

2003

# Annual Report



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ELECTRIC

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NATURAL GAS

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TELECOMMUNICATIONS

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WATER & WASTEWATER

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F L O R I D A P U B L I C S E R V I C E C O M M I S S I O N

**2003 ANNUAL REPORT**

Reflects Calendar Year 2003



## CHAIRMAN'S MESSAGE

For more than 100 years, the Florida Public Service Commission has played an integral role in the lives of Floridians. Since its inception, the Commission has evolved from regulation of the state's railroads to regulation or oversight of various operations in the telephone, electric, natural gas, and water and wastewater industries. Charged with these significant responsibilities, the Commission makes decisions that have a direct impact on the 16 million people living in Florida today.

Our current challenge is to keep pace with the rapid changes in the state's utility industries and the development of new technology, while making certain that the public's interest is well served. We must be mindful of the competitive pressures that have resulted from the telecommunications markets being opened to competition. In the electric and gas industry, the availability of adequate energy reserves and reliability of service must be ensured.

Along with change in these industries comes a shift in the Commission's role, from that of traditional regulator to one of oversight and enforcement, acting as mediator in the competitive environment and as educator helping consumers make informed decisions on their essential services. During this transition, however, we have not lost sight of our responsibility to make sure that Florida's consumers have access to safe and reliable utility services at fair and reasonable rates.

While facing many complex issues in our role as regulators, mediators, and educators, we continue to seek more efficient and effective ways to meet our responsibilities to the consumers we serve and to the industries we regulate.

The Annual Report provides an overview of the Commission's divisions and their major areas of emphasis this past year. I hope you will find this information useful.

Sincerely,

A handwritten signature in black ink, appearing to read "Braulio Baez".

Braulio Baez

Chairman

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# I. Introduction

## Information Directory

As a government agency whose operations directly affect the public, the Florida Public Service Commission welcomes your requests for information on matters with which you have a concern. Inquiries may be made in writing to the address below or by telephone, e-mail, or toll-free fax.

Florida Public Service Commission  
2540 Shumard Oak Boulevard ♦ Tallahassee, Florida 32399-0850

Braulio L. Baez, Chairman	(850) 413-6042
J. Terry Deason, Commissioner	413-6038
Lila A. Jaber, Commissioner	413-6044
Rudolph "Rudy" Bradley, Commissioner	413-6046
Charles Davidson, Commissioner	413-6040
Executive Director	413-6068
Deputy Executive Director	413-6071
General Counsel	413-6199
Inspector General	413-6338
Office of Federal and Legislative Liaison	413-6800
Office of Public Information	413-6482
Division of the Commission Clerk and Administrative Services, Commission Clerk's Office	413-6770
Division of Regulatory Compliance and Consumer Assistance, Bureau of Complaint Resolution	413-6100
Toll-Free Number: 1-800-342-3552 (Nationwide)	
Toll-Free Fax: 1-800-511-0809 (Florida)	

E-mail address: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)  
Internet home page: [www.floridapsc.com](http://www.floridapsc.com)

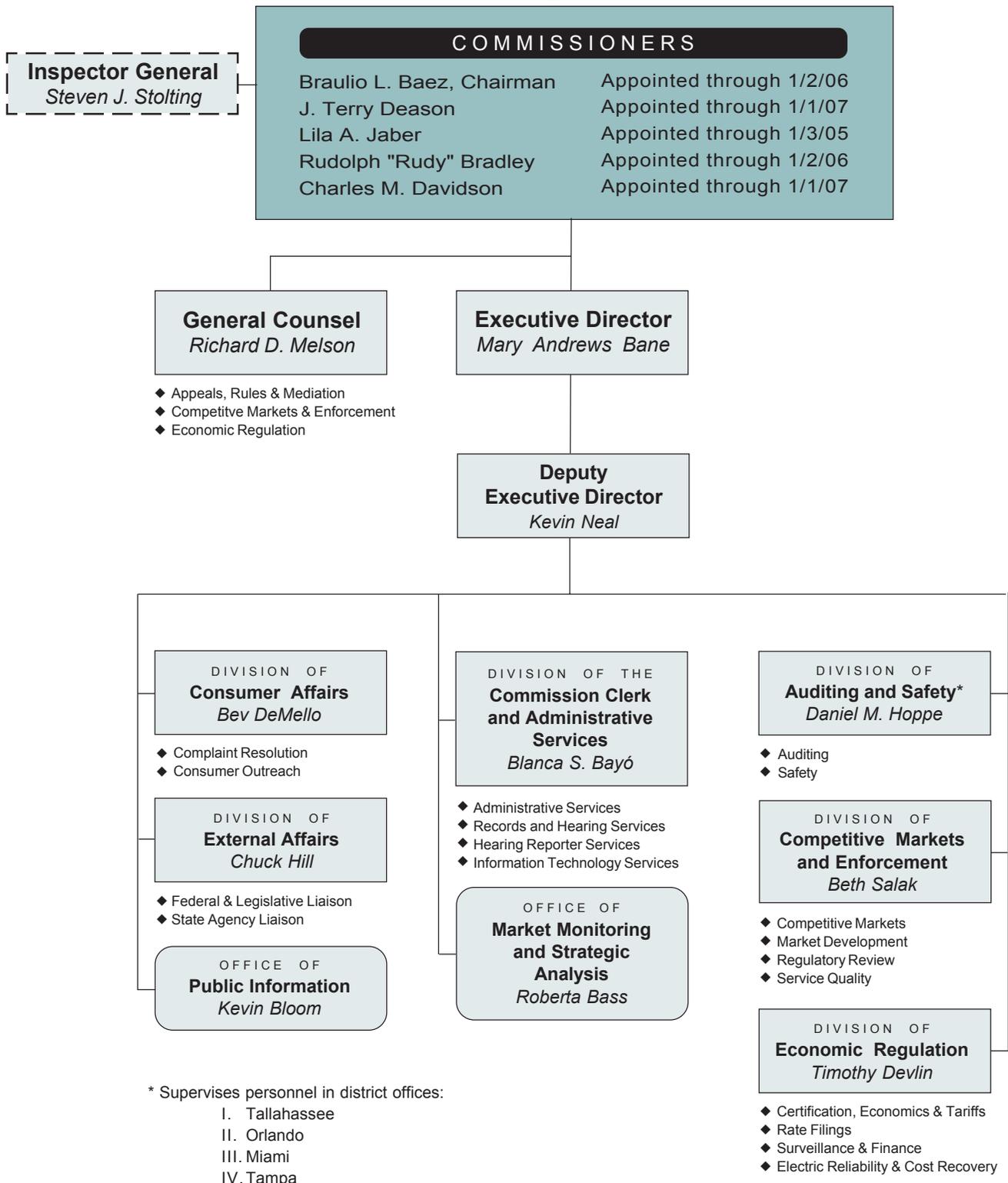
### *District Offices*

**Miami**  
3625 N.W. 82nd Ave.  
Suite 400  
Miami, Florida 33166-7602  
(305) 470-5600

**Orlando**  
Hurston North Tower  
Suite N512  
400 W. Robinson St.  
Orlando, Florida 32801-1775  
(407) 245-0846

**Tampa**  
4950 W. Kennedy Blvd.  
Suite 310  
Tampa, Florida 33609  
(813) 356-1444

AS OF JANUARY 6, 2004  
**2004 PSC Organizational Chart**



## The Commissioners



Commissioner  
*Rudolph Bradley*

Commissioner  
*J. Terry Deason*

Chairman  
*Braulio Baez*

Commissioner  
*Lila Jaber*

Commissioner  
*Charles Davidson*

**Braulio L. Baez** was appointed to the Florida Public Service Commission by Governor Jeb Bush on August 23, 2000, to complete a term ending January 2002. He was then reappointed by the Governor to a four year term ending January 2006. Prior to his appointment, Chairman Baez was an attorney in Miami, Florida, with a statewide practice representing municipal and county governments in telecommunications, cable franchising and other regulatory matters. He was Executive Assistant to Commissioner Joe Garcia from 1994 to 1998. A native of South Florida, Chairman Baez received his undergraduate degree from Florida International University in 1988, and his Juris Doctorate degree from Nova University, Shepard Broad Law Center, in 1993. Chairman Baez is a member of the National Association of Regulatory Utility Commissioners' Committees on Electricity and International Relations. He is Past-President of the Southeastern Association of Regulatory Utility Commissioners and has served on the North American Electric Reliability Council. A member of the Florida Bar, he is a past Director of the Hispanic Bar Association, 2nd Judicial District.

**J. Terry Deason** was first appointed to the Commission by the Florida Public Service Commission Nominating Council in January 1991 for a term ending in January 1995. He was subsequently reappointed by the late Governor Lawton Chiles for a term ending in January 1999. Commissioner Deason was then reappointed by Governor Jeb Bush to a term ending in January 2003, and to his current term which ends in January 2007. Commissioner Deason has served as Chairman of the Commission on two occasions, from January 1993 to January 1995, and from July 2000 to January 2001. Commissioner Deason is an active member of the National Association of Regulatory Utility Commissioners (NARUC). He currently serves on NARUC's Board of Directors, its Finance and Technology Committee, and the Federal/State Joint Conference on Accounting. Commissioner Deason also serves on the executive committee for the Nuclear Waste Strategy Coalition. Prior to his appointment, he served as Chief Regulatory Analyst in the Office of Public Counsel. In that capacity, he was responsible for the coordination of accounting and financial analysis used by the Public Counsel in cases before the Public Service Commission, presented testimony as an expert witness, and consulted with the Public Counsel on technical issues and ratemaking policies concerning regulated utilities in the State of Florida. From 1981 to 1987, Commissioner Deason served as Executive Assistant to PSC Commissioner Gerald L. Gunter, during which time he reviewed and analyzed staff recommendations and advised the Commissioner on those recommendations and other pertinent policy determinations. From 1977 to 1981, he served as a Legislative Analyst with the Office of Public Counsel. He attended the U.S. Military Academy at West Point, and in 1975 received his bachelor of science degree in accounting, summa cum laude, from Florida State University. He also received his master of accounting degree from FSU in 1989.

**Lila A. Jaber** was appointed to the Florida Public Service Commission by Governor Jeb Bush in February 2000 to complete a term ending January 2001. She was reappointed by Governor Jeb Bush for a term ending in January 2005. Commissioner Jaber served as Chairman of the Florida Public Service Commission from January 2002 through January 5, 2004. As a Commissioner, she also serves as Vice Chair of the NARUC (National Association of Regulatory Utility Commissioners) Committee on Telecommunications and is a member of the NARUC Committee on Consumer Affairs. In July 2001, she was appointed by the Federal Communications Commission (FCC) to the Federal-State Joint Board on Universal Service which was created to promote the availability and access to quality telecommunications services throughout the Nation. Commissioner Jaber has served as chair of the Federal-State Joint Conference on Advanced Services (706 Joint Conference) created by the FCC to promote the rapid deployment of advanced services to all Americans. She has also served as co-chair of the e-Infrastructure Subcommittee for the Florida Information Service Technology Development Task Force (ITFlorida.com), and is currently an ex-officio member of the Florida Research Consortium, the affiliate of ITFlorida.com, created as a partnership between Florida's universities and technology sectors to focus on high-tech research and development.

*Continued*

## The Commissioners

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Prior to serving on the Florida Public Service Commission, Commissioner Jaber was a bureau chief in the Commission's Division of Legal Services for water and wastewater, where she implemented law and policy in the regulation of more than 1,500 water and wastewater facilities, and subsequently, became the Executive Assistant to Commissioner Julia L. Johnson. Commissioner Jaber, a court-certified mediator and a member of the Florida Bar, received a bachelor of arts degree in political science and business from Stetson University in DeLand, Florida, and received a juris doctorate from the Stetson University College of Law in St. Petersburg, Florida.

**Rudolph (Rudy) Bradley** was appointed to the Florida Public Service Commission by Governor Jeb Bush for a four year term beginning January 8, 2002. Commissioner Bradley serves on the National Association of Regulatory Utility Commissioner's Committees on Consumer Affairs, Water, and International Relations. He is also a member of the Energy Market Access Partnership Board which is a joint project between the Department of Energy and the National Association of Regulatory Utility Commissioners. Prior to his appointment to the Commission, Commissioner Bradley served as a member of the Florida Legislature for seven years representing District 55 which includes Pinellas, Manatee and Hillsborough Counties. As a member of the Legislature, he served as the Vice Chairman of the Utilities and Telecommunications Committee and as the Chairman of the Select Committee on Energy Restructuring. Commissioner Bradley also served as the Chairman of the Business Development and International Trade Committee and Chairman of the Economic Development Council. As a legislator, Commissioner Bradley maintained a special interest in improving Florida's educational system and expanding business opportunities for all citizens. Commissioner Bradley earned his Bachelor of Science Degree from the University of Tampa and his Masters Degree from the University of Michigan. He served as an educator in Pinellas County for several years and he developed several private enterprises involving real estate and livestock.

Following the unanimous recommendation of the PSC Nominating Council, Governor Jeb Bush appointed **Charles Davidson** to the Florida Public Service Commission for a four-year term ending January 2007. Commissioner Davidson relocated from New York to Florida in 2000 to serve in the Office of Governor Bush, as the Executive Director of Florida's Information Technology Taskforce. In that role, he was responsible for developing public policies to help ensure that Florida maintains progressive economic development processes and rational regulatory regimes. In 2001, Davidson was recruited by the Florida House of Representatives to launch the state's first Committee on Information Technology. He currently serves ex officio as a member of the board of directors of ITFlorida, a statewide not-for-profit organization that is focused on developing sound technology-related public policies. From 1993 to 1999, Commissioner Davidson was an attorney resident in the New York Office of Baker & McKenzie, the world's largest law firm. In 1999, he joined the New York Office of Duane Morris with other attorneys from Baker & McKenzie to form a new international dispute resolution practice group. While in private practice, Davidson was responsible for an array of regulatory, commercial, international, and technology matters in the United States and abroad. His work included multi-jurisdiction antitrust disputes, compliance proceedings before the Department of Justice and the Securities & Exchange Commission, complex commercial dispute resolution, and international technology disputes. His work also included international commercial claims against the Government of Iran before the Iran-United States Claims Tribunal and claims against the Government of Iraq before the United Nations Compensation Commission. Commissioner Davidson has handled an array of domestic and international arbitrations and mediations. While in New York, Davidson served as Special Professor of Law at Hofstra University School of Law. Commissioner Davidson speaks frequently on technology and public policy issues. Recently, Commissioner Davidson testified before Congress on the regulatory treatment that should be afforded broadband technologies. Commissioner Davidson also recently testified before the FCC on the regulatory issues impacting and impacted by Voice over Internet Protocol (VoIP). A Phi Beta Kappa graduate, Commissioner Davidson holds a Masters of Law in Trade Regulation from New York University. He also holds a Masters in International Business from Columbia University. Davidson received his baccalaureate and juris doctorate degrees from the University of Florida, where he served as a fellowship instructor at the College of Law.

