

WATER & WASTEWATER INDUSTRY QUARTERLY REPORT

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RADEY
ATTORNEYS & COUNSELORS at LAW

Florida Public Service Commission Rulemaking By Susan Clark

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

On January 21, 2017, the Florida Public Service Commission (FPSC) adopted 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 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 which are now in the rules 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.

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 March 9, 2017, the FPSC issued a Notice of Rulemaking to create Rules 25-30.444, and 25-30.4445, F.A.C. The proposed rules 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.

Rule 25-30.444, F.A.C., implements a utility reserve fund. Subsection (1) sets forth the projects eligible for the utility reserve fund. Subsection (2) sets forth the filing requirements in an application for a utility reserve fund, including the requirements for a capital improvement plan. Subsection (3) provides reporting requirements for the utilities so the Commission can track the monies collected for the utility reserve fund. Subsection (4) lists the information that a utility must provide to the Commission in order to receive Commission authorization for disbursement of the reserve fund monies. Subsection (5) sets forth the filing requirements to request a modification of the reserve fund. Subsection (6) of the rule provides the conditions under which the Commission will determine the final disposition of a utility reserve fund.

Rule 25-30.4445, F.A.C., provides the noticing requirements for the application for a utility reserve fund, including applications filed as stand-alone applications or applications filed in conjunction with another rate case proceeding.

Summaries of PSC Orders filed since January 2017 (continued)

PSC-17-0005-PCO-WS— Date Filed: 01/03/2017

Order establishes the 2017 docket number for the annual establishment of the price increase or decrease for major categories of operating cost incurred by water and wastewater utilities pursuant to section 367.081(4)(a), F.S. (Docket No. 170005-WS)

PSC-17-0006-PCO-WS—Date Filed: 01/03/2017

Order establishes the 2017 docket number for the annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to section 367.081(4)(f), F.S. (Docket No. 170006-WS).

PSC-17-0014-CO-WS—Date Filed: 01/04/2017

Consummating Order makes effective and final Order No. PSC-16-0552-PAA-WS establishing the 2017 price index for water and wastewater utilities (Docket No. 160005-WS).

PSC-17-0021-CO-WU—Date Filed: 01/12/2017

Consummating Order makes effective and final Order No. PSC-16-0573-PAA-WU, finalizing true-up amounts for previously approved pro forma plant additions for Water Management Services (WMS) and declining to initiate a show cause proceeding against WMS (Docket No. 110200-WU).

PSC-17-0031-CO-WS—Date Filed: 01/23/2017

Consummating Order makes effective and final Order No. PSC-16-0583-PAA-WS approving a rate increase for water and wastewater service in Brevard County by Aquarina Utilities (Docket No. 150010-WS).

PSC-17-0032-PCO-WS—Date Filed: 01/24/2017

Second Order revises order establishing procedure (Order Nos. PSC-16-0558-PCO-WS and PSC-16-0578-PCO-WS) and grants modifications to the due dates for discovery, testimony and prehearing statements. (Docket No. 150010-WS).

PSC-17-0041-PAA-WU (and PSC-17-0041A-PAA-WU)—Date Filed: 02/01/2017

Proposed Agency Action Order approves a rate increase for Phase II pro forma items and other additional capital improvements to Holiday Gardens Utilities, LLC (Holiday Gardens) for water service in Pasco County. The Phase II pro forma items were previously approved in Order No. PSC-15-0588-PAA-WU. The additional items were approved due to the necessity of the items and the Phase II items coming in under budget, and “because it will reduce regulatory lag and rate case expense by mitigating the need for Holiday Gardens to file an additional limited proceeding.” The rate increase was 1.07 percent (Docket No. 140177-WU).

PSC-17-0042-PAA-WU (and PSC-17-0042A-PAA-WU)—Date Filed: 02/01/2017

Proposed Agency Action Order approves a rate increase for Phase II pro forma items and other additional capital items to Crestview Utilities, LLC (Crestview) for water service in Pasco County. The Phase II items were previously approved in Order No. PSC-15-0592-PAA-WU. The additional items were approved due to the necessity of the items and the Phase II items coming in under budget (the additional items were part of an application for limited proceeding by Crestview, (Docket No. 160218-WU). The rate increase was 2.95 percent (Docket No. 140175-WU).

