

WATER & WASTEWATER INDUSTRY QUARTERLY REPORT

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Florida Public Service Commission Rule-making Affecting Water and Wastewater Utilities

By: Susan Clark

On June 4, 2014, the Florida Public Service Commission (FPSC or Commission) issued a Notice of Proposed Rulemaking regarding amendments to Rules 25-30.455, *Staff Assistance in Rate Cases*, 25-30.456, *Staff Assistance in Alternative Rate Setting* and Rule 25-30.457, *Limited Alternative Rate Increase*. The proposed amendments increase the total gross annual operating revenues of water and wastewater utilities eligible for staff assistance in rate cases, alternative rate setting, and limited alternative rate increases from \$250,000 to \$275,000 or less for water or wastewater service, and from \$500,000 to \$550,000 or less for water and wastewater service combined; remove from the Commission's consideration in ruling on an application whether the applicant has complied in a timely manner with all Commission decisions and requests for 2 years prior to the filing of the application; and remove from the Commission's consideration in ruling on an application for limited alternative rate increase whether the utility has been granted a limited alternative rate increase within 3 years prior to the receipt of the application, and whether the utility is currently in compliance with any applicable water management district permit conditions concerning rate structure. (Docket No. 140093-WS)

2014 Legislation Affecting Water Utilities

Chapter 2014-68, relating to water utilities was signed into law by Governor Rick Scott on June 13, 2014. The law takes affect July 1, 2014.

The law amends Chapter 367 by creating two new statutes, 367.072, *Petition to revoke certificate of authorization* and 367.0812, *Rate fixing*; quality of water service as a criterion. Section 367.072 authorizes the Florida Public Service Commission (FPSC or Commission) to revoke the certificate of a water utility regulated by the Commission upon petition by 65% of the customers of the service area covered by the certificate when water quality issues are presented and the FPSC finds it is in the best interests of the customers to revoke the certificate. The law provides the process for filing the petition and notifying the affected utility of the petition. The petition must specify "each issue the customers have with the quality of service, each time the issue was reported to the utility and how long each issue has existed." If the issues identified in the petition support a reasonable likelihood that the utility is failing to provide quality water service the utility is prohibited from filing a rate case until the Commission has issued a final order on the petition. In addressing the issues raised in the petition the affected utility is to address state and federal water quality standards and the relationship between the utility and its customers including information on customer complaints. In deciding whether to dismiss the petition, require the utility to take steps to correct quality of water issues or revoke the utility's certificate the Commission is to evaluate the quality of water service provided and any other factor the Commission deems relevant. The Commission is required to adopt by rule the format of and requirements for a petition to revoke a certificate.

[Continued on next page.]

2014 Legislation Affecting Water Utilities, continued

New section 367.0812 adds the requirement that the Commission consider “the extent to which the utility provides water service that meets secondary water quality standards as established by the Department of Environmental Protection” (DEP) in setting rates for a water utility. The Commission is to consider testimony and evidence provided by customers and the utility, results of past tests by the county health department or DEP that measure compliance with secondary water standards, and customer complaints regarding secondary water standards that have been filed with the Commission, DEP, the respective local government, or a county health department over the last five years and a finding by DEP as to whether the utility failed to provide water service that meets secondary standards. The Commission may consider results of any updated test. The affected utility is to “create an estimate of the costs and benefits of a plausible solution to each issue identified by the Commission” and the utility is to meet with customers to discuss the estimated “costs and benefits of and time necessary for implementing a plausible solution.” The utility is to inform the Commission if the utility and customers agree on a solution to an issue and the cost of the solution, or if the customers and utility prefer a different solution and the cost of that preferred solution. The Commission is authorized to require the utility to implement a solution that is in the best interests of the customers and provide for cost-recovery for that solution. The Commission may also impose penalties for a utility’s failure to resolve water quality issues, which penalties include fines, a reduced return on equity, or a denial of all or part of a rate increase until the water quality is found to be satisfactory. The Commission is authorized to adopt rules “to assess and enforce compliance” with section 367.0812.

