



Report of the

STUDY COMMITTEE ON

*Investor-Owned Water
& Wastewater Utility
Systems*

FEBRUARY 15, 2013

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List of Acronyms

AWWA	American Waterworks Association
CCR	Consumer Confidence Report
DEP	Department of Environmental Protection
EPA	United States Environmental Protection Agency
F.A.C.	Florida Administrative Code
FGUA	Florida Governmental Utilities Authority
FRWA or Association	Florida Rural Water Association
F.S.	Florida Statutes
IOU	Investor-Owned Utility
LIMP	Limited Scope Rate Proceeding
MFRs	Minimum Filing Requirements
OPC	Office of Public Counsel
PAB	Private Activity Bond
PSC or Commission	Florida Public Service Commission
SARC	Staff-assisted Rate Case
SRF	State Revolving Fund
Study Committee or Committee	Study Committee on Investor-Owned Water and Wastewater Utility Systems
U&U	Used and Useful

Executive Summary

Chapter 2012-187, Laws of Florida (Legislation), created the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Committee) for the purpose of studying issues and challenges facing investor-owned water and wastewater utilities, particularly small systems, and making recommendations, which include suggesting legislative and agency rule changes, to the Governor, Speaker of the House, and President of the Senate by February 15, 2013.

The Committee approved its final report on February 7, 2013, which is organized into the following sections:

- Section I** provides a brief background about the formation of the Committee.
- Section II** details the process used by the Committee to identify and develop issues required by the Legislation and suggested by Committee members.
- Section III** addresses the five issues required by the Legislation.
- Section IV** addresses the seven issues proposed and considered by Committee members.

The report also includes the following Appendices:

- Appendix I* contains a copy of the Legislation creating the Committee.
- Appendix II* contains a list of the Committee's recommended Legislative Actions.
- Appendix III* contains a list of the Committee's recommended Rulemaking Actions.
- Appendix IV* contains a list of the Committee's recommendations to state agencies and other entities.
- Appendix V* contains written proposals made by Committee members.
- Appendix VI* details public input.
- Appendix VII* contains the approved Minutes of all meetings and a voting tabulation.

The Committee considered and addressed twelve issues. Table ES-1 is attached to this Executive Summary detailing the member's votes on each issue.

Issue 1: Economies of Scale

Controlling costs is essential for all utilities, but particularly for small and intermediate sized investor-owned utilities. The ability to take advantage of quantity discounts for chemicals and other relevant equipment and materials is severely limited for these systems. The Committee recommends that the Department of Management Services initiate rulemaking to allow investor-owned water and wastewater utilities to take advantage of state purchasing arrangements.

The Committee also recommends having the Florida Rural Water Association develop a statewide online exchange/listing of available new and/or used equipment, materials, and supplies available for purchase from other utilities through the Association's website.

Issue 2: Low Interest Loans

One fundamental challenge facing small, investor-owned water and wastewater utilities today is the need to attract capital at a reasonable cost to fund aging infrastructure and comply with increasing water quality standards. Issue 2 addresses the availability of low interest loans to small, investor-owned water and wastewater utilities. The Committee adopted six proposals for increasing access to low interest loans or grants for infrastructure improvements and replacements, three of which are designed to increase the use of the State Revolving Fund, which uses state and federal funds to provide low interest loans and grants. These include allowing Class A investor-owned utilities access to the State Revolving Fund loan program, recommending that Department of Environmental Protection attempt to streamline the process for applying for these loans, and allowing the pass through of a loan service fee related to loans for infrastructure to serve existing customers.

In addition, the Committee encourages a collaboration among the Public Service Commission, other regulatory agencies and industry associations for the purpose of implementing an outreach program to inform utilities of the existence of loan and grant programs, and also recommends legislative action to increase the allocation of private activity bonds for water and wastewater infrastructure improvements. The Committee further recommends that the Legislature encourage the federal government to eliminate the Used & Useful cap and relax the restriction on the exempt private activity bonds for water and wastewater utilities and to allow investor-owned wastewater utilities to be eligible for funding through the wastewater loan program.

Issue 3: Tax Incentives or Exemptions

Small investor-owned water and wastewater utilities are not currently eligible for tax exemptions or tax incentives related to utility expenses and investments, unlike government-owned and not-for-profit utility systems, which are exempt from property taxes, certain sales taxes, and ad valorem taxes. The Committee adopted two proposals to provide tax exemptions to investor-owned water and wastewater utilities, including the extension of ad valorem, property tax, and sales tax exemptions to investor-owned water and wastewater utilities.

Issue 4: Purchase of Existing Systems

Issue 4 addresses the impact on customer rates if a utility purchases an existing water or wastewater utility system. In analyzing this issue, the Committee discussed seven proposals to change current processes, which would involve both statutory and rule changes. After consideration of all seven proposals, the Committee voted to make no changes to the statute or rules governing the transfer of an existing utility to an investor-owned utility.

Issue 5: Resellers

Issue 5 addresses the impact on customers' rates of a utility providing service through the use of a reseller. Reseller utilities are exempt from regulation if they collect from their customers only the cost of the service from the wholesale provider. In an effort to encourage water conservation, the Committee recommends that exempt water resellers be allowed to recover a portion of their metering and billing costs and still retain their exempt status.

Issue 6: Reserve Fund

Affordable, accessible financing is an ongoing issue for the investor-owned water and wastewater industry and is a particularly acute need for smaller systems. The Committee considered three proposals relating to reserve funding for investor-owned water and wastewater utilities. The Committee adopted one proposal, which is to recommend that the Legislature delegate rulemaking authority to the Public Service Commission to establish criteria for approval of a reserve fund account for the purpose of making infrastructure improvements and repairs.

Issue 7: Interim Rates

Issue 7 was proposed as an amendment to Section 367.082, Florida Statutes, to authorize the award of an interim rate increase only after a utility cures all deficiencies in its rate case minimum filing requirements. After considering the proposal, the Committee did not recommend amendment of the statute.

Issue 8: Rate Case Expense

Rate case expense may include legal, engineering, and accounting expenses associated with preparation and processing of a rate case. The Committee considered three proposals related to the issue of rate case expense. The first proposal, which the Committee adopted, would no longer allow rate case expense for consultants and attorneys in the course of staff-assisted rate cases, which are only available to small systems with annual revenue of \$250,000 or less. The Committee recommends statutory change to limit the allowance of consulting and attorneys' fees to only those incurred after the issuance of the initial staff report in a staff-assisted rate case.

The second proposal, to prevent the recovery of rate case expense from more than one case at a time, was approved by the Committee and requires the utility to forfeit any unrecovered rate case expense from a prior case when rates are implemented from a subsequent case. The

third proposal, which is to prohibit recovery of the amount of rate expense that exceeds the increase in revenue, minus rate case expense, was also approved by the Committee.

Finally, in conjunction with this issue, the Committee recommends that the Public Service Commission revise its rate case noticing requirements to inform customers when they are notified of a rate increase of the amount rates will be reduced in four years and provide the rate comparison that appears in the final rate case order.

Issue 9: Quality of Service

In Issue 9, the Committee recommends the establishment of a statutory mechanism by which the Public Service Commission would consider whether a utility meets the secondary water standards and wastewater treatment standards established by the Department of Environmental Protection. The recommendation also requires the Public Service Commission to prescribe penalties for a utility's failure to adequately address the identified quality of service concerns. In addition, the Committee encourages the Department of Environmental Protection and the Public Service Commission to update the existing memorandum of understanding between the agencies to define a procedure in which to share customer complaints regarding water and wastewater secondary quality standards.

Issue 10: Public Service Commission's Used and Useful Rule

Issue 10 was a proposal to consider recommending that the Public Service Commission investigate, and if necessary, initiate rulemaking to amend its Used and Useful rules. However, after discussion and consideration, the Committee determined that it did not have enough information to make a recommendation.

Issue 11: Use of Technology

In Issue 11, the Committee recommends that the Public Service Commission investigate the implementation of a fully electronic, interactive online filing and review process for water and wastewater regulatory activities. The investigation should consider Public Service Commission functions that would be suitable for electronic processing, the technical feasibility of implementation, and the costs and resources necessary to implement such a process.

Issue 12: Public Service Commission's Policies and Procedures

In Issue 12, the Committee explored several ways to improve the Public Service Commission's policies and procedures for the regulation of investor-owned water and wastewater utilities in order to achieve regulatory efficiencies. The Committee recommends a number of measures to increase communications between the Public Service Commission and regulated utilities and between the regulated utilities and their customers. The Committee recommends that the Public Service Commission develop metrics for the evaluation of utility operations, consider changes to improve the minimum filing requirements for rate cases, require utilities to develop long-range planning documents, and investigate the need for revisions to the Class C annual report. Finally, the Committee suggests statutory amendments to expand the list

of eligible items in the current pass-through statute and/or delegate authority to the Public Service Commission to approve additional expenses for pass-through treatment.

In conclusion, the Committee believes the report contains relevant analysis of a number of the issues and challenges facing the investor-owned water and wastewater industry in Florida, as well as possible solutions for consideration by the Legislature, certain state agencies, and industry associations.

Table ES-1
Summary of Votes on Committee Recommendations

Recommendation	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Alan Hays	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smalridge	Ralph Terrero	Tim Thompson	Gary Williams
Issue 1: Economies of Scale															
Include investor-owned water and wastewater utilities as an eligible user in DMS purchasing rules. 11/28/12, PASSED: YES – 12, NO – 0	Y	Y	Y	Y	EXC	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Recommend FRWA develop statewide online exchange of equipment & materials for use by utilities and vendors. 11/28/12, PASSED: YES – 12, NO – 0	Y	Y	Y	Y	EXC	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Issue 2: Low Interest Loans															
Expand the size restriction for IOUs under SRF. 11/28/12, PASSED: YES – 12, NO – 0	Y	Y	Y	Y	EXC	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
No change to minimum SRF loan amount, but recommend DEP investigate streamlining process. 11/28/12, PASSED: YES – 12, NO – 0	Y	Y	Y	Y	EXC	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Amend Section 367.081(4)(b). FS & PSC rules to allow pass-through of loan service fee related to loans for infrastructure to serve existing customers. 1/8/13, PASSED: YES – 12, NO – 0	Y	Y	EXC	Y	Y	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Encourage Congressional action to relax restriction on tax-exempt private activity bonds (PABs) for water & wastewater infrastructure projects. 11/28/12, PASSED: YES – 12, NO – 0	Y	Y	Y	Y	EXC	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Encourage review of allocation of PABs in Florida to increase allocation of water and wastewater projects. 11/28/12, PASSED: YES – 12, NO – 0	Y	Y	Y	Y	EXC	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Encourage Congressional action to allow investor-owned wastewater utilities access to wastewater loan program. 11/28/12, PASSED: YES – 12, NO – 0	Y	Y	Y	Y	EXC	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y

Recommendation	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Alan Hays	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
Issue 3: Tax Exemptions & Incentives															
Recommend constitutional & statutory amendments to allow sales, ad valorem & property tax exemptions for water & wastewater IOUs. 12/5/12, PASSED: YES – 10, NO – 3	Y	Y	Y	Y	N	Y	Y	NA	N	N	EXC	Y	Y	Y	Y
Issue 4: Purchase of Existing Systems															
Recommend no change to statutes governing sale of existing system to IOU after discussing rate impact, acquisition adjustment, customer notification of needed improvements, and preference to local government in sales transactions. 11/1/12, PASSED: YES – 7, NO – 5	Y	Y	Y	N	EXC	Y	N	NA	N	N	EXC	Y	Y	N	Y
Issue 5: Resellers															
Authorize PSC-exempt resellers to charge up to 9% to recover meter reading & billing costs. 11/28/12, PASSED: YES – 9, NO – 3	Y	Y	Y	Y	EXC	Y	Y	NA	Y	N	EXC	N	N	Y	Y
Issue 6: Reserve Funds															
Authorize PSC rulemaking to create infrastructure repair and replacement reserve account. 12/19/12, PASSED: YES – 9, NO – 0	Y	EXC	Y	Y	No vote	Y	Y	NA	Y	Y	EXC	No Vote	Y	EXC	Y
Issue 7: Interim Rates															
Revise Section 367.082, F.S., to allow interim rates only after the rate case application is deemed complete. 1/25/13, DID NOT PASS: YES - 6, NO - 7	N	Y	N	Y	Y	Y	Y	NA	N	Y	EXC	N	N	N	N
Issue 8: Rate Case Expense															
Prohibit recovery of rate case expense in SARCs prior to issuance of PSC staff's preliminary report. 1/25/13, PASSED: YES - 7, NO - 6	N	Y	N	Y	Y	Y	Y	NA	Y	Y	EXC	N	N	N	N
Prohibit recovery of rate case expense for more than one case at a time. 1/25/13, PASSED: YES -7, NO – 6	N	Y	N	Y	Y	Y	Y	NA	Y	Y	EXC	N	N	N	N

Recommendation	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Alan Hays	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smalbridge	Ralph Terrero	Tim Thompson	Gary Williams
Prohibit recovery of rate case expense in excess of approved increase minus rate case expense. 1/25/13, PASSED: YES -7, NO - 6	N	Y	N	Y	Y	Y	Y	NA	Y	Y	EXC	N	N	N	N
Require a 50/50 percent sharing of rate case expense between utility and customers. 1/25/13, DID NOT PASS: YES -4, NO – 9	N	Y	N	N	Y	N	Y	NA	N	Y	EXC	N	N	N	N
Require a sharing of rate case expense between utility and customers of not less than 25% and not more than 75%. 1/25/13, DID NOT PASS: YES -5, NO – 8	N	N	N	Y	Y	Y	Y	NA	N	Y	EXC	N	N	N	N
Recommend PSC revise rate case noticing to inform customers at time of issuance of order on rate increase of pending 4-year rate case expense reduction. 1/25/13, PASSED: YES - 13, NO – 0	Y	Y	Y	Y	Y	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Recommend that rate case expense not be included in a utility's working capital. 1/25/13, DID NOT PASS: YES – 6, NO – 7	N	Y	N	Y	Y	Y	Y	NA	N	Y	EXC	N	N	N	N
Issue 9: Quality of Service															
Recommend statutory revision to establish mechanism in rate case process to consider extent to which a utility meets DEP secondary standards and require PSC rulemaking to prescribe penalties for failure to address quality concerns. 1/25/13, PASSED: YES - 7, NO – 6	N	Y	N	Y	Y	Y	Y	NA	Y	Y	EXC	N	N	N	N
Encourage DEP & PSC to update MOU to share complaints received on secondary quality concerns. 1/25/13, PASSED: YES - 9, NO – 4	N	Y	N	Y	Y	Y	Y	NA	Y	Y	EXC	N	N	Y	Y
Issue 10: PSC Used & Useful Rules															
Make no recommendation regarding PSC's used and useful rules given the lack of information. 1/25/13 – Consensus Voice Vote	CONSENSUS VOICE VOTE														

Recommendation	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Alan Hays	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smalbridge	Ralph Terrero	Tim Thompson	Gary Williams
Issue 11: Use of Technology															
Recommend PSC investigate implementation of fully electronic, interactive online filing and review process. 1/25/13, PASSED: YES - 13, NO - 0	Y	Y	Y	Y	Y	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Issue 12: PSC Policies & Procedures															
Recommend PSC investigate and consider: measures to increase communication with Class C utilities; measures to increase communication between utilities and customers; development of a database of metrics; possible changes to MFRs; standards & benchmarks for evaluation of customer service; requiring long-range plans; and possible changes to Class C annual report. 1/25/13, PASSED: YES - 13, NO - 0	Y	Y	Y	Y	Y	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Recommend PSC initiate rulemaking to require water & wastewater utilities to conduct meetings with customers at least annually. 1/25/13, PASSED: YES - 13, NO - 0	Y	Y	Y	Y	Y	Y	Y	NA	Y	Y	EXC	Y	Y	Y	Y
Recommend statutory amendment to delegate rulemaking authority to PSC to approve additional expenses for pass-through treatment. Can be combined with recommendation to enumerate a limited list of specific expenses for pass-through treatment. 1/31/13, PASSED: YES - 7, NO - 5	No Vote	N	Y	Y	N	Y	N	N	Y	N	EXC	Y	Y	ABS	Y
Recommend statutory amendment to enumerate specific expense items for pass-through treatment & delegate rulemaking authority to PSC to add additional pass-through items. 1/31/13, DID NOT PASS: YES - 6, NO - 6	Y	N	Y	Y	N	No Vote	N	N	N	N	EXC	Y	Y	ABS	Y
Recommend statutory amendments to enumerate a limited list of specific expense items for pass-through treatment. Can be combined with recommendation to grant PSC rulemaking authority to add additional pass-through items. 1/31/13, PASSED: YES - 8, NO - 3	No Vote	N	Y	Y	N	Y	Y	EXC	N	Y	EXC	Y	Y	ABS	Y

Section I: Introduction and Background

Industry Overview

In various areas throughout the State of Florida, water and wastewater services are provided to Floridians through privately-owned and operated water and/or wastewater companies. These privately-owned companies are referred to as “Investor-Owned Utilities,” or “IOUs.” IOUs can range in size from very small systems, owned by individuals as sole proprietorships and serving only a few dozen customers in a small neighborhood, to systems owned by large interstate corporations which serve tens of thousands of customers in multiple Florida counties.

For IOUs operating within a single Florida county, the county has the option to regulate rates and service or allow the Florida Public Service Commission (PSC or Commission) to regulate those utilities.¹ Regardless of whether the county has opted to regulate IOUs, the PSC has jurisdiction over all water and wastewater utility systems whose service transverses county boundaries, except for systems owned and regulated by intergovernmental authorities.² The PSC currently has jurisdiction over water and wastewater IOUs in 36 of 67 counties in Florida.

For regulatory purposes, the PSC classifies a particular IOU into one of three categories based on annual operating revenues:³

Class A – Operating revenues of \$1,000,000 or more

Class B – Operating revenues of \$200,000 or more but less than \$1,000,000

Class C – Operating revenues less than \$200,000⁴

As of 2012, there are 14 Class A utilities, 33 Class B utilities, and 93 Class C utilities under the PSC’s jurisdiction. The remaining population is served either by IOUs in non-jurisdictional counties, by statutorily exempt utilities (such as municipal utilities, cooperatives, and non-profits), by wells and septic tanks, or systems owned, operated, managed, or controlled by governmental authorities.⁵

In September 2011, the PSC conducted an informal staff workshop in Orlando to address challenges facing the water and wastewater industry. Following the informal staff workshop, the PSC conducted a formal agency workshop in Tallahassee on November 3, 2011 to discuss ways

¹ Section 367.171, F.S. If a county chooses to allow regulation by the PSC, it may rescind this choice only after 10 continuous years of PSC regulation.

² *Id.*

³ Rules 25-30.110(4) and 25-30.115, F.A.C. As noted in these rules, this classification system is used by the National Association of Regulatory Utility Commissioners for publishing its system of accounts.

⁴ The annual revenue threshold of less than \$200,000 to determine Class C utilities is defined in PSC rules and is different than the annual revenue threshold to qualify for staff-assisted rate cases pursuant to Section 367.0814, F.S., which is \$250,000.

⁵ Section 367.022(2), F.S.

to increase efficiencies in the water and wastewater industry in order to hold and/or lower rates.⁶ During the course of the workshops, the PSC heard discussion on several potential mechanisms to address these issues, including, but not limited to, the creation of a legislative study commission comprised of legislators, regulators, industry representatives, local government representatives, and customer representatives.⁷ As discussed during the workshops, this proposal required that the study commission submit a report, including specific findings and legislative recommendations, to the Governor and the Legislature.

2. Chapter 2012-187, Laws of Florida

Chapter 2012-187, Laws of Florida, created the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee or Committee). The law was enacted from the Senate's Communications, Energy, and Public Utilities Committee Substitute for Senate Bill 1244. The Committee was established effective July 1, 2012, and terminates June 30, 2013.

As created by the legislation, the Committee is comprised of eighteen members, which includes fifteen voting members and three non-voting members. The three non-voting members are as follows:

- Commissioner Julie I. Brown, Committee Chair representing the PSC
- Mr. Van Hoofnagle, representing the Florida Department of Environmental Protection
- Mr. J.R. Kelly, Public Counsel

The fifteen voting members are as follows:

- State Senator Alan Hays
- State Representative Ray Pilon
- Columbia County Commissioner Scarlet Frisina, Chair of a county commission that regulates IOUs
- Pasco County Commissioner Jack Mariano, representative of a governmental authority created by Chapter 163, F.S.
- Mr. Bobby Lue, Southwest Florida Water Management District, representative of a Water Management District
- Ms. Donna Gregory, representative of a county health department
- Mr. Patrick Flynn and Mr. Tim Thompson, representatives of Class A IOUs

⁶ <http://www.psc.state.fl.us/library/filings/11/07437-11/07437-11.pdf>

⁷ <http://www.psc.state.fl.us/agendas/workshops/Materials.11.03.2011.pdf>

- Mr. Keith Burge, representative of a Class B IOU
- Mr. Michael Smallridge, representative of a Class C IOU
- Mr. Gary Fries, representative of a utility owned or operated by a municipal or county government
- Mr. Keith Goodman, customer of a Class A IOU
- Mr. John Frame, customer of a Class B or C IOU
- Mr. Ralph Terrero, representative of the Florida Section of the American Water Works Association
- Mr. Gary Williams, representative of the Florida Rural Water Association

The Legislation directed the PSC to provide staff, information, assistance, and facilities for the Committee and funding shall come from the PSC Regulatory Trust Fund. The Legislation requires the Committee to submit a report to the Speaker of the House, the President of the Senate, and the Governor by February 15, 2013. The Committee approved its report at its February 7, 2013 meeting.

3. Committee Meetings

Under Subsection 7 of the Legislation the Committee is required to meet at least four times, with two of those meetings to “be held in an area that is centrally located to utility customers who have recently been affected by a significant increase in water or wastewater utility rates.” After appointment of the majority of Committee members, the first meeting was held September 6, 2012, in Tallahassee. There have been 12 meetings of the Committee, either in person or by audio/video teleconference, with the vote on the report occurring on February 7, 2013. All meetings were recorded, publicly noticed, and open to the public for public comment.

