utilities, Inc.



**130288-WS**—Date Docketed: 12/12/2013  
Request for approval of late payment charge in Brevard County by Aquarina Utilities, Inc.

**130291-WS**—Date Docketed: 12/17/2013  
Application for amendment of Certificate Nos. 631-W and 540-S in Lake County by Central Sumter Utility Company, LLC.

**130294-WU**—Date Docketed; 12/27/2013  
Application for transfer of water systems and Certificate No. 579-W in Highland County from Holmes Utilities, Inc. to Country Walk Utilities, Inc.

**FPSC W/W Dockets CLOSED (since October 2013)**



**120037-WS**—Date Docketed: 2/5/2012—Date Closed: 12/12/2013  
Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke.

**120162-WS**—Date Docketed: 5/29/2012—Date Closed: 11/18/2013  
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.



**120183-WU**—Date Docketed: 7/2/2012—Date Closed: 11/22/2013  
Application for staff-assisted rate case in Lake County by TLP Water, Inc.

**120269-WU**—Date Docketed: 10/25/2012—Date Closed: 10/10/2013  
Application for staff-assisted rate case in Polk County by Pinecrest Utilities, LLC.



**120270-SU**—Date Docketed: 10/25/2012—Date Closed: 10/10/2013  
Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC.

**120286-WS**—Date Docketed: 11/13/2012—Date Closed: 10/28/2013  
Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by Four Points Utility Corp.



**120289-SU**—Date Docketed: 11/13/2012—Date Closed: 10/28/2013  
Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by West Lakeland Wastewater, LLC.

**120290-WU**—Date Docketed: 11/13/2012—Date Closed: 10/28/2013  
Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by Pinecrest Utilities, LLC.



**120317-WS**—Date Docketed: 12/20/2012—Date Closed: 10/15/2013  
Application for approval to transfer water and wastewater system Certificate Nos. 567-W and 494-S in Lake County from Shangri-La by the Lake Utilities, Inc. to Lakeside Waterworks, Inc.

**130161-WS**—Date Docketed: 6/12/2013—Date Closed: 12/16/2013  
Application for staff assistance for alternative rate setting case in Polk County by Four Points Utility Corp.

**130248-SU**—Date Docketed: 10/7/2013—Date Closed: 10/9/2013  
Notice of abandonment of wastewater system in Collier County by Goodland Isles, Inc.

We're on the Web at  
[www.radeylaw.com](http://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](mailto:sclark@radeylaw.com)  
850-425-6661



Terry Deason\*  
[tdeason@radeylaw.com](mailto:tdeason@radeylaw.com)  
850-425-6658

Pam Keillor\*  
[pkeillor@radeylaw.com](mailto:pkeillor@radeylaw.com)  
850-425-6663

\*not an attorney

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[pkeillor@radeylaw.com](mailto:pkeillor@radeylaw.com)



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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 advice or opinion.



## Happy New Year From All of Us at Radey

As 2013 draws to a close, we reflect on the year that has passed and look forward to the year ahead. We appreciate the opportunity to work with our many clients and friends in the Water and Wastewater industry as they pursue new opportunities or navigate challenges in the Florida market. We thank our clients and friends for your support and friendship over the years. We hope you have an enjoyable new year and we wish you the best.