PSC-17-0043-PAA-WU (and PSC-17-0043A-PAA-WU)—Date Filed: 02/02/2017

Orders approve the transfer of Pine Harbour Water Utilities, LLC in Lake County to Pine Harbour Waterworks, Inc., and establishes the rate base for the transferred facilities. The buyer did not request an acquisition adjustment and none was approved. The existing rates remain in effect and initial customer deposits of \$56 for residential service, a \$2.60 convenience charge for credit card payment

Summaries of PSC Orders filed since January 2017 (continued)

transactions on line through the utility's website, and charges for non-sufficient funds consistent with Florida Statute 68.065, were approved (Docket No. 160169-WU).

PSC-17-0059-PAA-WS (and PSC-17-0059A-PAA-WS)—Date Filed: 02/24/2017

Proposed Agency Action Order grants a temporary rule waiver for South Sumter Utility, LLC (South Sumter or Utility) and grants original water and wastewater certificates under Rule 25-30.033, Florida Administrative Code, to South Sumter. South Sumter is granted a waiver of paragraphs 25-30.033(l)(p) and (q) requirements relating to financial and technical information regarding rate setting until it receives necessary permits and is closer to commencing operations. The Utility estimates it will file the required information in the third quarter of 2017 (Docket No. 160220-WS).

PSC-17-0064-CO-WU—Date Filed: 02/27/2017

Consummating Order makes effective and final Order No. PSC-17-0043-PAA-WU approving the transfer of Pine Harbour Water Utilities, Inc. in Lake County to Pine Harbour Waterworks, Inc. (Docket No. 160169-WU).

PSC-17-0067-CO-WU—Date Filed: 02/28/2017

Consummating Order makes effective and final Order No. PSC-17-0041-PAA-WU approving a rate increase for Phase II pro forma items and additional capital items to Holiday Gardens, LLC for water service in Pasco County (Docket No. 140171-WU).

PSC-17-0068-CO-WU—Date Filed: 02/28/2017

Consummating Order makes effective and final Order No. PSC-17-0042-PAA-WU approving a rate increase for Phase II pro forma items and additional capital items to Crestview Utilities, LLC for water service in Pasco County (Docket No. 140175-WU).

PSC-17-0089-FOF-WU—Date Filed: 03/09/2017

Order finds Cedar Acres, Inc. (Cedar Acres or Utility) a water utility serving customers in Sumter County in substantial compliance with Order No. PSC-15-0535-PAA-WU regarding measures the Utility was required to take to improve service to customers, and requiring the Utility continue to comply with that order and file a billing analysis covering the period of November 1, 2016, to June 20, 2017 (Docket No. 140217-WU).

PSC-17-0091-FOF-SU—Date Filed: 03/13/2017

Order grants an increase in rates for wastewater service in Monroe County by K W Resort Utilities Corporation (K WRU or Utility). (There were a number of stipulations on various issues that were approved by the order). The Utility's 2014 test year was adjusted based on "known and measurable information." The product and condition of the wastewater treatment facilities and the overall quality of service was found to be satisfactory. Several adjustments were made to rate base including those stipulated to by the parties. Adjustments were also made to test year revenues and expenses. The wastewater treatment plant was found to be 71.5% used and useful (U & U) (after the plant expansion was placed in service) and the wastewater collection system was found to be 100% U & U. Based on the Commission-approved leverage formula, the return on equity (ROE) was set at 11.16%. Rate case expense was adjusted to remove, among other things, duplicative legal expenses, expenses related to MFR deficiencies and updated estimates of expenses. The Utility was authorized to collect \$496,973 over a five-year period for legal expenses associated with the challenge to its Department of Environmental Protection permit. A revenue increase of 58.75% was approved. The rate structure approved was base facilities charge (BFC) designed to recover 40% of the revenue requirement and a gallonage charge based on water demand with a 10,000 gallon cap. General service customers are billed based on meter size with a gallonage charge based on water demand. The general service gallonage charge is 20 percent higher than the residential gallonage charge. The rate for reuse service was set at \$1.34 per 1,000 gallons. Additionally, Harbor Shores, a mobile home park, was reclassified from a residential customer to a general service customer; however, Harbor Shores will continue to be charged a BFC based on 69 ERCs and a gallonage charge with a 10,000 gallon cap per ERC. Various miscellaneous service charges were also approved, including late payment charges and Non-Sufficient Funds charges. Finally, a refund of interim rates was approved, and the Commission ordered an audit and investigation

Summaries of PSC Orders filed since January 2017 (continued)

of the Utility's billing practices be conducted to determine if there had been violations of any order, rule or statute (Docket No. 150071-SU).