Conforming to the Legislation, the Committee held two field meetings, with one being held in New Port Richey and the other in Eustis, Florida. Twenty-four individuals spoke at the New Port Richey meeting, and two individuals spoke at the Eustis meeting. The two Eustis individuals were primarily concerned with rate increases and the amount of rate case expenses occurring, and ultimately passed on to ratepayers. In New Port Richey, the majority of individuals were concerned with the quality of the water they received, and with the high rates they pay for such water.

4. Website

In order to facilitate and promote public comment and participation, transparency and accessibility the Committee established a website, www.floridawaterstudy.com, which hosts a variety of information. The website posts the date, time, location, and agenda of all Committee meetings, prior to the date of each meeting. Further, the website hosts links to audio and video recordings of Committee meetings, the discussion documents for each meeting, including handouts and appendices, and written minutes of each meeting. The website also contains an e-mail link to contact the Committee, as well as an address where written comments can be mailed.

In order to comply with Open Government laws, this website will remain live for the statutory time period necessary to comply with Chapters 119 and 286, F.S.

Section II: Issue Development

In establishing the Committee, the Legislation identifies five specific issues the Committee is required to address in its Report:

1. The ability of a small investor-owned water or wastewater utility to achieve economies of scale when purchasing equipment, commodities, or services.
2. The availability of low interest loans to a small, privately-owned water or wastewater utility.
3. Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility.
4. The impact on customer rates if a utility purchases an existing water or wastewater utility system.
5. The impact on customer rates of a utility providing service through the use of a reseller.

The Committee was also instructed to consider other issues it identified during its investigation.

Committee Chair Julie I. Brown sent a welcoming letter to each member of the Committee on August 16, 2012. The letter informed the members of the first meeting of the Committee to be held September 6, 2012, and provided information regarding the responsibilities of the Committee and other administrative details. The letter also requested input from the Committee members regarding issues they may wish to have considered. The letter requested the suggested issues be provided before the first meeting so they could be included in the meeting materials provided to members at the first meeting. The agenda for the first meeting specifically devoted time to a discussion of issues suggested by the members.

From the discussion of member-suggested issues, the Committee identified several specific topics for additional consideration and research. A compiled and summarized list of issues was distributed to the Committee members for discussion and prioritization at the October 3, 2012 meeting. Chair Brown requested the members of the Committee review the topics and come to the next meeting prepared to recommend up to five topics for further discussion.

Several members raised additional topics for consideration at the October 3, 2012 meeting. After a far ranging discussion the Committee identified several general areas for which it believed further research and discussion were appropriate in addition to the statutorily required issues:

- The establishment of a funding reserve for small water and wastewater utilities to utilize for infrastructure repairs and equipment replacement costs.

- A mechanism for smaller utilities to implement incremental increases based upon the indexing or pass-through automatic rate increases currently authorized by the statute.
- Possible efficiencies, administrative and statutory, that could lower the costs of rate proceedings to small water or wastewater utility systems. The Study Committee members discussed a variety of methods to reduce or avoid rate case expenses.
- Ways to improve the requirements and provide incentives to ensure the delivery of quality water to consumers, including consideration and enforcement of secondary standards established by the DEP. Also included in this topic were ways to effectively measure and provide incentives for improved customer service.
- The impact of the regulatory process on ratepayers, including rate case expense and interim rate requests.
- A review of PSC policies and procedures for possible modification to improve efficiency and flexibility. Investigation of the implementation of an electronic filing and processing system was included in this topic.

The Committee's deliberation of the statutorily identified issues and the issue of reserve funding carried over to the November 1, November 28, December 5, 2012 (Eustis, Florida), and January 8, 2013 meetings.

At the Eustis, Florida meeting, the Committee considered a list of all topics proposed by members. The list is attached as Attachment II-A. The list was distributed to the members on November 28, 2012, and the Chair directed the members to review and prioritize each of the listed items for the Committee's future consideration. Following the public comment portion of the December 5, 2012 meeting in Eustis, Florida, the Committee discussed how best to address the additional issues identified on the list. The Committee determined, given the short time remaining, that it would consider the following six issues:

- Whether the PSC should have authority to grant interim rates in a rate case before the utility has completed its Minimum Filing Requirements for the case. (Issue 7)
- Whether it is appropriate to:
 - grant rate case expense for consulting and legal services in a Staff-assisted rate case (SARC) conducted pursuant to Section 367.0814, F.S.
 - allow recovery of rate case expense for more than one rate case at a time.
 - grant any rate case expense that exceeds the total authorized increase in revenues minus allowed rate case expense. (Issue 8)
- Whether the PSC should be given the authority to determine if a utility is providing satisfactory quality of service based on the utility's compliance with secondary

drinking water standards, including odor, color, and taste; and whether the utility is meeting wastewater operational requirements, including odor and noise. (Issue 9)

- Review and consideration of PSC Used and Useful rules. (Issue 10)
- The use of technology to improve PSC regulatory efficiency. (Issue 11)
- Review of PSC regulatory policies and procedures. (Issue 12)

As identified on the November 28, 2012 list, there were a number of additional issues identified by Committee members and members of the public that the Committee was unable to address due to time limitations. Those issues included:

- Keeping consumers informed of their utility's environmental compliance record.
- Streamlining the Water Management Districts' Consumptive Use Permit process.
- A requirement for performance bonds for certification of new utilities.
- The use of metrics or benchmarks in the rate setting process.
- Examination of ways to improve the abandonment process authorized by Section 367.165, F.S.
- Review of the PSC's depreciation rule. (Rule 25-30.140, Florida Administrative Code)
- Periodic financial and environmental evaluations of investor-owned water and wastewater utility systems.

The above list of issues the Committee was unable to address is not exhaustive but is instead indicative of issues the Committee was asked to prioritize at the December 5, 2012 Eustis meeting. At different times subsequent to the prioritization of issues on December 5, 2012, various members expressed frustration over the time limitations on the Committee and concern that other important issues would not be addressed. Prior to the January 25, 2013 meeting, Commissioner Mariano, a Committee member, also provided draft legislative changes to the Committee, which the Committee was unable to address due to the length of the meeting. The draft legislation is contained as item two in Appendix V.

The remainder of this report is organized by issue in two categories: (1) those issues for which consideration is required by the Legislation, and (2) additional issues the Committee determined to be the highest priority of the issues raised by Committee members and the public.

Remaining Issues Identified by Members

1. Review of PSC policy and procedures:
 - a. Lower cost rate proceedings
 - b. Annual report requirements and review process (usefulness)
 - c. Additional pass-through items
2. Ways to increase efficiencies
3. Using technology to improve the regulatory process
4. Sending environmental compliance reports to customers
5. Streamline consumptive use permitting process
6. Performance bond for new utilities
7. Use of metrics in rate increases
8. Examine abandonment process
9. PSC used and useful rule
10. PSC depreciation rule
11. Periodic financial and environmental evaluations of systems

Section III: Statutory Issues

Issue 1: *The ability of a small investor-owned water or wastewater utility to achieve economies of scale when purchasing equipment, commodities, or services.*

Background

Controlling costs is essential for all water and wastewater utilities but particularly so for small and intermediate size investor-owned utilities (IOUs). If costs are not effectively controlled by small IOUs, customer impact can be significant and utility profitability is compromised. The ability to take advantage of quantity discounts for chemicals and other relevant equipment and materials is severely limited for small and intermediate size utility systems and makes it difficult for these utilities to control costs. The Committee was required by the Legislation to consider this issue, and the Committee's proposed solutions would apply to all investor-owned water and wastewater utilities in Florida, whether regulated by the Public Service Commission or a county.

During the Committee's initial meeting on September 6, 2012, members discussed several possible ways to address the issue of economies of scale. Initial member comments included a suggestion for the establishment of a statewide cooperative purchasing arrangement for IOUs similar to the "State Contract" purchasing available to government entities. Other member comments suggested the Florida Rural Water Association (FRWA) create an Internet-based information exchange for used utility equipment to help investor-owned water and wastewater utilities locate necessary equipment at reduced cost.

The following proposals were considered at the October 18, 2012 meeting:

1. Seek legislative change to permit PSC and county certificated investor-owned water and wastewater utilities to take advantage of state purchasing contracts.
2. Encourage government-owned and large IOUs to permit smaller IOUs to purchase necessary supplies and equipment through the larger utilities to share the benefit of economies of scale in purchasing, and to explore incentives to facilitate such a cooperative outcome.
3. Encourage contract service companies that purchase supplies and equipment in bulk to allow small investor-owned utilities to purchase supplies through the service companies as a way for small utilities to access economies of scale. Explore incentives to facilitate such a cooperative outcome.

At the October 18, 2012 meeting, Committee member Gary Williams, representing the FRWA, noted that the Association had, in the past, attempted to encourage joint purchasing among member utilities in order to gain cost savings. He said due to the uniqueness of individual system needs, brand loyalty, transportation costs, and other factors, very little joint purchasing had been achieved. He also mentioned the Association has an ongoing process, through its website, to list used equipment and materials available for other utilities to purchase.

Another Committee member suggested given the ubiquitous nature of today's technology, renewed effort should be made to increase participation in the Association's online system.

Some members opined that most small systems do not purchase materials and supplies in sufficient quantities to benefit from bulk purchasing, and one member suggested an exemption from state sales tax might be a more effective benefit for holding costs down. Another member agreed that bulk purchasing and using state contracts to make purchases may be good in theory but proximity issues made it unrealistic in many instances. One member also questioned whether state contracts required a threshold amount to qualify. Another member responded that was not the case for all items.

Finally, the Committee considered a proposal to recommend the FRWA develop an online information exchange for the purpose of listing equipment, materials, and supplies available for purchase from other utilities. The proposal was endorsed by Mr. Williams representing the FRWA.

After the Committee voted to approve in concept all three original proposals, legislative language was developed to implement the proposals, if appropriate. In addition, language was developed to address the proposal for an online equipment, materials, and supplies exchange through the FRWA.

Proposal 1 Discussion

At the November 1, 2012 meeting, regarding its investigation of existing rules and statutes, the Committee discussed whether the simplest way to allow investor-owned water and wastewater utilities to take advantage of state purchasing contracts was to include investor-owned water and wastewater utilities as eligible users under existing Department of Management Services (DMS) rules.

Section 287.056(1), Florida Statutes (F.S.), states: "Agencies shall, and eligible users may, purchase commodities and contractual services from purchasing agreements established and state term contracts procured, pursuant to s[ection] 287.057, by the department." Section 287.012(9), F.S., defines the "department" as the Department of Management Services. Section 287.012(11), F.S., defines "eligible user" as "any person or entity authorized by the department pursuant to rule to purchase from state term contracts or to use the online procurement system."

Rule 60A-1.044(1), Florida Administrative Code (F.A.C.), State Term Contracts, states: "State Term Contracts. State term contracts are indefinite quantity contracts competitively procured by the Department pursuant to Section 287.057, F.S., available for use by eligible users." Rule 60A-1.005, F.A.C., states: "Eligible Users. The following entities are eligible users: (1) All governmental agencies, as defined in Section 163.3164, F.S., which have a physical presence within the State of Florida; (2) Any independent, nonprofit college or university that is located within the State of Florida and is accredited by the Southern Association of Colleges and Schools."

The Committee proposal to afford IOUs the opportunity to participate in state contract purchasing arrangements would best be accomplished by amending DMS Rule 60A-1.005, F.A.C., to include IOUs as eligible users under the rule. The Committee considered the following addition to the rule:

(3) Any Public Service Commission or County certificated investor-owned water or wastewater utility located and physically operating in the State of Florida.

At the November 1, 2012 meeting, a member suggested adding language to the proposal that would ensure the use of state contract purchasing be limited to items purchased and used in the State of Florida. The proposal was adopted by the Committee and the proposed rule language was modified to address the members' concerns.

Proposal 1 Decision

By unanimous vote, the Committee adopted the proposal to recommend that the DMS initiate rulemaking to amend Rule 60A-1.005, F.A.C., to include investor-owned water and wastewater utilities as eligible users. Rule 60A-1.005, F.A.C. should be amended to add a new subsection (3) as follows:

(3) Any Public Service Commission or County certificated investor-owned water or wastewater utility located and physically operating in the State of Florida to serve Florida customers.

Subsequent to the Committee decision, a Committee member, representing a Class B utility, requested that, should DMS approve the proposed rule change, PSC staff should conduct a workshop to instruct utilities on the use of state purchasing contracts.

Proposals 2 and 3 Discussion

The Committee also considered additional proposals to allow small IOUs to join government-owned and large IOUs for purchases of materials, equipment, and supplies, as well as a similar proposal to allow small IOUs to purchase materials, equipment, and supplies through contract service companies.

Proposals 2 and 3 were approved in concept by the Committee at the October 18, 2012 meeting. The Committee determined that no statutory or rule changes were necessary to implement the concept of permitting small IOUs to participate in bulk purchasing ventures in conjunction with larger IOUs or government-owned utilities. Since these proposals were very similar, the Committee considered Proposal 2/3, which combined the two proposals and proposed the creation of a working group consisting of members from the industry and related governmental entities to facilitate bulk purchasing cooperation for the benefit of small IOUs.

After discussion at the November 1, 2012 meeting, the Committee considered a proposal to develop a working group to facilitate shared purchasing by government-owned and large

investor-owned water and wastewater utilities and contract service companies servicing water and wastewater utilities. The working group would consist of representatives from the following organizations:

- Florida Rural Waterworks Association (FRWA)
- Florida section of the American Waterworks Association (AWWA)
- Florida Water Environment Association
- Two members from government-owned utilities
- A contract service company
- A Class A utility
- A Class B utility
- A Class C utility
- Department of Environmental Protection (DEP)
- Florida Public Service Commission (PSC)
- Water Management District

As part of the proposal, the working group would establish contacts with large government-owned utilities and IOUs to facilitate their cooperation in the project and to establish a contact list that includes each large utility. The working group could be directed to submit an annual report to the relevant legislative committees by November 1 of each year for a period of three years. The report would provide a status of the efforts of the Committee to achieve the established goals, a list of successful efforts and best practices, and any recommended legislative changes necessary to facilitate the desired outcomes.

Committee members considered Proposals 2/3 at the November 28, 2012 meeting. One Committee member commented that such a group would be an administrative nightmare and expressed opposition to the proposal.

Proposals 2 and 3 Decision

The Committee chose to take no action on Proposals 2/3.

Proposal 4 Discussion

Proposal 4 was put forth by a Committee member during the October 3, 2012 meeting. The proposal was to create an online information exchange that would allow utilities and vendors of utility equipment and supplies to list available new and used equipment and supplies on an online information portal. The member's recommendation was to use the website of the FRWA to list relevant items. The Committee representative of the FRWA expressed support for the proposal.

The Committee determined that no legislative action or rulemaking is required to permit the development of a web-based listing. One Committee member commented that the usefulness of the website would depend on the accuracy of the information available and the ease with which new postings could be made. The Committee member of the FRWA committed to keep the website up to date and it was suggested that PSC staff could lend technical support as necessary.

Proposal 4 Decision

By unanimous vote the Committee adopted Proposal 4 to recommend the FRWA develop a statewide online exchange/listing of available new and/or used materials, equipment, and supplies through the FRWA website on October 18, 2012.

Conclusion

The Committee considered a total of three possible solutions for Issue 1. The Committee chose to take no action on two proposed solutions. The Committee's final recommendations which relate to both PSC and county regulated water and wastewater utilities are:

Proposal 1: The Committee adopts the proposal to recommend the DMS initiate rulemaking to amend Rule 60A-1.005, F.A.C., to include investor-owned water and wastewater utilities as eligible users. Rule 60A-1.005, F.A.C. should be amended to add a new subsection (3) as follows:

(3) Any Public Service Commission or County certificated investor-owned water or wastewater utility located and physically operating in the State of Florida to serve Florida customers.

Proposals 2/3: The Committee took no action on the proposal to form an industry working group to facilitate bulk purchasing efforts between small investor-owned water and wastewater utilities and larger governmental and investor-owned utilities and contract service companies.

Proposal 4: The Committee adopts Proposal 4 to recommend the Florida Rural Water Association develop a statewide online exchange/listing of available new and/or used materials, equipment, and supplies through the Florida Rural Water Association website.

Issue 2: *The availability of low interest loans to a small, privately-owned water or wastewater utility.*

Background

One of the fundamental challenges facing the water and wastewater industry today is the need to attract capital at a reasonable cost to fund aging infrastructure and comply with increasing water quality standards. It is a particularly daunting challenge for small and intermediate size investor-owned utilities (IOUs) which have severely limited options for capital attraction. Access to needed capital at reasonable rates is not only advantageous to utilities but also to customers since it contributes to achieving or maintaining adequate quality of service and reasonable rates.

During the Committee's initial meeting on September 6, 2012, members discussed six proposals for increasing access of IOUs to low interest loans or grants for infrastructure improvements and replacements. Initial member comments included three suggestions designed to increase the use of the State Revolving Fund (SRF), which is administered by Department of Environmental Protection, and uses state and federal funds to provide low interest loans and grants to public and IOU systems for water and wastewater facilities improvements.⁸ Another member suggestion was to create a surcharge mechanism on the customer bills of water and wastewater utilities to be used solely as a source of funding for infrastructure projects. A fifth suggestion was to encourage a collaborative among the PSC, other regulatory agencies, and industry associations to implement an outreach program to educate utilities of the existence of loan and grant programs. A sixth proposal suggested at the initial meeting was to increase the allocation of private activity bonds (PABs) to water and wastewater infrastructure improvements. A PAB is a tax-exempt financing tool which allows private sector investment in public projects, which can include water and wastewater infrastructure improvements. All but one of these proposals (Proposal 3) would affect all investor-owned water and wastewater utilities in Florida, whether regulated by the PSC or a county.

After research on the above options, the following conceptual proposals were considered at the October 18, 2012 meeting:

1. Seek legislative change to Section 403.8532, F.S., to expand the existing restriction of 1,500 or fewer connections for loans to IOUs under the drinking water SRF to a greater number of connections in order to make funding available to a larger number of utilities. Other restrictions may be required to ensure that funds are disbursed to a reasonable cross-section of small and medium-size utilities.
2. Seek legislative change to Section 403.8532, F.S., to decrease the minimum amount of a loan under the drinking water SRF from \$75,000 to some lesser amount.
3. Seek legislative change to Section 367.081(4)(b), F.S., to authorize a pass-through rate adjustment to recover the loan service fee required by Rule 62-552.400, F.A.C.,

⁸ The Committee notes that only the drinking water SRF is open to investor-owned utilities; the wastewater loan program is restricted by federal law to public utilities.

associated with the SRF loan program. Pursuant to the rule, the fee shall not be less than 2 percent of the loan amount nor greater than 4 percent of the loan amount. The pass-through rate adjustment would be removed from rates after the service fee has been recovered.

4. Seek legislative action to create a surcharge applicable to all water and wastewater customers' bills to be used as a source of funding for water and wastewater infrastructure improvements. The funds could be a separate source of funding or combined with the existing funding for the SRF loan programs.
5. Encourage the PSC to work collaboratively with the Florida Rural Water Association and the Florida Section of the American Water Works Association to implement an outreach program directed to its regulated water and wastewater utilities to advise them of the existence of available loan and grant programs, such as the SRF, Small Business Administration loans, and PABs, and the procedures for obtaining such assistance.
6. Seek legislative change to increase the allocation of PABs for the use of water and wastewater infrastructure improvements.
7. During the October 18, 2012 meeting, a member requested that the Committee also explore a means of opening up the wastewater revolving fund program to investor-owned utilities. This proposal was discussed at a later meeting.

Proposal 1 Discussion

As mentioned above, the SRF, which is administered by DEP, uses state and federal appropriations to provide low interest loans for water and wastewater facilities improvements. Only the drinking water SRF is open to investor-owned utilities; the wastewater loan program is restricted by federal law to publicly-owned utilities. SRF loans to investor-owned utilities are currently restricted to no more than 1,500 connections unless the project will result in the consolidation of two or more small water systems. During the October 18, 2012 meeting, members discussed whether this limitation should be increased in order to afford access to these loans to more utilities. Members questioned whether this source of funding should be limited to only small utilities or perhaps should be available to the intermediate sized IOUs. One member requested data on how many small systems have connections greater than the maximum number allowed under the SRF program.

In order to determine whether the current 1,500 connection restriction for SRF loans captures a reasonable number of IOUs, data on the number of customers from the 2011 annual PSC reports was examined. No Class C utility was found to have greater than 1,500 connections.⁹ Thus, all Class C water utilities regulated by the PSC currently have access to the

⁹ Water and wastewater utilities regulated by the PSC are divided into three classes based on annual revenue, not number of connections. These classes are: Class A (those having water or wastewater revenues of \$1,000,000 or more); Class B (those having annual water or wastewater revenues of \$200,000 or more but less than \$1,000,000);

SRF funding program. Based on data from the 2011 annual reports, the number of connections for Class B water utilities ranged from 1,059 to 1,981. Since only five of the approximately 33 Class B utilities had greater than 1,500 connections in 2011, it appears that the SRF loan program is also currently available to most Class B utilities regulated by the PSC.¹⁰ This information was considered by the Committee at the November 28, 2012 meeting.

Proposal 1 Decision

At the November 28, 2012 meeting, the Committee voted unanimously to recommend Section 403.8532, F.S., be amended to expand the size restriction for investor-owned water utilities under the SRF loan program to include Class A utilities. Since all Class C and most of the Class B utilities regulated by the PSC are currently eligible for the SRF loan program, the amendment to Section 403.8532, F.S., would be to clarify that all investor-owned water utilities are eligible for SRF loan funding.

Section 403.8532, F.S., is amended as follows:

403.8532 Drinking water state revolving loan fund; use; rules. -

(3) The department may make, or request that the corporation make, loans, grants, and deposits to community water systems, for-profit privately owned or investor-owned systems, nonprofit transient noncommunity water systems, and nonprofit nontransient noncommunity water systems to assist them in planning, designing, and constructing public water systems, ~~unless such public water systems are for profit privately owned or investor owned systems that regularly serve 1,500 service connections or more within a single certified or franchised area. However, a for profit privately owned or investor owned public water system that regularly serves 1,500 service connections or more within a single certified or franchised area may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems.~~ The department may provide loan guarantees, purchase loan insurance, and refinance local debt through the issue of new loans for projects approved by the department. Public water systems may borrow funds made available pursuant to this section and may pledge any revenues or other adequate security available to them to repay any funds borrowed.

and Class C (those having annual water or wastewater revenues of less than \$200,000.) See Rule 25-30.110(4), F.A.C.

