

WATER & WASTEWATER INDUSTRY QUARTERLY REPORT

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RADEY
ATTORNEYS & COUNSELORS at LAW

Florida Public Service Commission Rulemaking By Susan Clark

- Rule 25-30.445, F.A.C., *General Information and Instructions Required of Water and Wastewater Utilities in an Application for Limited Proceeding* (Docket No. 160239-WS)

On November 29, 2016, the Florida Public Service Commission (FPSC) Staff established Docket No. 160239-WS, to consider amendments to Rule 25-30.445, Florida Administrative Code (F.A.C.), *General Information and Instructions Required of Water and Wastewater Utilities in an Application for Limited Proceeding*). The Staff proposes to amend Rule 25-30.445, F.A.C., to require that in an application for a limited proceeding a water utility provide copies of all customer complaints received in the last five years regarding secondary water quality standards set by the Department of Environmental Protection (DEP), along with the utility's most recent secondary water quality test results. Comments filed regarding the proposed amendment included a recommendations for the establishment of a five-month deadline for processing a limited proceeding [Utilities, Inc. of Florida (UIF)] and that the utility be required to retain customer complaints for a period of three years rather than five years as proposed by the Staff (UIF and Florida Utility Services 1, LLC). The Office of Public Counsel opposed the establishment of a five-month deadline for processing limited proceeding applications and supported the retention of customer complaints for a five-year period.

On December 19, 2016, a Second Notice of Development of Rulemaking was issued that proposed a further amendment to the rule to eliminate the requirement "that a limited proceeding shall not be filed for underearnings in lieu of a general rate case."

- Rule 25-30.425, F.A.C., *Pass Through Rate Adjustment*, and 25-30.455, *Staff Assistance in Rate Cases*, (Docket No. 160223-WS)

On December 6, 2016, the FPSC proposed amendments to Rules 25-30.425, *Pass Through Rate Adjustment* and 25-30.455, F.A.C., *Staff Assistance in Rate Cases*, to implement amendments to Sections 367.081, and 367.0814, Florida Statutes, by Chapter 2016-226, Laws of Florida. The Notice of Rulemaking was published December 12, 2016, and parties have until 21 days after that date to request a hearing on the rules.

The 2016 amendments to Section 367.081(4)(b), Florida Statutes, expanded the types of specified expenses eligible for a pass-through adjustment. The amendments to Rule 25-30.425, F.A.C., add those specified expenses to the rule and clarify the documentation required to evaluate a utility's request for recovery of pass-through expenses. Although the 2016 amendments allowed the FPSC to include additional expenses that are eligible for recovery through a pass-through proceeding, none were proposed in this rulemaking.

The specific expenses added by the 2016 legislation include: water or wastewater service purchased from a governmental authority or a utility regulated by the FPSC; purchased electric power; ad valorem taxes; National Pollutant Discharge Elimination System Permit Program expenses; FPSC imposed regulatory assessment fee; water or wastewater quality testing required by the Department of Environmental Protection (DEP); wastewater biosolids disposal, tank inspection required by DEP or local authority; plant operator license fees; plant operating permit fees; and consumptive or water use permit fees.



Florida Public Service Commission Rulemaking, cont'd.



Rule 25-30.455, F.A.C., is amended to reflect changes to Section 367.0814(3), F.S., which provides that the Commission may award rate case expenses for attorney fees or fees of other outside consultants *if* such fees are incurred for the purpose of providing consulting or legal services to the utility *after* the initial staff report is made available to customers and the utility. The amended statute also provides that if there is a protest or appeal by a party other than the utility, the Commission may award rate case expenses to the utility for attorney fees or fees of other outside consultants for costs incurred *after* the protest or appeal.

