

WATER & WASTEWATER INDUSTRY QUARTERLY REPORT

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Declaratory Statement Regarding Discovery by the Office of Public Counsel in PAA Proceedings Affecting Rates of Cost of Service (Docket No. 140107-PU) **By Susan Clark**

On September 14, 2015, the Florida Public Service Commission (FPSC) granted the Office of Public Counsel's (OPC) Petition for declaratory statement regarding discovery in dockets or proceedings affecting rates or cost of service processed with the Commission's proposed agency action procedure (Petition) (Order No. PSC-15-0381-DS-PU). The FPSC had previously denied OPC's Petition stating it failed to meet the threshold requirements of Section 120.565, F.S., for issuance of a declaratory statement (Order No. PSC-14-0392-DS-PU, issued July 30, 2014). The OPC appealed that decision and on May 4, 2015, the First District Court of Appeal reversed the FPSC's Order and remanded the case with directions to consider the Petition on the merits and issue a declaratory statement [Citizens v. Florida Public Service Commission, 164 So. 3d 58 (Fla 1st DCA 2015)]. The declaratory statement issued declares "that OPC has the authority under Section 350.061(1), F.S., to utilize discovery pursuant to Fla. R. Civ. Pro. 1.280-1.390 in any proceeding affecting rates or cost of service processed using the proposed agency action procedures of Section 366.06(4) and 367.081(8), F.S. The declaratory statement applies solely to OPC and not to any other parties or entities."

Repeal of Rule **By: Susan Clark**

The Florida Public Service (FPSC) repealed Rule 25-22.028, *Filing, Number of Copies*, Florida Administrative Code (F.A.C.), which set out the filing requirements and number of copies for documents filed with the FPSC. The rule has become obsolete with the advent of electronic filing. The uniform filing rule, Rule 28-106.014, *Filing*, F.A.C., will take the place of the rule (Docket No. 150143-OT).



Summaries of PSC Orders filed since July 2015 **By Susan Clark**

PSC-15-0233A-PAA-WS—Date Filed: 7/9/2015

Amendatory Order strikes the ninth ordering paragraph on page 44 in Order PSC-15-0233-PAA-WS, which approved an increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation. The inclusion of the paragraph was due to a scrivener's error and is not applicable to the case.

PSC-15-0259-PAA-WS—Date Filed: 7/2/2015

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

PSC-15-0275-CO-WS—Date Filed: 7/6/2015

Consummating Order makes effective and final Order PSC-15-0233-PAA-WS approving an increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation.

Summaries of PSC Orders filed since July 2015 (continued)

PSC-15-0276-PCO-SU—Date Filed: 7/6/2015

Order PSC-15-0276-PCO-SU acknowledges the intervention of the Office of Public Counsel (OPC) in the application for an increase in wastewater rates in Charlotte County filed by Utilities, Inc. of Sandalhaven.

PSC-15-0281-FOF-WS—Date Filed: 7/8/2015

Order approves the transfer of majority organizational control of GCP Plantation Landings, LLC providing water and wastewater service in Polk County to GCP REIT III and Sun Communities Operating Limited Partnership. The existing rates and charges remain in effect.

PSC-15-0282-PAA-WS—Date Filed: 7/8/2015

Proposed Agency Action (PAA) Order approves a change in water and wastewater rates for service by HC Waterworks, Inc. in Highlands County. The overall quality of service for water and wastewater was found to be satisfactory. The used and useful (U&U) percentages for the water treatment plants and the water distribution systems were found to be 89.9% and 95.3%, respectively, based on a weighted average of the separate U&U for each of the three water systems (Lake Josephine, Sebring Lakes and Leisure Lakes). Water storage for the systems were found to be 100% U&U. The U&U for the wastewater plant (Leisure Lakes) was found to be 48.3% U&U and the wastewater collection system was found to be 93.9% U&U. Adjustments were made to rate base and operating expenses and revenues. A working capital allowance based on one-eighth of operating and maintenance expenses was authorized. The return on equity was set at 9.52% based on the Commission-approved average formula. Rates for water service were increased and rates for wastewater service were decreased. The rate structure approved for water service was a base facilities charge (BFC) designed to recover 50% of revenue requirements due to the seasonal nature of the customers base, with an inclining gallonage charge for residential customers, and a BFC and uniform gallonage charge for general service customers. Rates for wastewater service also used a BFC designed to recover 50% of revenue requirements with a gallonage cap of 6,000 gallons. Repression adjustments were made in the calculation of the water and wastewater rates.