¹⁰ It should be noted that because of time limitations the Committee was unable to obtain data on the size of the investor-owned water utilities in counties not regulated by the PSC, and, therefore, cannot determine whether these findings would hold true in those counties.

Proposal 2 Discussion

Pursuant to Section 403.8532, F.S., the minimum amount of a loan under the drinking water SRF is \$75,000. At the October 18, 2012 meeting, members discussed whether this could be reduced so that small water utilities, which may require less than the minimum amount for needed improvements, are not excluded. One member suggested that the minimum loan amount should be as low as \$25,000-\$30,000 in order to capture the needs of small utilities. The Committee contacted the DEP regarding why this minimum was set at \$75,000.

At the November 28, 2012 meeting, the DEP representative on the Committee advised that a loan amount less than \$75,000 was not considered to be cost-effective for the utility. The federal government requires financial, environmental and planning studies and documentation that could add several thousand dollars to the cost of the loan to the utility. This added amount could negate the advantages of the lower interest rate and other favorable terms offered by the SRF loan program. During the discussion at the meeting, members noted that DEP often assists utilities in managing the SRF loan application process, which could help lower the costs incurred by the utility. Additionally, it was mentioned that the FRWA is helpful in assisting utilities in completing the environmental analysis that is required for each project, which also helps to keep the costs down. Some members noted that, while the SRF loan program might not be cost-effective for loans less than \$75,000, there may be other more viable options for lower loan amounts. One member suggested that the Small Business Administration may be a source of funding for small companies, although it was noted that most utilities may not be aware of this opportunity. It was also noted that a reserve fund could be used to address funding needs less \$75,000. The subject of reserve funds is addressed in Issue 6 of this report.

Proposal 2 Decision

At the November 28, 2012 meeting, the Committee voted unanimously that since it appears it may not be cost-effective for a utility to use the SRF program for a loan of less than \$75,000, no legislative change in the minimum amount of the drinking water SRF loan is warranted. However, the Committee recommends that DEP review the SRF loan process to determine if it can be streamlined.

Proposal 3 Discussion

At the September 6, 2012 meeting, members noted that there is a loan service fee assessed by DEP for a SRF loan. Pursuant to Section 403.8532(13), F.S., the amount of the fee shall not be less than 2 percent nor greater than 4 percent of the loan amount. Currently the fee is set at 2 percent. Members suggested that allowing the pass-through of this fee would enable more small financially-strapped water utilities to take advantage of the SRF loan program, which in turn would benefit the customers of the utility. The Committee voted to pursue this proposal, which would require a revision to Section 367.081(4)(b), F.S., to include this loan service fee in the list of items that PSC-regulated water and wastewater utilities are allowed to pass-through without hearing. An amendment to PSC Rule 25-30.425, F.A.C., to revise the filing requirements to accommodate the statutory change would also be required.

At the November 28, 2012 meeting, three areas of concern were raised: (1) the potential

bill impact on customers of small systems; (2) whether rates should be reduced after the amount of the loan service fee has been recovered; and (3) whether the pass-through provision should be opened up to any loan and not just for the SRF loans.

With regard to the potential bill impact, one member suggested that the statute could be designed to give the PSC some flexibility in determining the length of time in which the utility could be allowed to collect the fee. Another member opined that amortizing the fee over longer than one year would be unfair to the utility. The following table demonstrates the monthly bill impact of the pass through of a loan service fee on systems with 50, 100, and 300 customers.

**Table 2–1
Bill Impact of 2 Percent Loan Service Fee**

Loan Amount	2 Percent Service Fee	Bill Impact with 50 customers	Bill Impact with 100 customers	Bill Impact with 300 customers
\$ 75,000	\$ 1,500	\$ 2.50/month	\$1.25/month	\$.42/month
\$150,000	\$ 3,000	\$ 5.00/month	\$2.50/month	\$.83/month
\$200,000	\$ 4,000	\$ 6.67/month	\$3.34/month	\$1.11/month
\$300,000	\$ 6,000	\$10.00/month	\$5.00/month	\$1.67/month

This table indicates the bill impact would be manageable in most instances, particularly considering the other benefits of a SRF loan, such as the lower interest rates. It was also noted that, based on the historical use of the SRF loans, it is unlikely that a very small system, such as one with 50 customers, would be applying for a SRF loan.

At the November 28, 2012 meeting, the Committee decided to continue pursuing this proposal with two modifications: (1) the statutory language should provide that rates would be reduced after the loan service fee has been recovered; and (2) the pass through should not be limited to SRF loan fees, but include any utility-related loan service fee, which is also referred to as an origination fee.

This proposal was again discussed at the December 5, 2012 meeting in Eustis, Florida. At this meeting, members raised several questions and concerns with the pass through of the loan service or origination fee, including: (1) whether the amount of the pass through of the loan fee should be limited in some way in order to mitigate the impact on ratepayers; (2) how to sufficiently describe the eligible projects for which the underlying loan is incurred; (3) whether the underlying loan associated with the pass through of the service fee should be related to service to existing customers and not for growth; and (4) whether the pass-through of the service fee should only apply to loans which are consistent with the projects contained in a utility’s long-range plan.

With regard to whether the pass through of a loan service fee should be limited in some way in order to mitigate the impact on ratepayers, there was speculation among the members that a utility could incur several loans for which the service fees were passed through at the same time, which could result in a significant increase to ratepayers. Section 367.081(4)(e), F.S.,

provides that a utility may not adjust its rates for an index or pass-through rate increase more than two times in any 12-month period. It therefore appears that this statutory provision is a sufficient safeguard against a utility “pancaking” pass-throughs of loan service fees.

Some members cautioned that since the loan service fee pass-through proposal has been extended to include loans other than SRF loans, the Committee-recommended statutory change must clearly describe the purpose of the underlying loan related to the service fee. The general discussion at the December 5, 2012 (Eustis) meeting was that this pass-through provision should be for fees related to loans for new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal or state rules and regulations relating to the provision of service for existing customers. More information was sought to determine how DEP describes projects eligible for SRF funding. During the discussion at the December 5, 2012 meeting, the Committee member representing DEP elaborated on DEP rules and guidelines defining projects eligible for SRF funding.

After considering the very specific guidelines used by DEP for loan eligibility, it appears the specific eligibility guidelines required by DEP are more appropriately contained in rules rather than the statute. In a rulemaking proceeding, all interested parties can provide input and the impact of all options can be thoroughly analyzed. The proposed statutory language should contain only a general description of eligible projects to which the loan can relate for purposes of recovery of the loan service fee through the statutory pass-through provision. Further, the PSC should be directed to conduct rulemaking to more specifically determine what projects should be eligible for the underlying loan associated with the pass through of the service fee.

Also, at the December 5, 2012 meeting (Eustis), a member suggested that the underlying loans associated with the pass-through of a loan service fee should be tied to a utility’s long-range plan for maintaining and upgrading service to its customers. There was discussion that this would be an appropriate topic for the rulemaking proceeding recommended by the Committee to determine eligible projects for the underlying loan.

Proposal 3 Decision

At the December 19, 2012 meeting, the Committee considered the following draft statutory language based on the discussions at the previous meetings:

Section 367.081(4)(b), F.S., should be amended to add the following:

The approved rates of any utility shall be automatically increased, without hearing, and upon verified notice to the commission 45 days prior to implementation of the increase that the utility has incurred a loan service fee or loan origination fee associated with a loan related to an eligible project as determined by the commission. The commission shall conduct rulemaking to determine eligible projects which shall be limited to projects associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal or state rules and regulations relating to the provision of water or wastewater service for existing customers. Eligible projects

may not include projects primarily intended to serve future growth.

Some members suggested that the reference to compliance with federal or state rules and regulations should be expanded to include those of a local government. It was discussed that local government could have regulations that may be in addition to or exceed the state or federal rules. Some members urged that the underlying loan associated with this pass-through fee should cover costs to comply with the most stringent or limiting regulation. The Committee approved the concept of the pass through of the loan service fee, as amended by the discussion at the December 19, 2012 meeting.

At the January 8, 2013 meeting, the Committee unanimously approved the following statutory language, which incorporates the changes agreed to at the previous meeting:

Section 367.081(4)(b), F.S., should be amended to add the following:

The approved rates of any utility shall be automatically increased, without hearing, and upon verified notice to the commission 45 days prior to implementation of the increase that the utility has incurred a loan service fee or loan origination fee for a loan related to an eligible project as determined by the commission. The commission shall conduct rulemaking to determine eligible projects which shall be limited to projects associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers. Eligible projects may not include projects primarily intended to serve future growth.

Also at the January 8, 2013 meeting, the Committee unanimously voted to recommend that the Legislature direct the PSC to conduct rulemaking to more specifically determine what projects should be eligible for the underlying loan associated with the pass through of the service fee, and include guidance as to the type of projects the Committee believes should be deemed eligible.

The PSC should be directed to conduct rulemaking as follows:

The Legislature should direct the PSC to amend Rule 25-30.425, Florida Administrative Code, to determine eligible projects for which the loan service or origination fee is associated. Such eligible projects should be consistent with the proposed statutory language and should include, but not be limited to, projects which will: (1) facilitate compliance with federal, state, and local governmental primary or secondary drinking water regulations or wastewater treatment regulations; (2) address federal, state, and local governmental primary or secondary health standards that have been exceeded or to prevent future violations of such standards; (3) replace or upgrade aging water and/or wastewater infrastructure if needed to achieve or maintain compliance with federal, state, and local governmental primary or secondary regulations, and (4) be consistent with

the utility's most recent long-range plan on file with the PSC. In addition, the PSC rulemaking should determine the filing requirements associated with the application for a pass-through of the loan service or origination fee.

Proposal 4 Discussion

Subsequent to the identification of this proposal which is to create a surcharge to water and wastewater customers' bills to be used as a source of funding, the Committee decided to address the broader issue of reserve funds as a separate issue. Since this proposal is a subset of the broader issue, the Committee decided at the October 18, 2012 meeting to explore this proposal in the reserve fund issue, which is Issue 6 in this report.

Proposal 5 Discussion

During the September 6 and October 18, 2012 meetings, the members discussed the need to make small investor-owned water and wastewater utilities more aware of the financial assistance that currently exists for needed infrastructure improvements. The FRWA representative stated that in his experience in assisting small utilities, he finds that many of the utility owners are not aware of the opportunities that exist for financial assistance, such as the SRF program and the Small Business Administration. Members also noted that even if they are aware of the sources of funding, they may be intimidated by the process. The Committee unanimously voted to approve a proposal to encourage a collaborative outreach program targeting investor-owned water and wastewater utilities to educate them of the existing opportunities for financial assistance. The members agreed that such a collaborative should include, at a minimum, the PSC, DEP, FRWA, the Florida Section of the American Water Works Association and the Florida Water Environment Association. This proposal does not require legislative or any other governmental action. Rather, it will be up to one or more of the entities involved to initiate the collaborative effort.

Proposal 6 Discussion

In the initial meeting on September 6, 2012, the FRWA representative suggested a need for a concerted effort at the state level to allocate more of the private activity bonds (PABs) to water and wastewater projects. A PAB is a tax-exempt financing tool which allows private sector investment in public projects, which can include water and wastewater infrastructure improvements. The benefits of PABs are interest rates lower than conventional taxable financing, lower delivered cost of service, and a readily available money supply. The federal government allocates the volume cap of PABs to the states, and each state uses its own unique procedure to further allocate PABs to municipalities and projects.

During the October 18, 2012 meeting, members commented that if IOUs had more opportunity to take advantage of the tax-exempt bond financing offered by PABs, it could induce additional needed infrastructure investment. Members suggested that the federal government should be encouraged to increase the volume cap of tax-exempt PABs for investor-owned water and wastewater systems. One member suggested that the Committee recommend that the Florida Legislature consider supporting federal legislation that would increase this volume cap. Another

member suggested that the Committee recommend that the Governor encourage Florida's congressional delegation to support any legislation before Congress to relax the restriction on tax-exempt PABs for water and wastewater infrastructure.

As noted above, after the PABs are allocated from the federal government to the states, each state uses its own unique procedure to further allocate the PABs within the state. In Florida, PABs are administered by the Division of Bond Finance of the State Board of Administration. The laws governing the allocation of PABs within Florida are contained in Sections 159.801–159.816, F.S. Chapter 19A-4, F.A.C., sets forth the rules for the confirmation of PAB limit allocations. According to a study by the American Water Works Association in June 2009,¹¹ Florida has one of the more specific bond allocation procedures of any of the states. Specifically, Florida mandates that:

1. The first \$97.5 million of allocation goes to manufacturing projects.
2. 50 percent of the remaining allocation is distributed among the counties on a per-capita basis, and allocated first come, first served to any permitted purpose (including water and wastewater projects).
3. 25 percent of the remaining allocation is applied to single-family or multi-family housing.
4. 20 percent of the remaining allocation is applied to tourism, trade and economic development.
5. 5 percent of the remaining allocation is held until May 1, and applied to “priority projects,” which include water and wastewater projects.

In general, any unused allocation amounts are provided to the Florida First Business pool, which is used to finance Florida First Business projects certified by the Department of Economic Opportunity.

Given the varied types of worthy projects for which PABs can be utilized in Florida and the very specific and complex allocation procedures, it is difficult to determine how much is currently allocated to water and wastewater projects, or how it could be fairly redistributed, if warranted. One solution is to recommend that the Legislature direct the Division of Bond Finance to review the allocation of PABs in Florida. The specific purpose of this review would be to determine how much is currently allocated to water and wastewater projects, how much of the allocation amounts are unused and reallocated, and whether an additional amount of the initial allocation or reallocation of PABs should be targeted for water and wastewater infrastructure projects.

Proposal 6 Decision

The Committee voted to make two recommendations with regard to this proposal,

¹¹ American Water Works Association, Study on Private Activity Bonds and Water Utilities, June 2009.

including: (1) encourage Congressional action to relax the restriction on tax-exempt PABs for water and wastewater infrastructure projects; and (2) encourage a review of the allocation of PABs in Florida for the purpose of increasing the allocation to water and wastewater projects.

Specifically, by unanimous vote, the Committee approved the following actions with regard to Proposal 6:

The Committee recommends that the Legislature issue a Memorial to Congress, which is a resolution to Congress to encourage certain action be taken. The Memorial would encourage the passage of federal legislation to eliminate the volume cap on PABs for water and wastewater facilities. In addition, the Committee recommends that the Governor encourage Florida's congressional delegation to support legislation before Congress to relax the restriction on tax-exempt PABs for water and wastewater infrastructure.

and

The Committee recommends that the Legislature direct the Division of Bond Finance within the State Board of Administration to review the allocation of PABs in Florida with the specific purpose of determining how much is currently allocated to water and wastewater projects, how much of the allocation amounts are unused and reallocated, and whether an additional amount of the initial allocation or reallocation of PABs should be targeted for water and wastewater infrastructure projects.

Proposal 7 Discussion

As mentioned previously, investor-owned water and wastewater utilities are only eligible for the drinking water SRF loan program. The wastewater loan program is restricted by federal law to publicly-owned utilities. During the October 18, 2012 meeting, a member suggested that the Committee explore how investor-owned utilities can become eligible for the wastewater funding program. Members agreed that since the wastewater loan program is funded by the federal government, it seems appropriate that all federal taxpayers should reap the benefit through qualified projects. It was noted that, under the current scheme, wastewater customers of investor-owned utilities do not gain any benefit from this program since the utility providing their service is ineligible due to its ownership.

Since the wastewater loan program is governed by federal law, a change in that program would require an amendment to the Federal Water Pollution Control Act (Clean Water Act). In order to accomplish a change in federal law, the Legislature could issue a Memorial to Congress which would encourage amendment to the Federal Water Pollution Control Act to allow investor-owned wastewater utilities to be eligible for funding. In addition, the Committee could recommend that the Governor encourage Florida's congressional delegation to support legislation that would allow investor-owned wastewater utilities access to this funding mechanism.

Proposal 7 Decision

At the November 28, 2012 meeting, the Committee voted unanimously to recommend that the Legislature issue a Memorial to Congress to encourage amendment to the Federal Water Pollution Control Act to allow investor-owned wastewater utilities to be eligible for funding through the wastewater loan program. In addition, the Committee recommends that the Governor encourage Florida's congressional delegation to support legislation that would allow investor-owned wastewater utilities access to this funding mechanism.

Conclusion

The Committee considered a total of seven proposals for Issue 2. The Committee's final recommendations, which, except for Proposal 3, apply to both PSC and county regulated water and wastewater utilities are:

Proposal 1: The Committee recommends that the size restriction for investor-owned water utilities under the SRF loan program be eliminated so that all investor-owned water utilities, including Class A utilities, would have access to the SRF loan program. The Committee recommends that:

Section 403.8532, F.S., be amended as follows:

403.8532 Drinking water state revolving loan fund; use; rules. -

(3) The department may make, or request that the corporation make, loans, grants, and deposits to community water systems, for-profit privately owned or investor-owned systems, nonprofit transient noncommunity water systems, and nonprofit nontransient noncommunity water systems to assist them in planning, designing, and constructing public water systems, ~~unless such public water systems are for profit privately owned or investor-owned systems that regularly serve 1,500 service connections or more within a single certified or franchised area. However, a for profit privately owned or investor-owned public water system that regularly serves 1,500 service connections or more within a single certified or franchised area may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems.~~ The department may provide loan guarantees, purchase loan insurance, and refinance local debt through the issue of new loans for projects approved by the department. Public water systems may borrow funds made available pursuant to this section and may pledge any revenues or other adequate security available to them to repay any funds borrowed.

Proposal 2: The Committee took no action on the proposal to reduce the minimum loan amount related to the drinking water State Revolving Fund program. However, the Committee recommends that DEP review the SRF loan program requirements to determine if they can be streamlined.

Proposal 3: The Committee adopts the proposal to allow investor-owned water and wastewater utilities to increase their rates pursuant to the pass-through statute to recover the loan service or origination fee related to loans for new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state and local rules and regulations relating to the provision of water and wastewater service for existing customers. The adoption of this proposal contains both a recommendation for new statutory language and a recommendation for PSC rulemaking to implement the statutory provision. The Committee recommends that:

Section 367.081(4)(b), F.S., should be amended to add the following:

The approved rates of any utility shall be automatically increased, without hearing, and upon verified notice to the commission 45 days prior to implementation of the increase that the utility has incurred a loan service fee or loan origination fee for a loan related to an eligible project as determined by the commission. The commission shall conduct rulemaking to determine eligible projects which shall be limited to projects associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers. Eligible projects may not include projects primarily intended to serve future growth.

In addition, the Committee recommends that the Legislature direct the PSC to amend Rule 25-30.425, F.A.C., to determine eligible projects for which the loan service or origination fee is associated. Such eligible projects should be determined consistent with the proposed statutory language and should include, but not be limited to, projects which will: (1) facilitate compliance with federal, state, and local governmental primary or secondary drinking water regulations or wastewater treatment regulations; (2) address federal, state, and local governmental primary or secondary health standards that have been exceeded or to prevent future violations of such standards; (3) replace or upgrade aging water and/or wastewater infrastructure if needed to achieve or maintain compliance with federal, state, and local governmental primary or secondary regulations; and (4) be consistent with the utility's most recent long-range plan on file with the PSC. In addition, the PSC rulemaking should determine the filing requirements associated with the application for a pass-through of the loan service or origination fee.

Proposal 4: The Committee voted to address the proposal to create a surcharge to water and wastewater customers' bills to be used as a source of funding in Issue 6, which is addressing the broader issue of reserve funds.

Proposal 5: The Committee adopts the proposal to encourage a collaborative outreach program targeting investor-owned water and wastewater utilities to make them more aware of opportunities for financial assistance. Such collaborative should include, at a minimum, the PSC, DEP, Florida Rural Water Association, Florida Section of the American Water Works Association and the Florida Water Environment Association. The Committee notes that this

proposal does not require legislative or any other governmental action.

Proposal 6: The Committee adopts the proposal to increase the allocation of Private Activity Bonds for the use of water and wastewater infrastructure improvements. This proposal involves two recommendations, one involving federal action and the other involving possible changes to state law and administrative rules.

With regard to federal action, the Committee recommends that the Legislature issue a Memorial to Congress to encourage the passage of federal legislation to eliminate the volume cap on Private Activity Bonds for water and wastewater facilities. The Committee also recommends that the Governor encourage Florida's congressional delegation to support federal legislation to relax the restriction on tax-exempt Private Activity Bonds for water and wastewater infrastructure.

With regard to possible changes to Florida law and administrative rules, the Committee recommends that the Legislature direct the Division of Bond Finance within the State Board of Administration to review the allocation of Private Activity Bonds in Florida with the specific purpose of determining how much is currently allocated to water and wastewater projects, how much of the allocation amounts are unused and reallocated, and whether an additional amount of the initial allocation or reallocation of Private Activity Bonds should be targeted for water and wastewater infrastructure projects.

Proposal 7: The Committee adopts the proposal to allow investor-owned wastewater utilities to be eligible for funding through the wastewater loan program. Under this proposal, the Committee recommends that the Legislature issue a Memorial to Congress to encourage amendment to the Federal Water Pollution Control Act which would allow investor-owned wastewater utilities to be eligible for funding through the wastewater loan program. In addition, the Committee recommends that the Governor encourage Florida's congressional delegation to support federal legislation that would allow investor-owned wastewater utilities access to this funding mechanism.

Issue 3: *Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility.*

Background

Currently, small investor-owned water and wastewater utilities do not qualify for any tax exemptions or tax incentives related to utility expenses and investments. Government-owned and not-for-profit utility systems are exempt from property taxes, certain sales taxes, and ad valorem taxes, thus enabling those systems to pass on the savings to consumers through lower rates. Since investor-owned water and wastewater utilities providing services to residential consumers are considered to be public utilities and are typically regulated by counties or by the PSC, it may be appropriate to provide similar tax exemptions and incentives to these entities, in particular to Class C utilities. The Committee was legislatively required to consider this issue, which applies to all investor-owned water and wastewater utilities, whether PSC or county regulated.