- New Rules 25-30.444, F.A.C., *General Information and Instructions Required of Water and Wastewater Utilities to Create a Utility Reserve Fund*, and 25-30.4445, F.A.C., *Notice of Application for a Utility Reserve Fund* (Docket No. 160246-WS)

On December 5, 2016, the FPSC issued a Notice of Development of Rulemaking to create Rules 25-30.444, *General Information and Instructions Required of Water and Wastewater Utilities to Create a Utility Reserve Fund*, and 25-30.4445, F.A.C., *Notice of Application for Utility Reserve Fund*. The proposed amendments implement the 2016 amendments to Section 367.0981, F.S., authorizing the establishment of a reserve fund for infrastructure repair or replacement by regulated water and wastewater utilities.

Summaries of PSC Orders filed since October 2016

PSC-16-0421-PAA-WU—Date Filed: 10/03/2016

Proposed Agency Action Order establishes new rates for Brevard Waterworks (Utility) for water service in Brevard County in Phase II of a Staff Assisted Rate Case (SARC). In Phase I of the SARC, the Utility's purchased water expense was reduced by \$30,511, due to excessive unaccounted for water (EUW), and the Utility was ordered to work with the Office of Public Counsel (OPC) to provide "a long-term solution and options regarding the water system . . . [including] the deterioration of the distribution system." The Commission stated that the Utility's proposal to replace the existing water distribution in the Oakwood Subdivision would resolve the EUW issues, but the Utility's customers objected to the replacement project and its potential effect on rates. Based upon customer opposition the Commission agreed the replacement project should not go forward but concluded that if customers were unwilling to pay for a long term solution [to the EUW] the customers should pay for all water purchased by the Utility. The Phase I adjustment for EUW (\$30,511) was discontinued in Phase II rates; however, the rates approved for Phase II were decreased due to an overall reduction in the rates charged to the Utility by Brevard County for purchased water. The Phase II rates included recovery of the expense the Utility incurred in analyzing the replacement project. The rate decrease of 15% was applied as an across-the-board decrease to the Phase I rates.

PSC-16-0439-CO-WS—Date Filed: 10/06/2016

Consummating Order makes effective and final Order No. PSC-16-0370-PAA-WS granting a rate increase to Silver Lake Utilities for water service in Glades and Highlands Counties.

PSC-16-0475-PCO-SU-Date Filed: 10/21/2016

Order denies Harbor Shores Condominium Unit Owners Association's (Harbor Shores) request for an extension of time to file testimony in K.W. Resort Utilities Corp's application for an increase in wastewater rates in Monroe County.

PSC-16-0498-CO-WU—Date Filed: 10/28/2016

Consummating Order makes effective and final Order No. PSC-16-0421-PAA-WU establishing Phase II rates for Brevard Waterworks for water service in Brevard County.

Summaries of PSC Orders filed since October 2016 (continued)

PSC-16-0505-PAA-WS—Date Filed: 10/31/2016

Proposed Agency Action Order grants an increase to Utilities, Inc. of Florida for water service in Pasco County in a limited proceeding. The order only addresses the Phase II rate increase request “directly related to the interconnection with Pasco County to address water quality issues.” An increase of \$48,283 (or 5.50%) was approved; however, the rates may not be implemented until the interconnection with Pasco County is in-service, the testing from “nearby system sites” meets the Department of Environmental Protection’s secondary water quality standards, and the staff-approved customer notice has been received by customers.

PSC-16-0509-PHO-SU—Date Filed: 11/03/2016

Prehearing Order issued by prehearing officer (Patronis) identifies issues and witnesses and the processes to be followed in the hearing on KW Resort Utilities Corporation’s request for an increase in wastewater rates in Monroe County.

PSC-16-0509A-PHO-SU—Date Filed: 11/15/2016

Amendatory Order amends the Prehearing Order (PSC-16-0509-PHO-SU) issued in KW Resort Utilities Corporation’s request for an increase in wastewater rates in Monroe County to establish a page limitation for post-hearing filings.