# Florida Public Service Commissioner History

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Commissioner	Years Served	Replaced by
George G. McWhorter	08/17/1887 - 06/13/1891	
E.J. Vann	08/17/1887 - 06/13/1891	
William Himes	08/17/1887 - 06/13/1891	
<b>The Commission was abolished by the Legislature in 1891, and recreated in 1897</b>		
R. H. M Davidson	07/01/1897 - 01/03/1899	John L. Morgan
John M. Bryan	07/01/1897 - 01/06/1903	Jefferson B. Brown
Henry E. Day	07/01/1897 - 10/01/1902	R. Hudson Burr
John L. Morgan	01/03/1899 - 01/08/1907	Royal C. Dunn
R. Hudson Burr	10/01/02 - 01/04/27	R. L. Eaton
Jefferson B. Brown	01/06/03 - 01/08/07	Newton A. Blitch
Newton A. Blitch	01/08/07 - 10/30/21	A. D. Campbell
Royal C. Dunn	01/04/09 - 01/04/21	A. S. Wells
A. S. Wells	01/04/21 - 12/16/30	L. D. Reagin
A. D. Campbell	11/12/22 - 02/10/24	E. S. Mathews
E. S. Mathews	02/25/24 - 01/16/46	Wilbur C. King
R. L. Eaton	01/04/27 - 02/27/27	Mrs. R. L. Eaton-Greene
Mrs. R. L. Eaton-Greene	02/27/27 - 01/08/35	Jerry W. Carter
L. D. Reagin	12/16/30 - 07/06/31	Tucker Savage
Tucker Savage	07/06/31 - 01/03/33	W. B. Douglass
W. B. Douglass	01/03/33 - 08/04/47	Richard A. Mack
Jerry W. Carter	01/08/35 - 01/05/71	William H. Bevis
Wilbur C. King	01/08/47 - 07/18/64	William T. Mayo
Richard A. Mack	09/15/47 - 01/05/55	Alan S. Boyd
Alan S. Boyd	01/05/55 - 12/01/59	Edwin L. Mason
Edwin L. Mason	12/01/59 - 01/06/69	Jess Yarborough
William T. Mayo	09/01/64 - 12/31/80	Katie Nichols
Jess Yarborough	01/06/69 - 01/02/73	Paula F. Hawkins
William H. Bevis	01/05/71 - 01/03/78	Robert T. Mann
Paula F. Hawkins	01/02/73 - 03/21/79	John R. Marks, III
Robert T. Mann*	01/04/78 - 01/03/81	Susan Leisner

### The Commission became appointive January 1, 1979

Joseph P. Cresse*	01/02/79 - 12/31/85	John T. Herndon
Gerald L. Gunter*	01/02/79 - 06/12/91	Susan F. Clark
John R. Marks, III*	03/22/79 - 03/02/87	Thomas M. Beard
Katie Nichols*	01/02/81 - 01/03/89	Betty Easley
Susan Leisner	02/16/81 - 04/02/85	Michael McK. Wilson
Michael McK. Wilson*	07/12/85 - 11/22/91	Luis J. Lauredo
John T. Herndon	01/07/86 - 04/17/90	Frank S. Messersmith
Thomas M. Beard*	03/03/87 - 08/13/93	Diane K. Kiesling
Betty Easley	01/03/89 - 01/05/93	Julia L. Johnson
Frank S. Messersmith	06/19/90 - 02/05/91	J. Terry Deason
J. Terry Deason*	02/06/91 - 01/06/07	
Susan F. Clark*	08/15/91 - 07/31/00	Michael A. Palecki
Luis J. Lauredo	01/23/92 - 05/16/94	Jose "Joe" Garcia
Julia L. Johnson*	01/05/93 - 11/15/99	Lila A. Jaber
Diane K. Kiesling	12/07/93 - 01/05/98	E. Leon Jacobs, Jr.
Jose "Joe" Garcia*	08/19/94 - 06/30/00	Braulio L. Baez
E. Leon Jacobs, Jr.*	01/06/98 - 01/07/02	Rudolph "Rudy" Bradley
Lila A. Jaber*	02/29/00 - 01/03/05	
Braulio L. Baez*	09/01/00 - 01/02/06	
Michael A. Palecki	12/19/00 - 01/06/03	Charles M. Davidson
Rudolph "Rudy" Bradley	01/07/02 - 01/02/06	
Charles M. Davidson	01/07/03 - 01/01/07	

\* Served as Chairman

AS OF JANUARY 1, 2004  
**Executive Management**



EXECUTIVE DIRECTOR  
**Mary Andrews Bane**

The Executive Director is, essentially, the chief of staff of the Commission, with responsibility for directing, planning, and administering the overall activities of the Commission staff, except the office of the General Counsel. She acts as an interagency liaison and consults with and advises the Commissioners on economic, regulatory, and budgetary matters.



DEPUTY EXECUTIVE DIRECTOR  
**Kevin Neal**

The Deputy Executive Director assists the Executive Director in providing direction and leadership for the staff and is delegated full authority in her absence. As the key liaison for external affairs, the Deputy Executive Director coordinates contact with the Office of the Governor, the Florida Legislature, federal agencies, and state/local governments.



GENERAL COUNSEL  
**Richard D. Melson**

The General Counsel is the Florida Public Service Commission's chief legal counsel. He supervises the PSC's legal personnel and is charged with the administration and delegation of responsibilities to the lead attorneys in his office. The General Counsel also is responsible for advising the PSC on the legal aspects of its regulatory responsibilities, providing legal representation in the court and before federal agencies, providing legal counsel to the Office of the Executive Director, and assisting in interagency liaison activities.



## **II. Defining the PSC's Role**

The work of the Florida Public Service Commission is a balancing act. The Commission must balance the needs of a utility and its shareholders with the needs of consumers. Traditionally, the Commission achieved this goal by establishing exclusive utility service territories, regulating the rates and profits of a utility, and placing an affirmative obligation on the utility to provide service to all who requested it. For electric and water customers in the state, many of the Commission's traditional methods for achieving the balance continue today. Legislative action during the 1995 session to open up the local telephone market to increased competition, however, has required the Commission to facilitate entry of new firms into the local telephone market, while at the same time ensuring that neither the new entrant nor the incumbent local exchange company is unfairly advantaged or disadvantaged. Thus, the Commission's role in the increasingly competitive telephone industry remains one of balance.

The Public Service Commission consists of five members selected for their knowledge and experience in one or more fields substantially related to the duties and functions of the Commission. These fields include economics, accounting, engineering, finance, natural resource conservation, energy, public affairs, and law.

The Governor appoints a Commissioner from nominees selected by the Public Service Commission Nominating Council. Commissioners must also be confirmed by the Florida Senate. Prior to 1979, three Commissioners were elected in a statewide election. The 1978 Legislature adopted a bill changing the Commission to a five-member appointed board.

The PSC, created by the Florida Legislature in 1887, was originally called the Florida Railroad Commission. The primary purpose of the board was the regulation of railroad passenger and freight rates and operations. As Florida progressed, it was necessary for the Commission to expand. In 1911, the Legislature conferred on the Commission the responsibility of regulating telephone and telegraph companies, and in 1929, jurisdiction was given over motor carrier transportation. The Commission began regulating investor-owned electric companies in 1951, and then in 1952, jurisdiction was extended to the regulation of gas utilities. In 1959, the Commission began regulating privately owned water and wastewater systems.

The Commission has quasi-legislative and quasi-judicial responsibilities, as well as some executive powers and duties. In its quasi-legislative capacity, the PSC makes rules governing utility operations. In its quasi-judicial capacity, the PSC hears and decides complaints, issues written orders similar to court orders, and may have its decisions appealed to the 1st District Court of Appeal and the Florida Supreme Court. As an executive agency, the PSC enforces state laws affecting the utility industries.

The Florida Public Service Commission is committed to making sure that Florida's consumers receive some of their most essential services -- electric, natural gas, telephone, water, and wastewater -- in a safe, affordable, and reliable manner. In doing so, the PSC exercises regulatory authority over utilities in one or more of three key areas: competitive market oversight; rate base/economic regulation; and monitoring of safety, reliability, and service issues. Those areas are briefly described as follows:

- ◆ Competitive market oversight entails monitoring the development of competitive markets and all issues associated with them.
- ◆ Rate base/economic regulation involves analyzing requested rate changes and conducting earnings surveillance to ensure that regulated utilities are not exceeding their authorized rates of return.
- ◆ Monitoring of safety, reliability, and service issues involves ensuring the uninterrupted provision of utility services in a manner that presents minimal risks to the general public, and confirming that such services are provided in a reasonable and timely manner.

A more detailed description of the PSC's role in these three key areas follows.

## COMPETITIVE MARKET OVERSIGHT

The PSC is addressing competitive market structure and regulatory issues in industries that have traditionally been considered monopolies, but are now transitioning into competitive markets. New technologies and customer choice are two of the catalysts for the change to competition. The advent of new technologies allows new market entrants and new opportunities for established regulated companies. In addition, customers may benefit with increased competition by having more options as to whose services they use. Each of these changes shifts the dynamics of the market and requires the PSC to re-evaluate the pricing, regulations, and barriers that currently exist. Competitive issues frequently arise in conjunction with the other two major regulatory roles of the PSC: establishing rates and monitoring service issues.

### **Electric - Wholesale Markets**

The electric industry in Florida may be on the verge of major changes. The creation of GridFlorida will require changes in the way existing utilities do business. The Federal Energy Regulatory Commission (FERC) believes that having electric transmission operated by independent entities will facilitate competition in the wholesale electric market and lead to lower retail prices in the long term. While the PSC does not have jurisdiction to establish wholesale transmission rates, the potential effect on retail consumers of this effort to develop a competitive wholesale market is considerable. Thus, the PSC monitors FERC proceedings and provides comments to FERC on issues which may affect Florida ratepayers.

The PSC also monitors proposed electric utility mergers to ensure that Florida ratepayers will not be unduly burdened. PSC staff prepares summaries of merger filings and drafts comments for the FERC or other related federal agencies.

The PSC also has had to consider competitive issues regarding the utilities' customers. In order to give the utilities the flexibility to preserve their customer base, the PSC approves economic development and/or load retention tariffs for the state's four largest investor-owned electric utilities when such tariffs are found to have net benefits for all ratepayers.

### **Natural Gas**

All non-residential natural gas customers who take service from an investor-owned natural gas utility regulated by the PSC have the option to purchase their gas from the competitive market. Transportation and distribution of the gas would be provided by the monopoly investor-owned utility. The PSC also reviews special contracts and proposed tariff changes of natural gas utilities to ensure that the provisions are reasonable and non-discriminatory.

### **Telecommunications**

In the telecommunications industry, a key focus of the PSC has been facilitating the development of competition in the local telephone market. This has included arbitrating agreements between incumbent local exchange companies (ILECs) and competitive local exchange companies (CLECs) when negotiations fail. The PSC is also active in monitoring and assessing the status of local competition, processing negotiated agreements, interpreting agreements and tariffs, providing input on legislative and Federal Communications Commission (FCC) initiatives, and conducting generic proceedings to implement approved initiatives and to address recurring issues.

The PSC has numerous other responsibilities related to competitive market oversight in the telecommunications industry. Reviews of industry practices are regularly conducted to determine whether entities are engaging in practices that could dampen the development of competition. Another major area involves the processing of area code relief cases and providing oversight of numbering resources.

In the area of telecommunications, the PSC has been reviewing both existing and emerging Internet access technology and backbone infrastructure. In doing so, the PSC recognizes the blurring distinction between the traditional telephone network and the data transmission networks. The PSC has worked to identify the different technologies involved, assess the direction of those technologies, analyze pricing differences between voice and data networks, and determine what, if any, policy actions the PSC should consider.

Also, the PSC is responsible for reviewing and maintaining the retail tariffs or price lists filed by the telecommunications companies. The PSC is responsible for setting certain wholesale prices such as for unbundled network elements in order to compensate the ILECs for use of parts of their networks by the CLECs. The PSC also establishes reciprocal compensation policies to guide the compensation to companies which terminate local traffic from other companies.

Another critical aspect of competitive market oversight in the telecommunications industry is the certification process. All telecommunications companies doing business in Florida are required to be certified by the PSC. However, certain changes made to Chapter 364, Florida Statutes in 2003, eliminated the requirement for intrastate interexchange companies (IXCs) to obtain certification from the Commission. IXCs are, nevertheless, still required to register with the Commission, file tariffs, provide a point of contact for the company, and pay regulatory assessment fees.

## **Water and Wastewater**

Within the water and wastewater industries, the issue of wastewater reuse is becoming a significant competitive market policy area for the PSC. The State of Florida's policy is to encourage the use of treated wastewater for irrigation and in manufacturing processes instead of using potable water that could otherwise be used for drinking, cooking, and bathing. Establishing the rates for the use of treated wastewater requires consideration of several factors. The reuse of treated wastewater is a relatively new concept and one that requires public education in order to encourage a demand for reuse wastewater. Rates have to be designed in such a way that they give consideration both to cost and to competing customer options. If the rates are set too high, customers may choose to use private wells or to simply not use reuse water and instead use drinking water, thereby diminishing the water supply.

### **RATE BASE/ECONOMIC REGULATION**

The PSC establishes and monitors earnings levels for regulated electric, natural gas, water, and wastewater companies. In addition, there is one remaining telephone company under rate-of-return regulation. Whenever a company believes that its earnings are below a reasonable level, it can petition the PSC for a change in rates. The PSC conducts an extensive review of the company's earnings and determines what fair levels of rates and earnings are for the company. The review consists of an analysis of the company's books and records, as well as a determination of what a reasonable return is for the company. The review also includes an analysis of the actual rates charged by the company, allocates revenue requirements between classes of customers, and develops appropriate rate structures within rate classes.

In addition to reviewing a company's request for a rate increase, the PSC also monitors each company's earnings levels to reduce the likelihood that any company receives excessive earnings. Each company files an annual report, which is reviewed to determine its level of earnings for the prior year. If, based on prior year earnings, it appears that a company's earnings will be excessive in the following year, the PSC will fully analyze that company's books and records and, when appropriate, reduce its rates. During that overearnings review, the PSC may place earnings subject to refund if the review indicates the company is overearning.

## **Energy**

In addition to annual reviews, the larger electric and natural gas companies also file earnings information on a more frequent basis, with some companies filing quarterly, semi-annually or monthly, depending upon their size. These more frequent filings allow the PSC to take quicker action if it appears that a company may be overearning and allow consumers rates to be reset to reflect that review.

In addition to processing utility requests for rate changes, the PSC devotes considerable resources to various tariff, rate, and other economic issues. Reviews of fuel, capacity, conservation, environmental costs considered in cost-recovery-clause dockets, special contracts, new tariff offerings, conservation program approvals, and revision, depreciation,

amortization, and decommissioning studies are just some of the many aspects of economic regulation involving electric and natural gas utilities that are regularly pending before the PSC.

### **Natural Gas**

In the natural gas industry, the PSC is responsible for the economic regulation of utilities with regard to the purchased gas cost recovery (if the customer purchases natural gas from the regulated utility) and the conservation cost recovery clause. These clauses allow each natural gas utility to recover the costs incurred by that company from ratepayers, on a dollar-per-dollar basis. PSC staff conducts analyses on expenses to ensure that only reasonable and prudent costs are recovered. In addition to the recovery clauses, the PSC also approves the base rates charged by the investor-owned natural gas utilities.

### **Water and Wastewater**

In the water and wastewater industries, the PSC processes a significant number of cases. The majority of these cases involve rate increases or limited-proceeding increases arising from increased costs of providing service. A smaller number of cases involve overearnings investigations in which the PSC determines whether it is necessary to reduce rates. The staff's role in these cases includes participating in customer meetings, staff-assisted rate cases, limited proceedings, prehearings and hearings, as scheduled; writing recommendations based on information gathered by staff; answering Commissioners' legal and technical questions at PSC Agenda Conferences; voting on the issues raised in the recommendations; and drafting orders memorializing the Commissioners' decisions in each case.

The Commission also processes requests related to certification. The majority of these cases involve the transfer or amendment of certificates of authorization. A smaller number of cases involve the original certification of a new utility. The staff's role in certification cases includes preparing recommendations regarding issuing certificates and setting initial rates and charges for new utilities; transferring or amending existing certificates; acknowledging abandonments and appointment of receivers; and canceling certificates for systems transferred to exempt entities. In addition, staff also answers questions at Agenda Conferences, responds to customer inquiries, and assists in representing the PSC at prehearings and hearings.

The issue of reuse (using effluent water for a beneficial purpose, such as irrigation) is a growing one for the PSC in terms of competitive market oversight. However, reuse also has significant implications in the area of rate base/economic regulation. The Legislature has recognized the benefit of reuse to Florida and has enacted provisions in the governing statutes for the Florida Department of Environmental Protection (DEP), the five Water Management Districts (WMD) and wastewater utilities to employ reuse as the chosen means of effluent disposal and as a method of water conservation. The PSC has clearly been given direction from the Legislature that reuse should be considered a public good and should be implemented by utilities wherever feasible.