Article VII, Section 3, Florida State Constitution, addresses exemptions to ad valorem taxes and tax assessments. Counties and municipalities are exempt from taxes on property used exclusively for municipal or public purposes. Any county or municipality may grant economic development ad valorem tax exemptions to new businesses and for expansion of existing businesses. Ad valorem tax exemptions may also be granted for real property dedicated in perpetuity for conservation purposes. Section 196.2001, F.S., contains the not-for-profit water and sewer utility property tax exemption.

During the issue development discussions members noted IOUs are subject to sales tax, property taxes, and ad valorem taxes that governmental utilities are not subject to or are exempt from. In addition, several members noted that any tax relief would be helpful to small systems. One member observed that a fair playing field in regard to taxes and incentives was something to consider. The member noted investor-owned, for profit utilities are subject to county or PSC regulation.

The following conceptual proposals were considered by the Committee at the October 18, 2012 meeting.

1. Pursue state legislation to extend sales, property, and ad valorem tax exemptions currently available to government-owned and not-for-profit water and wastewater systems to investor-owned systems subject to county or PSC jurisdiction.
2. Pursue a narrower tax exemption policy for investor-owned water and wastewater utilities.

Proposal 1 was approved at the October 18, 2012 meeting with the understanding that research of the revenue impacts of the various tax exemptions would be presented at a later date for the Committee's consideration.

The Committee learned the Department of Revenue was unable to provide estimated impacts of the sales tax exemption proposals since it collects tax revenues from the seller of taxable goods and services and no information is collected from individual customers.

Ad valorem (property) taxes are addressed in the Florida Constitution, Article VII, Sections 2, 3, and 4. Section 2 addresses the tax rate and requires that it must be assessed uniformly within each taxing unit. Any departures from a uniform rate must be in accordance with Section 4, Assessments. Section 3 identifies ad valorem tax exemptions. Property tax payments made by PSC-regulated water and wastewater utilities for 2011, by county, are provided as Table 3-1.

Current exemptions relevant to the Committee include all property owned by a municipality and used exclusively for municipal or public purposes, community and economic development ad valorem exemptions to new businesses and expansions of existing businesses, and real property dedicated in perpetuity for conservation purposes. Some latitude is given to county and municipal governments in the application of community and economic development ad valorem exemptions to new businesses and expansions of existing businesses. A county or municipality must first pass an ordinance which must then be authorized by referendum by the electorate of the county or municipality.

A constitutional amendment is subject to statewide referendum as a necessary first step in order to grant property tax relief to investor-owned water and wastewater utilities.

Proposed constitutional language and supporting statutory language granting ad valorem and property tax exemptions to investor-owned water and wastewater utilities that qualify for staff-assisted rate cases (SARCs) (having revenues less than \$250,000 per year)¹² was provided to the Committee for consideration at the November 28, 2012 meeting, in furtherance of the Committee's consideration of Proposal 1.

Proposed language on extending the sales tax exemption to investor-owned water and wastewater utilities qualifying for SARCs was also provided for consideration at the November 28, 2012 meeting, in furtherance of the Committee's consideration of Proposal 2.

¹² The annual revenue threshold of \$250,000 or less to qualify for a staff-assisted rate case, pursuant to Section 367.0814, F.S., is different from the threshold defining Class C utilities of less than \$200,000 of annual revenue.

Table 3-1
2011 PSC-Regulated Water and Wastewater
Property Tax Payments by County *

<u>County</u>	<u>Property Tax</u>
Baker	\$664
Brevard	\$18,775
Broward	\$73,469
Charlotte	(\$4,445)
Duval	\$5,664
Escambia	\$160,290
Flagler	\$54,682
Franklin	\$14,068
Gadsden	\$116
Glades	\$1,036
Gulf	\$18,854
Highlands	\$48,578
Lake	\$609,552
Lee	\$53,052
Levy	\$1,696
Manatee	\$0
Marion	\$87,261
Martin	\$82,782
Monroe	\$27,000
Okeechobee	\$10,715
Orange	\$109,702
Pasco	\$250,718
Pinellas	\$8,008
Polk	\$136,370
Putnam	\$0
Seminole	\$581,553
St. Johns	\$65,179
Sumter	\$10,914
Volusia	\$14,328
Aqua	\$804,268
Total	\$3,244,848

* Property tax data by county was not available for Aqua Utilities.

Proposal 1 Discussion

The Committee considered draft constitutional amendment language and draft statutory language relating to ad valorem and property tax exemptions for IOUs at the November 28 and December 5, 2012 meetings.

Members questioned whether the proposed language would cover tangible property as well as real property. The point was raised that taxes on tangible property comprise the bulk of the taxes some utilities are required to pay. The Committee determined tangible tax was a subset of ad valorem and property tax and would therefore be exempt under the proposed language. It was noted by one member that there is already a \$25,000 property tax exemption contained in existing Florida Statutes. A member suggested that both the property tax proposal and the sales tax proposal apply to all IOUs, not just those qualifying for SARC's. Another member noted opposition to the property tax exemption based on the inability to determine the impact to local governments.

At the request of a member the Committee deferred action on the proposals to a later meeting to allow absent members to participate.

At the December 5, 2012 meeting in Eustis, Florida, the Committee amended proposals which removed language limiting the application of both property tax and ad valorem tax exemptions to small IOUs qualifying for staff-assistance in changing rates. In addition, the Committee also considered a revised sales tax proposal with similar language removed.

Proposal 1 Decision

At the December 5, 2012 meeting, the Committee voted 10 to 3 to recommend to the Legislature the following constitutional and statutory amendments related to ad valorem and property tax exemptions without additional discussion:

Proposed Constitutional Language for ad valorem, real property tax exemption:

Article VII, Section 3. Taxes: Exemptions.—

(i) There shall be granted an ad valorem tax exemption for real property dedicated to the provision of potable water by a community water system pursuant to Section 403.852(3) and investor-owned wastewater utilities.

Proposed Statutory Language for Property Tax Exemption:

196.200x Investor-owned sewer and/or water company property exemption.—(1) Property of any investor-owned sewer and water company owned or operated by a Florida corporation, shall be exempt from ad valorem taxation, provided the following criteria for exemption are met by the eligible investor-owned sewer and/or water company:

(a) Rates for services rendered by the company are established by the governing board of the county or counties within which the company provides service or by the Public Service Commission, in those counties in which rates are regulated by the commission.

(b) The property of the eligible investor-owned sewer and water company remains dedicated to the provision of public utility services.

Proposal 2 Discussion

Other than the suggestion to remove the restriction that the exemption would only be available to IOUs eligible for staff assistance in changing rates, there was no additional discussion relating to the proposed statutory language regarding a sales tax exemption for IOUs.

Proposal 2 Decision

At the December 5, 2012 meeting in Eustis, Florida, the Committee voted 10 to 3 to recommend to the Legislature the following statutory amendments related to sales tax exemptions without additional discussion:

212.08(7) Miscellaneous exemptions.

(kkk) Investor-owned water and sewer companies. –Sales or leases to an investor owned sewer and/or water company owned or operated by a Florida corporation, are exempt from the tax imposed by this chapter if the sole or primary function of the corporation is to construct, maintain, or operate a water or sewer system in this state.

Conclusion

The Committee considered two proposals to provide tax exemptions to investor-owned water and wastewater utilities. The proposals apply to all IOUs regardless of whether they are regulated by a county or the PSC

Proposal 1: The Committee recommends the following constitutional and statutory amendments related to ad valorem and property tax exemptions:

Proposed Constitutional Language for ad valorem, real property tax exemption:

Article VII, Section 3. Taxes: Exemptions.

(i) There shall be granted an ad valorem tax exemption for real property dedicated to the provision of potable water by a community water system pursuant to Section 403.852(3) and investor-owned wastewater utilities.

Proposed Statutory Language for Property Tax Exemption:

196.200x Investor-owned sewer and/or water company property exemption.—(1) Property of any investor-owned sewer and water company owned or operated by a Florida corporation, shall be exempt from ad valorem taxation, provided the following criteria for exemption are met by the eligible investor-owned sewer and/or water company:

- (a) Rates for services rendered by the company are established by the governing board of the county or counties within which the company provides service or by the Public Service Commission, in those counties in which rates are regulated by the commission.
- (b) The property of the eligible investor-owned sewer and water company remains dedicated to the provision of public utility services.

Proposal 2: The Committee recommends the following statutory amendments related to sales tax exemptions:

Section 212.08(7), F.S., should be amended to add the following:

212.08(7) Miscellaneous exemptions.

(kkk) *Investor-owned water and sewer companies.* –Sales or leases to an investor owned sewer and/or water company owned or operated by a Florida corporation, are exempt from the tax imposed by this chapter if the sole or primary function of the corporation is to construct, maintain, or operate a water or sewer system in this state.

Issue 4: *The impact on customer rates if a utility purchases an existing water or wastewater utility system.*

Background

Pursuant to Section 367.071, F.S., a transfer or sale of an existing water or wastewater system to another utility must be approved by the PSC and found to be in the public interest. PSC Rule 25-30-037, F.A.C., details the filing requirements for approval to transfer an existing system. This rule requires the purchasing utility to demonstrate that it has the financial and technical ability to operate the system and that the purchase is otherwise in the public interest. The rule also requires the purchasing utility to provide a list of any needed improvements or repairs and the approximate cost to accomplish them. These factors are considered by the PSC in determining whether to approve the transfer.

The rates of the system being purchased are not changed in a transfer application case. Rather, rates remain the same until the purchasing system files its next rate case proceeding which would include the purchased system. If the purchasing utility has a form of uniform or banded rate structure, combining the system being acquired with the utility's existing systems in the next rate case proceeding will impact the resulting rates of all customers, especially if improvements to the acquired system are necessary. Thus, the impact on customers' rates of the purchase of an existing system is not known until the purchasing utility's next rate case. This issue, which the Committee was legislatively required to consider, was discussed at the Committee meetings held on October 18 and November 1, 2012. During the discussions, seven proposals were identified by the members, which addressed various aspects of the purchase of a utility system by an investor-owned water or wastewater utility. These proposals only apply to investor-owned water and wastewater utilities regulated by the PSC.

Proposals 1 and 2 Discussion

1. Seek legislative change to Section 367.071, F.S., to specify that a rate impact analysis be considered before approving a transfer of ownership from an existing system to an IOU that currently owns multiple systems with a uniform or banded rate structure. Such rate analysis could be part of the public interest determination already required in the statute.
2. Seek legislation to direct the PSC to initiate rulemaking to amend Rule 25-30.037, F.A.C, to require the purchasing utility to disclose whether the system being purchased would be treated in future rate cases as a stand alone system or combined for ratesetting purposes with its existing systems. If it will be combined for ratesetting purposes, the utility must provide an analysis of the rate impact of the acquisition on the existing customers of the purchasing utility and that of the system being acquired.

Proposals 1 and 2 require the PSC to consider the rate impact of the purchase of a water and wastewater system by an investor-owned system with a uniform or banded rate structure at the time of transfer. This consideration would be one aspect of the PSC's public interest

determination required by Section 367.071, F.S. These proposals would require a rate impact analysis, which would reveal the effect on customers' rates of the purchased utility at the time of transfer rather than waiting until the purchasing utility's next rate case. During the discussion of this issue, one member opined that a rate impact analysis is not germane to the transfer process since rates are not changed at the time of transfer. He advised that there could be economies of scale or efficiencies gained because of the transfer which could reduce or offset the rate impact, and would not be known until the utility's next rate case.

Proposal 3 Discussion

3. Seek legislation to direct the PSC to initiate rulemaking to amend Rule 25-30.371, F.A.C, to codify an acquisition adjustment policy that reflects an appropriate level of sharing of the risk and benefit of the purchase of an existing system among ratepayers and shareholders.

One of the members suggested that another aspect of this issue is the effect of the PSC's acquisition adjustment policy when a PSC-regulated utility purchases another utility, particularly when a larger company is purchasing a small troubled system. In most cases, the purchasing utility is allowed to earn a return on the rate base of the utility system it has purchased, regardless of how much it paid for the system. However, there are circumstances under which the rate base can be adjusted to reflect the purchase price, thus increasing or decreasing rate base. This is called an acquisition adjustment at the time of purchase. A positive acquisition adjustment exists when the purchase price is greater than rate base, and a negative acquisition adjustment exists when the purchase price is less than rate base. A positive acquisition adjustment has the effect of increasing the purchasing utility's rate base in its next rate case proceeding, thus putting upward pressure on customers' rates. A negative acquisition adjustment has the opposite effect.

Pursuant to PSC Rule 25-30.371, F.A.C, a positive acquisition adjustment is not included in rate base absent proof of extraordinary circumstances. Positive acquisition adjustments are extremely rare. The rule also requires that most negative acquisition adjustments be included in rate base, thus putting downward pressure on customers' rates.¹³ One member suggested that when a utility purchases a system which is in poor shape and in need of investment, perhaps the acquisition adjustment policy should reflect more of a sharing of the risk and benefit of the purchase among ratepayers and shareholders.

Proposal 4 Discussion

4. Seek legislative change to Section 367.081, F.S., to authorize the PSC to approve a rate change at the time of transfer of an existing system to a qualified purchasing utility not to exceed 5 percent per year until the rates reach the level of the purchasing utility's rates.

¹³ The effect on rates of the negative acquisition adjustment is reduced over time. Pursuant to the rule, a negative acquisition adjustment is amortized over a period as short as seven years to as long as the remaining life of the assets, depending on the details of the sales transaction.

Another member stated that he viewed the issue more from a financial and operational standpoint. He pointed out that in some cases small utilities do not change their rates for a long period of time, and when the system is sold and a rate case is subsequently filed, the impact on customers' rates can be significant, especially if the purchasing utility has a form of uniform or banded rate structure. The member suggested that in order to lessen the rate shock to the customers, the purchasing utility should be allowed to gradually increase the rates of the purchased system until the utility's next rate case proceeding. He suggested a gradual increase of 5 percent per year, and stressed that this would only apply if the purchasing utility has a uniform or banded rate structure. During the discussion of this proposal, one member commented that 5 percent per year may not be sufficient to cover the cost of improvements needed by a utility and suggested that the percentage increase should be determined on a case-by-case basis. Another member suggested that this proposal may not be applicable very often because most purchasing utilities treat acquisitions on a stand alone basis and do not combine their systems for ratemaking purposes.

Proposals 5 and 6 Discussion

5. Seek legislative change to Section 367.071, F.S., to require the selling utility to enter into good faith negotiations with local governments that own water and/or wastewater facilities before entering into a contract for sale with an IOU. To enforce this statutory change, the PSC should be directed to initiate rulemaking to amend Rule 25-30.037, F.A.C, to require the selling utility to provide a signed statement indicating which local governments it approached regarding the sale of the system and the results of those discussions.
6. Seek legislative change to Section 367.071, F.S., to provide that before a sale of an IOU to another IOU can be approved by the PSC, the local governments affected shall be given the right of first refusal. To accomplish this, Section 367.045, F.S., and Rule 25-30.030, F.A.C, must also be amended to allow local governments that receive notice of the transfer application to notify the parties involved within some period of time that they would like to consider whether to match the sales price contained in the contract. If the local government makes such notification, it shall be given some reasonable time frame to officially make an offer to the selling utility. The time frames should be determined by the PSC through rulemaking.

Some members expressed the opinion that, in many cases, the sale of a small system to a local governmental utility is a better long-run solution for the customers of the small system than a sale to an IOU. Some members asserted that the local governmental utility can often offer lower rates and better service, and, thus, should be given preference in the purchase of water and wastewater utilities in its area. Some members maintained that local governments should be given the right of first refusal in the purchase of these utility systems. Opposition to this concept was expressed by some members, who argued that it would be difficult to implement and could be considered a taking by government. One member added that forced involvement of local governments into the negotiation process would lengthen the entire procedure, which would affect the timing of the sale and perhaps add more costs.

At the request of some members, the Committee considered two proposals that would give preference to local governmental utilities in the purchase of water and wastewater systems. The first proposal would require the selling utility to enter into good faith negotiations with the local governmental utilities before entering into a contract for sale with an IOU. The purchasing utility would be expected to ensure that the seller completed these negotiations as part of its due diligence prior to entering into a contract. In this scenario, negotiations with local governments would take place prior to negotiations with IOUs, thus avoiding possible contractual issues and not delaying the transfer process once an IOU negotiates a purchase.

The second proposal presented to the Committee would allow local governments some finite period of time after the transfer application is filed at the PSC to negotiate with the selling utility. Under this proposal, Section 367.071, F.S., would be amended to add a statement that before a sale of an investor-owned water or wastewater utility to another IOU can be approved by the PSC, the governing bodies in the county or city affected shall be given the right of first refusal. Section 367.045, F.S., currently requires that local governments be notified when an application for transfer of a water or wastewater utility is filed, and Rule 25-30.030, F.A.C, details the contents of the required notice of application. Under these proposals, the statute and rule would be amended to allow local governments that receive notice of the proposed transfer to notify the parties involved within some specified period of time that they would like to consider whether to match the sales price contained in the contract. If they provide such notice, the local government would then be given some additional period of time in which to officially make an offer to at least match the sales price contained in the contract. In this way, the local government would have the right of first refusal, but only be given some specified period of time in which to act, thus minimizing any delay in the ultimate sales transaction.

Proposal 7 Discussion

7. Seek legislation to direct the PSC to initiate rulemaking to amend Rule 25-30.030, F.A.C., to require that the notice of application to the customers of the purchased utility must include the disclosure of any system improvements needed to comply with DEP requirements as well as the approximate cost of the improvements.

During the discussion of this issue, one member questioned how the customers of the utility being purchased were notified of potential changes in ownership and rates, and was informed that the customers are notified of the transfer application at the time of its filing and given a period of time to file a protest to the application. When he was advised that the transfer application currently requires that the purchasing utility disclose any system improvements that are needed to comply with DEP standards and the approximate cost, the member suggested that this information should be provided to customers as well. Therefore, this proposal was to require a change to the PSC's noticing rule (Rule 25-30.030, F.A.C).

Proposal 8 Discussion

8. No change to the current rules and statutes regarding this issue.

One member stated that he believed the transfer process at the PSC is working adequately, and requested a proposal be added to make no changes.

Conclusion

The Committee considered eight proposals for Issue 4, applicable only to those water and wastewater utilities regulated by the PSC, and by a 7 to 5 vote, chose to take no action with regard to the impact on customer rates if a utility purchases an existing water or wastewater system. The eight proposals considered by the Committee include:

Proposal 1: Seek legislative amendment to Section 367.071, F.S., to specify that a rate impact analysis be considered before approving a transfer of ownership from an existing system to an investor-owned utility with a uniform or banded rate structure.

Proposal 2: Direct the PSC to initiate rulemaking to implement the statutory change regarding the requirement for a rate impact analysis in certain transfer cases.

Proposal 3: Direct the PSC to initiate rulemaking to codify an acquisition adjustment policy that reflects an appropriate level of sharing of the risk and benefit of the purchase of an existing system among ratepayers and shareholders.

Proposal 4: Seek legislative amendment to Section 367.081, F.S., to authorize the PSC to approve a rate change at the time of transfer of an existing system to a qualified purchasing utility not to exceed 5 percent per year until the rates reach the level of the purchasing utility's rates.

Proposal 5: Seek legislative amendment to Section 367.071, F.S., to require the selling utility to enter into good faith negotiations with local governments before entering into a contract for sale with an investor-owned utility.

Proposal 6: Seek legislative amendment to Section 367.071, F.S., to provide that before a sale of an investor-owned water or wastewater utility to another investor-owned water or wastewater utility can be approved by the PSC, the local governments in the area shall be given a right of first refusal and a reasonable time frame in which to negotiate a possible purchase by the local government.

Proposal 7: Direct the PSC to initiate rulemaking to require that the notice of application of a sale of an existing water or wastewater system to an investor-owned water or wastewater utility must contain the disclosure of any system improvements needed to comply with DEP requirements as well as the approximate cost of the improvements.

Proposal 8: No change to the current statute or rules regarding the transfer of an existing system to an investor-owned water or wastewater utility.

Issue 5: *The impact on customer rates of a utility providing service through the use of a reseller.*

Background

Reseller utilities are those that obtain water and/or wastewater service from another utility and redistribute that service to end users. The Committee was required by the Legislation to consider the impact on customer rates of service from a reseller utility. There are two types of reseller utilities: (1) utilities that collect from the end users only the cost of the service from the wholesale provider; and (2) utilities that pass-through the cost of the service from the wholesale provider in addition to their own costs. The first category of resellers is exempt from PSC regulation pursuant to Section 367.022(8), F.S., as long as the service is provided at a rate or charge that does not exceed the cost of the service from the wholesale provider. This exemption from regulation only applies to the PSC, and is not applicable to counties which elect to regulate water and wastewater utilities. The second category of reseller is regulated by the PSC.

Reseller utilities that are regulated by the PSC tend to be those utilities with significant investment in distribution and collection lines and other utility equipment, such as mobile home parks and subdivisions. In a rate proceeding, the PSC determines the utility's investment and expenses related to the facilities it owns and operates. The cost of the water and/or wastewater service purchased from a wholesale provider, which is generally a significant portion of the customers' bills, is allowed to be passed through to the customers pursuant to the pass-through provision of Section 367.081(4)(b), F.S. From time to time in rate cases, the PSC receives complaints from customers asserting that they are paying more for the water or wastewater service than are the retail customers of the provider of the wholesale service, which is usually a local governmental utility. The PSC has no jurisdiction over the rates charged by local governmental entities for water or wastewater service, including wholesale service. In some instances, it also could be that the customers of the reseller utility are not residents of the governmental entity providing the wholesale service and, thus, may feel they have no avenue to address their concerns.

At the November 1, 2012 meeting, there was a discussion of several conceptual proposals that would give the PSC varying degrees of jurisdiction over the rate structure or rates of providers of wholesale water or wastewater service to regulated utilities. The Committee decided to make no change to the regulatory status of wholesale providers of water and wastewater service to PSC-regulated utilities.