PSC-16-0522-PAA-SU—Date Filed: 11/21/2016

Proposed Agency Action approves in part and denies in part North Peninsula Utilities Corporation’s (North Peninsula or Utility) request to amend its service territory and for a main extension charge. The Order authorizes North Peninsula to extend wastewater service to six distinct areas in east Volusia County (Kingston Shores Condominiums, Ormond Beach Plaza, Seabridge, Mid John Anderson Drive, Southerly John Anderson Drive, and Fairwinds Shores Condominiums). New customers requesting service must either install the mains necessary to connect to the Utility and donate those mains to the Utility or pay a main extension charge of \$444 per equivalent residential connection (ERC) for a main extension with no road crossing, or \$762 per ERC if the extension includes a road crossing. If a force main is required, a charge of \$1.25 per linear foot is authorized.

PSC-16-0523-TRF-WU—Date Filed: 11/21/2016

Proposed Agency Action Order approves the transfer of majority organizational control of Sunny Shores Water Company in Manatee County from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason. A late payment charge of \$5.00 was also approved, and all other existing rates and charges remain in effect.

PSC-16-0525-PAA-WS—Date Filed: 11/21/2016

Proposed Agency Action Order approves a rate increase for Ni Florida, LLC (Ni Florida) for water service in Lee County and for wastewater service in Pasco County. The overall quality of service for the water system in Lee County and the wastewater system in Pasco County was found to be satisfactory and both systems were found to be 100% used and useful (U&U). Adjustments were made to rate base (increasing the wastewater rate base and decreasing the water rate base) and a working capital allowance based on the balance sheet method was approved. Adjustments were also made to revenue and expenses and to rate case expense. The return on equity was set at 9.29% based on the Commission-approved leverage formula. Revenue increases for water service of 27.30% and 15.43% for wastewater service were approved. The rate structure approved for water service include a base facility charge (BFC) designed to recover 55% of the revenue requirement, and a gallonage charge with separate gallonage charges for non-discretionary use (3,000 gallons per month) and discretionary usage (3,001 gallons and over) for residential service. The rate structure for general service customers includes a BFC based on meter size and a uniform gallonage charge, and the rate structure for the RV park included a BFC based on 89 equivalent residential connections (ERC) and a uniform gallonage charge. The rate structure for residential wastewater service includes a BFC designed to recover 50% of the revenue requirement, with

Summaries of PSC Orders filed since October 2016 (continued)

a gallonage cap of 6,000 gallons per month. However, a separate BFC for mobile homes based on .8 ERCs was approved. The rate structure for general service wastewater customers included a BFC based on meter size and a uniform gallonage charge; however, the BFC for condominiums was based on 201 ERCs. Increases in wastewater violation reconnection charges and meter re-read charges were also approved, as were increases in initial customer deposit amounts. A main extension charge of \$1,405 per ERC and a plant capacity charge of \$2,500 per ERC was approved for the wastewater system. Finally, no refund of interim rates was required.

PSC-16-0526-PCO-WS—Date Filed: 11/22/2016

Order suspends Utilities, Inc. of Florida's (UIF) request for approval of final rates for water and wastewater service in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk and Seminole Counties and approves interim rates. Interim rate increases were approved for: Lake Placid, UIF Marion, UIF Pinellas, UIF Pasco and UIF Seminole water systems; and Lake Placid, Tierra Verde, UIF Marion and UIF Pasco wastewater systems. Additionally, it appeared seven systems were earning above the authorized return on equity so specified revenues for those systems were made subject to refund. Those systems are: Lake Utility Services, Inc. and Cypress Lakes Utilities water systems; and UIF Seminole, Labrador Utilities, Inc., Utilities, Inc. of Pennbrook, Utilities of Longwood, Utilities, Inc. of Eagle Ridge, and Cypress Lakes Utilities wastewater systems.

PSC-16-0530-PAA-WS—Date Filed: 11/22/2016

Proposed Agency Action Order grants Utilities, Inc. of Florida's (UIF) rule waiver request regarding compliance with Schedule E-14 of the Minimum Filing Requirements (MFR) provided for in Rule 25-30.437, Florida Administrative Code (F.A.C.). Schedule E-14 requires a billing analysis for each class of service by meter size. The Commission found: UIF had provided information in its MFRs "that would permit the staff and parties to examine revenues for the test year period;" the information UIF was seeking to waive was not necessary to determine test year revenues and, "therefore, the underlying purpose of the statute can still be met;" and UIF had "sufficiently alleged hardship should it be required to comply with the rule."