PSC-17-0092-PAA-WU—Date Filed: 03/13/2017

Order approves the transfer of Orangeland Water Supply in Pasco County to Orange Land Utilities, and establishes rate base for the transferred facilities. The buyer did not request an acquisition adjustment and none was approved. Existing rates and charges remain in effect and, in addition, the following charges were approved: initial customer deposit; premise visit charge; initial connection charge, reconnection charge and violation reconnection charge; a late payment charge; a non-sufficient funds charge; and a convenience charge for customers who opt to pay their bill by debit or credit card (Docket No. 160144-WU).

PSC-17-0103-PCO-SU—Date Filed: 03/17/2017

Order grants the Office of Public Counsel's and Monroe County's motions for extension of time to respond to K W Resort Utility's (KWRU) motion for reconsideration of the FPSC's final order (Order No. PSC-17-0091-FOF-SU) granting a rate increase to KWRU for wastewater service in Monroe County. An extension of seven (7) days was granted (Docket No. 150071-SU).

PSC-17-0104-CO-WS—Date Filed: 03/21/2017

Consummating Order makes effective and final Order No. PSC-17-0059-PAA-WS, as amended by Order No. PSC-17-0059A-PAA-WS, granting an original certificate to South Sumter Utility, LLC for water and wastewater service in Sumter County and providing a temporary waiver of Rule 25-30.033(1)(p) and (q), Florida Administrative Code (Docket No. 160220-WS).

PSC-17-0108-PAA-WU—Date Filed: 03/27/2017

Proposed Agency Action Order grants a rate increase to Camachee Cove Yacht Harbor Utility for water service in St. Johns County in a limited proceeding. A reduction in water usage led to the Utility being unable to achieve its previously approved revenues with the current rates. The rate increase of 43.31% was applied across-the-board to existing service rates (Docket No. 160145-WU).

PSC-17-0113-PAA-WS—Date Filed: 03/28/2017

Proposed Agency Action Order sets initial rates and charges for Consolidated Services of Hendry and Collier Counties, LLC (Consolidated Services or Utility) for water and wastewater service in Hendry and Collier Counties. The initial rates established are based on a projected rate base, a capital structure of 40% equity and 60% debt with a cost of equity of 11.16% (based on the Commission-approved leverage graph), and a 4.75% cost of debt. The revenue requirement for wastewater services was found to be \$139.353, and the water revenue requirement was \$120.581. The rate structure approved was a base facilities charge (BFC) for both water and wastewater rates designed to recover 40% of the revenue requirement, and a usage charge of \$3.93 per 1,000 gallons for water, and \$3.40 per 1,000 gallons for wastewater with a cap of 8,000 gallons. Charges were set for service availability; miscellaneous services; initial deposit; late payment; and non-sufficient funds (Docket No. 130105-WS).

FPSC W/W Dockets OPENED (since January 2017)

170005-WS—Date Opened: 1/03/2017
Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.

170006-WS—Date Opened: 1/03/2017
Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

170016-WS—Date Opened: 1/12/2017
Application for transfer of water and wastewater facilities to Babcock Ranch Community Independent Special District in Charlotte and Lee County, and cancellation of Certificate Nos. 618-W and 532-S, by MSKP Town and Country Utility, LLC.

170018-SU—Date Opened: 1/19/2017
Application to transfer wastewater system and Certificate No. 137-S in Brevard County from Colony Waste Services, LLC to Merritt Island Utility Company, Inc.

170042-WU—Date Opened: 2/27/.17
Application for transfer of water facilities to Pasco County, and cancellation of Certificate No. 152-W, by LWV Utilities, Inc.