Resellers that choose to be exempt from PSC regulation are generally those that have very little investment in equipment or lines needed to provide the service, such as apartment complexes, condominium buildings and small master-metered shopping centers. Section 367.022(8), F.S., provides an exemption from regulation for "[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater."

A metered charge for water sends an appropriate price signal to the end user and is a means of discouraging indiscriminant use of a scarce natural resource. However, under the

current Florida statutory exemption, if a reseller wishes to recover from its customers any of the costs associated with metering, it would become regulated and incur the costs of regulation. Thus, the current situation discourages entities from separately charging for water service and thwarts conservation efforts.

During the discussion at the November 1, 2012 meeting, several Committee members expressed an interest in considering how exempt resellers could be allowed to recover metering costs and still retain their exempt status. Some members questioned what recourse customers of an exempt reseller would have if they believed the reseller was adding too much to the water bills for metering costs. While exemptions pursuant to Section 367.022, F.S., are self-executing, meaning that the PSC does not approve such exemptions, the PSC does investigate complaints from customers who question whether the exempt entity actually qualifies for the claimed exemption. The basis for this investigative authority is that if the entity claiming exemption does not qualify for such, then it is a utility subject to PSC regulation and must comply with the requirements of Chapter 367, F.S. In those cases brought to the attention of the Commission, the PSC staff will contact the exempt entity and ask for the data necessary to determine whether it qualifies for the exemption.¹⁴

Proposal 1 Discussion

Further research was conducted to determine ways metering costs could be collected from customers in the case of exempt reseller utilities. The State of Texas allows exempt resellers of water and wastewater service to recover certain costs above the cost of the product from the wholesale provider. Texas has enacted a statutory mechanism whereby owners of multiple use facilities, including manufactured home parks and apartment buildings, which receive water at one master meter and then supply it to their residents or tenants, can recover some costs of metering and billing. Generally, those entities are allowed to purchase water at a master meter, install sub-meters for their users, and bill each sub-user not only for actual water use but add a surcharge, not to exceed 9 percent of each customer's share of the master meter bill, to cover the costs of meter reading and billing.

The Texas Water Code devotes an entire Subchapter¹⁵ to "Submetering And Nonsubmetering For Apartments And Manufactured Home Rental Communities And Other Multiple Use Facilities," which is quite detailed, creating a complete and separate regulatory mechanism for these entities. Of specific interest is Section 13.503(c) of the Texas Water Code, which provides:

- (c) Except as provided by Subsection (c-1), in addition to the charges permitted under Subsection (b), the rules [of the Texas Department of Environmental Quality] shall authorize the owner or manager of a

¹⁴ This process would apply to complaints involving an entity claiming any of the 12 exemptions currently allowed in Section 367.022, F.S., including among others, the current reseller exemption, a landlord providing service solely to its tenants without specific compensation, a nonprofit corporation providing service only to members, and small systems serving 100 or fewer persons.

¹⁵ Texas Water Code, Title 2, Subtitle B, Chapter 13, Subchapter M, Sections §§13.501–§§13.506 (Water, VTCA §§13.501–§§13.506).

manufactured home rental community or apartment house to impose a service charge of not more than nine percent of the costs related to sub-metering allocated to each sub-metered rental or dwelling unit.

Section §291.124 of the Texas Department of Environmental Quality's rules,¹⁶ Charges and Calculations, provides the following:

(d) Calculations for sub-metered utility service. The tenant's sub-metered charges must include the dwelling unit base charge and customer service charge, if applicable, and the gallonage charge and must be calculated each month as follows:

(3) service charge for manufactured home rental community or the owner or manager of apartment house: a manufactured home rental community or apartment house may charge a service charge in an amount not to exceed 9 percent of the tenant's charge for sub-metered water and wastewater service, except

As mentioned above, the Texas Water Code is extremely detailed and creates a special regulatory classification for multiple use facilities. The Committee does not find that such a detailed program is necessary in Florida. However, in order to encourage water conservation, several members did express an interest in pursuing a simple change to Florida law to allow recovery of sub-metering costs for exempt water resellers.

Proposal 1 Decision

As quoted above, Section 367.022(8), F.S., provides that “[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater” is exempt from regulation. The Committee does not believe amendment of this statutory provision is warranted, given its broad application, including, for example, wastewater resellers. Instead, in order to include in Florida law the ability of a water reseller, who provides service solely to tenants or residents of property that the reseller owns, to charge a reasonable amount for meter reading and billing and maintain its exempt status, the Committee voted at the November 28, 2012 meeting, by a 9 to 3 vote, to recommend to the Legislature the following addition to the list of PSC-exempt entities contained in Section 367.022, F.S.:

(9) Any person who resells water service to individually sub-metered residents or tenants of property owned by that person at a price that does not exceed the actual purchase price of the water plus the actual costs of meter reading and billing not to exceed 9 percent.

¹⁶ Title 30, Texas Administrative Code, Chapter 291.

Conclusion

The Committee considered changes to the regulatory requirements for both PSC-regulated resellers and those that are exempt from PSC regulation; these statutory provisions do not affect counties which elect to regulate water and wastewater utilities. With regard to PSC-regulated resellers, the Committee decided to make no change to how the cost of water or wastewater service from the wholesale provider is passed through to the customers.

With regard to exempt reseller utilities, the Committee by a 9 to 3 vote adopts the proposal to allow exempt resellers of water service to charge a reasonable amount to recover the costs of meter reading or billing. The Committee recommends that the Legislature amend Section 367.022, F.S., to add a new subsection (9) as follows:

(9) Any person who resells water service to individually sub-metered residents or tenants of property owned by that person at a price that does not exceed the actual purchase price of the water plus the actual costs of meter reading and billing not to exceed 9 percent.

Section IV: Member Proposed Issues

Issue 6: *The creation of a reserve fund to make low-cost funding accessible to investor-owned water and wastewater utilities for addressing critical infrastructure needs.*

Background

Affordable, accessible financing is an ongoing issue for the water and wastewater industry and is a particularly acute need for smaller systems. Smaller utilities, both those regulated by the Public Service Commission and by counties, have difficulty securing low-cost, long-term financing because the characteristics and track record of the industry make smaller systems more risky in the view of lending institutions. Timing is also an issue, particularly when critical system failures occur and small utilities do not have the cash reserves to address such short-term needs. In addition, regulatory policy frequently does not provide sufficient cash flow to fully service the debt over the term of the loan. The establishment of individual utility reserve funding and/or establishment of a broader statewide reserve fund could reduce borrowing costs and make funding more readily available.

At both the September 6 and October 1, 2012 meetings, the Committee discussed the issue of the availability of low-cost financing for investor-owned water and wastewater utilities. As a subset of that discussion several members expressed the need for some type of reserve fund to provide readily accessible, low-cost funding.

Another Committee member suggested a utility specific reserve be built into each utility's rates to provide funding for addressing emergencies or critical system failures. The member suggested \$10,000 per year for Class C utilities, \$20,000 per year for Class B utilities, and \$30,000 per year for Class A utilities. It was also mentioned that a reserve fund may help to reduce the need for more frequent rate cases, thus reducing the impact of rate case expense.

Mr. Willis, representing PSC staff, responded to a series of member questions on PSC practices as they relate to reserve funds and escrow accounts. He noted the PSC does not currently have statutory authority to provide such reserves for water and wastewater utilities in the rate setting process. He explained that a storm damage reserve fund has been implemented in the electric industry by Commission rule and the recovery of storm related expenses have been approved for water and wastewater utilities in the past, but in the context of a rate case or limited proceeding. He also indicated he believes funded reserves for water and wastewater utilities should be protected in some way to ensure the money will be available when needed. Mr. Willis stated that the PSC frequently establishes escrow funds for planned investments. Finally, he observed the electric industry is more stable as to ownership and longevity than the water and wastewater industry. One member noted that the water and wastewater industry is as susceptible to storm damage as other utility industries.

A member inquired about the amount of regulatory assessment fee applicable to water and wastewater utilities and whether a certain portion of those fees could be set aside for utilities to access when needed. Mr. Willis responded that the current regulatory assessment fee for the water and wastewater industry is set at 4.5 percent. Mr. Willis pointed out the PSC is funded through the regulatory assessment fees and the current assessment barely covers the costs of

existing regulation. Taking a portion of that assessment to put to another purpose would require reducing regulatory staff and programs.

A member of the public, Mr. Frank Reams, also suggested the Committee consider a reserve fund similar to the Universal Service Fund used to promote universal telecommunications access. The Universal Service Fund is funded by a contribution from all telecommunications customers on their monthly bill. Mr. Reams suggested that a similar approach could be taken to establishing a statewide water/wastewater reserve fund to address infrastructure needs. A member of the Committee also suggested this concept for the Committee to consider. Based on the discussion at the October 1, 2012 meeting, the Committee considered the following conceptual proposals at the November 1, 2012 meeting.

1. Seek legislative authority to permit the PSC and counties that regulate investor-owned water and wastewater utilities to establish an infrastructure repair and replacement reserve for each individual utility that would be funded via a portion of the utility's rates. The fund would be secured either through an escrow account or through a letter of credit and would be available to the utility only with the approval of the PSC or PSC staff. Funding levels would be determined on a case-by-case basis by the PSC.
2. Seek legislative authority to levy an incremental assessment on each water and wastewater customer each month through their monthly bill. The assessment shall be structured as either a per thousand gallon assessment or as a flat monthly assessment. The assessments shall be submitted to a fund administrator who will establish procedures and rules to administer low-cost loans to qualifying utilities.

Proposal 1 Discussion

At the November 1, 2012 meeting the members considered conceptual Proposals 1 and 2. One member asked how a master-meter scenario would be handled for assessment purposes and observed that a gallonage-based surcharge might be more just than a flat-rate mechanism. The Committee was informed that a flat monthly rate would be easier to apply for master-metered circumstances. One member suggested that once the PSC authorized the creation of a reserve fund for a utility, the PSC staff should then have the authority to approve withdrawals from the reserve fund upon submission of appropriate documentation from the affected utility. Another member suggested removing counties from Proposal 1 since not all counties would be interested in such a mechanism. Another member commented that in counties which have elected to regulate investor-owned water and wastewater utilities, it should be up to the county to determine whether an individual IOU would qualify for a reserve account, and added, it should be up to the county to administer the account.

Pursuant to Section 367.171(8), Florida Statutes, counties electing to regulate investor-owned water and wastewater utilities must set rates and charges in accordance with Section 367.081, paragraphs (1), (2), (3), and (6), F.S. The Committee was advised the statute permits

the establishment of a reserve fund account for water and wastewater companies under paragraph (1). The PSC could establish rules establishing the eligibility and administrative criteria for a reserve fund account. Each county regulating investor-owned water and wastewater utilities could also, pursuant to Section 367.081(1), F.S., establish a method to create a reserve fund account for individual utilities under its jurisdiction.

At the November 28, 2012 meeting, the Committee considered modified proposals which incorporate some of the comments and suggestions raised by the members at the November 1, 2012 meeting. Specific reference to county participation was removed from Proposal 1. The removal of county references would not exclude counties from the ability to establish reserve fund accounts for investor-owned water and wastewater utilities, but recognizes existing statutes can be interpreted to allow counties that option. Language was added to require the PSC to conduct rulemaking to address the criteria under which a reserve fund account can be established, the options available to utilities to secure the funds, and the criteria authorizing PSC staff to approve use of the reserve funds without having to obtain further Commission approval.

Proposal 1 (modified)

Recommend PSC rulemaking to permit the establishment of an infrastructure repair and replacement reserve account for individual water and/or wastewater utilities that would be funded by a portion of the utility's rates. The PSC rulemaking should address the conditions under which a reserve account would be approved, the magnitude of the account for each utility, options for securing the account, the criteria for allowing PSC staff authorization of account withdrawals, and any other necessary administrative details.

A member inquired about how a reserve fund account as proposed differed from what is currently done for the electric industry. Mr. Willis, PSC staff, informed the Committee that the fuel clause for energy, for example, is a three-year process including projected fuel costs for a three-year period that are trued-up annually. He went on to say he envisioned the reserve fund account would be handled differently. In his view, the PSC would approve the creation of the account and the utility would secure the funds in a manner approved by the PSC. The utility would then be allowed to access the funds when specified projects arose. Mr. Willis also said the utility would be expected to account for the money collected in its Annual Report to the Commission and also noted collections would be considered utility revenue and therefore, subject to Regulatory Assessment Fees.

Mr. Kelly, the Public Counsel and a nonvoting Committee member, opined that the PSC currently does not have statutory authority to conduct rulemaking to establish a reserve fund account. Mr. Kelly distributed a list of concerns and safeguards he thought would be necessary in order for the OPC to support a reserve fund account (Attachment IV.6-A). The list of concerns included: (1) the need for a long-term capital improvement and investment plan; (2) the account be limited to funding only significant capital projects to provide major refurbishment or replacement of aging water and wastewater infrastructure; (3) there should be some Commission or Commission staff review and approval before funds are spent; and (4) whether the account should be limited to Class B and C utilities only and whether the utility's rate of

return should be adjusted to reflect the lower risk associated with the funding mechanism. Additional concerns are enumerated in Attachment IV.6-A.

Other members noted they expected savings associated with a reserve account for large capital projects as identified in the utility's long-range plan and that borrowing costs could be avoided in some situations. Members also suggested it may be possible to avoid rate cases by being proactive in capital improvements rather than reactive as is currently the case. Other members concurred and one member further emphasized the need for a five-year capital improvement and investment plan requirement. Several members supported a utility specific, self-funded mechanism, and one member also supported OPC's proposals to protect the ratepayers.

The Committee discussed the best way to proceed and whether it would be appropriate to approve i.e. modified Proposal 1 with the proviso that if, after further research, it was determined legislation was required to permit PSC rulemaking on a reserve fund account then legislation would be proposed.. The Committee determined it would be best to consider statutory language to permit the PSC to conduct rulemaking on a reserve fund account for water and wastewater utilities.

One member questioned whether more detail relating to suggested rulemaking was necessary. The Committee Chair suggested the details of the rule would best be considered in PSC rulemaking, and the PSC's rulemaking process was discussed.

One member opined that the proposal presented an excellent opportunity to address the issues of capital availability and aging infrastructure and an opportunity to communicate these needs to the Legislature in a transparent, efficient, cost-effective manner that improves quality of service to customers. Another member suggested the proposal should require the PSC to determine whether the utility's proposed investment plan was really the best solution and that the utility should be required to have a capital improvement plan in place. The OPC representative requested the Chair to encourage the PSC to conduct at least one rulemaking workshop at a central location in the state to allow affected utilities and customers to easily attend.

The Committee voted to amend modified Proposal 1 to include statutory language to enable the PSC to initiate rulemaking to determine the appropriate parameters under which it would approve a reserve account for individual water and wastewater utilities.

At the December 19, 2012 meeting, the Committee considered proposed statutory language to enable the PSC to pursue rulemaking to establish by rule the circumstances under which it would permit and approve a reserve account for investor-owned water and wastewater utilities. The proposed language appears as Attachment IV.6-B.

One member inquired whether a utility would be permitted to borrow against the future accumulation of funds in a reserve account. The Committee determined the decision would be up to the specific lending institution. Another member opined that rulemaking would be the appropriate venue to address the question of borrowing against a reserve account.

Other concerns raised by the members included the length of time an account would accumulate, whether the mechanism would be sufficient to assist small Class C utilities, and whether the utility requesting the reserve account would be required to have a long-term capital improvement plan in place in order to establish a reserve account. In addition, the OPC's Committee representative requested the list of concerns OPC had previously provided relating to this issue be included in the report (Attachment IV.6-A). Several members responded that many of the concerns and implementation details would be appropriately addressed in the recommended rulemaking proposal.

A newly appointed Committee member asked whether the Committee had considered the proposal put forth by Mr. Reams, a member of the public, and was told that the concept had been proposed and discussed extensively at prior meetings and the Committee had ultimately decided not to pursue it. Analysis of the proposal is discussed under Proposal 2.

Proposal 1 Decision

After a unanimous vote, the Committee approved modified Proposal 1 to seek statutory authority to require the PSC to initiate rulemaking to permit the establishment of an infrastructure repair and replacement reserve account for individual water and/or wastewater utilities that would be funded by a portion of the utility's rates. The PSC rulemaking shall consider the conditions under which a reserve account would be approved, the magnitude of the account for each utility, options for securing the account, the criteria for allowing PSC staff authorization of account withdrawals, and any other necessary administrative details. Proposed statutory language appears in Attachment IV.6-B.

Proposal 2 Discussion

During the November 1, 2012 meeting discussion of Proposal 1, a member noted that DEP, as the current State Revolving Fund administrator, would be well positioned to administer a statewide loan fund. The Committee representative from DEP committed to researching whether that would be feasible. Other member comments and suggestions included placing a cap on the fund, using a portion of sales taxes paid by investor-owned water and wastewater utilities to create a fund, and including appropriate safeguards to ensure the funds were used for the intended purpose. One member commented that Proposal 2 seemed like a tax to which the member was opposed. Another member suggested utilities be required to put forward a 5-, 10-, or 20-year plan as the basis for a self-funded reserve. Another member favored a utility specific, self-funded mechanism as the preferred approach and other members concurred. One member commented that the focus of the proposal should remain on small IOUs. The Committee expressed the desire to consider further adjustments to Proposal 2 for the November 28, 2012 meeting.

The Committee considered modifications made to original Proposal 2 including the designation of DEP as the fund administrator, addition of a maximum amount to be collected over a five-year period, and limiting funding available only to those IOUs eligible for staff assistance pursuant to Section 367.0814(1), F.S., (annual revenues of less than \$250,000).

At the November 28, 2012 meeting, Committee members expressed concerns regarding the collection of funds from customers of utilities that would not have access to the funds. One member characterized the funding mechanism as a tax and opposed it on that basis. Another member thought it unfair to collect from all utilities and limit the benefits to only a few. The member who had suggested pursuing the proposal withdrew the proposal from further consideration.

Proposal 2 Decision

Proposal 2 was withdrawn from further consideration.

Proposal 3 Discussion

Based on a member suggestion, Proposal 3 was developed to recommend the Legislature set aside a portion of sales tax or general revenue to fund a revolving fund that would be available to small IOUs. The proposal designates DEP as the fund administrator and the proposal contains a cap on the fund.

The Committee member suggested an alternate proposal clarified that the proposal was to use sales tax revenue paid by IOUs as funding for a loan program. One member opined it was not a good time to be proposing new uses for tax revenues and another member suggested that the issue be dropped since Proposal 1 adequately covers the original purpose.

The Committee voted 11 to 1 to withdraw the proposal from further consideration.

Conclusion

The Committee considered three proposals relating to reserve funding for water and wastewater utilities. As presented for final vote, all three proposals would apply to both PSC and county-regulated water and wastewater utilities. The Committee approved one proposal, one proposal was withdrawn by the proposing member, and the Committee voted to withdraw a third proposal.

Proposal 1: The Committee recommends the following statutory amendment to grant rulemaking authority to the PSC to determine the conditions under which it would approve a reserve fund account for a water and/or wastewater utility:

Subsection (2)(c) is added to section 367.081, Florida Statutes, to read:

367.081 Rates; procedure for fixing and changing.

(c) In establishing rates for a utility, the commission may authorize creation of a utility reserve fund. The commission shall adopt rules to govern such a fund, including, but not limited to, expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for commission authorization prior to disbursements from the reserve fund.

Subsection 367.0814(3), Florida Statutes, shall be amended to read:

367.0814 Staff assistance in changing rates and charges; interim rates.-

(3) The provisions of s. 367.081(1), (2)(a), 2(c), and (3) shall apply in determining the utility's rates and charges.

Proposal 2: Proposal 2 was withdrawn from further consideration by the proposing member.

Proposal 3: The Committee voted to withdraw Proposal 3 from further consideration.

**OPC Suggested Considerations
Issue 6, Modified Option 1
Infrastructure Repair and Replacement Surcharge
Florida Water Study Committee**

1. To create a new regulatory policy to authorize a utility to collect a surcharge for major refurbishment and replacement of aging water or wastewater infrastructure that is over and above the revenue requirement currently authorized by Section 367.081, F.S., requires an amendment to the Florida Statutes.
2. Normal annual repairs of water or wastewater infrastructure should be funded from the revenue requirement currently being collected from the utility's ratepayers. This reserve account should be limited to funding only significant capital projects to provide major refurbishment or replacement of aging water and wastewater infrastructure.
3. Because these funds are paid in advance by ratepayers, the Utility Plant in Service constructed with the funds from this reserve account should be offset by Contributions In Aid of Construction (CIAC).
4. Should there be a long term capital improvement plan before establishing a surcharge?
 - a. How long should the plan cover, i.e. 5 years, 10 years, 20 years?
 - b. What additional information and documentation should be required to request a surcharge?
 - c. Should there be a periodic review (i.e. every 5 years) of a utility's long-range infrastructure plan before a surcharge can be continued?
5. Should the statute and implementing rule(s) limit the infrastructure improvements that can be funded through the surcharge? Limitations may include:
 - a. major refurbishment or replacement of existing distribution and collection infrastructure that have
 - i. reached the end of its useful life, or
 - ii. are negatively impacting water quality or reliability of service;
 - b. relocation of facilities as a result of government actions, if capital costs are not eligible for reimbursement;
 - c. capital projects on used and useful water and wastewater infrastructure projects that do not increase revenues by connecting new customers; or
 - d. limitations by NARUC account numbers.

6. Should there be some type of staff or Commission approval before the utility spends money from the reserve account?
 - a. Should there be a point of entry for customers to participate in the approval and review process?
 - b. Should there be staff review that the surcharge has been spent in accordance with the approval?
7. Should this surcharge be limited to Class B and C utilities?
8. Should there be a cap on the percentage increase over current rates?
9. Should there be any pre-qualifications to ask for a surcharge? For instance:
 - a. water loss or infiltration exceeds 10 percent,
 - b. pipes over 30 years old,
 - c. affidavit by an engineer that infrastructure should be replaced, etc.
10. If infrastructure improvements are made, should rates be reduced to reflect reductions in operating costs?
11. Should the utility be required to file an annual report regarding
 - a. amounts collected in the past calendar year,
 - b. amounts spent in the last calendar year, and
 - c. the planned infrastructure activity for the upcoming calendar year?
12. If a surcharge is imposed, this may result in risk being shifted away from investors to customers. Should there be a corresponding reduction in the authorized return for the utility?