PSC-16-0536-PCO-SU—Date Filed: 11/23/2016

Order modifies Order No. PSC-16-0194-PCO-SU, the Initial Procedural Order issued in the application for an increase in wastewater rates in Monroe County by KW Resort Utilities Corp., to revise the date for filing post-hearing briefs from December 2, 2016 to December 9, 2016.

PSC-16-0537-PAA-WU—Date Filed: 11/23/2016

Proposed Agency Action Order approves a rate increase for Neighborhood Utilities, Inc. (NUI) for water service in Duval County in a Staff Assisted Rate Case (SARC). The overall quality of service was found to be satisfactory and NUI's service improvements since the last rate case as well as the low number of complaints over a greater than five-year period were noted. The water treatment and distribution systems were found to be 100% used and useful (U&U). Adjustments were made to rate base and the working capital allowance was based on the one-eighth of operation and maintenance expense formula. Adjustments were also made to operating revenues and expenses. Also approved were revenues for a meter replacement program expected to be completed over an eight-year period, which revenues are to be released from escrow upon documentation of the installation of meters. The return on equity was set at 11.16% based on the Commission-approved leverage formula. The rate structure approved for residential water service was a base facilities charge (BFC) designed to recover 30% of the revenue requirement and a three-tier gallonage charge [1.0-5,000 gallons (non-discretionary), 5,001-10,000 gallons and 10,001 gallons and over]. The rate structure for general service customers was a BFC and a uniform gallonage charge. A repression adjustment was used in the calculation of rates. Increased charges for initial connection, normal reconnection and violation reconnection, and premise visits were also approved, as well as a late payment charge and a Non-Sufficient Funds (NSF) charge. Required initial customer deposits were also increased as were the meter installation charges. The revenue increase approved was approximately 31.7%.

Summaries of PSC Orders filed since October 2016 (continued)

PSC-16-0539-CO-WS—Date Filed: 11/28/2016

Consummating Order makes effective and final Order No. PSC-16-0505-PAA-WS granting an increase in rates to Utilities, Inc. of Florida for water service in Pasco County in a limited proceeding to address costs associated with the interconnection with Pasco County.

PSC-16-0526A-PCO-WS—Date Filed: 12/02/2016

Order amends Order No. PSC-16-0526-PCO-WS to correct scrivener's errors in the order and attachments and to conform the order to oral modifications approved at the agenda conference.

PSC-16-0552-PAA-WS—Date Filed: 12/12/2016

Proposed Agency Action Order establishes the 2017 price increase and decrease index for major categories of operating costs incurred by water and wastewater companies pursuant to Section 367.081(4)(a), F.S.

PSC-16-0558-PCO-WS—Date Filed: 12/14/2016

Order issued by Prehearing Officer (Brisé) establishes procedures and processes to be followed in Utilities, Inc. of Florida's application for an increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk and Seminole Counties.

PSC-16-0561-CO-WS—Date Filed: 12/16/2016

Consummating Order makes effective and final Order No. PSC-16-0525-PAA-WS granting a rate increase to Ni Florida, LLC for water service in Lee County and wastewater service in Pasco County.

PSC-16-0563-CO-WU—Date Filed: 12/19/2016

Consummating Order makes effective and final Order No. PSC-16-0523-TRF-WU approving the transfer of majority organizational control of Sunny Shores Water Company in Manatee County from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason.