The law also provides an appropriation to the Commission for three full-time positions to implement new section 367.0812.

Docket No. 140115-WS

On May 28, 2014, Continental Utility, Inc. (Continental) filed a Petition for Declaratory Statement with the FPSC requesting the FPSC declare that Continental is exempt from FPSC jurisdiction when it only provides service to other entities owned by Continental County Club R.O., Inc., Continental’s parent company (Docket No. 140115-WS).



Upcoming Events - Mark Your Calendars

Date	Event Name	Event	Location
7/16/14	SARC	<i>Docket No. 130265-WU— Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.</i>	Englewood
7/13-16/14	NARUC	<i>NARUC Summer Committee Meetings</i>	<i>Omni Dallas Hotel 555 South Lamar Street Dallas, TX</i>
9/11/14	SARC	<i>Docket No. 130194-WS— Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.</i>	Leesburg

Trivia By Pam Keillor

It takes 5,680 litres (1,500 gallons) of water to process one barrel of beer.

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



Summaries of PSC Orders filed since April 2014

By Susan F. Clark

PSC-14-0150-FOF-SU—Date Filed: 4/3/2014

Order acknowledges the dismissal of KW Resort Utilities Corporation's complaint against Monroe County for alleged entitlement to certain capacity reservation fees for excess capacity used.

PSC-14-0169-CO-SU—Date Filed: 4/14/2014

Consummating Order makes effective and final Order PSC-14-0134-PAA-SU approving a new class of service for reuse water for Forest Utilities, Inc.'s customers in Lee County. The new reuse service is for golf course irrigation at the Forest Country Club.

PSC-14-0170-CO-WS—Date Filed: 4/14/2014

Consummating Order makes effective and final Order No. PSC-14-0130-PAA-WS approving the transfer of facilities of L.P. Utilities Corporation, a Class C water and wastewater utility providing water and wastewater service in Highlands County, to LP Waterworks, Inc. and establishing net book value for the transferred facilities and continuing the existing rates and charges for water and wastewater.

PSC-14-0174-PCO-WS—Date Filed: 4/17/2014

Order establishes procedure in the show cause proceedings against Country Club Utilities, Inc. of Highlands County for failure to pay Regulatory Assessment Fees.

PSC-14-0180-FOF-WS—Date Filed: 4/18/2014

Order approves Central Sumter Utility Company's application to amend Certificate No. 631-W and 540-S to add to its water and wastewater service territory in Lake County. The amendment adds approximately 2,041 residential and commercial customers.

PSC-14-0195-PAA-WS—Date Filed: 5/1/2014

Proposed Agency Action Order approves a rate increase in a staff-assisted rate case (SARC) for S.V. Utilities (SV.) for water and wastewater service in Polk County. The overall quality of service for the S.V. system was found to be satisfactory. The water treatment plant and distribution system and the wastewater treatment plant and wastewater collection system were all found to be 100% used and useful. A working capital allowance was allowed using the one-eighth of the operation and maintenance expenses formula. The return on equity was set at 8.74% using the Commission approved leverage formula. Various adjustments were made to test year expenses. The rate increase for water service was 41.86% and the rate increase for wastewater service was 124.06%. The rate structure approved for residential water service was a base facilities charge (BFC), designed to recover 40% of the revenue requirement, and a gallonage charge, with an additional charge for discretionary usage (above 5,000 gallons). The rate structure for general service and irrigation customers was a BFC and a uniform gallonage charge. A repression adjustment was used in setting rates to recognize the likelihood of reduced residential consumption as a result of the rate increase. The rate structure approved for residential and general wastewater service customers was a BFC designed to recover 50% of the revenue requirement and a gallonage charge. A repression adjustment was also used in setting rates for wastewater service to recognize the likelihood of reduced residential consumption as a result of the rate increase.