Proposed Statutory Language to Permit PSC Rulemaking for Reserve Fund

Subsection (2)(c) is added to section 367.081, Florida Statutes, to read:

367.081 Rates; procedure for fixing and changing.-

(c) In establishing rates for a utility, the commission may authorize creation of a utility reserve fund. The commission shall adopt rules to govern such a fund, including, but not limited to, expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for commission authorization prior to disbursements from the reserve fund.

Subsection 367.0814(3), Florida Statutes, shall be amended to read:

367.0814 Staff assistance in changing rates and charges; interim rates.-

(3) The provisions of s. 367.081(1), (2)(a), 2(c), and (3) shall apply in determining the utility's rates and charges.

Issue 7: Interim Rates.

Background

At the November 1, 2012 meeting, the Public Counsel, Mr. J.R. Kelly suggested three topics for the Committee's study, including rate case expense, quality of service, and interim rates. The full text of Mr. Kelly's three proposals is contained in Appendix V. At the December 5, 2012 meeting in Eustis, Florida, the Committee voted to consider all three issues suggested by Mr. Kelly. The first of Mr. Kelly's suggestions is that the Committee consider changing the PSC's authority to award interim rate increases in water and wastewater rate cases processed pursuant to Section 367.081, F.S. Specifically, Mr. Kelly does not believe the PSC should be authorized to award interim rates while deficiencies exist in a utility's rate case Minimum Filing Requirements (MFRs). Mr. Kelly proposes that the Committee recommend Section 367.082, F.S., be amended to prohibit the award of interim rates prior to the utility curing all MFR deficiencies and the establishment of an official date of filing (which starts the statutory "clock" for completion of the rate proceeding). This proposal only applies to investor-owned water and wastewater utilities regulated by the PSC.

In its interim rate proposal, Mr. Kelly notes that Section 367.021(9), F.S., defines the "official date of filing" to mean the date upon which it has been determined that the utility has filed with the PSC's clerk the MFRs as established by PSC rule. The process for the "determination of official date of filing" is set forth in Section 367.083, F.S. Mr. Kelly suggests that the PSC should not be authorized to award an interim rate increase until and unless the utility files its completed set of MFRs as set forth in the PSC's rules and Section 367.083, F.S. Mr. Kelly specifically proposes the Committee recommend that the Legislature amend Section 367.082(2)(a), F.S., to specify the PSC may only authorize collection of an interim rate increase after the PSC has established an official date of filing pursuant to Section 367.083, F.S.

Mr. Kelly's Interim Rate Proposal:

Section 367.082(2)(a), F.S., shall be amended to read:

(2)(a) In a proceeding for an interim increase in rates, the commission shall authorize, within 60 days of the official date of filing, the collection of rates sufficient to earn the minimum of the range of rate of return calculated in accordance with subparagraph (5)(b)2. The difference between the interim rates and the previously authorized rates shall be collected under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the commission.

Proposal 1 Discussion

At the November 1, 2012 meeting, Mr. Kelly elaborated on his concern with the current interim rate statute: if MFRs are deficient, it is impossible to truly know whether the utility should be awarded interim rates. Mr. Kelly suggested that it is possible that the PSC's staff analysis of the need for an interim rate increase could be flawed due to the lack of required

information, including billing determinants, Used and Useful percentages, and other valid test year data which is necessary for the calculation of the utility's earnings. Mr. Kelly also suggested that prior to 2004, the PSC required completed MFRs prior to the award of interim rates. In 2004, the PSC's then general counsel determined that Section 367.082, F.S., required granting interim rates within 60 days of filing for a rate increase, not within 60 days of the establishment of the official date of filing.¹⁷ Mr. Kelly concludes that the statute should be amended to reflect the practice before 2004, and that this is fair to the utility since the utility has control over the time frame of a rate increase filing.

One member noted that a prompt grant of interim rates protects the utility's opportunity to recover its investment, while a delay erodes that opportunity, and that customers are protected since interim rates must be refunded with interest if it is determined they are not warranted. Another member indicated that if it took him more time to collect MFR data, he would be forced to hire help in preparing the MFRs, which could increase rate case expense, since in his company, he has to do everything, from preparing the MFRs to fixing broken water lines, which may keep him from following an intended schedule.

Mr. Kelly stated that a utility should not file for a rate increase unless it is ready. MFRs are established by rule and are not a "moving target," so the utility does not have to guess at what will be required. Mr. Kelly stated he understood the need for interim rates, but his proposal is directed at utilities that file for a rate increase and ask for interim rates, are notified of deficiencies in the filing, and then delay correcting those deficiencies when it is the utility that did not comply with the rules to begin with.

Another member indicated he is not comfortable with awarding interim rates until they have been shown to be necessary, and that if the utility cannot get its paperwork together, taxpayer time and money should not be spent. In response, it was pointed out that MFRs are not trivial and are extremely comprehensive and complicated to prepare.

Mr. Willis of the PSC's staff indicated that in order to make its prima facie case, the utility must submit adequate financial data, or it will not be awarded interim rates. He informed the Committee that full rate case MFRs include engineering, billing, rate structures and other data, in addition to the financial data necessary to determine whether the utility is earning within its authorized range. Mr. Willis stated that deficiencies in MFRs must be corrected within 30 days, and while it sometimes takes longer, he would not want to increase the rate case expense borne by customers by requiring more information than was truly needed. A member responded that if rules were in place, the rules should be followed, but a problem with the rules should be fixed.

At the January 8, 2013 meeting, Mr. Kelly reiterated that interim rates should not be awarded prior to a utility filing its completed MFRs. Mr. Kelly stated that in the majority of cases over the past several years, utilities are collecting interim rates prior to the filing of a complete set of MFRs; he believes this is unfair to the ratepayers, who have to bear the expense of interim rates while the utility waits to file the required documents. Mr. Kelly's office

¹⁷ The Commission's general counsel based this determination on a comparison of the statutory language in Chapter 367, F.S., with Chapter 366, F.S., (electric and gas) language.

provided a table of rate cases filed at the PSC over the past five years, detailing, by utility, the number of days the MFRs were deficient and whether interim rates were awarded. This table is attached as Attachment IV.7-A

One member stated that he did not agree with Mr. Kelly's proposal, because a utility could submit its MFRs, and depending on how the PSC staff felt, there might be a need for additional information and a back-and-forth. He did not see the need to wait for the establishment of an official filing date prior to the award of interim rates, since no two agencies or staff members work the same and the interim rates collected would be subject to refund with interest.

Another member commented that utilities appear to be submitting what information they can, and he agreed that the utility should submit what is needed to determine the need for interim rate relief. He noted that utilities are attempting to prepare filings internally in order to save money and was concerned that by telling a utility that it had to file correct MFRs, changing the statute would be an incentive to hire consultants up front, which would increase rate case expense. The Committee member believes this could serve as a deterrent to the filing of a rate case, and that utilities would delay in filing for rate increases, which is one of the problems the Committee is attempting to address.

A Committee member reiterated a previous concern, that if a utility cannot accurately complete its paperwork, it should not get increased rates. He agreed that the Committee wants to ensure utilities collect appropriate rates, but according to the table submitted by Mr. Kelly's office, 19 of 20 cases filed by one company were deficient, and if the utility could get it right once, it could do so in the other 19 cases. He believes utilities should be run like businesses, and if the MFR rules need to be changed, that should be done in another forum, and not by the Committee. He reiterated his concern that if there is a problem with the rules, such that the MFRs are too stringent or too hard, then that problem should be addressed, but while the rules are in place, they should be followed.

In reply, a member stated that the completion of MFRs was not easy, and no two situations are the same. He stated that a small utility owner usually does not have all the answers that PSC staff wants, even in SARCs, and the PSC staff always comes back with deficiencies. Sometimes he has the answers but sometimes he does not, and it takes time to develop the information that staff wants.

Mr. Kelly's interim rates proposal was again considered at the January 25, 2013 meeting. The Committee learned that customers were notified of the imposition of interim rates due to the requirement that utilities must provide notice to their customers before the interim rates become effective. In response to a question from another member, Mr. Willis of the PSC staff indicated that it is not unusual for some portion of an interim rate increase to be refunded, at least in part, at the conclusion of the full rate case. Another member stated that under the current statutory process, interim rates do not harm consumers, since they are refundable with interest, but Mr. Kelly's proposal would harm the utility by delaying the collection of needed revenues.

Proposal 1 Decision

At the January 25, 2013 meeting, the motion was made to approve Mr. Kelly's interim rates proposal without modification. The motion failed 7 to 6 and was defeated. Therefore, the Committee does not approve Mr. Kelly's interim rates proposal, and does not recommend any amendments to Section 367.082(2)(a), F.S.

Conclusion

The Committee does not approve the proposal by Mr. Kelly to change the current Interim Rates statute to authorize the award of interim rates only after a utility completes its Minimum Filing Requirements and is given an official date of filing. No legislative action is recommended.

OPC Interim Rates Proposal Table of File and Suspend Rate Cases MFR Deficiencies and Correction Dates				
Company Name	Docket	MFR Filing Date	Deficiencies Completed	Days Deficient
Tierra Verde Utilities, Inc.	060255	5/15/2006	8/22/2006	99
Mid-County Services, Inc.	060254	5/11/2006	8/22/2006	103
Cypress Lakes Utilities, Inc.	060257	5/15/2006	8/22/2006	99
Sanlando Utilities Corp.	060258	5/15/2006	8/22/2006	99
Utilities, Inc. of Florida	060253	10/2/2006	12/7/2006	66
Lake Placid Utilities, Inc.	060260	5/15/2006	8/22/2006	99
Alafaya Utilities, Inc.	060256	5/15/2006	8/22/2006	99
Utilities, Inc. of Pennbrooke	060261	5/15/2006	8/22/2006	99
Gold Coast Utility Corp.	060246	8/18/2006	11/3/2006	77
Utilities, Inc. of Sandalhaven	060285	5/15/2006	8/22/2006	99
Miles Grant Water and Sewer Company	070695	2/29/2008	4/28/2008	59
Wedgfield Utilities, Inc.	070694	3/31/2008	5/30/2008	60
K W Resort Utilities Corp.	070293	8/3/2007	9/19/2007	47
Lake Utility Services, Inc.	070693	2/18/2008	5/7/2008	79
Utilities, Inc. of Eagle Ridge	080247	8/22/2008	11/10/2008	80
Tierra Verde Utilities, Inc.	080248	8/27/2008	11/26/2008	91
Mid-County Services, Inc.	080250	8/22/2008	11/17/2008	87
Aqua Utilities of Florida, Inc.	080121	5/22/2008	8/28/2008	98
Labrador Utilities, Inc.	080249	8/28/2008	12/4/2008	98

Company Name	Docket	MFR Filing Date	Deficiencies Completed	Days Deficient
Southlake Utilities, Inc.	080597	12/11/2008	2/11/2009	62
Placid Lakes Utilities, Inc	080353	10/15/2008	12/5/2008	51
Peoples Water Service Company	080695	5/20/2009	7/2/2009	43
Ni Florida LLC (Pasco)	090182	7/21/2009	9/24/2009	65
Utilities, Inc. of Pennbrooke	090392	9/28/2009	11/18/2009	51
Utilities, Inc. of Longwood	090381	9/29/2009	11/13/2009	45
Sanlando Utilities Corp.	090402	9/30/2009	12/4/2009	65
Utilities, Inc of Florida	090462	2/1/2010	3/5/2010	32
Water Management Services, Inc.	100104	5/25/2010	5/25/2010	0
Ni Florida, LLC (Lee)	100149	6/22/2010	7/28/2010	36
C.F.A.T. H2O, Inc.	100126	9/27/2010	2/25/2011	151
Lighthouse Utilities Company, Inc.	100128	9/1/2010	2/21/2011	173
Tradewinds Utilities, Inc.	100127	9/27/2010	3/31/2011	185
Lake Utility Services, Inc.	100426	12/27/2010	2/18/2011	53
Utilities, Inc. of Eagle Ridge	110153	6/24/2011	6/24/2011	0
Aqua Utilities of Florida, Inc.	100330	9/1/2010	10/14/2010	43
Labrador Utilities, Inc.	110264	9/27/2011	10/31/2011	34
Sunshine Utilities of Central Florida, Inc.	100048	6/1/2011	1/5/2012	218
Water Management Services, Inc.	110200	11/7/2011	2/17/2012	102
Utilities, Inc. of Pennbrooke	120037	3/29/2012	5/9/2012	41
Sanlando Utilities Corp.	110257	10/31/2011	12/22/2011	52

Issue 8: Rate Case Expense.

Issue 8 was raised by the OPC. Mr. Kelly, the Public Counsel and a nonvoting member of the Committee, presented three statutory proposals addressing rate case expense to the Committee. Consideration of the proposals was supported by several other Committee members as worthy of investigation by the Committee. At the December 5, 2012 meeting (Eustis, Florida) the Committee determined that the issue of rate case expense would be addressed. These three proposals only apply to water and wastewater utilities regulated by Public Service Commission (PSC).

Background

Rate case expense is that expense incurred by an investor-owned utility, in the context of a rate case, directly attributable to the utility's preparation and prosecution of the case. Rate case expense may include legal, engineering, and accounting expenses associated with preparation and processing of the case, including such matters as preparation of MFRs, preparation and filing of testimony and other relevant materials, and presentation of sworn testimony. As with any expenses submitted in a rate case proceeding, the Commission reviews the submitted expenses for reasonableness and prudence.

Pursuant to Section 367.0816, Florida Statutes, prudent rate case expense is apportioned for recovery over a period of four years. At the end of the four-year period rates must be reduced to account for the fact that allowed rate case expense has been fully recovered. In recent years, some utilities have increased the frequency of rate case proceedings as industry costs have continued to rise. In some cases, when rate proceedings have been more frequent than four-year intervals, rate case expense amortizations overlap, meaning the customers of those utilities are paying rate case expense for two cases at the same time.

The impact of rate case expense on customer bills varies from case to case and is often negligible on a customer's monthly bill. Another case from 2007, however, resulted in rate case expense of more than \$4.00 per month on average for water customers and more than \$5.00 per month on average for wastewater customers.¹⁸ One case approved by the Commission in December 2010, resulted in approximately \$40,000 in rate case expense.¹⁹ This resulted in an additional fixed charge of \$0.94 plus an additional gallonage charge of \$0.38 per 1,000 gallons for water and an additional fixed charge of \$1.22 plus an additional gallonage charge of \$0.49 per 1,000 gallons (with a 6,000 gallon cap) for wastewater. Rate case expense in this case increased customer bills by approximately \$4 per month for water and \$4 per month for wastewater.

¹⁸ Docket No. 050499-WS, Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc., Order No. PSC-07-0287-PAA-WS, issued April 3, 2007; and Order No. PSC-07-0528-AS-WS, issued June 26, 2007.

¹⁹ Docket No. 090531-WS, Application for staff-assisted rate case in Highlands County by Lake Placid Utilities, Inc., Order No. PSC-11-0015-PAA-WS, issued January 5, 2011.

OPC Presentation to the Committee November 1, 2012

At the November 1, 2012 meeting, Mr. Steve Reilly, OPC staff attorney, addressed the committee on a number of issues including rate case expense, interim rates, and quality of service standards and enforcement. Mr. Reilly suggested that rate case expense for consultants should not be permitted in SARCs. Since the PSC conducts the audit, inspects the utility premises, prepares the analysis, and determines the level of the increase, OPC believes that this rate case expense should not be allowed in SARCs. Mr. Reilly recalled in some recent cases the utility hired legal counsel which drove up rate case expense. Mr. Reilly believed the resulting rate case expense was unnecessary. He also commented that OPC participation in SARCs has been rare.

Mr. Reilly also noted that the frequency of rate cases has increased for some utilities and created situations where customers are paying rate case expense related to two cases at one time, sometimes referred to as “stacking” or “pancaking.” The Office of Public Counsel believes this is an inappropriate outcome and should not be permitted. Furthermore, disallowing unrecovered rate case expense from a prior case would send the signal the utility should not file for rate cases sooner than every four years. He further noted that other rate increase options existed, including index and pass-through increases, and limited scope rate proceedings (LIMPs).

Finally, Mr. Reilly also expressed concerns that rate case expense has occasionally been out of proportion to the amount of increase that the utility was granted in the case. This will result in a rate increase related to rate case expense and not to utility related investment or operation and maintenance expense. He suggested that a good way to address the issue would be to limit the amount of rate case expense to no more than the amount of the recommended increase in revenue requirement, thereby presuming that rate case expense in excess of the recommended increase in revenue requirement is “unreasonable.”

Mr. Reilly provided the following conceptual proposals for rate case expense in a written handout provided to the Committee:

Rate Case Expense

Section 367.081(7), F.S., provides that the Commission shall determine the reasonableness of rate case expenses to be awarded to a utility that files a petition for a rate increase. Section 367.0816, F.S., provides that the amount of rate case expense determined by the Commission shall be apportioned for recovery over a period of 4 years. Section 367.0814, F.S., provides the Commission may establish rules to allow a water or wastewater utility whose gross annual revenues are under \$250,000 to request and obtain staff assistance for the purpose of changing its rates or charges; i.e., in filing a petition for a rate increase. These are commonly referred to as staff-assisted rate cases.

Proposal 1: As a general rule, the Commission should not award rate case expenses for attorney or consultant fees in staff-assisted rate cases. However, if in the course of processing a SARC, the Commission staff requires the

assistance of an outside consultant, the reasonable cost of the consultant's services should be recoverable from ratepayers as rate case expense.

Proposal 2: In a proceeding under Section 367.081, F.S., ("file and suspend" rate case) or Section 367.0814, F.S., (staff-assisted rate case), the revenue requirement approved by the Commission should only include the four-year amortization of the rate case expense in the instant case. Any unamortized rate case expense associated with an earlier rate case filing should be discontinued. This limitation should not apply to rate case expense associated with limited proceedings, filed pursuant to Section 367.0822, F.S.

Proposal 3: In no event should an award of rate case expense exceed the total rate increase approved by the Commission (not including any rate case expense) in a "file and suspend" rate case filed pursuant to Section 367.081, F.S.

During the Committee's discussions following the presentation, it was noted that the utility is not permitted to protest the Commission order in a SARC and therefore should be entitled to secure whatever consultants it believes necessary to protect its interests. Another member noted OPC was present at the Commission agenda in each of his company's last three SARCs and another member stated OPC had participated in some of his company's SARCs.

One member commented that it was very frustrating to customers that they had to bear the cost of attorneys for utilities seeking to raise their rates and also expressed frustration at the amount of attorney related expenses.

Another member expressed opposition to the proposal on the issue of pancaking because the water and wastewater industry is one of increasing costs and unpredictable compliance issues often arise, requiring the utility to request increases sooner than every four years. The member further noted many expensive items could not be passed through and that limited proceedings were not time limited, nor were interim rates available through LIMPs. The member concluded that these factors serve as negative incentives for the utility to request a limited proceeding. Other members voiced similar concerns, including the potential severe impacts pending approval of Environmental Protection Agency (EPA) and DEP rules on Numeric Nutrient Criteria requirements.

A member asked whether services of other professionals besides attorneys were permitted in rate case expense under Proposal 1. Mr. Reilly responded that consultants for accounting and engineering services were often used in rate cases and the cost of such services could be included in rate case expense. Mr. Reilly noted the intent was to allow such expenditures when PSC staff requests dictated that a consultant be involved. He reiterated the proposal was primarily directed at the use of attorneys.

At the December 5, 2012 meeting in Eustis, Florida, two members of the public, Mr. Roger Sperling and Mr. George Auger, expressed concern regarding rate case expense. Mr. Sperling suggested that the Commission practice of allowing profit on rate case expense

incentivizes the utility to spend freely on rate case expense. Mr. Sperling suggested eliminating profit on rate case cost, disallowing rate case expense in proportion to other disallowed costs, and establishing penalties for intentionally deceiving the Commission in rate case filings. Mr. Sperling provided written comments relating to rate case expense which are included in Appendix VI, Public Input.

Mr. Auger also commented regarding rate case expense. He reiterated the concerns of Mr. Sperling and also expressed concern regarding “pancaking” rate case expense. He suggested that rate case expense should be borne entirely by the utility since it provides no benefit to customers. He also suggested eliminating “pancaking,” splitting rate case expense between customers and shareholders, and accounting separately for approved and non-approved rate case expense. Mr. Auger’s written comments are included in Appendix VI, Public Input. It is Commission practice to include a portion of rate case expense in the utility’s working capital allowance; the Commission allows a return on working capital in the utility’s rates.

OPC provided preliminary statutory language relating to each of the topics presented by Mr. Reilly on November 1, 2012. OPC also presented analysis of past Commission cases showing rate case expense for SARCs and cases where rate case expense exceeded the revenue increase granted to the utility. The analyses are presented in Table 8-1 and Table 8-2. On January 3, 2013, Mr. Reilly provided an updated version of the proposed statutory language. OPC’s proposed language for rate case expense is included as Attachment IV.8-A.