The PSC's charge is to identify reuse issues related to its jurisdiction and to establish policies that are consistent with these statewide goals, while mitigating the effect on water and wastewater rates. In meeting this charge, PSC staff participates on a Reuse Coordinating

Committee along with staff from the DEP, the Water Management Districts, the Florida Department of Agriculture and Consumer Services, the Florida Department of Health, and the Florida Department of Transportation. The Reuse Coordinating Committee meets as needed and discusses reuse issues, including any relevant proposed agency rulemaking and legislation. PSC staff also participates in two different quarterly meetings with the St. Johns River Water Management District and DEP District Offices to discuss reuse, conservation, and water allocation issues within the District. Through participation in these meetings, PSC staff has developed a good working relationship with the agencies having primacy over water supply issues and has stayed abreast of emerging issues that may affect utilities under the PSC's jurisdiction.

Water conservation is another area with major economic implications. As an economic regulator, the PSC is actively involved in demand-side water conservation through rate level and rate structure. Rates and rate structure have a direct bearing on water usage and, therefore, water resource allocation. The PSC has entered into a Memorandum of Understanding with the DEP and the five WMDs in order to coordinate efforts to advance statewide water quality and to meet statewide conservation goals. Both agencies are frequently called upon to testify on water quality and conservation issues in rate cases before this PSC. Whenever feasible, the PSC allows utilities to recover expenses related to conservation programs, and establishes conservation rates to reduce water consumption. For example, in a previous rate case, the PSC worked with one of the Water Management Districts to design an innovative and aggressive conservation program for a utility with extremely high residential usage. The elements of this program included residential irrigation audits; xeriscape consulting and rebates; distribution of low-flow shower kits; installation of moisture sensors for irrigation; and low-flow toilet rebates. The PSC will continue to participate in the Water Pricing and Reuse Work Groups to develop implementation strategies for the Initiative's recommendations.

### **Consumer Assistance**

A final aspect of economic regulation relates to customer issues such as billing. The PSC assists consumers with analyzing their utility bills and verifying the accuracy of charges. It is the PSC's intent that disputes between regulated companies and their consumers be resolved in a quick, effective, and efficient manner. The PSC accomplishes this objective by utilizing the AT&T "Transfer Connect" system to resolve a portion of the consumer complaints it receives. When a consumer calls the PSC's toll-free telephone number (1-800-342-3552) with a question or complaint regarding utility services, the PSC staff (with the consumer's approval) will transfer the call directly to the utility for its handling if that company has an AT&T toll-free number. Once the consumer's call is transferred, the utility pays for the call until completion. Each company that subscribes to the Transfer Connect system must provide "live" customer service personnel to handle transferred calls.

Consumers benefit when they can have all of their needs met with a single toll-free call. The Telephone Transfer-Connect option also enables PSC staff to consult with a utility representative and pass on information about the caller without the caller needing to repeat the information. The 21 companies subscribing to the Transfer-Connect system received 11,347 calls via this method during 2003.

## SAFETY, RELIABILITY, AND SERVICE ISSUES

Through performance and operations investigations, the PSC obtains information on reliability, service quality, and service availability issues for review and enforcement.

### **Energy**

In the electric industry, the PSC reviews regulated utilities' ten-year site plans to assess the utilities' abilities to meet Florida's energy needs over a ten-year planning horizon. The PSC also considers petitions for determination of need for electric power plants and transmission lines as a way of ensuring that the state's power needs are being met. The level of activity in this area has increased significantly over the past two years.

The PSC also participates in formal and informal proceedings relating to long-range electric-utility bulk power supply operations and planning; power plant and transmission line siting; electric and natural gas safety and service quality, including complaints; electric utility conservation goals and programs; and emergencies due to operational events or weather.

In the area of electric safety, the PSC verifies that electric utilities are constructing transmission and distribution systems in accordance with the National Electrical Safety Code. This is accomplished through a sampling process and quarterly utility compliance reports.

### **Natural Gas**

The PSC annually evaluates natural gas systems for safety compliance in the areas of corrosion control, leak surveys, leak repairs, emergency response, drug testing, employee training and qualifications, maintenance and operations, and new construction.

### **Telecommunications**

In the telecommunications industry, the PSC monitors telephone safety through inspection of the local telephone companies' central offices and outside facilities for compliance with the National Electrical Safety Code and the National Electric Code. This is done to ensure the safety of the companies' workers as well as customers. Network reliability is monitored through service outage reports from the local telephone companies and call completion tests. Service quality is monitored through inspections of the local telephone companies' installation and repair records, billing accuracy tests, and pay telephone inspections. During pay telephone evaluations, access to 911 and the accuracy of the pay telephone address are verified.

### **Water and Wastewater**

In the water and wastewater industries, the PSC oversees quality-of-service issues such as water pressure and capacity. When a consumer complaint regarding water and/or wastewater quality of service is received, a staff engineer is assigned to work with the consumer and utility personnel to determine the cause of the consumer's utility-related problem.

Service quality issues are also addressed when a utility files an application for a rate change. The PSC conducts customer hearings as a part of the rate case process. Consumers' comments at rate case hearings typically include service quality issues. Staff is assigned

to review consumer concerns and work with the utility to resolve service issues. In some cases, a complaint may result from possible violations of public health rules of the Department of Environmental Protection (DEP); in those cases, PSC staff works with the DEP to resolve the issue.

### **Consumer Assistance**

The PSC also handles complaints and inquiries related to such issues as service reliability, slamming, cramming, tariffed telephone services, and water and wastewater certification.

## **ADDITIONAL REGULATORY ACTIVITIES AND SUPPORT**

### **Appellate Review of PSC Decisions**

All orders of the PSC, whether they pertain to competitive market oversight, rate base/economic regulation, or monitoring of safety, reliability, and service functions, are subject to judicial review. Orders affecting the rates and service of electric, natural gas, and telecommunications companies are reviewable by direct appeal to the Florida Supreme Court. The PSC is unique in that respect since orders of all other state agencies may be appealed only to the District Court of Appeal. If those orders reach the Florida Supreme Court, it is by way of discretionary review on writ of certiorari. Orders of the PSC affecting water and wastewater utilities may be appealed to the 1st District Court of Appeal. Finally, under the unique provisions of the Telecommunications Act of 1996, PSC orders approving interconnection agreements between competitive telecommunications companies, and orders relating to enforcement of these agreements, are reviewable in the U.S. district courts.

In addition to defending its orders on direct review, the PSC may initiate or intervene in court proceedings that impinge upon its jurisdiction. The PSC also participates as amicus curiae, or "friend of the court," in court proceedings at the local, state, and national levels in which matters of regulatory interest are at issue.

### **Internet Home Page**

The PSC's Web site (<http://www.floridapsc.com>) logged nearly 856,456 visits in 2003. Compared to 737,240 visits logged in 2002, PSC Web site visits increased more than 16%. The ISYS search engine was added to the Web site, increasing navigation and access to PSC documents. The ISYS engine allows keyword searches throughout all docket filings, which works concurrently with the old docket number/document number search. ISYS was also used to upgrade the Web site's search engine, allowing much faster and more accurate searches for web documents.

A new background intranet and methodology was developed to allow for automated updates on the Web site named "PSC Information Submission System (ISS)." Six applications are currently in use on PSC-ISS with two more currently in development. PSC-ISS has reduced work load by allowing the Commission's Information Technology Services staff to submit changes directly to the Web site using pre-defined data entry templates.

The online complaint form was upgraded, eliminating timeout errors from the user. The complaint form was completely redesigned allowing for easier usability as well as increasing server resource efficiency.

The PSC's home page continues to feature a calendar of events allowing quick access to the Commission's schedule of Agenda Conferences and Internal Affairs meetings, as well as corresponding live audio and visual coverage. In addition, visitors accessing the PSC's Web site can search for information on regulated utilities and view press releases regarding recent Commission decisions.



### **III. Highlights of the PSC's Regulatory Efforts for Calendar Year 2003**

A number of regulatory issues presented significant challenges for the Florida Public Service Commission (PSC or Commission) in 2003. What follows is a summary of the most significant issues to arise during the calendar year, as well as a description of how the PSC dealt with each.

#### **ENERGY**

##### **Electric Reliability**

Rule 25-6.0455, F.A.C., which was extensively revised in 2002, requires investor-owned electric utilities to submit distribution reliability data to the PSC. During 2003, the Commission audited this data to insure compliance with the revised rules and to respond to increased public interest in distribution reliability. The audits focused on the quality and accuracy of the underlying data supporting the distribution reliability indices included in the utilities' annual reports. Based upon the results of the audit, the investor-owned electric utilities appear to be in general compliance with the rule. However, areas for improvement regarding the quality of the data were noted for each utility. Staff is working with the utilities on each area of improvement noted in the audits.

##### **Waterborne Coal Transportation**

The Commission reviewed its market price proxy for Progress Energy Florida's (PEF) waterborne coal transportation service. The market price proxy is the pricing formula approved by the Commission in 1993 that is used to set the price PEF pays its affiliate, Progress Fuels Corporation, for transporting coal from mines adjacent to the Ohio River to its Crystal River Power Station. At the 2003 fuel hearing, the Commission approved continued use of the market price proxy method for the years 2002 and 2003, but opted to replace the method beginning in 2004 because proxy prices were shown to not adequately reflect the cost of providing the service in recent years. The method for pricing waterborne coal transportation service for PEF in 2004 and beyond is scheduled to be the subject of a separate hearing in 2004. In addition to its review of PEF, the Commission opened a separate docket to possibly change the market price proxy for Tampa Electric.

##### **Electric Utility Refunds**

In 2001, the PSC required Florida Power and Light (FPL) to file the necessary information for a complete review of its rates and earnings. As a result of the review, rates were reduced by \$250 million annually, and the revenue sharing plan was extended to December 31, 2005. During 2003, FPL refunded \$11 million for sharing related to 2002.

In 2001, the PSC required Progress Energy Florida (PEF) to file the necessary information for a complete review of its rates and earnings. The review was finalized in 2002 and resulted in a refund of \$35 million, a rate reduction of \$125 million annually, and a revenue sharing plan through December 31, 2005. During 2003, the PSC ordered PEF to refund \$23 million for revenue sharing related to 2002.

### **Streamlined Electric Rate Case Filing**

During 2003, the Commission worked closely with the electric utilities and other parties to streamline the information required to be filed by utilities in a rate case. Through this cooperative effort, almost half of the rate case filing schedules were eliminated. The reduced number of schedules save time and money to both the utility to prepare and staff and other parties to review during a rate case. In addition, load research, needed to allocate utility costs among customers, was simplified.

### **Power Plant Need Determinations**

Throughout most of 2002, PSC staff solicited comments, held workshops, and conducted a formal hearing to propose revisions to Rule 25-22.082, Selection of Generating Capacity. This rule requires utilities to issue a Request For Proposals (RFP) before filing for a determination of need for a major generating facility. The Commission approved revisions to the rule on January 3, 2003. Pursuant to the new rules, FPL released a Request for Proposals for alternatives to the proposed Turkey Point Combined Cycle Unit. Responses were received on October 24, 2003, and a final decision is expected in May 2004. On October 7, 2003, PEF released a Request for Proposals for alternatives to the proposed Hines Combined Cycle Unit 4. Responses were received in 2003, and a final decision is expected in the Summer of 2004.

Progress Energy Florida, Inc. (PEF) filed a need determination petition for the Hines Unit 3. The facility would be built at the existing Hines energy complex and would add approximately 580 MWs to PEF's system with an in-service date of December 2005. The Commission ultimately approved the need petition in February 2003.

### **Nuclear Waste Issues**

The waste product from the generation of electricity by nuclear reactors is called spent nuclear fuel. Florida's nuclear plants currently store spent nuclear fuel on site in spent fuel pools. These spent fuel pools will all reach full storage capacity within the next 9 years, the first in 2005. As plant sites were not designed for long-term storage of spent nuclear fuel, the plants could ultimately be required to shut down if the spent fuel is not removed. The federal Nuclear Waste Policy Act (NWPA) requires each plant to enter into a contract with the Department of Energy (DOE) for the removal of its spent nuclear fuel. Under the terms of those contracts, the DOE was to begin removal of the spent fuel from nuclear plant sites across the U.S. in January 1998; however, the DOE failed to meet this removal date. Florida ratepayers have paid over \$633 million (\$993 million with interest) into the Nuclear Waste Fund, so that the DOE can administer a nuclear waste disposal program as outlined in the NWPA. Despite this substantial investment by Florida ratepayers, the waste remains at plant sites in Florida, and across the U.S.

Consequently, the PSC is actively involved in efforts to require the DOE to fulfill its statutory obligation. These efforts include litigation, correspondence and meetings with members of Congress regarding the Nuclear Waste Disposal Program. The PSC is also a member of the Nuclear Waste Strategy Coalition, an organization comprised of state regulators, state attorneys general, nuclear electric utilities and associate members, who are working together to hold the federal government accountable for the removal of spent nuclear fuel from power plants across the nation.

In 2002, Yucca Mountain, Nevada was designated by President Bush as suitable for development as a repository for spent nuclear fuel and other high-level nuclear waste. DOE must still secure adequate funding from Congress and obtain the necessary permits from the Nuclear Regulatory Commission to move forward with the program. If DOE receives the necessary permits from the Nuclear Regulatory Commission to construct the facility at Yucca Mountain, it is possible that DOE could begin to receive spent nuclear fuel at the site by 2010. The PSC continues its efforts in support of the removal of spent nuclear fuel from Florida reactor sites and permanent disposal in a geologic repository as envisioned by the NWSA.

### **Regional Transmission Organization (RTO)**

In June 2001, FPL, FPC (now known as Progress Energy Florida, Inc.), and Tampa Electric Company (TECO) filed petitions asking the Florida Public Service Commission to determine the prudence of the formation of, and their participation in, GridFlorida. Hearings were held in October 2001, and the Commission issued its Order in December 2001. The Commission found that the GridFlorida Companies were prudent in proactively forming GridFlorida. However, the Commission stated its belief that certain aspects of GridFlorida were not in the best interests of Florida's retail ratepayers at this time, most particularly the transfer of ownership of transmission assets. In addition, it was found that GridFlorida should be structured as an independent system operator (ISO). The GridFlorida Companies were ordered to modify the GridFlorida proposal consistent with the terms of the Order and file the modified proposal with the Commission within 90 days. The GridFlorida Companies filed a modified proposal in March 2002.

In September 2002, the Commission specifically approved the structure and governance aspects, the planning and operations aspects, and certain aspects of the rate design and pricing protocols of the GridFlorida ISO. The Commission was scheduled to conduct an evidentiary hearing in late October 2002 to evaluate the merits of a market design proposal. However, the Office of Public Counsel (OPC) filed a notice of administrative appeal of the Commission's September 2002 Order to the Florida Supreme Court. As a result of this appeal, the Commission abated further proceedings regarding GridFlorida pending the Supreme Court's decision on OPC's appeal.

The Supreme Court dismissed OPC's appeal, without prejudice, in June 2003. In September 2003, the Commission and the Federal Energy Regulatory Commission conducted a joint technical conference in Tallahassee on the wholesale market platform and issues related to the proposed Florida-specific RTO. In November 2003, a meeting was held with the GridFlorida Companies and stakeholders to discuss future activities addressing the resolution of outstanding issues related to the development of GridFlorida. At this meeting, it was decided that a series of collaborative workshops will be held during 2004 to identify and to attempt to resolve the remaining outstanding issues. The first workshop is scheduled in March 2004.

## Natural Gas

In the summer of 2003, the Commission established an additional small volume customer classification and restructured the rates of the Florida Division of Chesapeake Utilities Corporation. The majority of residential customers received a decrease in the monthly customer service charge of either 17 or 33 percent, depending on volume.

In the fall of 2002, the Commission approved an unbundling pilot program for Indiantown Gas Company. Under the pilot program, customers who previously purchased gas from the utility would now purchase natural gas through a qualified pool manager. After Indiantown implemented this program, the Commission ordered the company to file a petition to address the final disposition of the remaining monies associated with its purchased gas costs. In the fall of 2003, the Commission made a determination that Indiantown's customers were entitled to a refund. All customers who were previously purchasing gas from Indiantown received refunds in September 2003.