PSC-15-0301-CO-WS—Date Filed: 7/27/2015

Consummating Order makes effective and final Order PSC-15-0259-PAA-WS establishing the annual leverage formula for calculating the authorized range of returns on equity for water and wastewater utilities.

PSC-15-0308-CO-WS—Date Filed: 7/31/2015

Consummating Order makes effective and final Order PSC-15-0282-PAA-WS approving a change in rates for water and wastewater service in Highlands County by HC Waterworks, Inc.

PSC-15-0315-FOF-WS—Date Filed: 8/5/2015

Order approves the transfer of majority organizational control of Ni Florida, LLC, providing water service in Lee County and wastewater service in Pasco County to Ni Pacolet Milliken Utilities, LLC. The existing rates and charges remain in effect.

PSC-15-0320-PCO-SU—Date Filed: 8/10/2015

Order suspends the proposed final rates for wastewater service in Charlotte County by Utilities, Inc. of Sandalhaven and grants an interim rate increase of 17.87%.

PSC-15-0329-PAA-WU—Date Filed: 8/14/2015

Proposed Agency Action (PAA) Order approves a “Phase I” rate increase for water service in Brevard County from Brevard Waterworks, Inc. (Utility) in a staff-assisted rate case (SARC). The Utility was also directed to work with the Office of Public Counsel and Brevard County to propose, within 90 days of issuance of the Order, Phase II solutions addressing ongoing rate and unaccounted for water concerns. The quality of the water was found to be satisfactory, but because of excessive un-accounted for water, the quality of service from the Utility was found to be marginal. The water distribution system was

Summaries of PSC Orders filed since July 2015 (continued)

found to be 100% used and useful (U&U) (the Utility purchases bulk water from Brevard County so there is no water treatment plant). Several adjustments were made to rate base and the formula method of one-eighth of operating and maintenance expenses was used to determine the working capital allowance. Adjustments were also made to operating expenses. The authorized return on equity was set at 8.74% based on the Commission-approved average formula. A 27.99% increase in rates was approved. The rate structure approved was a base facilities charge (BFC) designed to recover 40% of the revenue requirement with separate charges for nondiscretionary (0-4,000 gallons) and discretionary use (over 4,000 gallons). The residential irrigation rate structure is the same as for residential water customers. The rate for private fire protection was set at one twelfth of the BFC and the rate for general service customers was a BFC and uniform gallonage charge. A repression adjustment was included in the calculation of rates.

PSC-15-0335-PAA-WS—Date Filed: 8/20/2015

Proposed Agency Action (PAA) Order approves a rate increase for water and wastewater service in Sumter County by Jumper Creek Utility (Utility or Jumper Creek) in a staff-assisted rate case (SARC). As part of this order, the Commission also approved a settlement between the Office of Public Counsel (OPC) and Jumper Creek. The quality of service for both water and wastewater was found to be satisfactory. The water treatment plant was found to be 90.6% used and useful (U&U), the waste-water treatment plant was found to be 7.8% U&U and the water distribution and wastewater collection systems were found to be 100% U&U. Adjustments were made to rate base and the working capital allowance was set using the one-eighth of operation and maintenance expense formula. Adjustments were also made to revenues and expenses. The return on equity was set at 8.74% using the Commission-approved leverage formula. The rate structure approved for residential water service was a base facilities charge (BFC) designed to recover 40% of the revenue requirement and a uniform gallonage charge. The flat rate structure for wastewater customers was discontinued in favor of a BFC designed to recover 50% of the revenue requirement with a 6,000 gallon cap. A repression adjustment was included in the rate calculations.

PSC-15-0341-CFO-WU—Date Filed: 8/21/2015

Order grants in part and denies in part Michael Smallridge's request for confidential classification of responses to discovery requests containing Mr. Smallridge's personal financial information and information on individual employee compensation which was provided in the application for approval of the transfer of water systems from Crestridge Utility Corporation to Crestridge Utilities, LLC and from Holiday Gardens Utilities, Inc. to Holiday Gardens Utilities, LLC. Both systems are in Pasco County. Confidential classification was approved for information relating to the dollar amounts associated with certain property, social security numbers, entity identification numbers (EIN) and bank account numbers and information on individual employee compensation.