FPSC W/W Dockets CLOSED (since January 2017)

110200-WU—Date Opened: 6/08/2011—Date Closed: 1/12/2017
Application for increase in water rates in Franklin County by Water Management Services, Inc.

130209-SU—Date Opened: 08/02/2013—Date Closed: 2/09/2017
Application for expansion of certificate (CIAC) (new wastewater line extension charge) by North Peninsula Utilities Corp.

140175-WU—Date Opened: 9/10/2014—Date Closed: 3/21/2017
Application for staff-assisted rate case in Pasco County by Crestridge Utilities, LLC.

140177-WU—Date Opened: 9/10/2014—Date Closed: 3/21/2017
Application for staff-assisted rate case in Pasco County by Holiday Gardens Utilities, LLC.

150269-WS—Date Opened: 12/30/2015—Date Closed: 3/10/2017
Application for limited proceeding water rate increase in Marion, Pasco, and Seminole Counties, by Utilities, Inc. of Florida.

160005-WS—Date Opened: 1/04/2016—Date Closed: 1/04/2017
Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.

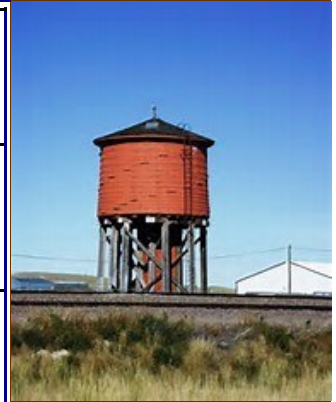
160006-WS—Date Opened: 1/04/2016—Date Closed: 1/03/2017
Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

160023-WU—Date Opened: 1/15/2016—Date Closed: 2/23/2017
Application for transfer of majority organizational control of Sunny Shores Water Co., holder of Certificate No. 578-W in Manatee County, from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason

160030-WS—Date Opened: 2/10/2016—Date Closed: 3/15/2017
Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC.

160220-WS—Date Opened: 10/11/2016—Date Closed: 3/22/2017
Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.

160223-WS—Date Opened: 10/18/2016—Date Closed: 1/31/2017
Proposed adoption of Rules 25-6.0346, 25-12.005, 25-12.008, 25-12.022, 25-17.027, 25-12.040, and 25-12.085, F.A.C.,



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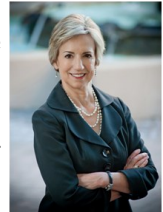
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Radey Family News



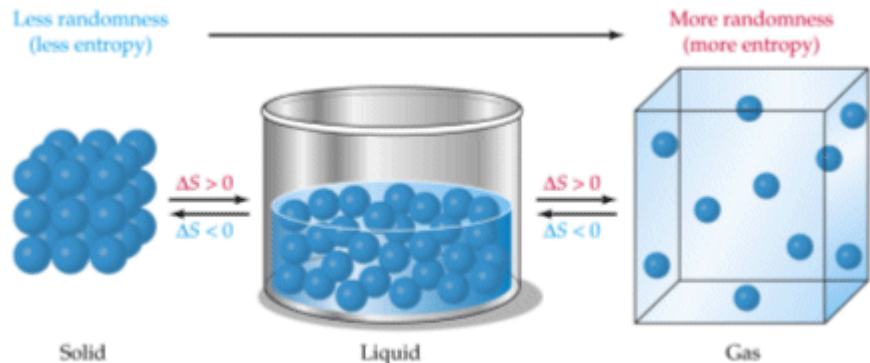
Drew Parker has joined the Radey Law Firm as Of Counsel. Most recently Drew served as General Counsel of the Florida Department of Financial Services and previously as General Counsel of the Florida Department of Children and Families. His practice will focus primarily on administrative and governmental law, government contracting and procurement, and civil and administrative litigation.

Susan Clark has been named Executive Director of the Women's Energy & Innovation Network (WeIN). WeIN brings together an elite group of successful women executives, consumer advocates, regulators and legislators to focus on best practices and idea exchange to ensure the continued delivery of innovative, reliable and cost-effective electric services.



Trivia By Pam Keillor

If water changes phase its physical appearance changes due to parting of water molecules. In the solid phase the water molecules are close together and in the gaseous phase they are the furthest apart.



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