PSC-14-0196-PAA-WS—Date Filed: 5/1/2014

Order approves a rate increase in a staff-assisted rate case (SARC) for CHC VII, Ltd (CHC or Utility) for water and wastewater service in Polk County. The overall quality of service was found to be satisfactory. The water treatment plant and distribution system and the wastewater treatment plant and wastewater collection system were all found to be 100% used and useful. A working capital allowance was allowed using the one-eighth of the operation and maintenance expense formula. The return on equity was set at 11.16% using the Commission-approved leverage formula. Various adjustments were made to test year

Summaries of PSC Orders filed since April 2014 (continued)

expenses. The rate increase for water service was 31.44% and the rate increase for wastewater service was 95.78%. The rate structure approved for water service was a base facility charge (BFC) designed to recover 40% of the revenue requirements, and a gallonage charge, with an additional gallonage charge for discretionary usage (above 5,000 gallons) for residential customers. The rate structure for general service and irrigation customers is a BFC and uniform gallonage charge. A repression adjustment was used in setting rates to recognize the likelihood of reduced residential consumption as a result of the rate increase. The rate structure approved for residential and general wastewater service customers was a BFC designed to recover 50% of the revenue requirement and a gallonage charge. A repression adjustment was also used in setting rates to recognize the likelihood of reduced residential consumption as a result of the rate increase.

PSC-14-0198-TRF-SU—Date Filed: 5/2/2014

Order approves Environmental Protection Systems of Pine Island Inc.'s request to amend its miscellaneous service charges to include non-sufficient funds charges (NSF). The charges are consistent with those allowed under Sections 68.065 and 832.08(5), F.S.

PSC-14-0205-PCO-WS—Date Filed: 5/5/2014

Order approves Utilities, Inc.'s request for a protective order regarding employee compensation information.

PSC-14-0207-PHO-WS—Date Filed: 5/6/2014

Prehearing Order issued in Docket No. 120161-WS, the generic docket on the recovery of the cost of Utilities, Inc.'s (UI) financial accounting and customer service computer system (Phoenix Project).

PSC-14-0240-CFO-WS—Date Filed: 5/19/2014

Order grants Lake Utility Services, Inc.'s (LUSI) request for confidential classification of information regarding bids and other contractual data, competitive interests, internal auditing controls and reports of internal auditors, and employee personnel information unrelated to compensation, duties, qualifications and responsibilities.

PSC-14-0222-CFO-WS—Date Filed: 5/9/2014

Order grants Cypress Lakes Utilities, Inc.'s request for confidential classification of employee compensation information.

PSC-14-0225-AS-WS—Date Filed: 5/12/2014

Order approves settlement agreement resolving apparent violations of Rule 25-30.120, Florida Administrative Code, regarding regulatory assessment fees for water and wastewater utilities by Country Club Utilities, Inc.

PSC-14-0240-CFO-WS—Date Filed: 5/19/2014

Order grants Lake Utility Services, Inc.'s (LUSI) request for confidential classification of information relating to trade secrets, internal auditing controls and reports of internal auditors, information concerning bids or other contractual data and employee personnel information unrelated to compensation, duties, qualifications and responsibilities.

PSC-14-0262-CO-WS—Date Filed: 5/23/2014

Consummating Order makes effective and final Order PSC-14-0196-PAA-WS approving a rate increase to CHC VII, Ltd. for water and wastewater service in Polk County.

PSC-14-0263-CO-WS—Date Filed: 5/27/2014

Consummating Order makes effective and final Order PSC-14-0195-PAA-WS granting a rate increase to S.V. Utilities for water and wastewater service in Polk County.

PSC-14-0265-CO-SU—Date Filed: 5/27/2014

Consummating Order makes effective and final Order PSC-14-0198-TRF-SU approving non-sufficient funds charges by Environmental Protection Systems of Pine Island Inc. for wastewater service in Lee County.

Summaries of PSC Orders filed since April 2014 (continued)

PSC-14-0272-PAA-WS—Date Filed: 5/29/2014

Proposed Agency Action Order establishes the annual leverage formula for calculating the authorized range of returns on equity for water and wastewater utilities.