## TELECOMMUNICATIONS

### Access Charge Reduction Petitions

On August 27, 2003, Verizon Florida Inc. (Verizon), Sprint-Florida, Incorporated (Sprint), and BellSouth Telecommunications, Inc. (BellSouth), each filed petitions pursuant to Section 364.164, Florida Statutes, to reduce access charges in a revenue-neutral manner to the companies by increasing basic local rates.

The PSC voted at the September 30, 2003 Agenda Conference to dismiss the initial Verizon, Sprint, and BellSouth petitions. On September 30, October 1, and October 2, 2003, respectively, BellSouth, Sprint, and Verizon filed amended petitions which addressed the number of years over which the rate changes would be spread [s.364.164(1)(c), F.S.].

Section 364.164 sets forth the criteria we must consider in determining whether to grant the ILECs' petitions. Those criteria are as follows:

Whether granting the petition will:

- ◆ Remove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers.
- ◆ Induce enhanced market entry.
- ◆ Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years.
- ◆ Be revenue neutral as defined in subsection (7) within the revenue category defined in subsection (2).

The PSC received the testimony of 26 witnesses on behalf of the ILECs, intervenors, the consumer advocates, and PSC staff. The PSC also received testimony from customers at

14 customer service hearings conducted throughout the state, as well as written comments from customers submitted to the docket files associated with this case. In addition, the PSC received into evidence 86 exhibits.

Based on the record, the PSC determined that intrastate access rates currently provide support for basic local telecommunications services that would be reduced by bringing such rates to parity with interstate access rates. The existence of such support prevents the creation of a more attractive competitive local exchange market by keeping local rates at artificially low levels, thereby raising an artificial barrier to entry into the market by efficient competitors. The elimination of such support will induce enhanced market entry into the local exchange market.

Enhanced market entry will result in the creation of a more competitive local exchange market that will benefit residential consumers through:

- ◆ increased choice of service providers;
- ◆ new and innovative service offerings, including bundles of local and long distance service, and bundles that may include cable TV service and high speed internet access service;
- ◆ technological advances;
- ◆ increased quality of service; and
- ◆ over the long run, reductions in prices for local service.

The proposals will reduce intrastate switched network access rates to parity over a period of not less than two years or more than four years. The proposals will be revenue neutral within the meaning of the statute, which permits access charge reductions to be offset, dollar for dollar, by increases in basic local service rates for flat-rate residential and single-line business customers.

Reconsideration of the PSC's decisions have been requested and the decisions have been appealed to the Florida Supreme Court.

### **Pricing of Unbundled Network Elements**

Under the Telecommunications Act of 1996, incumbent local exchange companies (ILECs) were required to make parts of their networks available to competitive local exchange companies (CLECs) for use in providing local telephone service. The separate components of the existing local phone network were called "unbundled network elements" (UNEs).

Since pricing of UNEs is integral to the economic viability of CLECs and is a recurring issue in arbitration requests, the PSC established a generic proceeding (Docket No. 990649-TP) to set UNE rates for Florida's three major ILECs: BellSouth Telecommunications, Inc., Sprint-Florida, Inc., and Verizon (formerly GTE Florida, Inc.). A hearing on BellSouth's rates was held in late 2000, and at the April 18, 2001 Special Agenda, the PSC set rates for more than 1,400 BellSouth network elements. A number of issues, however, were evaluated further, including (1) hybrid copper/ fiber xDSL-capable loops; (2) network reliability and security concerns; (3) revisions in the cost study for network interface devices (NIDs); and (4) cable placements and associated structures. On September 6, 2002, the Commission rendered its follow-up decision which included lower rates for loops and usage files used by CLECs.

Hearings on Verizon's and Sprint's rates were held April 29-30, 2002. The Commission rendered its initial generic decisions for these two companies on October 14, 2002 and December 2, 2002.

On December 13, 2002, Verizon filed a Notice of Appeal of the Commission's Verizon UNE order to the state Supreme Court. On December 16, 2002, Verizon filed with the PSC a Motion for Mandatory Stay Pending Judicial Review. At the April, 9, 2003 agenda conference Verizon's Motion for Stay was granted.

On September 5, 2003, Florida Digital Network (FDN) filed a Complaint for Declaratory and Equitable Relief with the U.S. District Court for the Northern District of Florida, contesting the Commission's Sprint UNE order. On September 8, 2003, KMC Telecom, III, LLC appealed the PSC's Sprint order to the state Supreme Court; on September 16, 2003, FDN filed a Notice of Joinder of KMC's appeal.

As of this writing, all of the these appeals are pending.

### **Quality of Service**

Monitoring of the Service Quality Guarantee Program continued in 2003 as BellSouth credited more than \$2,300,000 to customers who experienced out-of-service conditions in excess of 24 hours and more than \$420,000 to customers whose service was not installed within 3 days.

In 2003, Sprint credited more than \$840,000 to customers who experienced out-of-service conditions in excess of 24 hours and approximately \$675,000 to customers whose service was not installed within 3 days. In addition, Sprint contributed more than \$75,000 to the Community Service Fund for failing to meet the average speed of answer time.

The Florida Relay Service allows people who are hearing or speech impaired to communicate by telephone. This service is provided by Sprint pursuant to a contract with the Commission. The Commission staff made almost 2,000 test calls to the service in 2003 to confirm Sprint Relay's compliance with the contract. Overall, Sprint Relay met the answer time requirement as well as the feedback and blockage requirements. However, over 63% of the Communication Assistants (CAs) did not meet the minimum standard of typing 60 words per minute. In addition, the testing uncovered a large number of errors and miscues (18%) being made by the CAs. Sprint is addressing these concerns.

### **Reciprocal Compensation**

Reciprocal compensation refers to the payment mechanism, mandated by the Federal Communications Commission (FCC), by which phone companies are to be compensated for terminating local telephone traffic that originates on the network of another company. The issue of the appropriate application of reciprocal compensation continues to be a hot topic at both the state and federal levels. As a result, the PSC opened a generic docket in January 2000 to investigate the appropriate methods to compensate telecommunications carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996.

On August 20, 2002, after a hearing, the Commission rendered its decision wherein it declined to establish a default compensation mechanism. However, the Commission elected

to establish a default local calling area (the originating carrier's retail local calling scope) for reciprocal compensation purposes, if carriers to a negotiation cannot reach a mutually agreeable definition.

On February 7, 2003, Verizon, ALLTEL, Northeast Telephone, TDS Telecom, Smart City Telecom, Sprint, Indiantown, Frontier and GT COM appealed the Commission's decision to the state Supreme Court. As of this writing, the appeal is pending resolution.

### **ILEC Wholesale Performance Measures**

The Commission has implemented Performance Assessment Plans (PAP) to ensure Florida incumbent local exchange companies (ILECs) provide continuing, dependable operational support system (OSS) access and service quality to competitive local exchange companies (CLECs) operating in the state of Florida. Performance metrics governing the adequacy of ILEC service to CLECs were adopted by the Commission for BellSouth (Subdocket No. 000121A-TP) in August 2001, for Sprint (Subdocket No. 000121B-TP) in January 2003, and for Verizon (Subdocket No. 000121C-TP) in June 2003. Staff captures the data monthly from each ILEC and applies a trending analysis. Each ILEC's performance assessment plan is reviewed by staff at recurring intervals.

BellSouth implemented the Self Effectuating Enforcement Plan (SEEM) in May 2002. SEEM is a remedy plan which requires BellSouth to make payments to the CLECs and/or to the State of Florida for failing to meet prescribed service levels. Through November 2003, BellSouth paid more than \$40 million in SEEM remedies to CLECs for failure to meet wholesale performance standards. In addition, more than \$3.5 million has been paid to the State of Florida for consecutive service level failures.

On January 9, 2003, in Order No. PSC-03-0067-PAA-TP, the Commission approved a performance assessment plan for Sprint with 38 metrics. In March 2003, Sprint was required to begin monthly reporting of measurement results for performance. Sprint has not yet been ordered to implement a remedy plan for noncompliant service.

On June 25, 2003, in Order No. PSC-03-0761-PAA-TP, the Commission approved a stipulation of Verizon's performance assessment plan. The stipulation contains 44 measures and supporting administrative provisions to promote uniformity and stability in the provision of wholesale service to CLECs operating within Verizon's Florida territory. Verizon began reporting monthly performance results in July 2003, but it has not yet been ordered by the Commission to implement a remedy plan for noncompliant service.

### **Section 706 Joint Conference**

The deployment and provision of advanced telecommunications services continues to be an important issue in the telecommunications arena. Under Section 706 of the Telecommunications Act of 1996, the FCC and the States were given authority to encourage widespread deployment of broadband technologies. In its efforts to comply with the requirements of Section 706, the FCC convened a Federal-State Joint Conference. In 2002, the PSC worked in conjunction with the Joint Conference to develop a report that sought to explain the reasons for variance in "take rates" among the States. The report was published in 2003 and is titled *Broadband Services in the United States: An Analysis of Availability and Demand for 2003*. The PSC also worked in conjunction with the National Association of Regulatory Utility

Commissioners (NARUC), the National Exchange Carrier Association (NECA) and the Federal-State Joint Conference on Advanced Services to conduct the Second National Summit on Broadband Deployment held in Washington, D.C. The topics addressed included: Wi-Fi Networks, Rural Issues, Rights of Way, Demand Side Issues, Wall Street View, Digital Rights, Fiber Security, and Spectrum Issues.

### **Lifeline Assistance and Link-Up Florida**

The Low Income Program is a telecommunications discount program authorized by Congress under the Telecommunications Act of 1996. Telephone service is considered a necessity for modern life, yet the cost of activating and maintaining such service may be prohibitively expensive for low income subscribers. The Low Income Support Mechanism enables low income customers to establish and maintain telephone service through discounts on services from local telephone companies through the Lifeline Assistance (Lifeline) and Link-Up Florida (Link-Up) Programs.

During 2003, the PSC continued to work with the Department of Children and Families (DCF) to implement the DCF Lifeline Program. The DCF has modified its procedures so that information about the Lifeline and Link-Up Florida Programs is provided during client interviews and on client eligibility notices. As part of its regular procedures, the DCF provides an eligibility notice to all clients who are determined to be eligible for Medicaid, Food Stamps, or Temporary Assistance for Needy Families. Effective April 21, 2003, the eligibility notice began including specific language to inform the clients that they are also eligible for Lifeline Assistance. The local telephone companies accept the DCF notice as proof of eligibility for Lifeline Assistance. It is anticipated that the DCF Lifeline Program will make the enrollment process easier for many eligible individuals and ultimately increase participation in the Lifeline and Link-Up Programs

In May 2003, the Tele-Competition Innovation and Infrastructure Enhancement Act of 2003 became law, by the signature of the Governor. The 2003 Act requires that each state agency providing benefits to persons eligible for the Lifeline Assistance Program shall, in cooperation with the DCF, the PSC, and telecommunications companies providing Lifeline service, develop procedures to promote participation in Lifeline. In July 2003, the PSC initiated a joint Lifeline project with other state and federal agencies, organizations, and local telephone companies to implement the new statutory requirements. The project participants include the AARP, Agency for Workforce Innovation, Agency for Health Care Administration (AHCA), DCF, Florida Department of Community Affairs, Florida Department of Elder Affairs, Florida Office of the Public Counsel, Federal Social Security Administration - Tallahassee District, Workforce Florida, Inc. (WFI), and a number of Florida's local telephone companies. New procedures currently being implemented include dissemination of Lifeline educational materials to all of Florida's nursing homes through AHCA's Long Term Care Monitoring Program, and to more than 200 One-Stop Career Centers through WFI's 24 regional workforce boards. During 2004, the PSC will continue to work with the project participants to implement new procedures that have already been developed and develop additional procedures to increase awareness of Lifeline and Link-Up. Additional information about the project is available in the PSC's report entitled *Number of Customers Subscribing to Lifeline Service and the Effectiveness of Any Procedures to Promote Participation*. A printed copy of the report may be requested from the PSC or accessed on the PSC's Web site at [http://www.floridapsc.com/general/publications/report/2003\\_Lifeline\\_Report.pdf](http://www.floridapsc.com/general/publications/report/2003_Lifeline_Report.pdf).

### **Governor's Drought Action Plan/Water Conservation Initiative**

In May 2001, a statewide Water Conservation Initiative (WCI) was launched by the Department of Environmental Protection (DEP) and the Water Management Districts in response to the Governor's Drought Action Plan. The overall goal of the WCI is to provide specific recommendations for improving water use efficiency that are significant, permanent, and cost effective. The PSC co-chaired the Water Pricing Work Group with DEP, and participated on the Reuse Work Group. The final report was issued in April 2002, and was developed with the input of more than 300 participants from government, private sector, interested citizens, and many private associations. In August 2002, the DEP initiated Phase II of the project and formed new work groups to develop strategies for implementing the recommendations.

During 2003, the PSC continued to work with the DEP and other participants to implement the Water Pricing and Reuse recommendations. The Water Pricing Work Group has developed a plan for a Statewide Comprehensive Water Conservation Program (Program) that will encourage implementation of WCI recommendations, but will allow utilities the flexibility to tailor conservation programs to reflect their individual circumstances. The Program addresses implementation of conservation rate structures, drought rates, informative billing, and measurement of water use. The goals and objectives of the Program have been formalized in the "Joint Statement of Commitment for the Development and Implementation of a Statewide Comprehensive Water Conservation Program for Public Water Supply." In November 2003, the DEP endorsed the Joint Statement and encouraged endorsement by the other participants. In December 2003, the Commission approved and signed the Joint Statement. Other participants include all five of Florida's Water Management Districts, the Utility Council of the American Water Works Association - Florida Section, the Utility Council of the Florida Water Environment Association, and the Florida Rural Water Association.

Implementation of the WCI's Reuse recommendations is addressed in a joint report prepared by the Reuse Coordinating Committee and WCI Water Reuse Work Group. The report entitled *Water Reuse for Florida: Strategies for Effective Use of Reclaimed Water* was issued in June 2003 and is available on the DEP's Web site at [http://www.dep.state.fl.us/water/reuse/docs/valued\\_resource\\_Final%20Report.pdf](http://www.dep.state.fl.us/water/reuse/docs/valued_resource_Final%20Report.pdf). The report presents background information on water reuse, provides a summary of Florida's Water Reuse Program, traces the development of water reuse in Florida, and details 16 major, interrelated strategies for ensuring efficient and effective use of reclaimed water. The report also identifies legislative concepts, rulemaking efforts, and research activities that support and implement the water reuse strategies. During 2004, the PSC will continue to work with the DEP and other participants to implement the Water Pricing and Reuse recommendations, as well as monitor any proposed water conservation legislation during the 2004 and 2005 legislative sessions.

### **Acquisition Adjustment**

During 2003, the Commission adopted an acquisition adjustment rule. An acquisition adjustment is said to occur whenever a water or wastewater utility is purchased at a negotiated price that differs from the utility's net book value. The acquisition adjustment is negative if the purchase price is less than the net book value and positive if the purchase price is greater than net book value. The rule codifies that, if positive, the utility must demonstrate

the benefit to customers before the amount above net book value is recognized when setting rates. If negative, rates can stay the same for a specified number of years if the utility does not petition the PSC for a rate increase.



## IV. Agency Organization During 2003



DIRECTOR

*Dan Hoppe*

### DIVISION OF **Auditing and Safety**

The Division of Auditing and Safety operates out of four district offices: Tallahassee, Orlando, Miami, and Tampa. The Division is responsible for conducting audits and reviews in all industries. The types of audits and reviews the division performs include financial, compliance, billing, and verification. The Division is responsible for safety evaluation of natural gas pipeline operations and new electric construction in the State of Florida. The Division is the lead contact for the Commission's participation in the State's Emergency Operations Center activities. The Division is also responsible for investigating electric complaints associated with actual field investigations.