**Table 8-1
SARC Historical Rate Case Expense**

SARC Historical Rate Case Expense					
		W/WW	Total	Annual	
Name	Docket #	# of Customers	Rate Case Exp.	Amortiz	Rev Incr w/o RCE Amort
Orangewood Lakes Services	070680	223/190	\$ 2,377	\$ 594	\$ 99,677
CWS Communities	080715	290	\$ 676	\$ 169	\$ 15,263
Damon Utilities	080709	278	\$ 2,137	\$ 534	\$ 22,897
Fairmount Utilities	080668	442	\$ 2,248	\$ 562	\$ 27,896
Hidden Valley SPE/ Orange Lake Utilities	080714	248/242	\$ 3,448	\$ 862	\$ 97,779
Keen Sales, Rentals & Utilities	090072	114	\$ 691	\$ 173	\$ 57,759
Neighborhood Utilities	090060	429	\$ 3,056	\$ 764	\$ 65,253
TLP Water	090244	53	\$ 601	\$ 150	\$ 9,754
Camachee Island Company	090230	92	\$ 4,080	\$ 1,020 (a)	\$ 68,342
Brendenwood Water System	090346	58	\$ 337	\$ 84	\$ 8,906
Mobile Manor Water Co.	090170	313	\$ 1,528	\$ 382	\$ 12,153
Alturas	090477	622	\$ 1,498	\$ 375	\$ 11,100
Palm Valley Utilities	090447	793	\$ 2,555	\$ 639	\$ 249,717
Pinecrest Ranches	090414	152	\$ 806	\$ 201	\$ 6,737
Lake Placid Utilities	090531	122/192	\$ 39,943	\$ 9,986 (b)	\$ 15,258
Commercial Utilities	100326	43	\$ 3,449	\$ 862	\$ 43,207
Tymer Creek Utilities, Incorporated	100359	449/420	\$ 9,634	\$ 2,409 (c)	\$ 127,576
S & L Utilities, Inc.	100471	76	\$ 328	\$ 82	\$ 2,915
Heather Hills Estates Utilities, Inc.	100472	354/354	\$ 2,795	\$ 699	\$ 21,510
Greenlefe Resort Utility, Inc.	110141	1,254/1,210	\$ 12,326	\$ 3,082 (d)	\$ 108,294
Utility Corporation of Florida, Inc.	110165	317	\$ 1,533	\$ 383	\$ 29,852
Useppa Island Utilities Co., Inc.	110260	144/138	\$ 1,612	\$ 403	\$ 29,030
Regency Utilities, Inc	110282	138/125	\$ 10,478	\$ 2,620 (e)	\$ 164,732
Sunrise Utilities, LLC. *	110238	234	\$ 1,376	\$ 344	\$ 12,906
Average Rate Case Expense			\$ 4,563	\$ 1,141	\$ 54,521
Average Without Lake Placid			\$ 3,025	\$ 756	\$ 56,228
* PAA Order not final		(a) Consultant Fees \$2,328			
		(b) Consultant/Legal/Corp Allocations \$36,641			
		(c) Consultant Fees \$6,087			
		(d) Consultant Fees \$7,893			
		(e) Consultant/Legal Fees \$8,010			

Table 8-2
Rate Case Expense > Revenue Increase minus Rate Case Expense

Company Name	Docket	Order	Rate Case Expense	Amortization Col 4 / 4 years	Revenue Increase	Revenue Increase W/out RCE Col 6 - Col 5	RCE as % of Increase 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Tierra Verde Utilities, Inc.	060255	07-0082	94,089	23,522	113,428	89,906	104.7%
Mid-County Services, Inc.	060254	07-0134	83,796	20,949	282,469	261,520	32.0%
Cypress Lakes Utilities, Inc.	060257	07-0199	84,859	21,215	186,041	164,826	51.5%
Sanlando Utilities Corp.	060258	07-0205	155,900	38,975	1,068,975	1,030,000	15.1%
Utilities, Inc of Florida	060253	07-0505	278,320	69,580	481,829	412,249	67.5%
Lake Placid Utilities, Inc.	060260	07-0528	70,620	17,655	27,966	10,311	684.9%
Alafaya Utilities, Inc.	060256	07-0130	111,961	27,990	611,000	583,010	19.2%
Utilities, Inc. of Pennbrooke	060261	07-0534	101,216	25,304	106,106	80,802	125.3%
Gold Coast Utility Corp.	060246	08-0535	101,923	25,481	276,688	251,207	40.6%
Utilities, Inc. of Sandalhaven	060285	07-0865	141,019	35,255	197,496	162,241	86.9%
Miles Grant Water and Sewer Company	070695	08-0812	127,973	31,993	355,375	323,382	39.6%
Wedgfield Utilities, Inc.	070694	08-0827	151,575	37,894	385,914	348,020	43.6%
K W Resort Utilities Corp	070293	09-0057	466,615	116,654	241,771	125,117	372.9%
Lake Utility Services, Inc.	070693	09-0101	331,450	82,863	3,979,433	3,896,571	8.5%
Utilities, Inc. of Eagle Ridge	080247	09-0264	84,373	21,093	242,790	221,697	38.1%
Tierra Verde Utilities, Inc.	080248	09-0372	91,558	22,890	301,207	278,318	32.9%
Mid-County Services, Inc.	080250	09-0373	107,968	26,992	316,160	289,168	37.3%
Aqua Utilities of Florida, Inc.	080121	09-0385	1,501,609	375,402	5,793,768	5,418,366	27.7%
Labrador Utilities, Inc.	080249	09-0462	69,241	17,310	236,547	219,237	31.6%
Southlake Utilities, Inc.	080597	09-0623	249,131	62,283	617,459	555,176	44.9%
Placid Lakes Utilities, Inc.	080353	09-0632	95,165	23,791	135,815	112,024	85.0%
Peoples Water Service Company	080695	10-0117	165,113	41,278	364,620	323,342	51.1%
Ni Florida LLC (Pasco)	090182	10-0168	98,184	24,546	292,153	267,607	36.7%
Utilities, Inc. of Pennbrooke	090392	10-0400	130,990	32,748	131,112	98,365	133.2%
Utilities, Inc. of Longwood	090381	10-0407	116,025	29,006	41,091	12,085	960.1%
Sanlando Utilities Corp.	090402	10-0423	193,088	48,272	682,875	634,603	30.4%
Utilities, Inc of Florida	090462	10-0585	303,552	75,888	665,019	589,131	51.5%
Water Management Services, Inc.	100104	11-0010	229,180	57,295	13,474	(43,821)	Decrease
Ni Florida, LLC (Lee)	100149	11-0199	20,704	5,176	42,905	37,729	54.9%
C.F.A.T. H2O, Inc.	100126	11-0366	20,243	5,061	31,980	26,919	75.2%
Lighthouse Utilities Company, Inc.	100128	11-0368	64,358	16,090	60,287	44,198	145.6%
Tradewinds Utilities, Inc.	100127	11-0385	20,752	5,188	71,248	66,060	31.4%
Lake Utility Services, Inc.	100426	11-0514	329,870	82,468	1,223,163	1,140,696	28.9%
Utilities, Inc. of Eagle Ridge	110153	11-0587	66,554	16,639	158,847	142,209	46.8%
Aqua Utilities of Florida, Inc.	100330	12-0102	1,409,043	352,261	2,605,499	2,253,238	62.5%
Labrador Utilities, Inc.	110264	12-0206	83,374	20,844	56,657	35,814	232.8%
Sunshine Utilities of Central Florida, Inc.	100048	12-0357	49,400	12,350	107,548	95,198	51.9%

Proposal 1 Discussion

Mr. Kelly introduced Proposal 1 with the intent to prohibit the Commission from awarding rate case expense for attorney and consultant fees in SARCs unless PSC staff requires the assistance of an outside consultant.

One member questioned whether the expense relating to mailings and notice to customers and the public would be disallowed. Mr. Kelly responded that the intent of the proposal was to limit or prohibit expense associated with attorneys and consultants since the PSC staff prepared the analysis and it was not his intent to disallow the items addressed by the member's question.

A member also inquired about engineering consultation that may be associated with pro forma plant improvement. Mr. Willis, PSC staff, responded that design engineering costs are typically recovered as capital costs associated with the planned plant improvement and are not treated as rate case expense.

Another member commented that the utility generally engages attorneys or professional engineers for guidance in areas where the utility owner or utility personnel have little or no expertise. The member noted the regulatory process itself is getting more complicated and utilities may feel obligated to engage the services of attorneys and consultants.

Mr. Kelly responded that in SARCs, the PSC staff prepares the case and PSC staff does not represent the interests of the customers or the utility. Since the PSC staff is preparing the case and performing the analysis he questioned the need for the utility to hire attorneys and consultants. He also mentioned should the OPC intervene in a SARC, then, rate case expense would apply. Two members reiterated their belief in the legitimacy of hiring consultants and attorneys for guidance in regulatory proceedings, including SARCs.

One member questioned when and under what circumstances engineering consulting fees would be considered rate case expense for a SARC. Mr. Willis responded that he could not recall a SARC in which a consulting engineer was involved and that typically it would be legal or accounting assistance that would be sought. He noted that occasionally the PSC staff is directed to work with the utility's bookkeeper to obtain relevant records and documents.

The Committee was advised utilities do not always agree with PSC staff's analysis in SARCs. There are certain points in a case, after PSC staff has completed its initial analysis or when the case is before the Commission for a decision, when the utility may have a justifiable need to engage legal or consultant assistance to review the report or recommendation and advocate for a different outcome.

One member added the utility does not have the right to protest the Commission decision in a SARC and questioned whether Mr. Kelly had considered including that ability in his proposal. Mr. Kelly responded he had not and further stated he thought the inability of

the utility to protest SARCs was a quid pro quo for having the PSC staff preparing the case on the utility's behalf. Mr. Willis confirmed that was his understanding as well.

Another member commented he viewed Proposal 1 as a disincentive for some utility owners to seek rate relief through a SARC and further observed there are some Class C utility owners who are not experienced utility people and have a limited understanding of the regulatory process. The member thought utilities seeking staff assistance should be allowed to engage professional advice and guidance and be reimbursed for it. The member questioned whether Mr. Kelly had considered a cap rather than total disallowance of rate case expense for SARCs, to which Mr. Kelly said no.

The Committee considered proposed amended language to OPC Proposal 1 intended to limit rate case expense related to attorney and consultant fees to that portion of the case where the initial PSC staff analysis has been completed but a decision has not been rendered by the Commission. The amended proposal appears as Rate Case Expense – Proposal 1.2 in Attachment IV.8-B. Proposal 1.2 also amends Section 367.0814(3) to reference (7) of 367.081, F.S., to apply to SARCs. The language of paragraph (7) addresses the Commission determination of reasonable rate case expense.

At January 25, 2013 meeting (Tampa, Florida), the Committee discussed Proposal 1, as well as Proposal 1.2. Proposal 1.2 addresses some members' concerns expressed at the November 1, 2012 and January 8, 2013 meetings regarding the limitation on consultant and attorney fees in SARCs. There may be legitimate reasons for Class C utilities to seek consulting or legal services at certain stages of a SARCs since the utility does not always agree with the PSC analysis on particular issues. Proposal 1.2 would permit the PSC to recognize such expenses incurred after PSC staff issues its preliminary report for the case. Attorney or consulting fees incurred by the utility prior to that point in the case would not be eligible for recovery.

One member observed the process seemed unbalanced since Class C utilities are likely to be less informed about the rate case process and not allowing them to recover the expense of outside counsel in SARCs handicaps the utility. The member observed OPC has the opportunity to interject themselves into the process on a limited basis.

Another member sought clarification on the duties the PSC performs in SARCs beyond what they do in a standard case, and learned that PSC staff conducts an audit, an engineer makes a site visit and consults with DEP and prepares a quality of service analysis, and accounting staff compiles the analysis typically contained in MFRs filed by the utility. In addition, PSC staff conducts a customer meeting following the issuance of the preliminary staff analysis to take customer comment and gather additional service quality information. The member commented the process was designed to reduce rate case expense.

Mr. Kelly commented that PSC staff takes on a significant burden in a SARC. He stated that a SARC is a quid pro quo situation. The statute permits smaller utilities to get free help from the PSC in putting the utility's case together. Mr. Kelly does not believe that OPC, in the history of its office, hired expert witnesses in SARCs, nor, in the past five years, intervened in a

SARC. Mr. Kelly reiterated that if OPC or another party intervenes in a SARC, then the utility is entitled to and probably should seek legal and/or consulting advice. In a normal SARC, where PSC staff performs the majority of analysis, Mr. Kelly did not know why the utility would need to pay an attorney to help put the case together; in his opinion, doing so is a detriment to ratepayers, and does not comport with the true intent of the SARC statute.

A member noted the utility can discuss any disagreements with PSC staff analysis but does not have the right to protest the SARC unless the utility receives a rate decrease. Most utilities do their own advocacy but some utility owners have a limited understanding of the regulatory process and sometimes are unable to effectively communicate their concerns to PSC staff.

Another member questioned whether PSC staff ever recommended to a Class C utility to seek professional consulting or legal services. Mr. Willis, PSC staff, responded such instances were rare and a more likely scenario would be the utility employing a bookkeeper to keep its books. Such expense is typically approved in SARCs. Mr. Willis said the PSC staff does not generally suggest the utility seek outside help.

A member also inquired whether the PSC has authority to reduce or exclude rate case expense and Mr. Willis responded the Commission has always interpreted the statutes as giving it a lot of authority in that area. Mr. Willis went on to say the incidence of reducing rate case expense in SARCs was rare; Chair Brown concurred.

One member raised the issue of differing rates for legal and consulting services. Mr. Willis indicated PSC staff does not advise utilities about the amount they can pay for legal or consultant services but PSC staff routinely examines the level of the rates paid for consulting and legal services.

Proposal 1 Decision

The Committee did not vote on Proposal 1 to prohibit recovery of rate case expense for consulting and legal services in SARCs.

The Committee voted 7 to 6 to approve Proposal 1.2 to prohibit the recovery of rate case expense occurring in SARCs prior to the issuance of the PSC staff's preliminary report in the case.

Proposal 2 Discussion

At the January 8, 2013 meeting, Mr. Kelly introduced Proposal 2 which is intended to prevent the recovery of rate case expense from more than one rate case at a time and to provide incentive for utilities to limit rate case filings to no more than once every four years. Mr. Kelly noted the frequency of water and wastewater rate cases appears to have increased in recent years. He also stated other rate relief alternatives such as index increases, pass-through increases, and LIMPs are available to utilities which can reduce the need for frequent rate case filings. He also commented the Committee had considered and recommended adding additional pass-through

items which will have the impact of increasing the burden on ratepayers. He stated that he believes, given the existing alternatives, it would not be unreasonable for unrecovered rate case expense to be foregone if the utility seeks another rate case within four years of a prior case. Proposed statutory language for Proposal 2 appears in Attachment IV.8-A.

One member noted that the proposed language could be interpreted to mean that when new rates were approved the language as written would merely defer recovery of additional rate case expense until the rate case expense from the previous case was fully recovered. Mr. Kelly indicated that was not the intent.

The Committee Chair asked Mr. Kelly whether he thought the proposed language would be legal in regard to a regulatory/legal taking since the Commission had approved those expenses as reasonable and prudent in a prior case. Mr. Kelly responded he did not think it was a problem but had not researched that question. He stated he believes the proposed statutory language would supersede previous rate case expense language. He also commented he did not propose a 50-50 split of rate case expense between the utility and the customers, which he thought was a more extreme position. He did not believe the proposed language would have as large an impact on the utility as the 50-50 split concept.

The Committee Chair commented that this may be an area which is more suitable to rulemaking where all affected parties can have the opportunity to participate.

One member agreed with Mr. Kelly that recovery of rate case expense resulting from more than one case at time within a four-year period is inappropriate. The member commented if the utility had a long-range capital improvement plan it should not need to seek rate relief so frequently and also expressed support for the concept of splitting or sharing rate case expense between customers and the utility. He noted, both sides benefit from the case and they should share the expense. He believed the sharing concept would provide incentive to the utility to make sure it really needed to file for additional rate relief.

One member expressed concern regarding the unpredictability of cost factors in the industry citing the potential impacts of new EPA and DEP requirements. The member cited the Numeric Nutrient Criteria rule which will take effect next year as a potentially significant cost source too complex for pass-through increases or even LIMPs. Mr. Kelly suggested environmental compliance costs and other compliance issues were particularly suitable for LIMPs. The Committee Chair agreed that limited proceedings would be suitable for such cases. The member suggested perhaps a different amortization period for rate case expense could be considered and asked what impact increasing the staff-assistance threshold to include all Class B utilities would have on the PSC. Mr. Willis, PSC staff, indicated the threshold increased from the current threshold (\$250,000) to the Class B threshold (less than \$1,000,000) in one jump, it would have a significant impact on PSC staff.

Another member asked whether, when utilities had two cases close together, it had any impact on the level of rate case expense. Mr. Willis indicated he did not believe there was a pattern in those circumstances but in some instances rate case expense had been lower for the second case.

A member suggested the proposal penalized the utility and another way to address the rate impact issue would be to defer recovery of the expense associated with the second case until the expense from the first case was fully recovered and removed from rates.

Another member suggested establishing a benchmark for attorney fees that would standardize the rate case expense from case to case and suggested the utility should bear any cost over and above some benchmarked amount. The Committee Chair noted that the PSC considered doing that but found it very difficult to do and maintain fairness to everyone.

One member liked the message of Proposal 2 to hold down rate case expense. He inquired as to whether, if the proposal was implemented, the PSC would inform utilities that if it filed a case sooner than four years it would forego unamortized rate case expense. Mr. Willis stated PSC staff would definitely inform the utility in its test year letter, if the proposal became law. The member also expressed concern that the proposal would act as a disincentive to file a rate case.

A member suggested increasing the number of items allowable for pass-through increases would help to reduce the frequency of rate case filings. He noted index and pass-through items were easier on all involved and enabled the utility to keep pace with cost increases.

Several members suggested customers need to see the difference in their rates with and without rate case expense. A customer Committee member agreed and noted that as a customer he has never actually seen a comparison of rates with and without rate case expense. Mr. Willis said while the information is always in the rate case order it does not appear in the notice to the customers, customers only get noticed at the end of the four-year period when the rate is reduced. He said a comparison could be added to the initial notice. Several members stated such information would be a welcome change. (See Issue 8, Proposal 5.)

At the January 25, 2013 meeting, Mr. Kelly began discussion of Proposal 2 by reminding members a portion of rate case expense is subject to a return for the utility and asked for clarification on the point. Mr. Willis agreed a small portion of rate case expense, the average four-year amortization, is included in the utility's working capital allowance for which it earns a return. One member noted the return portion is removed from rates after four years. Another member suggested the return component encourages utilities to increase rate case expense and should be changed. The member argued the utility should not be allowed to earn a profit on rate case expense and rate case expense should not be included in the utility's working capital allowance.

The Committee considered Proposal 2 (amended), which addresses the concern previously raised by members regarding the clarity of the language. Amended language is the shaded language in Proposal 2 (amended) shown in Attachment IV.8-B.

One member commented that if the proposal to eliminate pancaking was approved, utilities may postpone needed capital investments because the opportunity to recover the costs of applications would be limited to once every four years. Further, it was noted utilities are

expected to comply with EPA, DEP, and Water Management District requirements but cannot get rate relief but once every four years. Mr. Kelly noted the utility has the option to seek relief through LIMPs and possibly pass-through applications.

Proposal 2 Decision

The Committee took no action on Proposal 2 to prohibit recovery of rate case expense for more than one case at a time because the language of Proposal 2 is ambiguous.

On a 7 to 6 vote, the Committee approved Proposal 2 (amended) to prohibit recovery of rate case expense for more than one case at a time. (Shown as Proposal 2 (amended) in Attachment IV.8-B.)

Proposal 3 Discussion

Mr. Kelly introduced Proposal 3 (shown in Attachment IV.8-A) and made the point that rate case expense should not exceed the amount of increase in revenue approved by the Commission. He noted the Proposal is limited to file and suspend rate cases. He mentioned in a number of cases the approved amount of rate case expense has exceeded the amount of revenue increase minus rate case expense.

One member commented that a 50-50 split concept would reduce the likelihood of this happening in the future.

Another member expressed favor for the intent of Proposal 3 but was concerned it may provide an incentive to a utility to seek more recovery or inflate its request in order to make sure the scenario did not occur. Mr. Kelly responded it was the responsibility of PSC staff and OPC to ensure that the utility's request was reasonable and therefore the ability of a utility to overstate investment or expenses was limited. The member noted many maintenance or plant improvement items could be done at any given time, which were not absolutely necessary or urgent, and reiterated concern this proposal would provide incentive to the utilities to seek more recovery than was actually needed, thereby having a detrimental impact on rates.

One member noted he monitors certain parameters for each of the systems for which he is responsible and he enumerated several categories of expenses and other characteristics of individual systems he reviews regularly. He suggested the PSC keep a database of such items to facilitate comparison among utilities. Mr. Willis, PSC staff, indicated that some of this information was already in the annual reports filed by investor-owned utilities with the Commission. Another member agreed such a database would assist PSC staff in assessing the expense levels and reasonableness of those levels. The Committee Chair indicated the Committee would be taking up the topic at the next meeting.

At the January 25, 2013 meeting, one member asked members associated with municipal or county systems how they handle rate case expense and whether recovery is removed from rates. A member representing a county commission responded that municipalities operate from

an enterprise fund and further indicated customers in the county have not complained about rate case expense.

No suggested changes or problems with the language as proposed by OPC were raised by the members.

Proposal 3 Decision

The Committee voted 7 to 6 to approve Proposal 3 (shown in Attachment IV.8-A) to propose legislation to prohibit the recovery of rate case expense in excess of the approved increase in revenue minus rate case expense.

Proposals 4.1 and 4.2 Discussion

At several prior Committee meetings, different members and members of the public raised the concept of splitting rate case expense between customers and the utility and/or its shareholders. Committee members and members of the public stated the belief that sharing of rate case expense provides an incentive to the utility to keep rate case expense low and some suggested sharing may improve the quality of rate case filings in hopes of reducing the frequency of filings. Fifty-fifty was frequently mentioned as the suggested or appropriate basis for the split. Proposal 4.1 is shown in Attachment IV.8-B.

An alternative to a strict 50-50 split of rate case expense appears as Proposal 4.2. The proposal specifies a range of sharing between 25 and 75 percent that would provide the PSC the opportunity to recognize the unique circumstances of an individual case and adjust the sharing factor accordingly. A rulemaking proceeding would be necessary to establish a default sharing factor and to identify any particular circumstances which might provide a basis for deviation from the default factor. Proposal 4.2 is shown in Attachment IV.8-B.

At the January 25, 2013 meeting, the Committee considered the proposals. The Committee was informed Proposals 4.1 and 4.2 would have a cumulative affect on the utility when combined with Proposals 1.2, Proposal 2 (amended) and Proposal 3, all previously approved.

One member expressed the opinion that the sharing proposals will encourage utilities to not make investment that is not worthwhile. The member stated this proposal will result in a reduction of rate cases being filed.

Proposals 4.1 and 4.2 Decision

The Committee voted 9 to 4 not to approve Proposal 4.1 to share rate case expense between customers and utility owners/shareholders on a fifty-fifty basis.