PSC-16-0573-PAA-WU—Date Filed: 12/19/2016

Proposed Agency Action Order finalized true-up amounts for previously approved pro forma plant additions (a new ground storage tank, the relocation and elevation of high service pumps, a building to house new facilities next to the new ground storage tank and the upgrade of the distribution system) for Water Management Services, Inc. (WMSI) which provides water service on St. George Island in Franklin County. Also in the order the Commission declined to initiate a show cause proceeding finding WMSI was in substantial compliance with the Commission's order regarding depositing the proceeds from the sale of unused lots (lots not needed for the approved plant additions) into an escrow account.

PSC-16-0575-CO-WS—Date Filed: 12/19/2016

Consummating Order makes effective and final Order No. PSC-16-0530-PAA-WS approving a rule waiver request by Utilities, Inc. of Florida regarding the filing of Schedule E-14 of the Minimum Filing Requirements.

PSC-16-0576-CO-SU—Date Filed: 12/20/2016

Consummating Order makes effective and final Order No. PSC-16-0522-PAA-SU approving in part and denying in part North Peninsula Utilities Corporation's request to extend its service territory in Volusia County.

PSC-16-0578-PCO-WS—Date Filed: 12/20/2016

Order revises first Order Establishing Procedure (OEP) for Utilities, Inc. of Florida's application for increases in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk and Seminole Counties to modify the discovery deadline and the date for the prehearing conference.

PSC-16-0525A-PAA-WS—Date Filed: 12/21/2016

Amendatory Order amends Order No. PSC-16-0525-PAA-WS granting an increase in water rates in Lee County and wastewater rates in Pasco County for Ni Florida, LLC to correct Schedule 4-B.

Summaries of PSC Orders filed since October 2016 (continued)

PSC-16-0526B-PCO-WS—Date Filed: 12/22/2016

Second Amendatory Order amends Order No. PSC-16-0526-PCO-WS and Order No. PSC-16-0526A-PCO-WS granting interim rate increases for certain Utilities, Inc. of Florida's water and wastewater systems in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk and Seminole Counties to correct Schedule 4-B.

PSC-16-0579-PCO-SU—Date Filed: 12/22/2016

Order by Chairman Brown denies KW Resort Utilities' (KWRU) amended motion for leave to file late-filed exhibit in KWRU's application for increase in wastewater rates in Monroe County. The late-filed exhibit reflects rate case expense incurred since October 27, 2016. The Commission concluded KWRU had "not demonstrated good cause for the relief requested and KWRU "had ample opportunity to provide the estimated cost for completing the rate case and did not provide any reason as to why it failed to timely provide the Commission with the estimated expense to complete the case."

PSC-16-0580-CO-WU—Date Filed: 12/23/2016

Consummating Order makes effective and final Order No. PSC-16-0537-PAA-WU approving a rate increase for Neighborhood Utilities, Inc. for water service in Duval County.