The responsibilities of the Division of Auditing and Safety are further detailed under its component bureaus:

The **Bureau of Auditing** consists of four field offices in Orlando, Miami, Tallahassee, and Tampa. The auditors conduct physical examinations of utility-related financial and operating records and provide the PSC with an independent verification of the supporting documentation for any statements or filings made by the regulated companies.

The **Bureau of Safety** is composed of two sections, Electric Safety and Natural Gas Pipeline Safety.

The *Electric Safety Section* engineers verify that the electric utilities comprised of investor-owned, municipal and cooperatives are constructing transmission and distribution electrical systems in accordance with the National Electrical Safety Code. Samples of completed work orders are inspected by the PSC's electric safety engineers. Variances from the safety code are reported to the utilities. The utilities then correct the variances and report back to the Electric Safety Section when completed. The work order is then reevaluated to verify that everything is in compliance.

The *Electric Safety Section* also provides technical support to the PSC's Division of Consumer Affairs regarding consumer complaints that either require direct contact with customers, site visits or expert advice.

The *Natural Gas Pipeline Safety Section* is responsible for natural gas safety. The PSC's natural gas pipeline safety jurisdiction begins at the tap on interstate pipelines and ends at the outlet of the last gas meter prior to the point of consumption.

The PSC's natural gas safety engineers evaluate natural gas pipelines operated by Florida's investor-owned natural gas utilities, municipal natural gas systems, special natural gas districts, intrastate transmission systems, housing authorities, and private master meter operators. General areas covered by these evaluations are new pipeline construction, maintenance, and operations. Specific evaluations are made of corrosion control programs, qualifications of personnel, operating pressures, odorant concentrations in gas, emergency plans, testing of personnel for alcohol and drug use, completion of gas leak surveys, and repairs of leaks. Additionally, staff investigates natural gas accidents to obtain information that can be used to prevent a recurrence.

The Florida Emergency Operations Center is provided technical support and staffing from both the Electric Safety Section and Natural Gas Safety Section during natural or manmade emergencies. The Bureau of Safety is the twenty-four hour contact point for assistance and advice for all energy related emergencies for electric utilities, natural gas pipelines, and fuel related problems.



DIRECTOR  
*Blanca Bayo*

DIVISION OF  
**The Commission Clerk and  
Administrative Services**

The Director of the Division of the Commission Clerk and Administrative Services is designated as the agency clerk, accepts official filings, maintains official case files, coordinates the Commission's records management program, and issues all Commission orders and notices. Other responsibilities include administrative support services such as human resource programs; budget management; mail processing; computer network, hardware, and applications support; staff training; and purchasing.

The responsibilities of the Division of the Commission Clerk and Administrative Services (CCA) are further detailed under its component bureaus and offices:

The **CCA Assistant Director** supervises the Fiscal Services Section.

The CCA Assistant Director oversees all financial transactions, including the approval and processing of all expenditures, the collection and deposit of all revenues, and the maintenance of accounting records. The CCA Assistant Director coordinates and prepares the Commission's legislative budget requests and long range program plans, monitors the operating budget, and prepares budget amendments as necessary. The CCA Assistant Director is also responsible for the coordination and maintenance of the performance measures and outputs for the *Long-Range Program Plan*, as well as finalization of the *Legislative Budget Request*.

The *Fiscal Services Section* is responsible for providing support in the preparation of the annual budget allotments, depositing of all revenues, payment of all bills, and maintenance of centralized accounting and financial records. The section's staff inputs and maintains relevant data in the Purchase Order Tracking System (POTS), the Regulatory Assessment Fee (RAF) system, and the FLAIR/LASPBS budget system. Other duties include review, approval, and payment of all travel vouchers for in and out-of-state travel; maintenance of the petty cash fund; the performance of property inventories; and the mailing of RAF notices.

The **Bureau of Administrative Services** consists of Administrative Services and General Services.

The bureau provides administrative support services in the areas of purchasing, leasing, duplicating, mail handling, fleet management, staff training programs, employee personnel records, insurance benefits, commission-wide administrative procedures manual and forms inventory and tracking system, as well as all security related issues.

The *Administrative Services Section* is responsible for the administration of all human resources programs which include recruitment, selection, classification and pay, attendance and leave, performance evaluations, training and staff development, variable work week schedules, employee relations, payroll, insurance, and other employee benefit programs.

The section maintains files/records required by the Commission's Administrative Procedures and State Personnel Rules and Regulations. Other responsibilities include monitoring Equal Employment Opportunity/Affirmative Action compliance, coordinating the agency's Sick Leave Pool and Sick Leave Transfer Plan, ensuring that agency employees comply with financial disclosure requirements, and developing/revising internal personnel policies and procedures. The Employee Assistance and Telecommuting Programs are also coordinated through this section. The HR staff work with the Department of Management Services and the Governor's Office of Policy and Budget to implement the Governor's Service First Initiative.

HR Outsourcing (People First) has not been implemented as originally planned by the Department of Management Services and its vendor, Convergys. The Commission's HR staff continued to devote many hours each week to this project. To date, benefits, open enrollment, and the staffing (recruitment) functions have been handled by People First with assistance of the HR staff. The PSC is one of several state agencies elected to parallel test payroll actions in the legacy COPES system and the new People First system.

The *General Services Section* is responsible for purchasing all of the commodities and services required for the Commission's operations. Responsibilities for this section include managing the Imaging, Distribution and Publication Center; coordinating internal and external mail services; maintaining an inventory of the agency's general office supplies; procuring and maintaining the Commission's fleet of motor vehicles; selecting and maintaining copiers; disposing of surplus property, telephones; hearing room audio and visual support; and coordinating facility maintenance, safety, and security concerns.

The **Bureau of Records and Hearing Services** maintains a computerized document and case management information system; issues reports and assists in the coordination of case management activities; prepares agendas for the Commission's regular conferences; prepares and maintains the official minutes of all Commission meetings; and makes arrangements for hearings. The bureau maintains the master directory of utilities, as well as mailing lists of parties to and persons interested in proceedings before the Commission; issues all orders and notices of the Commission; coordinates the Commission's records management program; and, upon request and the payment of appropriate fees, provides copies of public records.

The *Records Section* maintains the PSC's official files. The section receives, records, distributes, and maintains the official files of all documents filed in proceedings before the PSC. In coordination with the Hearing Services Section, the section also maintains a computerized document and case management information system. In addition, the section maintains docket mailing lists of parties and persons interested in PSC proceedings. Finally, it issues all orders and notices of the PSC, coordinates the PSC's records management program and, upon request, processes the payment of appropriate fees and provides copies of public records.

The *Hearing Services Section* issues reports and assists in the coordination of case management activities; prepares agendas for the PSC's regular conferences; prepares and maintains the official minutes of all PSC meetings; and makes arrangements for out-of-town hearings. The section also maintains the Master Commission Directory of utility data.

The **Office of Information Technology Services** is responsible for monitoring and evaluating the information processing needs of the PSC, proposing enhancements to information processing resources to management, and providing technical support services for the PSC. The office is divided into two sections: Systems Programming and Hardware Maintenance and Support. The services provided by both sections fall into several categories: Local Area Network (LAN) system, hardware, software, programming, and user support; microcomputer hardware, software, and programming support; outside mainframe services access and programming support; training; security; and hardware/software evaluation, purchase, and implementation support.

The **Office of Hearing Reporters** attend all PSC hearings, both in Tallahassee and throughout the state, transcribe the proceedings, and prepare transcripts for placement in the official record and for dissemination to participants.



DIRECTOR  
*Beth W. Salak*

DIVISION OF  
**Competitive Markets and Enforcement**

The Division of Competitive Markets and Enforcement monitors the development of competitive markets and has responsibility for the issues associated with emerging competitive markets. The division participates in informal and formal proceedings involving appropriate area code relief and number conservation plans and establishes policies and procedures governing intercompany contracts, arbitration of terms of intercompany contracts, and resolution of issues of contractual interpretation.

The division also resolves conflicts arising from changes in service providers. In addition, it evaluates the quality of service provided by telecommunications companies and conducts periodic on-site inspections of telecommunications facilities.

Issues involving conservation, tariff filings and territorial disputes in the natural gas industry are also the responsibility of this division. Investigations are conducted to ensure compliance with applicable rules, tariffs, procedures, and laws and to provide competitive safeguards.

The responsibilities of the Division of Competitive Markets and Enforcement are further detailed under its component bureaus:

The **Bureau of Competitive Markets** consists of the Competitive Industry Practices Section and Direct Support Staff.

The *Competitive Industry Practices Section* is responsible for processing area code cases; reclaiming numbering resources from carriers that have failed to activate central office codes; processing numbering codes denials; recommending and implementing various number conservation measures; reviewing regulatory assessment fee (RAF) filings; reviewing natural gas conservation programs and cost recovery filings; reviewing purchased gas filings for mathematical accuracy and policy adherence; developing policies to discourage business practices that may be barriers to entry; and processing cases involving practices that are alleged to be barriers to entry.

The *Direct Support Staff* is responsible for processing tariff filings of natural gas utilities; determining natural gas capacity requirements for electric need determination cases and ten-year planning reviews; reviewing natural gas procurement practices; developing policies to promote competition in the natural gas industry; and monitoring federal initiatives on competition in the natural gas and telecommunications industries.

The **Market Development Bureau** consists of the Market Assessment Section, the Carrier Services Section, and the Certification and Tariff Administration Section.

The *Market Assessment Section* is primarily responsible for setting prices and requirements for wholesale offerings (i.e., unbundled network elements and resale), whether in the context of an arbitration or a generic proceeding. In addition, this section provides input on legislative and Federal Communications Commission (FCC) initiatives in such areas as unbundled network elements, universal service support and access charge reform, and coordinates PSC activities necessary to implement approved initiatives.

The *Carrier Services Section* resolves operational issues that surface in negotiations between incumbent local exchange companies (ILECs) and competitive local exchange companies (CLECs) that cannot be resolved by the parties and must be arbitrated. In addition, this section resolves complaints of an operational and interpretive nature that pertain to existing agreements.

To the extent that there are recurring themes in the operational issues that are presented in arbitration cases, the Carrier Services Section establishes generic proceedings. While the Market Assessment Section is the group responsible for setting prices, the Carrier Services Section often determines the applicability of prices. Finally, this section resolves tariff issues that may arise in the context of a tariff filing or a complaint, particularly in situations where the tariff may be discriminatory or allegedly anti-competitive.

The *Certification and Tariff Administration Section* is responsible for processing all telecommunication filings related to certification/registration for incumbent local exchange companies (ILECs), competitive local exchange companies (CLECs), interexchange companies (IXCs), pay telephone service (PATs) providers, alternative access vendor (AAVs), and shared tenant service (STS) providers, including new certificates/registrations, name changes, transfers, and cancellations. The section is also responsible for ILEC, CLEC, and IXC tariff and price list filings. Filings are reviewed for compliance with applicable Commission rules, statutes, and orders. The staff provides information on tariffed services to customers and companies and resolves customer complaints associated with tariffed services. Finally, this section processes all negotiated agreements.

As of December 2003, the number of certificated/registered telecommunications companies in the State of Florida were as follows:

- ◆ 10 incumbent local exchange companies (ILECs)
- ◆ 397 competitive local exchange companies (CLECs)
- ◆ 666 interexchange companies (IXCs)
- ◆ 477 pay telephone service companies (PATs)
- ◆ 43 alternative access vendors (AAVs)
- ◆ 31 shared tenant service (STS) providers

By comparison, as of December 31, 2002, there were 10 ILECs, 379 CLECs, 629 IXCs, 579 PATs, 40 AAVs, and 31 STS providers in Florida.

The **Service Quality Bureau** consists of the Service Quality Section and the Compliance Section.

The *Service Quality Section* is responsible for completing field evaluations of the local telephone companies regarding service quality. During the field evaluations, call completion tests are done to ensure network reliability and to evaluate the billing accuracy of long distance companies. This section also inspects pay telephones and call aggregators (hotels/motels) for compliance with PSC rules.

The *Compliance Section* is responsible for recommending enforcement action to the PSC against all types of telecommunications companies for violations of PSC rules and orders or Florida statutes. This section also sends apparent violation notices to pay telephone providers and call aggregators as the result of the inspections completed by the Service Quality Section.

The **Bureau of Regulatory Review** is responsible for reviewing utility performance and operations, investigating and documenting current processes and results, and identifying areas for improvement. The bureau reviews utility performance and processes to determine if appropriate internal controls are in place and if the utility is in compliance with company, state, and federal guidelines. In addition, the bureau monitors and analyzes wholesale service quality performance measures that quantify the adequacy of operating systems support provided by BellSouth, Verizon and Sprint to competing local service providers.

Areas for investigation by the Bureau of Regulatory Review include competitive performance analysis, electric reliability, service quality, service availability, systems analysis, and consumer protection. These reviews may be of a focused or a comparative nature. The bureau also performs special investigations of allegations relating to systemic utility fraud such as slamming and cramming. Additionally, the bureau responds to requests for focused or comparative reviews, audits and investigations from other divisions, the Executive Suite, and the Commissioners.



DIRECTOR

*Bev DeMello*

DIVISION OF  
**Consumer Affairs**

The Division of Consumer Affairs receives, processes, and resolves complaints and facilitates resolution of informal disputes between consumers and utilities. It operates and maintains the Commission's consumer education programs. Specifically, the Division has the primary responsibility of handling and resolving consumer complaints, preparing statistical summaries on consumer complaint activity, preparing testimony for rate cases on complaint activity, and participating in or initiating other dockets on consumer matters.

Consumer Affairs is also responsible for consumer information and consumer education. The Division compiles and relays information about the Commission's regulatory decisions to utility customers and consumer groups. The Division's consumer outreach duties include informing utility customers of their rights and of how they can participate in customer service hearings and other forums to have their views heard by Commissioners. The Division of Consumer Affairs has two bureaus: the Bureau of Complaint Resolution and the Bureau of Consumer Outreach.

The two bureaus of the Division of Consumer Affairs work collaboratively. For instance, the Bureau of Consumer Outreach closely monitors and builds educational campaigns around trends in consumer inquiries received by the Bureau of Complaint Resolution. The Bureau of Complaint Resolution, meanwhile, often utilizes informational brochures, and other materials prepared by the Bureau of Consumer Outreach to provide utility information to consumers.

The responsibilities of the Division of Consumer Affairs are further detailed under its component bureaus:

The **Bureau of Complaint Resolution** is responsible for handling consumer complaints, preparing statistical summaries on consumer complaint activity, preparing testimony for rate cases on complaint activity and participating in or initiating dockets on utility matters related to consumers. This bureau is the main inbound conduit for communication with the public and is often where consumers form their first impressions of the agency. Within the bureau are two sections: Complaint Intake and Complaint Resolution.

The *Complaint Intake Section* is responsible for handling consumer inquiries/complaints via the Commission toll-free number. This section also receives, reviews, handles and processes consumer inquiries/complaints filed against regulated utilities, received by Internet, fax and mail. Also, this section receives opinions and inquiries from the public and provides explanations and information about the Commission and its activities. Analysts

have a thorough knowledge of PSC rules and procedures, and must possess strong communication skills required to effectively communicate with customers and utility representatives.

The *Complaint Resolution Section* serves as an intermediary in seeking to resolve consumer problems. This section makes decisions on complaints based on findings, applicable laws, Commission Rules, regulations and tariffs. This section proposes resolutions on complaints to consumers and handles customer contacts directed to CAF by public officials including PSC Commissioners. This section attempts to resolve disputes between customers and utilities in order to preclude a need for an informal conference. This section also assesses the timeliness and quality of company responses to PSC complaints and reviews cases to pinpoint new complaint trends.

The **Bureau of Consumer Outreach** is responsible for helping Florida's consumers understand how to make wise decisions in an increasingly complex utility marketplace. Bureau staff members attend customer hearings and meetings held throughout the state in conjunction with utility cases before the PSC. The bureau has several operational goals, including, but not limited to, the following:

- ◆ creating, producing, and disseminating consumer information about regulatory matters to various consumer groups;
- ◆ establishing the PSC's presence and increasing its visibility as a consumer education agent; and
- ◆ maintaining an outreach plan for PSC hearings and workshops held across the state.