PSC-15-0364-CO-WU—Date Filed: 9/8/2015

Consummating Order makes effective and final Order PSC-15-0329-PAA-WU granting a "Phase I" rate increase for water service in Brevard County from Brevard Waterworks, Inc.

PSC-15-0379-PCO-SU—Date Filed: 9/11/2015

Order suspends the final rates requested by K W Resort Utilities Corp.'s for wastewater service in Monroe County. No interim rates were requested.

PSC-15-0383-CO-WS—Date Filed: 9/14/2015

Consummating Order makes effective and final Order PSC-15-0335-PAA-WS approving a rate increase for water and wastewater service in Sumter County by Jumper Creek Utility.

PSC-15-0400-AS-WU—Date Filed: 9/22/2015

Order approves a settlement offer proposed by Wildwood Water Company (Company) to resolve a show cause order against the Company for non-payment of regulatory assessment fees (RAF) and failure to file annual reports. The settlement provides for a payment schedule for past due RAFs and for penalties and interest and the timely filing of future annual reports and RAFs.



FPSC W/W Dockets OPENED (since July 2015)

150166-WU—Date Opened: 7/13/2015

Application for transfer of water system and Certificate No. 654-W in Lake County from Black Bear Reserve Water Corporation to Black Bear Waterworks, Inc.

150170-WS—Date Opened: 7/21/2015

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

150181-WU—Date Opened: 8/10/2015

Application for staff-assisted rate case in Duval County by Neighborhood Utilities, Inc.

150186-WU—Date Opened: 8/21/2015

Application for certificate to operate a water utility in Hardee County by Charlie Creek Utilities, LLC.

150189-WU—Date Opened: 8/28/2015

Application for transfer of water facilities to Marion County Utility, and cancellation of Certificate No. 419-W, by Residential Water System, Inc.

150198-WS—Date Opened: 9/10/2015

Proposed adoption of Rules 25-30.029 and 25-30.038 and amendment of Rules 25-30.030, 25-30.032, 25-30.033, 25-30.034, 25-30.035, 25-30.036, 25-30.037, 25-30.039, and 25-30.090, F.A.C.

150199-WU—Date Opened: 9/11/2015

Application for staff-assisted rate case in Lake County by Raintree Waterworks, Inc.

150209-WS—Date Opened: 9/21/2015

Application for staff-assisted rate case in Sumter County by The Woods Utility Company.

FPSC W/W Dockets CLOSED (since July 2015)

130153-WS—Date Opened: 5/24/2013—Date Closed: 9/2/2015 Application for staff-assisted rate case in Highlands County, by L.P. Utilities Corporation c/o LP Waterworks, Inc.

150019-WS—Date Opened: 1/6/2015—Date Closed: 7/8/2015

Joint application of GCP REIT III and Sun Communities Operating Limited Partnership for authority for transfer of majority organizational control of GCP Plantation Landings, LLC.

150115-WS—Date Opened: 4/3/2015—Date Closed: 8/5/2015

Joint application for approval of transfer of majority organizational control of Ni Florida, LLC, holder of Certificate Nos. 388-W in Lee County and 104-S in Pasco County, to Ni Pacolet Milliken Utilities, LLC.

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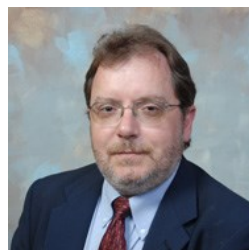
Radey Family News



Radey Law Firm is pleased to announce that Susan F. Clark and Brittany Adams Long, have become Board Certified by The Florida Bar in State & Federal Government and Administrative Practice. Certification is the highest level of evaluation by The Florida Bar of the competence and experience of attorneys in their areas of certification.



Rex Ware has joined our team as Of Counsel. His practice focuses on state and local taxation. Rex formerly was a Deputy General Counsel at the Department of Revenue and has been representing private clients before the Department of Revenue for many years. He also represents clients in general administrative and civil litigation. He holds a list of distinctions similar to those of our current team, including an AV rating by Martindale Hubbell and recognition by the Best Lawyers in America, Super Lawyers, and Chambers USA.



Once again Radey Law Firm received recognition as one the Best Companies to work for in Florida.