PSC-14-0273-PCO-SU—Date Filed: 5/29/2014

Order suspends proposed tariff of North Peninsula Utility Corporation for a main extension charge for wastewater service in Volusia County.

PSC-14-0283-PAA-WS—Date Filed: 5/30/2014

Proposed Agency Action Order grants in part Cypress Lakes Utilities, Inc.'s (Cypress Lakes or Utility) request for an increase in water rates and orders a decrease in wastewater rates for service in Polk County. The overall quality of service provided by the Utility was found to be satisfactory. The Utility agreed to several adjustments to rate base and operating expenses as a result of staff's audit report and other adjustments were made to rate base and operating expenses. Consistent with prior FPSC decisions, adjustments were made to costs attributable to the Phoenix Project, the financial accounting and customer service computer system of Utilities, Inc. and, also consistent with prior decisions, Cypress Lakes was authorized to create a regulatory asset or liability for costs associated with the Phoenix Project as a result of the generic docket (Docket No. 110153-SU) on the costs of the Phoenix Project. The water and wastewater systems, water distribution system and wastewater collection system continue to be deemed to be 100% used and useful (U&U); however, test year wastewater treatment costs for purchased power and chemicals were reduced by 1% due to excessive infiltration and inflow. The return on equity was set at 10.45% using the current FPSC approved leverage formula. The Utility's requested rate case expense of \$146,115, was decreased by \$27,687. The rate increase approved for water service was 18.37%, the rate decrease for wastewater services was 1.47%. The wastewater service decrease and the water service increase were applied uniformly to residential and general service customers. A late payment charge of \$5.23 was approved.

PSC-14-0284-PCO-SU—Date Filed: 5/30/2014

Order grants Volusia County's an unopposed motion for an extension of time to file a written objection to North Peninsula Utilities Corp.'s (North Peninsula) application to amend its wastewater certificate to add to North Peninsula's service territory in Volusia County. Volusia County requested an extension due to negotiations with North Peninsula for the acquisition of North Peninsula by the County which would obviate the need for filing written objections.

PSC-14-0287-FOF-WS—Date Filed: 6/3/2014

Order acknowledges the abandonment of Innerarity Island Development Corporation's utility system that provides water and wastewater services to customers in Escambia County. Escambia County was appointed receiver for the system.

PSC-14-0291-NOR-WS—Date Filed: 6/9/2014

Order is a Notice of Rulemaking regarding proposed amendments to: Rule 25-30.455, *Staff Assistance in Rate Cases*; Rule 25-30.456, *Staff Assistance in Alternative Rate Setting*; and Rule 25-30.457, *Limited Alternative Rate Increase*. (See page 1.)

PSC-14-0296-PAA-SU—Date Filed: 6/10/2014

Proposed Agency Action (PAA) Order approves the request of Utility Corporation of Florida, Inc.'s (Utility Corp.) request to not implement the Phase II rates that the FPSC authorized in a previous rate case once the pro forma plant additions were complete. The pro forma additions were not completed as contemplated and instead Utility Corp. will replace a surge tank and request a rate increase at a future date to recover cost of redesign of plant additions.

Summaries of PSC Orders filed since April 2014 (continued)

PSC-14-0299-PAA-WS—Date Filed: 6/11/2014; **PSC-14-0300-PAA-WS**—Filed: 6/11/2014; **PSC-14-0314-PAA-WS**—Date Filed: 6/13/2014; **PSC-14-0315-PAA-WS**—Date Filed: 6/13/2014; **PSC-14-0326-PAA-WU**—Date Filed: 6/25/2014; and **PSC-14-0327-PAA-WU**—Date Filed: 6/25/2014

Orders approve the transfer of water and wastewater facilities previously owned by Aqua Utilities of Florida (AUF) in Sumter, Highlands, Washington, Brevard and Palm Beach Counties to Jumper Creek Utility Company (Sumter), Woods Utility Company (Sumter), HC Waterworks, Inc. (Highlands), Sunny Hills Utility Company (Washington), Brevard Waterworks, Inc. (Brevard) and Lake Osborne Waterworks (Palm Beach). These transfers are the result of AUF's decision to cease operations in Florida. The utilities to which the facilities are transferred were recently created and share common management and ownership. The proposed agency action portions of the orders establish net book values for the transferred systems and, for some facility transfers, approve a negative acquisition adjustment.