Another focus of the bureau's efforts has been the PSC's Web site. The site, located at [www.floridapsc.com](http://www.floridapsc.com), has been expanded and redesigned by the Bureau to supply consumers with more information about the industries regulated by the PSC and about specific issues before the PSC. Press releases, videos of public service announcements, and electronic versions of most PSC brochures and publications can be accessed via the Web site. Consumers are also able to file online complaints regarding their utility services via the PSC home page.

The bureau, which is also responsible for providing artistic services for the agency, has designed and produced a number of brochures and fliers to help consumers become more knowledgeable about their rights and options as users of utility services. Many of these brochures have also been translated into Spanish to assist Florida's Hispanic consumers. All of the brochures are made available to consumers who contact the PSC and request a copy. Brochures are also available to consumers through their local government and social service agencies. Many are also distributed to the public at PSC hearings and meetings.

Within this bureau is the *Information Requests Section*. This section is responsible for responding to consumer requests for information. In addition, the Information Requests Section conducts informal conferences for consumers who are not satisfied with the resolution of their complaints. The staff in this section facilitates communication between the consumer and the service provider during an informal conference as they attempt to reach a settlement. A recommendation is prepared for the Commissioners' consideration for those informal conferences that fail to end with a settlement agreement.



DIRECTOR  
*Tim Devlin*

DIVISION OF  
**Economic Regulation**

The Division of Economic Regulation participates in informal and formal proceedings relating to the rates and earnings of rate-base-regulated companies in the electric, natural gas, water, wastewater, and telecommunications industries. The division has primary responsibility for processing rate changes and for conducting earnings surveillance to ensure that regulated utilities are not exceeding their authorized rates of return. The division receives and maintains copies of annual financial reports and periodic surveillance reports for rate-base-regulated companies.

The division also participates in proceedings concerning economics/forecasting, cost of capital, taxes, and capital recovery. In addition, the division works to resolve consumer complaints concerning billing issues in the electric, natural gas, water and wastewater industry and consumer complaints concerning water quality issues such as pressure and capacity.

The responsibilities of the Division of Economic Regulation are further detailed under its component bureaus:

The **Bureau of Surveillance/Finance** consists of two sections: the Surveillance Accounting Section and the Finance and Tax Section. The functions and responsibilities of each section are described below.

The *Surveillance Section* is responsible for reviewing the revenue requirements of the electric, natural gas and rate-base-regulated telecommunications companies. It processes rate cases and monitors the earnings for these industries. It carries out the PSC's surveillance program for electric, natural gas and telecommunications companies, and regularly reviews the actual earnings of the larger electric and gas utilities. The section is responsible for the electric, natural gas, and telecommunications annual report process, including all mailings, extensions, filings, follow-up letters, delinquency notices, penalty letters, and show causes. The section also reviews the regulatory assessment fee (RAF) returns of electric and natural gas utilities and reconciles them to the revenues reported in the utilities' annual reports. In addition, the section regularly produces PSC reports such as the Annual Comparative Rate Statistics and the Quarterly Rate Increase and Decrease Report.

This section is responsible for the water and wastewater annual report process, including all mailing, extensions, filings, follow-up letters, delinquency notices, penalty letters, and show causes. More than 180 annual reports are reviewed for thoroughness.

Additionally, as part of the PSC's surveillance program for water and wastewater companies, the earnings of each company and system (more than 300) are calculated to determine if the company is overearning. The section is also responsible for reviewing all RAF returns (more than 300) and reconciling them to the revenues reported in the annual reports.

Also, the Surveillance Section is responsible for reviewing and assessing the economic effects of depreciation and related capital recovery and technology implementation practices of jurisdictional, regulated companies. Those responsibilities include acting as technical advisers to the PSC, participating in generic docket issues and rules, and acting as consultants to assist other PSC staff in carrying out assigned responsibilities, specialty research, and staff technical training. The section supports the PSC with professional and unbiased advice based on an analysis of depreciation practices, industry records, Florida Statutes, the Florida Administrative Code, PSC policy, and other relevant information and technical knowledge.

The *Finance and Tax Section* provides capital structure and cost-of-capital support in earnings investigations in the water, wastewater, telephone, electric and natural gas industries. Other cases may involve water reuse projects, merger impacts, effects of diversification on mergers, and the cost of telecommunications services. In addition, the section reviews the financial assumptions underlying need determination proceedings for new power plants, and participates in various rulemaking proceedings.

On an ongoing basis, the section also processes the security applications for all investor-owned natural gas and electric utilities; evaluates requests for corporate undertakings from all water and wastewater utilities; monitors all Federal Accounting Standards Board (FASB) and Securities and Exchange Commission (SEC) pronouncements that affect financial and reporting requirements of utilities, calculates the interest on refunds, and maintains the database and cost-of-equity models used by staff to estimate the required rate of return on common equity capital. Staff also monitors notices issued by the FASB, the Internal Revenue Service (IRS), the FERC, and the Nuclear Regulatory Commission (NRC) for relevant tax developments.

The **Bureau of Rate Filings** has the responsibility to process rate filings and complex consumer complaints and to investigate overearnings of utilities. This work is accomplished through the Bureau's File and Suspend Cases Section and the Regulatory Analysis Section.

The *File and Suspend Cases Section* has the responsibility of processing rate increase filings by Electric, Gas and Classes "A" and "B" water and wastewater utilities. The types of filings handled are file and suspend, limited proceedings, overearnings investigations, applications of allowance for funds used during construction (AFUDC), applications of allowance for funds prudently invested (AFPI), service availability applications, rule proceedings, and complex, technical complaints that are transferred from the PSC's Division of Consumer Affairs. The processing of the section's workload involves holding customer meetings; participating in formal and informal proceedings before the PSC; analyzing filings, expert testimony and exhibits; developing cross-examination questions; presenting direct testimony; coordinating with staff outside of the bureau; and preparing and presenting recommendations concerning the disposition of these types of cases before the PSC.

The *Regulatory Analysis Section* has the responsibility of processing rate case filings by Class “C” water and wastewater utilities and reuse applications. The types of filings handled are staff-assisted rate cases, staff-assisted requests for alternative rate setting, limited proceedings, overearnings investigations, AFUDC applications, AFPI applications, service availability applications, rule proceedings, reuse applications by all water and wastewater utilities, and complex/technical complaints transferred from the PSC’s Division of Consumer Affairs. The processing of the section’s workload involves holding customer meetings; participating in formal and informal proceedings before the PSC; analyzing filings, expert testimony and exhibits; developing cross-examination questions; presenting direct testimony; coordinating with PSC staff outside of the Bureau; and preparing and presenting recommendations concerning the disposition of these types of cases before the PSC.

The **Bureau of Certification, Economics, and Tariffs** consists of two sections: Economics and Tariffs, and Certification.

The *Economics and Tariffs Section* participates in proceedings in support of all the industries under PSC jurisdiction. These proceedings include electric and gas utility rate cases, electric plant need determination cases, and water and wastewater rate cases. In these dockets, the section’s primary responsibilities focus on analyzing any economic and demographic forecast issues, development of rates and rate structure by customer class, and estimation of any recession effects on customer demand resulting from higher rates. Outside of rate case activity, the section analyzes rate structure for non-earnings-regulated municipal electric utilities and rural electric cooperatives, and participates in the electric utility fuel, conservation, capacity and environmental cost recovery clause dockets. The section is also involved in potentially volatile customer issues such as billing practices, master metering, and reconnect policies, as well as merger and deregulation effects on rates.

Other activities performed by the section include analyses of the Ten Year Site Plan load forecast submitted by Florida’s electric utilities, conducting research and writing Statements of Estimated Regulatory Costs for rulemaking, assisting the Division of Competitive Markets and Enforcement in the quantitative analysis of competitive performance of local providers in the telecommunications industry, and assisting the Division of the Commission Clerk and Administrative Services by independently forecasting jurisdictional utility gross revenues to estimate regulatory assessment fees (RAFs).

The *Certification Section* is responsible for all water and wastewater certification filings, including original and grandfather certificates, amendments of territory, transfers of facilities or stock, transfers to governmental entities, name changes, cancellation of certificates, abandonments, territorial disputes, and exemption activity. The section is also responsible for tariff filings associated with certification cases and handles complaints and inquiries relating to any of these areas. Certificate and tariff filings are reviewed for compliance with applicable Commission rules, statutes, and orders.

As of December 31, 2003, there were 182 PSC-certificated water and/or wastewater utilities in Florida. The PSC currently has jurisdiction in 36 of the 67 counties in Florida.

The **Bureau of Electric Reliability and Cost Recovery** is composed of two Sections: Electric Reliability and Cost Recovery.

The *Electric Reliability Section* processes and makes recommendations to the PSC on proposed power plants with a steam cycle greater than 75 megawatts, including non-utility-owned power plants and certain 230-kilovolt or higher electric transmission lines. The recommendations to approve a proposed power plant or transmission line are based on the necessity of the proposed addition for the continued reliability of Florida's bulk electric system or, if not needed for reliability, on the proposed addition reducing electricity costs to customers from what these costs may otherwise be. If approved by the PSC, a proposed power plant or transmission line is subject to environmental review by the Florida Department of Environmental Protection and ultimately by the Governor and Cabinet, sitting as the siting board. Included in bulk power supply reliability and costs are the dispositions of wholesale power purchases, contract buyouts, and the oversight of utility RFP processes. The Electric Reliability Section analyzes and prepares a report on the reliability likely to result from implementation of annual electric utility ten-year site plans required by Florida Statutes.

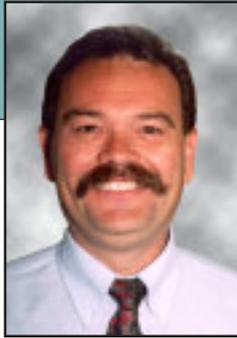
The Electric Reliability Section also makes recommendations to the PSC on utility conservation programs focusing on whether a net benefit is conveyed to those customers not participating in a particular program. Conservation program benefits include the avoidance of power plants or transmission lines but does not include non-quantifiable costs, such as the benefits of cleaner air or less reliance on imported oil. The section is also responsible for administering the conservation cost recovery clause.

The *Cost Recovery Section* makes recommendations to the PSC on fuel, purchased power, capacity, and environmental cost recovery petitions for Florida's investor-owned electric utilities. For 2004, the projected amount of associated cost recovery by the utilities is \$6.76 billion. Fuel purchases are analyzed by the section for prudence, as are major power plant outages that can adversely affect the fuel costs charged to customers. The section administers a power plant efficiency incentive factor as part of the fuel clause.

The Cost Recovery Section also makes recommendations on territorial agreements and disputes. The Section reviews the reasonableness of the purchase price of the facilities being transferred, impacts to reliability, and the likelihood that the agreement will eliminate existing or potential duplication of facilities.

The section also resolves the more complex complaints related to electric distribution outages and reports annually to the Commission on electric distribution reliability. The report is based on the section's review of the utilities' recently-expanded annual distribution reliability reports and service-related complaint activity.

The responsibilities of the Division of External Affairs are further detailed under its component offices.



DIRECTOR  
*Charles Hill*

DIVISION OF  
**External Affairs**

The Division of External Affairs serves as the Commission's liaison to the Legislature, the Office of the Governor and to other state and federal agencies. The Division is composed of two offices: an Office of Federal and Legislative Liaison and an Office of State Agency Liaison. The Division provides the primary technical interface with state and federal agencies on regulatory matters, in coordination and with assistance from the technical divisions, the Office of the General Counsel, and the Office of the Chairman. The Office of Federal and Legislative Liaison has primary responsibility for working with the Florida Legislature and the Office of the Governor. This office is also responsible for facilitating collaborative working relationships with the federal agencies whose regulatory actions can affect Florida citizens and for facilitating a transition to competitive markets which benefit Florida citizens. The Office of State Agency Liaison has responsibility for maintaining working relationships with other state agencies, and with county and local governments, to ensure that state regulatory functions are performed efficiently and effectively without unnecessary or duplicative costs being imposed on Florida's citizens.

The **Office of Federal and Legislative Liaison** has responsibilities at both the federal and state levels. At the federal level, the Office's purpose is to ensure proper monitoring of and timely responses to documents issued by federal agencies, the National Association of Regulatory Utility Commissioners (NARUC), and Congress related to issues involving the electric, telecommunications, water, and wastewater industries.

At the federal level, the office actively files comments, after PSC approval, in dockets before federal agencies that have the potential to impact Florida ratepayers and regulated utilities. For example, filings the office made on behalf of the PSC before the Federal Energy Regulatory Commission in 2003 dealt with such issues as electricity market design and structure, transmission pricing, and generator interconnection procedures. Implementation of the Telecommunications Act of 1996, advanced telecommunication services, and universal service support mechanisms were the subject of filings before the Federal Communications Commission in 2003. The office also coordinates and participates in meetings with key staff in federal agencies and Congress to discuss issues of importance to Florida ratepayers and regulated utility companies.

At the state level, the office monitors and responds to legislative initiatives. For example, the office provided a technical assessment of the potential for renewable electric technologies to the Florida legislature in 2003. The office also prepared and gave presentations to

legislators on the regulated industries and the PSC's activities. The office analyzes pending legislation to evaluate potential impacts on Florida ratepayers and regulated utilities.

The PSC is working to improve communication and coordination with other state and local agencies. The PSC's Office of State Agency Liaison within the Division of External Affairs is charged with facilitating effective coordination between the PSC and other state agencies and local governments.

The **Office of State Agency Liaison** helps coordinate various activities between the PSC and other agencies in accordance with the guidelines established in the Memoranda of Understanding. During 2003, the Office helped coordinate activities between the PSC and other participants on the Water Conservation Initiative, Universal Service Rural Health Care Program, Universal Service Schools and Libraries Program, and Universal Service Low-Income Program. In early 2003, the Office helped coordinate PSC and local exchange companies' participation in the DCF's Lifeline project. Beginning in July 2003, the Office helped coordinate a joint Lifeline project with other state and federal agencies, organizations, and local telephone companies to develop new procedures to promote Lifeline awareness as required by the 2003 Act. The project includes the AARP, Agency for Workforce Innovation, Agency for Health Care Administration, DCF, Florida Department of Community Affairs, Florida Department of Elder Affairs, Florida Office of the Public Counsel, Federal Social Security Administration - Tallahassee District, Workforce Florida, Inc. (WFI), and a number of Florida's local telephone companies. Also, the Division of Consumer Affairs and Office of State Agency Liaison held joint meetings with various city and county consumer assistance departments to promote awareness of Lifeline and other regulatory matters of interest to local governments. Examples of the Office's liaison activities related to the electric industry include meetings regarding consumer and local government concerns on undergrounding of electric facilities, and monitoring of federal dockets that will have significant state level impact. Liaison efforts on these various projects extended beyond our sister state agencies to include cities, counties, associations, universities, and private businesses.

The conflicting objectives of the agencies sometimes create difficulty in the Commission's coordination efforts and prevent the most reasonable, least-cost solution to the problem at hand. The difficulty is not a result of a lack of effort to cooperate with other agencies. As shown in the example below, the PSC has often addressed these matters through mechanisms such as Memoranda of Understanding. Due to the willingness of both parties to work together, communication lines between the agencies are continually improving, and the challenges of coordination with other agencies are becoming increasingly rare.

Since 1991, the PSC has entered into Memoranda of Understanding with several other agencies to facilitate the agencies' working relationship on issues of mutual interest. For example, the PSC and the Florida Department of Environmental Protection (DEP) entered into a Memoranda of Understanding that formally establishes policies and procedures to be followed by the agencies to promote and encourage water conservation, reuse of reclaimed water, and safe and efficient water supply and wastewater management services. Additionally, the PSC, DEP, and nine other agencies entered into a separate Statement of Support for Water Reuse which represents the participating agencies' resolution to continue to

encourage and promote water reuse, to work together to overcome institutional and regulatory disincentives and funding constraints, to ensure protection of public health and environmental quality, and to promote public acceptance of water reuse in Florida.