PSC-16-0583-PAA-WS—Date Filed: 12/29/2016

Proposed Agency Action Order approves a rate increase for Aquarina Utilities, Inc. (Aquarina or Utility) for water and wastewater service in Brevard County in a staff assisted rate case (SARC). The Utility's service was found to be marginal based on a number of concerns raised by customers regarding such things as fire flow, repairs, operation of the plant, communications with and complaints by customers, and allocation of costs. The Florida Public Service Commission (FPSC) staff was directed to conduct a thorough audit of the Utility to address these concerns. The used and useful (U&U) amounts allowed for the Utility's systems were: potable water treatment plant 81%; potable water distribution system 62.6%; potable water plant storage 46.7%; wastewater plant 55.9%; wastewater collection system 65.4%; non-potable water plant and non-potable water distribution system 100%; and non-potable water storage 61%. Adjustments were made to rate base, including pro forma adjustments for replacement of the reverse osmoses skid, distribution and collection system mapping, replacement of catwalks and blowers, and a meter replacement program. (Revenue requirements for some pro forma plant additions are to be recovered in "Phase II Pro Forma Rates.") The working capital allowance was based on the one-eighth of operation and maintenance expense formula. Adjustments were also made to operating expenses and revenues. The return on equity was set at 11.6% based on the Commission-approved leverage formula; however, the operating ratio methodology was used for setting the Utility's wastewater rates. While the FPSC found the potable water system was overearning, the FPSC declined to decrease the water rates and instead netted the water system overearnings against the wastewater system increase. This resulted in a 3.25% increase in wastewater rates. The rate structure approved for non-potable water service (irrigation rates) was a base facilities charge (BFC) designed to recover 30% of the revenue requirement and a gallonage charge. The rate structure approved for wastewater service was an across-the-board increase of 3.15% to the existing rates. The initial connection charge for both water and wastewater service was increased to \$26 for normal hours and \$32 for after hours. The normal reconnection charge was increased to \$38 for normal hours and \$47 for after hours for both water service and wastewater service. The violation reconnection charge for water service was increased to \$38 for normal hours and \$47 for after hours. The wastewater violation reconnection charge remained at actual cost. Premise visit charges for both water and wastewater were increased to \$26 for normal hours and \$99 for after hours. A direct debit charge of \$1.36 was approved for debiting the bank account of a customer for the customer's utility bill and statutorily-based graduated non-sufficient fund (NSF) charges were approved. The existing service availability charges for the potable and non-potable water systems were continued and the wastewater main extension charge was discontinued. The implementation of Phase II rates for certain pro forma plant additions is conditioned on completion of the pro forma items and results in increases only for wastewater service. Finally, the Utility was ordered to confirm in writing it had adjusted its books in accordance with the FPSC's decision within 90 days of the final order (Docket No. 150010-WS).

PSC-16-0584-FOF-WU—Date Filed: 12/29/2016

Order acknowledges the transfer of the TLP Water Utility in Lake County to the City of Tavares and cancels Certificate No. 644-W.

FPSC W/W Dockets OPENED (since October 2016)



160218-WU—Date Opened: 10/04/2016
Application for limited proceeding rate increase in Pasco County by Crestridge Utilities, LLC.

160219-SU—Date Opened: 10/07/2016
Application for certificate to provide wastewater service in Manatee County by Sunny Shores Water Co.



160220-WS—Date Opened: 10/11/2016
Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.

160222-WS—Date Opened: 10/17/2016
Application for staff-assisted rate case in Highlands County by LP Waterworks, Inc.



160223-WS—Date Opened: 10/18/2016
Proposed amendments for Rules 25-30.425 and 25-30.455, F.A.C.

160238-WS—Date Opened: 11/15/2016
Application of B & C Water Resources, L.L.C. and D & E Water Resources, L.L.C. for transfer of majority organizational control.



160239-WS—Date Opened: 11/28/2016
Proposed amendment of Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding.

160246-WS—Date Opened: 12/20/2016
Proposed amendment of Rules 25-30.444 and 25-30.4445, F.A.C.



160248-WS—Date Opened: 12/23/2016
Application for original certificates to provide water and wastewater service in Polk County by Deer Creek RV Golf & Country Club, Inc.

FPSC W/W Dockets CLOSED (since October 2016)

140186-WU—Date Opened: 9/29/2014—Date Closed: 11/14/2016
Application for staff-assisted rate case in Brevard County by Brevard Waterworks, Inc.

160130-WU—Date Opened: 5/24/2016—Date Closed: 12/29/2016
Application for transfer of water facilities to the City of Tavares in Lake County, and cancellation of Certificate No. 644-W, by TLP Water, Inc.

160218-WU—Date Opened: 10/04/2016—Date Closed: 12/05/2016
Application for limited proceeding rate increase in Pasco County by Crestridge Utilities, LLC.



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Radey Family News



Shareholder, Angela Miles and her husband Parker, became proud parents of their second child on October 28th—Farah Whitton Miles. Baby Farah was 9 pounds and 20.25 inches.



Trivia By Pam Keillor

Human bones are 25% water.



Human blood is 83% water.



75% of a chicken is water.



80% of a pineapple is water.



95% of a tomato is water.



70% of an elephant is water.



<http://www.stateofflorida.com/facts.aspx>