PSC-14-0323-CO-WS—Date Filed: 6/24/2014

Consummating Order makes effective and final Order PSC-14-0272-PAA-WS establishing the annual leverage formula for calculating the authorized range of returns on equity for water and wastewater utilities.

PSC-14-0325-FOF-WS—Date Filed: 6/25/2014

Order approves the application of Farnton Water Resources, LLC's (Farnton) for an amendment to Water Certificate No. 622-W and Wastewater Certificate No. 564-S to extend and delete service territory in Volusia and Brevard Counties.

PSC-14-0333-PCO-WS—Date Filed: 6/26/2014

Order acknowledges the intervention by the Office of Public Counsel in the application for an increase in rates by Cypress Lakes Utilities for water and wastewater service in Polk County.

PSC-14-0335-PAA-WS—Date Filed: 6/30/2014

Proposed Agency Action Order approves a rate increase for water service and a rate decrease for wastewater service for Lake Placid Utilities, Inc. (Lake Placid) for service in Highlands County in a staff-assisted rate case (SARC). The overall quality of service for the Lake Placid system in Highlands County was found to be satisfactory. The water treatment plant, water distribution system and wastewater collection system were all found to be 100% used and useful (U&U). The wastewater treatment plant was found to be 28.5% U&U. Consistent with prior decisions, adjustments were made to costs attributable to the Phoenix Project, the financial accounting and customer service computer system of Utilities, Inc. and also consistent with prior decisions Lake Placid was authorized to create a regulatory asset or liability for cost associated with the Phoenix Project as a result of the generic docket (Docket No. 110153-SU) on costs of the Phoenix Project. Adjustments were made to test year rate base and operating expenses. The return on equity was set at 10.45% based on the FPSC-approved leverage formula. The rate increase for water service was 19.63%, the rate decrease for wastewater service was -2.01%. The use of a base facilities charge (BFC) and a gallonage charge for both residential and general service water customers was continued with the BFC designed to recover 54% of the revenue requirement for water service. Likewise, a BFC designed to recover 50% of revenue requirement and a gallonage charge was approved for wastewater service (for 3 unmetered wastewater customers a flat rate based on average residential water demand was approved. Initial customer deposit amounts and a \$5.25 late payment charge were also approved.



FPSC W/W Dockets OPENED (since April 2014)

140086-SU—Date Opened: 4/23/2014

Application for increase in wastewater rates in Pinellas County by Mid-County Services, Inc.

140093-WS—Date Opened: 5/7/2014

Proposed amendment of Rule 25-30.455, FAC, Staff Assistance in Rate Cases, Rule 25-30.456, FAC, Staff Assistance in Alternative Rate Setting, and Rule 25-30.457, FAC, Limited Alternative Rate Increase.

140106-SU—Date Opened: 5/20/2014

Application for limited proceeding rate increase in Polk County by West Lakeland Wastewater, LLC.

140115-WS—Date Opened: 5/28/2014

Petition for declaratory statement by Continental Utility, Inc. that in providing service only to other entities owned by Continental Country Club R.O., Inc., Continental Utility, Inc. would be exempt from Public Service Commission jurisdiction.

140120-WU—Date Opened: 6/5/2014

Application for approval of transfer of Certificate No. 339-W from Brendenwood Utilities, LLC. to Brendenwood Waterworks, Inc. in Lake County.

140121-WU— Date Opened: 6/5/2014

Application for approval of transfer of Certificate No. 539-W from Raintree Harbor Utilities, LLC to Raintree Waterworks, Inc. in Lake County.