Also, the PSC and the five Florida Water Management Districts entered into a Memorandum of Understanding that formally establishes policies and procedures to be followed by the agencies to encourage the exchange of information, participation in cases before the agencies, and other efforts to implement an effective, statewide conservation policy. The PSC and the Florida Department of Community Affairs entered into a Memorandum of Understanding that formally establishes guidelines for working together in PSC certificate cases in order to facilitate the intent of Chapters 163 and 367, Florida Statutes, with respect to the regulation of investor-owned water and wastewater utilities and local comprehensive planning. Finally, the PSC, the Florida Department of Elder Affairs, the Florida Department of Children and Families, and the former Florida Department of Labor and Employment Security entered into an Interagency Agreement to establish procedures by which the agencies would work together to increase consumer awareness of the Lifeline Assistance and Link-Up Florida Programs which reduce costs for telephone connection and service for eligible low-income citizens.



GENERAL COUNSEL

*Richard D. Melson*

## OFFICE OF THE General Counsel

The Office of the General Counsel provides legal counsel to the Commission on all matters under the Commission's jurisdiction and, in coordination with the Office of the Executive Director, serves as the Commission's liaison with federal and state agencies as well as the Florida Legislature and political subdivisions of the state. In the course of evidentiary proceedings before the Commission, the Office of the General Counsel and its sections are responsible for presentations of staff positions in the proceedings including cross examination of adverse witnesses and presentation of staff testimony where offered.

In providing legal counsel to the Commission, the General Counsel's Office employs three sections: an Appeals, Rules and Mediation Section, an Economic Regulation Section, and a Competitive Markets and Enforcement Section.

The *Appeals, Rules and Mediation Section* is responsible for rulemaking, mediation, and defending Commission orders on appeal or otherwise challenged before state and federal courts. The Section also provides legal counsel to the Commission and to the Commissioners including notices, recommendations and orders; attends and conducts public hearings at the Commission's request; represents the Commission before state and federal courts; and advises in the promulgation of rules. In addition, the Section's staff reviews procurement contracts and provides counsel to the Commission on personnel, contractual and other administrative, legal matters.

The *Economic Regulation Section* supervises the procedural and legal aspects of rate cases and other formal proceedings before the Commission, the Division of Administrative Hearings, and on behalf of the Commission, in civil court proceedings. This Section, in conjunction with appropriate technical staff, prepares recommendations to the Commission, as requested, and prepares, with assistance of technical staff, Commission orders memorializing decisions.

The *Competitive Markets and Enforcement Section* supervises the procedural and legal aspects of cases related to the development of competitive markets and other formal proceedings before the Commission, the Division of Administrative Hearings and, on behalf of the Commission, in civil court proceedings. This Section, in conjunction with appropriate technical staff, prepares recommendations to the Commission as requested, and prepares, with assistance of technical staff, Commission orders memorializing decisions.



CHIEF  
*Roberta Bass*

OFFICE OF  
**Market Monitoring and Strategic Analysis**

The Office of Market Monitoring and Strategic Analysis is responsible for monitoring and evaluating the impact of Commission decisions on market development in the energy, telecommunications, and water and wastewater industries. The office is also responsible for identifying and analyzing issues and strategies to assist and enhance market development. Annual reports on the status of development of competition in the industries, including preparation of any legislatively mandated reports, are prepared by this office.

Commission decisions are monitored to identify those that impact the development of energy and telecommunications competitive markets. Having identified those decisions, this office assesses whether the Commission decisions have achieved the intended results. These assessments include competitive market data gathering through conducting independent research using surveys and questionnaires, analyzing market research contained in studies and reports and hosting meetings and workshops to promote presentations and dialogues on competitive market conditions. These activities also contribute to identifying and analyzing issues and strategies that may assist and enhance the development of competitive markets.

The results of monitoring activities and strategy analyses are included in recommendations and testimony to advise other Divisions and the Commissioners regarding further actions that may be needed. On an on-going basis, this office routinely reviews and assesses market activity in the telecommunications and electric industries, at both the state and national level. These reviews include monitoring the activities of the FCC and the FERC that could potentially impact market activity in Florida. The findings of these reviews are periodically reported to the Commissioners. This office works closely with the other Divisions to provide timely and relevant information and analyses that will assist in the development and further enhancement of competitive markets.



DIRECTOR  
*Kevin Bloom*

OFFICE OF  
**Public Information**

The Office of Public Information functions as the Commission's liaison with the media and the public. The office monitors the daily reporting activities of dozens of state, regional, and national media outlets to ensure that timely, accurate information regarding Commission decisions is disseminated to consumers. In this capacity, the office maintains familiarity with a broad array of dockets and related activities affecting ratepayers, or issues which have currency with the media.

The Office compiles and relays information about the Commission's regulatory decisions to media representatives and to local and state officials in advance of customer meetings, which are held for the purpose of offering ratepayers an opportunity to comment on pending Commission decisions. Information may be disseminated through news releases, bulletins, and guest editorials. Information dissemination may be supplemented by visits by commissioners to media outlets when necessary, which are arranged by the Office of Public Information.

The Office assembles and maintains databases comprising hundreds of media outlets to facilitate direct communication and reviews public information materials to insure compliance with Florida Statutes, Commission rules, policies, and regulatory philosophies.



## V. Consumer Assistance, Protection, and Education

The PSC is committed to providing effective consumer assistance, protection, and education. The Commission continues to develop and implement a consumer information plan to address important consumer issues and educate the public about the changing regulatory environment. While the Commission manages the transition to more competitive markets, it also continues to ensure that consumers receive safe and reliable utility service, particularly through its enforcement efforts. The enforcement function is a pivotal component of the PSC's consumer protection mandate. The agency continues to monitor the offerings by utility providers and helps guide consumers through the coming changes so that they receive the best service and rates for their needs. The PSC also participates in a variety of outreach events such as consumer forums and customer meetings and develops applicable publications and presentations. The Commission continues to improve methods to provide access to information, such as electronic access, in order to help ensure that consumers have or have ready access to accurate and understandable information necessary to make informed decisions about utility services.

### Consumer Assistance

#### Consumer Complaint Rule

It is the Commission's intent that disputes between regulated companies and their customers are resolved as quickly, effectively, and inexpensively as possible. To accomplish this, in December 2003, the Commission adopted amendments to Rule 25-22.032, Florida Administrative Code, relating to the Commission's customer complaint handling procedure.

The rule amendments streamline the process for handling customer complaints; put utility companies in more direct contact with their customers for resolution of complaints; clarify that the complaint procedure is designed to address only those complaints that fall within the Commission's jurisdiction; require that telephone, e-mail and written complaints be forwarded directly to the utility company for resolution in most instances; provide response dates to Commission staff inquiries for additional information from companies; reflect the implementation of the e-mail transfer connection program; establish the Process Review Team, which will review complaints before they are considered for an informal conference; ensure that the issues addressed at the informal conference are clearly delineated; and provide for extensions of time for filing required information in emergency situations.

To read more about the amendments, please visit [www.floridapsc.com](http://www.floridapsc.com). Search Online Docket Information for Docket No. 030575-PU, Order PSC-04-0027-FOF-PU.

## **Complaint Activity**

Consumer complaints are resolved by investigating the facts and circumstances of the case with the customer and the company. In addition, service provision issues, along with applicable statutes, rules, and tariffs, are reviewed for compliance.

During 2003, the Commission received over 74,000 consumer contacts. (See chart on page 55.) There are a variety of ways consumers may contact the PSC to file complaints or inquire about any regulated utility company:

- ◆ Calling toll-free at 1-800-342-3552;
- ◆ Faxing toll-free at 1-800-511-0809;
- ◆ Mailing inquiries to the Florida Public Service Commission, Division of Consumer Affairs, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850;
- ◆ E-mailing [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us); or
- ◆ Visiting the PSC's Web site at [www.floridapsc.com](http://www.floridapsc.com) and completing an online complaint form.

The PSC tracks consumer cases using a tracking tool known as the Consumer Activity Tracking System (CATS). Consumer cases are classified in one of two categories: Complaints or Information Requests. A Complaint involves a substantial unresolved objection regarding a regulated utility, as it relates to charges, facility operations, or the quality of the services rendered. Complaints require a response and/or a report from the utility during an investigation and/or analysis by PSC staff. An Information Request more often involves providing facts, reference material or other utility related data but does not involve a substantial unresolved objection by a consumer regarding a regulated utility.

During 2003, there were 30,154 complaints logged against utility companies. (See chart on page 55.) Slamming and Cramming continued to generate more complaints to the PSC than any other utility issue. Slamming occurs when there is an unauthorized telephone service change without the consumers' knowledge or consent. Cramming occurs when charges for telephone services are added, or "crammed", onto local telephone bills without the consumers' knowledge or consent. CATS reported 982 and 450 complaints resolved during 2003 as slamming and cramming, respectively.

There were also 28,563 information requests logged by the PSC in 2003. (See chart on page 56.)

A total of 21 utility companies participate in the Telephone Transfer-Connect option, as of December 31, 2003. Under this option, and with the caller's approval, a call to the PSC is directly transferred to the caller's utility. There were 11,347 calls transferred and entered into CATS during 2003.

Refunds, savings and credits to consumers resulting from Commission action totaled \$3,044,440 for the year. (See chart on page 56.)

## Consumer Protection

### TELECOMMUNICATIONS

The telecommunications industry, as it has for several years, continues to undergo rapid change. Innovative technologies, changes in market structures, and changes in demand have all contributed to the industry transformation. Further, the Florida Legislature has opened the local telephone market to competition. All of these factors have caused an increase in the number of telecommunications companies offering services, and the number and types of service offerings in local markets. Where consumers once had to deal with just a local telephone company and a long distance carrier, they now must deal also with such entities as alternative local telephone companies, operator service providers, billing agents, equipment vendors, and private owners of public pay telephones.

With these additional service providers, and in some instances with the emergence of competition, the PSC has come to serve an important role in resolving service quality issues and in implementing policies that promote competition, universal service, and technological advancement. Given the rapidly expanding base of services and service providers in the telecommunications industry, many Florida consumers need additional information to protect their own interests and to make informed decisions regarding their options.

#### **Service Evaluation Program**

The PSC conducts field evaluations of telecommunications services provided by local exchange, interexchange (long distance), and pay telephone companies. This program helps ensure that consumers continue to receive an acceptable level of service and that any service deficiencies are corrected in a timely manner. Electronic test equipment, known as ARONTS, is used during the evaluations. ARONTS is an electronic unit that can be programmed to originate test calls and automatically record the number called, the time of day and call duration. Staff uses the information to verify the accuracy of companies' timing and billing for measured calls.

#### *Local Exchange Companies*

The objectives for evaluating the local exchange companies are to (1) examine each company's performance in meeting the PSC's service standards; (2) review the company's control systems to ensure the accuracy of service quality data provided in periodic reports to the PSC; and (3) determine if previously identified service deficiencies were corrected. Test calls are made to measure each company's performance against the service quality standards. PSC staff initiate test calls from central offices of the companies being evaluated, and business office and repair records are reviewed. In addition, subscriber loops are checked for transmission levels, noise, proper grounding and safety. PSC staff also performs evaluations on repair reports to ensure service is restored within 24 hours, and that customer rebates are issued when service is not restored within the required time frame. Further, installation orders are audited to ensure that new service is installed within three days. Using special equipment available to the hearing and speech impaired, test calls are made to telephone company services and to 911 emergency systems to ensure that access is available to hearing and speech impaired persons.

While most deficiencies discovered are resolved during the evaluation, companies failing to meet the PSC's standards are asked to specify what corrective action will be taken to comply with the applicable standards. Each company's response is then reviewed to ensure proper corrective action has been taken. In addition, the PSC regularly reviews monthly service quality reports from each local exchange company to ensure that service quality standards are being met. The results are posted on the PSC's Web site.

#### *Long Distance Companies*

Long distance test calls are made to determine (1) compliance with rules and tariffs with respect to toll timing and billing accuracy; and (2) whether the calls were rated and billed correctly.

Test calls are made of "1+" direct-dialed calls and "0+" calling card interLATA (LATA is an acronym for "Local Access and Transport Area") calls. Reports of the results are furnished to each provider evaluated. Where standards are not achieved, or where the results are unsatisfactory, the company is asked to confirm the appropriate corrective action to be taken.

#### *Pay Telephone Companies*

Evaluations are performed on pay telephones to determine (1) compliance with the PSC's rate cap on "0+" calls; (2) accessibility to the physically handicapped; (3) access to the caller's preferred long distance company; (4) local directory availability; (5) posting of required information notices; and (6) compliance with other applicable rule requirements.

Test calls to 911 systems, in various counties, are made to ensure that emergency calls are completed to the correct emergency response agency and that pay telephone address information is correct in the 911 system database. Providers are notified of violations and asked to confirm that corrective action will be taken. In addition, test calls are made to test the answer time of county 911 emergency systems. These results are provided to the respective county 911 coordinator and to the Florida Department of Management Services' Division of Communications for follow-up of identified problems.

### **Telecommunications Access System**

The Telecommunications Access System Act (TASA) of 1991 requires the PSC to establish and administer a statewide telecommunications system for hearing and speech impaired persons. The TASA program was developed in response to two needs. The first was the need for permanent funding for the distribution of specialized telecommunications equipment to people who are hearing and/or speech impaired (telecommunication devices for the deaf, volume control telephones, etc.). The second was the need for a telecommunications relay system whereby the cost for access to basic telecommunications services for persons with hearing or speech impairments would be no greater than the amount paid by other telecommunications customers.

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## **E N E R G Y**

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The statutes governing the Florida Public Service Commission's (PSC's) electric and natural gas responsibilities have not materially changed in recent years. Even so, there is an increasing focus on specific consumer concerns as these industries try to address the issue of competition.

As the electric utilities continue to position themselves for the introduction of competition, there are concerns about issues directly affecting the quality and price of safe service to smaller captive, or core retail customers. Positioning for competition includes downsizing and associated cost-cutting measures, the shifting of cost allocations between customers, diversification, mergers, and the increasing business risks for the electric utilities.

In regulating the electric and natural gas industries, the PSC has a statutory obligation to protect the consumer by ensuring safety compliance. The PSC is also responsible for providing assistance in addressing consumers' service quality concerns. The introduction of the issue of competition has placed added emphasis on these aspects of the PSC's regulation of electric and natural gas utilities.

### **Electric Safety**

The PSC is statutorily responsible for electric safety. The Commission, by rule, has adopted the National Electrical Safety Code as the applicable safety standard for transmission and distribution facilities subject to the PSC's safety jurisdiction. In addition, the rule sets requirements for the reporting of accidents, quarterly utility compliance reports, and random PSC inspections of facilities. Electric safety engineers inspect utility electric transmission and distribution construction sites that are randomly selected from utility work orders. Any variances from the National Electrical Safety Code that are found are inspected again to verify that code variances are corrected.

### **Emergency Operations Center**

The Commission is designated as the "Key Response Agency" ("lead agency") for the Department of Community Affairs' (DCA) Emergency Operations Center (EOC) for Emergency Support Function - 12 Energy (ESF-12). In this capacity, the PSC provides 7 day/24 hour staffing of the State Emergency Operations Center during state emergencies. The primary purpose of ESF-12 is coordinating responses to electric and natural gas energy emergencies and providing information and assistance to a variety of federal and state agencies at the EOC. The Commission is also responsible for maintaining contact with electric and natural gas utilities serving the affected areas in order to assess damages and service restoration efforts. The data collected and maintained from these coordination efforts includes such information as the areas affected, number of customers without electrical power or natural gas, transportation fuel, and the estimated restoration time for normal service. This information is used by the EOC to determine the most efficient allocation of resources in response to the regional recovery efforts. As lead agency for ESF-12, with the assistance of the Department of Community Affairs, the Commission is responsible for coordinating transportation fuel shortages and disruptions in areas affected by the emergency.

### **Natural Gas Pipeline Safety**

All natural gas systems receive annual safety compliance evaluations for corrosion control, leak surveys, leak repairs, emergency response, drug testing, employee training and qualification, maintenance and operations, and new construction. PSC staff supports and assists the state's Emergency Operation Center in energy related matters, such as energy security, natural gas explosions, natural disasters, or when any utility related threat is detected that threatens life and property. Regularly this assistance involves supplying expert advice during the emergency and coordinating activities of the gas and electric utilities along with fire, police departments, and other public and private agencies.

The Commission's gas safety staff evaluates natural gas systems, covering thousands of miles of pipeline and customer service lines. These evaluations generally result in the issuance of written notifications of gas safety violations, ranging from failure to repair gas leaks, to failure to odorize natural gas, to not using qualified welders. All violations must be corrected or scheduled for corrective action pursuant to the Commission's enforcement procedures.

### **Conservation Activities for Electric and Natural Gas Utilities**

In 1980, the PSC required Florida's larger electric utilities and natural gas utilities to adopt cost-effective conservation, or demand-side management programs, to meet the requirements of the Florida Energy Efficiency and Conservation Act. Since that time, Florida's utilities have implemented a wide array of programs, primarily targeted at reducing the rate of peak demand and the state's dependence on oil as a generator fuel.

Most utility consumers pay for the costs of conservation programs because all consumers benefit from cost-effective utility conservation programs. The PSC evaluates the cost-effectiveness of all utility-proposed programs to ensure that the savings in avoided power plants, fuel for existing plants, and any wholesale power purchases, exceed the cost of the conservation program. The policy is that electric rates should be lower than what they otherwise would have been, absent the rebate program.

Major electric utilities offer some form of energy conservation education, and free audits, which are mandated by Florida law. Educational programs and announcements provide consumers with basic information on conserving energy and the various energy programs available through the utility. Energy audits provide the cornerstone of energy conservation by helping consumers determine which utility-sponsored conservation programs may be appropriate for their needs. Free audits are available to all classes of consumers - commercial, industrial, and residential. Many utilities will provide more comprehensive audits, for a fee, upon request. Some of the major utilities also educate the construction industry on the Florida Energy Efficiency Code for Building Construction.

A variety of programs are offered by the utilities. Programs for repairs or improvements, including low-cost fix-up, weatherization, heating/air conditioning tune-up, and duct-leak testing are offered, with the utility paying a portion of the costs for repairs or improvements. Investor-owned electric utilities are permitted to recover prudent and reasonable expenses for PSC-approved conservation and demand-side management programs. Actual conservation expenditures over a 12-month period may be recovered through the Energy Conservation Cost Recovery Clause. Since the enactment of the Florida Energy Efficiency and Conservation Act, Florida's investor-owned electric utilities have spent more than \$3 billion on programs designed to help consumers save on their electricity bills.

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## **WATER AND WASTEWATER**

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The Florida Public Service Commission (PSC) has authority for economic regulation of investor-owned water and wastewater utilities operating in the 36 counties that have opted to give such jurisdiction to the PSC. These utilities provide an essential service in a natural monopoly environment. Therefore, rate-of-return regulation is the dominant method of economic oversight used by the PSC.

Costs associated with providing water service have increased as Florida's population growth continues to drive greater demand for water service. In addition, compliance with the federal standards established in the Safe Drinking Water Act and the Clean Water Act, as well as the provision of reclaimed water (reuse), have also increased the costs of providing water and wastewater services to the public. The Florida Department of Environmental Protection (DEP) is the state agency responsible for implementing Safe Water Drinking Act and Clean Water Act standards. The PSC works closely with the DEP to assure that the costs associated with safety and environmental compliance are prudently incurred.

Compared to other utility industries, Florida's water and wastewater utilities generally have smaller customer bases over which costs can be spread. This means the effect of increased costs may be greater for the individual water and wastewater customer than for customers of other utility services.

The PSC has historically tried to soften the impact of higher utility costs by providing regulatory options that add little, if any, financial burdens. In addition, consumer awareness and education programs continue to be important tools in keeping customers aware of the potential effect of water and wastewater proceedings before the PSC. The issues of price and access have been an ongoing PSC concern, as reflected in the programs and activities described in this section.

### **Customer Meetings and Hearings**

PSC staff attend all customer meetings and hearings related to water and wastewater issues and are available to assist consumers and answer questions. A portion of each technical hearing is dedicated to giving consumers an opportunity to comment on the case at hand. For customer meetings, staff gives a presentation to the customers which explains the case filed before the Commission and how the Commission processes the case. In addition, staff holds individual meetings with customers when a more in-depth explanation of the issues is requested. *PSC Special Reports* are prepared to give consumers a factual background on the specific case; they include a pre-addressed mailer to allow consumers to write their comments and return them to the PSC.

### **PSC Noticing Requirements**

In an effort to keep the customer and affected parties informed about water and wastewater activities and provide opportunities for public input, the PSC has extensive notice requirements for the water and wastewater utilities it regulates.

In cases dealing with applications for original transfer of or amendments to certificates of service, a utility must send notice to municipalities, counties, regional planning councils, the Office of Public Counsel, the DEP, water management districts and privately owned water and waste-water facilities within the relevant counties within seven days of filing the request with the PSC. In addition, no sooner than 21 days before the filing, and no later than seven days after the filing, the utility must hand-deliver a copy of the notice to the customers of the system to be served, added, deleted or transferred. There is a 30-day objection period from the date of the notice.

In larger water and wastewater cases and Proposed Agency Action (PAA) proceedings, when filing an application for a case, the utility mails a copy of the application to the chief executive officer of the governing body of each county within the service area. Within 30 days after the official date of filing, the utility places detailed minimum filing requirements, a rate case synopsis, and the petition in its official headquarters and in any utility business office in the service area. The affected municipality and county are mailed the rate case synopsis within 30 days. Within 50 days after the official filing, the utility is required to send an initial customer notice to all customers within the service area, advising them of the filing.

In a PAA proceeding, the utility must provide notice of a customer meeting no fewer than 14 days, and no more than 30 days, before the meeting date. For larger water and wastewater cases, or protested PAA proceedings, the utility must provide a notice of formal hearing no fewer than 14 days, and no more than 30 days, prior to the date of the hearing. Additionally, the utility is required to provide notice in a newspaper of general circulation in its service area, no fewer than 14 days, and no more than 30 days, prior to the hearing date.

In either type of proceeding, after the PSC issues an order denying or granting the rate change request, the company is required to notify the customers no later than the first billing containing any revised rates.

In Staff-Assisted Rate Cases, upon receiving the reports developed by staff, the utility places two copies of the engineering and accounting reports in its business office. The utilities are required to provide notice of customer meetings no fewer than 14 days, and no more than 30 days, prior to the date of the meeting. After the PSC issues an order denying or granting the rate change request, the company is required to notify the customers no later than the first bills containing any revised rates.

## Consumer Education

The Public Service Commission is aware of the importance of public involvement in decisions that affect utility companies and their consumers. Understanding the complex rate structure and services of electricity, natural gas, telephone, and water and wastewater companies regulated by the PSC has grown more difficult in recent years. Public involvement may take several forms, including the receipt of notices of PSC activities, appearance at public meetings, and formal participation in rate cases. Consumers are an important focus of all aspects of the regulatory and competitive process. Consequently, the PSC places a great deal of importance on consumer awareness and education.

The PSC's consumer education program has several operational goals:

- (1) disseminating information about regulatory matters to consumers;
- (2) establishing the PSC's presence and increasing its visibility as a consumer education agent; and
- (3) maintaining an outreach plan for consumers attending PSC hearings and workshops held across the state.

A significant portion of the PSC's consumer education efforts have involved the dissemination of a variety of the Commission's brochures on utility topics and regulation to all of the county libraries in the state of Florida. This program, called Library Outreach, allows information produced by the Commission to reach a large audience on a consistent basis. A library's dwindling supply of brochures is replenished with a phone call to the PSC's Bureau of Consumer Outreach.

The Commission also utilizes the World Wide Web to inform and educate Florida's consumers. The PSC's home page, located at [www.floridapsc.com](http://www.floridapsc.com), is continually being improved to make the site consumer friendly and easier to navigate. Consumers visiting the home page will find a wealth of information about the industries the Commission regulates and about the specific issues before the PSC. Press releases and electronic versions of most PSC publications are among the items available online. In addition, consumers are able to file online complaints and inquiries regarding their utility services via the Web site.

Commission events such as Internal Affairs meetings, Agenda conferences, workshops, and hearings are frequently accessible online as live video and/or audio broadcasts. (To access an event, a consumer must have a computer equipped with a soundboard and speakers. The necessary helper application software may be downloaded from the PSC's Web site.)

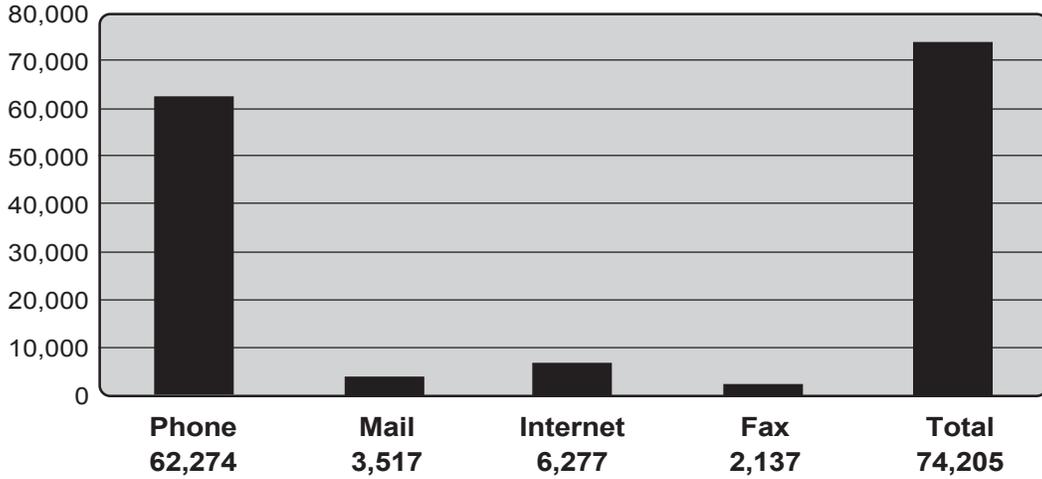
To assist Florida legislators and other government officials whose constituents may be affected by a specific case before the PSC, the Commission produces a report called the Florida Public Service Commission *Bulletin*. The *Bulletin* is designed to provide a case background and to help legislators and other government officials in answering inquiries from their constituents.

PSC Commissioners and/or staff also attend customer hearings and/or meetings held in conjunction with cases. For each hearing or meeting, a *PSC Special Report* is prepared to give customers a factual, historical narrative of the particular case.

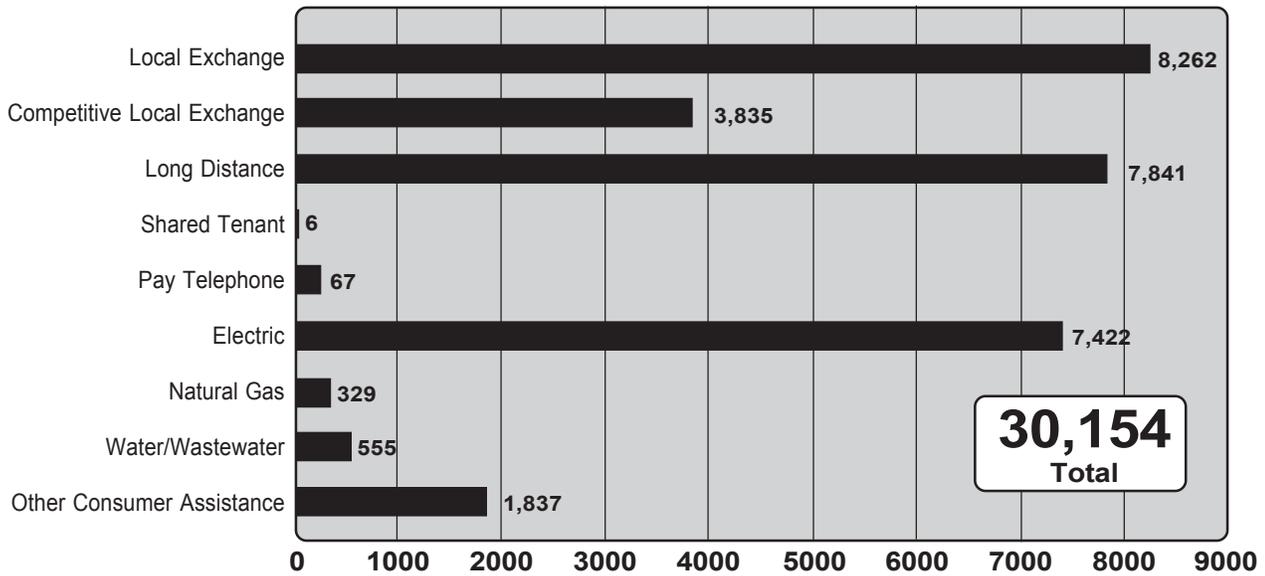
The PSC has produced a number of brochures and flyers designed to help consumers become more knowledgeable about their rights and options as users of utility services. Each brochure is available, upon request, to consumers who contact the PSC and are also available on the Web site. Many are also distributed at PSC hearings and meetings. At such events, PSC employees are available to provide additional information and to answer questions from consumers.

### Total Consumer Contacts

How Consumers Are Reaching the PSC

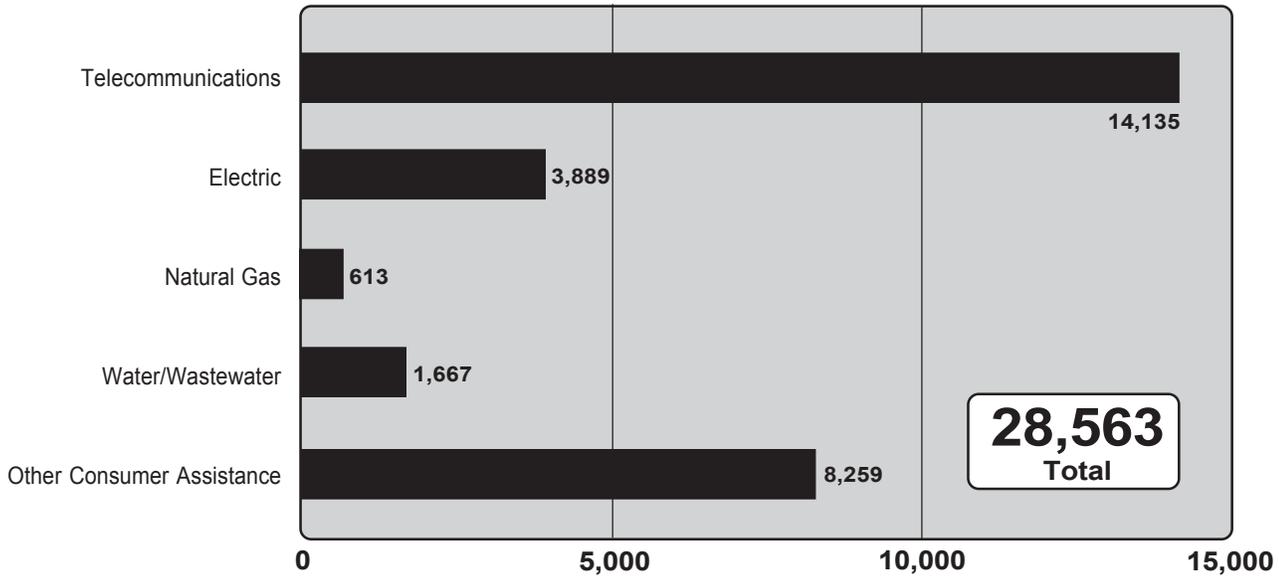


### Complaints Received by Industry



*Note: A complaint involves a substantial unresolved objection regarding a regulated utility, as it relates to charges, facility operations or the quality of the services rendered, the disposal of which requires an investigation and/or analysis by PSC staff.*

### Information Requests Received by Industry



*Note: An Information Request involves providing facts, reference material or other data but does not involve a substantial unresolved objection by a consumer regarding a regulated utility.*

### Savings/Refunds To Consumers by Industry