140135-WS - Date Opened: 6/19/2014

Application for increase in water/wastewater rates in Pasco County by Labrador Utilities, Inc.

FPSC W/W Dockets CLOSED (since April 2014)



130055-WS—Date Opened: 2/28/2013—Date Closed: 5/2/2014
Application for approval of transfer of LP Utilities Corporation's water and wastewater systems and Certificate Nos. 620-W and 533-S, to LP Waterworks, Inc., in Highlands County.



130086-SU—Date Opened: 4/18/2013—Date Closed: 4/3/2014
Complaint of K W Resort Utilities Corp. against Monroe County, Florida for alleged entitlement to collect certain capacity reservation fees for excess capacity used.



130180-WS—Date Opened: 6/28/2013—Date Closed: 4/23/2014
Application for original certificates to provide water and wastewater service in Lake County by Sunlake Estates Utilities, L.L.C.



130229-WS—Date Opened: 8/26/2013—Date Closed: 6/25/2014
Application for amendment of territory for Certificate Nos. 622-W and 564-S in Volusia and Brevard Counties by Farmton Water Resources LLC.



130276-SU—Date Opened: 11/20/2013—Date Closed: 4/14/2014
Application for approval of new class of service for reuse water service in Lee County, by Forest Utilities, Inc.



130291-WS—Date Opened: 12/17/2013—Date Closed: 4/18/2014
Application for amendment of Certificate Nos. 631-W and 540-S in Lake County by Central Sumter Utility Company, LLC.

140030-SU—Date Opened: 2/7/2014—Date Closed: 6/10/2014
Request for approval to amend Miscellaneous Service charges to include all NSF charges by Environmental Protection Systems of Pine Island, Inc.

140061-WS—Date Opened: 3/26/2014—Date Closed: 6/3/2014
Notice of transfer of water and wastewater facilities of Innerarity Island Development Corporation to Escambia County, and cancellation of Certificate Nos. 546-W and 476-S in Escambia County.

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Senate Confirmation of Florida Public Service Commissioners Art Graham and Ron Brisé



On May 2, 2014, the Florida Senate confirmed the appointments of Chairman Art Graham and Commissioner Ron Brisé for four-year terms that began January 2014.



Applications Received for Two Florida Public Service Commission Appointments

On May 16, 2014, the Public Service Commission Nominating Council (Nominating Council) announced it was accepting applications for two vacancies that will occur on the Florida Public Service Commission when the four-year terms of Commissioners Eduardo Balbis and Julie Brown expire January 2015.

Thirty-three applications for Public Service Commissioner were filed with the Nominating Council by the June 17, 2014, filing deadline. Commissioner Julie Brown filed an application. Commissioner Balbis, consistent with his previous announcement, did not file an application. In addition to Commissioner Brown, the following people have applied for the position: Laura A. Nelson, James Schilling Baumstark, Brian K. Acosta, Stephen Bart Fletcher, Steven R. Demarest, Gregory L. Scoville, Philip L. Leary, Chris Edgens, Elizabeth Joan Randall, Daimy Bueno, Robert Natale Santoni, Sr. , Annett Nicole Strahan , Brian Rolston, Albert E. Martin, Marshall Wayne Willis, Samuel Curtis Kiser , James Carleton Hunt, Norman Bruce Doueck , David J. Murzin, Thomas Charles Larson, John Logan Alger , Oliver Addison Parker, Otilia de Los Angeles Figueroa, Gerardo B. (Jerry) Fernandez , Astrida Trupovnieks, Calvin Lynn Johnson, Ollie Lee Taylor, Stuart Wayne Pollins, Kevin LeRoy Wiehle, Patrick John Sheehan, Luz Urbáez Weinberg, and Jimmy T. Patronis, Jr.

The Nominating Council has indicated the anticipated date for the first meeting is Thursday, July 31st in Orlando to designate a list of "most qualified applicants" to be interviewed by the Nominating Council.