The Committee voted 8 to 5 not to approve Proposal 4.2 to share rate case expense between customers and utility owners/shareholders in a range between 25–75 percent to be determined by the PSC based on the circumstances of the case.

Proposal 5 Discussion

At several meetings during the discussion of rate case expense members indicated customers were not informed, when final rates are implemented, by how much and when rate reductions to eliminate rate case expense will occur. At the January 25, 2013 meeting, the Committee considered Proposal 5 to recommend the PSC notice customers of the pending change when final rates are implemented. The notice should show the amount of the rate case expense reduction and the timing of the reduction. The current PSC procedure of noticing customers when the four-year rate reduction takes place would not be affected by the proposal.

Proposal 5 Decision

The Committee unanimously recommends that the PSC revise its rate case noticing procedures to require utilities to inform customers of the pending four-year rate case expense reduction. The utility shall include the rate comparison from the Commission's final order in its initial notice to customers. Notice shall continue to be provided at the time of the actual reduction.

Proposal 6 Discussion

In addition to Proposal 5, various Committee members and members of the public raised concerns that utilities earn a profit on rate case expense through the working capital allowance in the PSC's rate setting process. At the January 31, 2013 meeting, several members requested a proposal be put forward to address the concern. Proposal 6 proposes to prohibit the inclusion of rate case expense in the utility's working capital allowance through a statutory amendment. Proposal 6 statutory language is shown in Attachment IV.8-B.

One member opposing the proposal noted the return on rate case expense is usually a very small amount and it serves to recognize the utility's time value of money and provides a method to recover costs expended well ahead of recovery. The member also advised the Committee that most utilities achieved rate of return is well below that authorized by the PSC in a rate case due to unforeseen changes at the time rates are set. Another member, in opposition, identified working capital as one of the most important components of rate setting for small utilities because it affects cash flow.

One member suggested that the exclusion of rate case expense from the utility's working capital allowance is a way to control rate case costs and properly reimburses a utility for its expense without the utility making money on that cost.

Another member questioned whether there is a way the utility can recover its rate case expense considering the time value of money without placing it in the utility's working capital allowance. Mr. Willis responded that placing rate case expense in working capital gives the utility its interest cost coverage. Any other method to reflect the time value of money would result in the same outcome as having rate case expense recovery in working capital.

Proposal 6 Decision

The Committee voted 7 to 6 to deny the proposal to prohibit a return on rate case expense resulting from excluding rate case expense from the utility's working capital allowance.

Conclusion

The Committee considered six separate rate case expense proposals. The Committee approved four proposals and voted not to approve two others:

The Committee did not vote on Office of Public Counsel's Proposal 1 to prohibit recovery of rate expense for consulting and legal services in SARCs. The Committee approved Proposal 1.2 to recommend statutory change to prohibit the recovery of rate case expense occurring in SARCs prior to the issuance of the PSC staff's preliminary report in the case:

Section 367.0816, F.S., shall be amended to read:

Rate Case Expense – Proposal 1.2

Section 367.0814(3), F.S., is amended to read:

(3) The provisions of s. 367.081(1), (2)(a), ~~and (3)~~ and (7) shall apply in determining the utility's rates and charges; except, the commission shall not award rate case expense for attorney or other outside consultant fees engaged for the purpose of preparation or filing the case if a utility receives staff assistance in changing rates and charges pursuant to this section unless the Office of Public Counsel or interested parties have intervened. The commission may award rate case expense for attorney or other outside consultant fees, when those fees are incurred for the purpose of providing consulting or legal services to the utility after the initial staff report is made available to customers and the utility. In the event of a protest or an appeal by a party other than the utility, the commission may award rate case expense to the utility for attorney or other outside consultant fees for costs incurred subsequent to the protest or appeal. The commission shall adopt rules to implement this subsection.

Proposal 2: The Committee took no action on Office of Public Counsel's Proposal 2 to prohibit recovery of rate case expense for more than one case at a time because the language of Proposal 2 was ambiguous. The Committee approved amended Proposal 2 to prohibit recovery of rate case expense for more than one case at a time.

Section 367.0816, F.S., shall be amended to read:

Recovery of rate case expenses – (1) The amount of rate case expense determined by the commission to be reasonable pursuant to s. 367.081 ~~the provisions of this chapter to be recovered through a public utilities rate~~ shall be apportioned for recovery through the utility's rates over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates.

(2) A utility may recover the 4-year amortized rate case expense for only one rate case at a time. In the event the commission approves and a utility implements a rate change from a subsequent rate case pursuant to this section, the utility forfeits any unamortized rate case expense from a prior rate case. The unamortized portion of rate case expense for a prior case must be removed from rates before the implementation of any additional amortized rate case expense for the most recent rate proceeding. This limitation shall not apply to the recovery of rate case expense for a limited proceeding filed pursuant to Section 367.0822, F.S.

Proposal 3: The Committee approved Proposal 3 to propose legislation to prohibit the recovery of rate case expense in excess of the approved increase in revenue minus rate case expense.

Section 367.081(7), F.S., shall be amended to read:

(7) The commission shall determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable. No rate case expense determined to be unreasonable shall be paid by a consumer. In determining the reasonable level of rate case expense the commission shall consider the extent to which a utility has utilized or failed to utilize the provisions of paragraph (4)(b) and such other criteria as it may establish by rule. The commission shall not award rate case expense which exceeds the total rate increase approved by the commission, not including any rate case expense, in a rate case filed pursuant to this section.

Proposals 4.1 and 4.2: The Committee voted not to approve Proposal 4.1 or Proposal 4.2 to share rate case expense between customers and utility owners/shareholders.

Proposal 5: The Committee recommends that the PSC revise its rate case noticing procedures to inform customers on its initial notice after the order is issued by the Commission of the pending four-year rate case expense reduction and provide the rate comparison that appears in the final rate case order. Notice shall continue to be provided at the time of the actual reduction.

Proposal 6: The Committee voted not to approve Proposal 6 to prohibit a return on rate case expense resulting from excluding rate case expense from the utility's working capital allowance.

UPDATED 01/03/13

Office of Public Counsel
Proposed Language for Statutory Changes

1. Rate Case Expense – Proposal 1

Section 367.0814(3), F.S., is amended to read:

(3) The provisions of s.367.081(1),(2)(a) and (3) shall apply in determining the utility's rates and charges, except, the commission shall not award rate case expense for attorney or other outside consultant fees if a utility receives staff assistance in changing rates and charges pursuant to this section. However, if in the course of processing a staff assisted rate case the Commission staff should require assistance of an outside consultant, the reasonable cost of the consultant's service may be recoverable from ratepayers as rate case expense. In the event of a protest or a appeal by a party other than the utility, the commission may award rate case expense for attorney or other outside consultant fees to the utility for costs incurred subsequent to the protest or appeal. The Commission shall adopt rules to implement this subsection.

2. Rate Case Expense – Proposal 2

Section 367.0816, F.S., shall be amended to read:

Recovery of rate case expenses – (1) The amount of rate case expense determined by the commission to be reasonable pursuant to s. 367.081 the provisions of this chapter to be recovered through a public utilities rate shall be apportioned for recovery through the utility's rates over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of case expense previously included in rates.

(2) A utility may recover the 4-year amortized rate case expense for only one rate case at a time. Any unamortized rate case expense for a prior rate proceeding must be removed from rates before the inclusion of any additional amortized rate case expense for the most recent rate proceeding. This limitation shall not apply to the recovery of rate case expense for a limited proceeding filed pursuant to Section 367.0822, F.S.

3. Rate Case Expense – Proposal 3

Section 367.081(7), F.S., shall be amended to read:

(7) The commission shall determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable. No rate case expense determined to be unreasonable shall be paid by a consumer. In determining the reasonable level of rate case expense the commission shall consider the extent to which a utility has utilized or failed to utilize the provisions of paragraph (4)(b) and such other criteria as it may establish by rule. The commission shall not award rate case expense which exceeds the total rate increase approved by the commission, not including any rate case expense, in a rate case filed pursuant to this section.

Supplemental Rate Case Expense Proposals

Rate Case Expense – Proposal 1.2

Section 367.0814(3), F.S., is amended to read:

(3) The provisions of s. 367.081(1), (2)(a), ~~and (3) and (7)~~ shall apply in determining the utility's rates and charges, except, the commission shall not award rate case expense for attorney or other outside consultant fees engaged for the purpose of preparation or filing the case if a utility receives staff assistance in changing rates and charges pursuant to this section unless the Office of Public Counsel or interested parties have intervened. The commission may award rate case expense for attorney or other outside consultant fees, when those fees are incurred for the purpose of providing consulting or legal services to the utility after the initial staff report is made available to customers and the utility. In the event of a protest or an appeal by a party other than the utility, the commission may award rate case expense to the utility for attorney or other outside consultant fees for costs incurred subsequent to the protest or appeal. The commission shall adopt rules to implement this subsection.

Rate Case Expense – Proposal 2 (amended)

Section 367.0816, F.S., shall be amended to read:

Recovery of rate case expenses – (1) The amount of rate case expense determined by the commission to be reasonable pursuant to s. 367.081 ~~the provisions of this chapter to be recovered through a public utilities rate~~ shall be apportioned for recovery through the utility's rates over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of case expense previously included in rates.

(2) A utility may recover the 4-year amortized rate case expense for only one rate case at a time. In the event the commission approves and a utility implements a rate change from a subsequent rate case pursuant to this section, the utility forfeits any unamortized rate case expense from a prior rate case. The unamortized portion of rate case expense for a prior case must be removed from rates before the implementation of any additional amortized rate case expense for the most recent rate proceeding. This limitation shall not apply to the recovery of rate case expense for a limited proceeding filed pursuant to Section 367.0822, F.S.

Rate Case Expense - Proposal 4.1

Section 367.0816, F.S., shall be amended to read:

Recovery of rate case expenses – (1) ~~The~~Fifty percent of the amount of rate case expense determined by the commission to be reasonable pursuant to s. 367.081 ~~the provisions of this chapter to be recovered through a public utilities rate~~ shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates. The commission shall initiate rulemaking to implement this subsection.

Rate Case Expense - Proposal 4.2

Section 367.0816, F.S., shall be amended to read:

Recovery of rate case expenses – (1) ~~The~~A percentage not less than twenty-five percent and not greater than seventy-five percent of the amount of rate case expense determined by the commission to be reasonable pursuant to s. 367.081 ~~the provisions of this chapter to be recovered through a public utilities rate~~ shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates. The commission shall initiate rulemaking to implement this subsection, including development of a methodology for determination of the appropriate percentage of rate case expense to be recovered.

Rate Case Expense – Proposal 5

Section 367.0816, F.S., shall be amended to read:

The amount of rate case expense determined by the commission pursuant to the provisions of this chapter to be recovered through a public utilities rate shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates. Rate case expense shall not be included in a utility's working capital.

Issue 9: Quality of Service.

Background

At the November 1, 2012 meeting, the Office of Public Counsel (OPC) suggested three topics for the Committee's study, including rate case expense, interim rates, and quality of service. At the December 5, 2012 meeting in Eustis, Florida, the Committee voted to consider all three issues suggested by the Public Counsel. The Public Counsel's proposed with regard to quality of service would apply to all investor-owned water and wastewater utilities in Florida, whether regulated by the PSC or a county.

Proposal 1

OPC presented a statutory proposal to establish a mechanism within a rate case proceeding to consider the extent to which a utility meets the secondary water standards and wastewater operational requirements as established by the Department of Environmental Protection (DEP). OPC's proposal also requires the PSC to conduct rulemaking to prescribe penalties, including fines and reduction of return on equity, for a utility's failure to adequately address the identified water or wastewater quality concerns. The OPC statutory proposal is appended to this issue as Attachment IV.9-A.

Proposal 1 Discussion

The DEP is the state agency with primacy authority over the implementation and enforcement of federal and state drinking water and wastewater standards in Florida.²⁰ The focus of DEP's permitting, monitoring and enforcement of water and wastewater systems is to ensure compliance with the primary drinking water standards and wastewater operational requirements in order to guarantee the health and safety of the public and protection of the environment, including the aquifer.

DEP has adopted secondary drinking water standards relating to such things as odor, color, and corrosion. In addition, DEP had adopted rules regarding wastewater operational requirements. Most of the public comments before the Committee regarding quality of service concerned the secondary drinking water standards. Some customers stated that they did not use the water for drinking, cooking, or washing clothes due to the color, taste or odor of the water. Testing for these secondary standards is mandated on a regular basis; however, DEP generally requires corrective action only if system users voice significant complaints, or if a primary contaminant level has also been exceeded. Attachment IV.9-B contains the DEP internal recommended enforcement action for secondary water quality standards. Attachment IV.9-C contains DEP regulations regarding noise and odor emanating from wastewater treatment plants.

The PSC considers the quality of service in rate cases pursuant to Section 367.081(2)(a)1., F.S., and Rule 25-30.433(1), F.A.C. In doing so, the PSC evaluates the quality

²⁰ See Chapter 403, F.S., and Chapters 62-550, 555, 560, 602, and 699, F.A.C., for drinking water regulations, and Chapters 62-600, 604, 610, 620, 621, and 640, F.A.C., for wastewater regulations.

of the product, the operating condition of the utility's plant and facilities, and the utility's attempt to address customer satisfaction. The PSC relies heavily on the DEP and local health departments, where applicable, to determine whether the quality of the product and operating condition of the plant and facilities are satisfactory, since these agencies have primacy in these areas. In most cases, the emphasis of this evaluation is compliance with the standards that are related to the health and safety of the public and the environment.

At the January 8, 2013 meeting, Mr. Kelly introduced the OPC proposal to develop a mechanism within a rate case proceeding to consider the extent to which a utility meets the water and wastewater standards as established by the DEP. In explaining the proposal, Mr. Kelly stated that his goal is to identify those systems where the customers have suffered with water or wastewater quality issues for some time without relief and to find solutions. Mr. Kelly acknowledged that the problem is not widespread, but believes that there needs to be a process that results in solutions once a problem is recognized by the PSC. He added that the nexus of the proposal is in Section 367.081(2)(a)7, F.S., which requires a utility to research and offer solutions to fix the quality problems that the PSC has identified in the rate case proceeding. This paragraph also specifically requires the utility to meet with its customers to discuss the cost and benefits of possible solutions and report the conclusions of the meetings to the PSC. Mr. Kelly emphasized that his office is not looking to impose fines or penalties upon utilities for not meeting DEP standards. Rather, his intent is to identify the problem areas and facilitate solutions to the quality of service issues. Mr. Kelly noted that the proposal requires a penalty only if the utility fails to offer possible solutions to the problem, or if the utility fails to adequately address the problem based on evidence provided to the PSC.

This issue was discussed at the January 8 and January 25, 2013 meetings. While members agreed that it is important for utilities to communicate with their customers and address customer complaints related to quality standards, there were several concerns raised with the OPC proposed statutory language. Some members noted that the number of complaints often rise when a rate increase is pending and cautioned against implementing a procedure that would encourage complaints. One member suggested that consideration be given of the timely reporting of complaints, not just complaints received during a rate case proceeding. Another member urged that the message to customers should be to first contact their water provider to discuss their concerns with the quality of the water and not the PSC or DEP. He suggested that if the customers do not get adequate resolution to their problem, they could then register complaints with the appropriate agency.

It was also noted that the OPC proposed language contains some subjective phrasing that would be difficult to evaluate. For example, the OPC proposal would require the PSC to consider the extent to which the customers can use the water to drink, cook, bathe, and wash clothes. (See Section 367.081(2)(a)3, F.S., on Attachment IV.9-A) In most cases, this type of consideration would be a mainly subjective exercise, going beyond the requirements of DEP's secondary standards. Theoretically, the water could meet the DEP standards and yet, some customers might not want to drink or cook with it, while others might be satisfied with the same water. Additionally, the proposal contains a provision requiring the PSC to consider the extent to which the utility provides wastewater service to customers which unreasonably interferes with their enjoyment of life or property, including outdoor recreation. (See Section 367.081(2)(a)5,

F.S., on Attachment IV.9-A) The analysis of this consideration would be highly subjective. One member noted that with regard to wastewater service, the customer's proximity to a pump station or treatment plant should be considered when evaluating the complaint.

There was concern expressed regarding the provision in the OPC proposal that the PSC should consider whether the water damages the customer's water lines, plumbing fixtures or appliances. (See Section 367.081(2)(a)3, F.S., on Attachment IV.9-A) Some members noted that this determination might require an engineer or licensed plumber, which could increase rate case expense. One member commented that part of this consideration should include whether the customer's facilities were adequate to begin with.

Several members cautioned that the threat of penalties or fines contained in the proposal might cause a utility to take whatever steps necessary to fix a perceived problem in order to avoid a penalty. If the action taken was not the most cost-effective method, it could result in upward pressure on rates. One member responded that at the time the utility sought cost recovery for the investment to fix the problem, the PSC should look at the prudence and cost-effectiveness of the solution chosen by the utility. Another comment by some members was that the threat of penalties for violation of secondary quality standards increases regulatory uncertainty and sends a signal of added risk to investors, which is not good for the industry. Some members noted that the current PSC statute regarding quality of service violations gives the PSC discretion as to whether a penalty is imposed.

Despite the concerns raised during the meetings, several members expressed their support for the intent of the proposal, which is to identify the problem areas and develop measures to correct them. One member commented that regardless of how difficult it is to determine the most appropriate methodology, the quality of service issue is a serious one that needs resolution. Another commented that a significant penalty for utilities that do not adequately address the customers' concerns is critical to resolving the issue. One member suggested adding language in the proposed statute that would require compliance with standards for secondary contaminants established by local governments that might be more stringent than those of DEP.

Members also discussed that the testing of secondary water standards is done at the treatment plant and water is not tested as delivered to customers. There was a suggestion that testing should also be done in the distribution system. The DEP representative on the Committee responded that as the treated water ages and travels through the distribution system its properties can change due to a number of factors, such as sitting in a storage tank, dead end lines, and infrequent use within the customer's premises. He noted that often hot water tanks can be a breeding ground for hydrogen sulfide producing bacteria because it is now recommended that water heater thermostats be lowered to conserve energy. The member noted that it can be difficult and costly to identify and correct the cause of the gap between the quality of the water at the treatment plant and that at the customer's location. He commented that generally DEP requires corrective action for violations of secondary standards only if there are significant complaints. Finally, he noted that DEP requires a test of certain secondary contaminants to address copper pipe corrosion and potential black water issues, but only for new or altered wells.

DEP appears to be the appropriate agency to investigate whether and to what extent such additional testing is warranted and reasonable. Any additional testing found to be warranted would be the subject of a rulemaking proceeding at DEP in which affected parties would be able to present information on such things as which secondary contaminants should be included in the additional testing requirements, where within the distribution system the testing should take place, and whether the additional testing should apply to all water and wastewater utilities, not just the investor-owned utilities. In a rulemaking proceeding, parties would also explore the cost and effectiveness of this additional testing and the potential impact on the overall quality of service.

One member commented that the OPC proposal addresses the quality of the product but not the utility's quality of service with regard to handling complaints, courtesy of utility personnel, response times to customers' requests and inquiries, and notifications to customers of relevant events, such as planned outages and boil water notices. Currently, the PSC looks at these aspects of quality of service in a rate case proceeding. Rule 25-30.433(1), F.A.C., provides that in every rate case the PSC will evaluate three separate components of quality of service, including the quality of the product, operational conditions of the utility's plants and facilities, and the utility's attempt to address customer satisfaction. Pursuant to this rule, in making its determination with regard to quality of service, the PSC considers the utility's record of compliance with DEP requirements, DEP testimony regarding any outstanding notices of violations or consent orders, and the testimony of utility customers. Further, utilities are required by PSC rule to notify customers prior to scheduled interruptions (See Rule 25-30.250(2), F.A.C.), and must maintain a record of and notify the PSC of all interruptions in service which affect 10 percent or more of its customers (See Rule 25-30.251, F.A.C.). Failure to comply with these PSC rules or any rules of the DEP or local health department regarding boil water notices can result in a show cause proceeding and possible fine or other penalty.

Modified Proposal 1 Discussion

A modified proposal was considered at the January 25, 2013 meeting which was designed to address some of the concerns expressed by members as described above. The modified proposal is appended to this issue as Attachment IV.9-D. The modified proposal eliminates some of the subjectivity of the OPC proposal yet maintains the requirement that the PSC conduct a more thorough analysis of the utility's compliance with quality of service standards in a rate case proceeding. The details of how the PSC conducts the analysis of compliance with DEP standards and the weight that each of the various factors should be given is more conducive to a rulemaking proceeding in which a thorough discussion of how to address subjective measures can take place and all affected parties can participate. Section 367.081(2)(a)7, F.S., contained in the OPC proposal already requires rulemaking by the PSC to enforce this statutory section.

The modified proposal also requires the PSC to consider the standards established by a local government when evaluating compliance with secondary standards, as suggested by a member. In addition, as suggested by Mr. Kelly, the modified proposal adds customer complaints to the list of items the PSC must consider in determining whether a utility has met the secondary water quality standards. Further, the modified proposal clarifies that the PSC must

consider evidence from both customers and the utility in determining whether the utility meets quality of service standards.

Modified Proposal 1 Decision

The Committee voted 7 to 6 at the January 25, 2013 meeting to recommend the legislative language contained in modified Proposal 1 with one change, which was to modify Section 367.081(2)(a)4.c., F.S., so that it is clear that the PSC must consider complaints filed by customers with local governments and not just those filed at the PSC or DEP in its determination of whether a utility has met secondary water quality standards. The modified Proposal 1, which is appended to this issue as Attachment IV.9-D, was approved by the Committee as amended.

Proposal 2 Discussion

During the course of the discussion of this issue, it was mentioned that DEP's policy with regard to enforcement of secondary standards is to require corrective action if there are significant customer complaints. Several members questioned whether customers knew they could contact DEP with quality of service complaints. It was also discussed that the PSC receives customer complaints on a myriad of subjects, including quality of service. Further, members commented that the statutory proposal offered by OPC only addresses compliance with secondary quality standards in the context of a rate case proceeding.

It appears that the existing Memorandum of Understanding (MOU) between the DEP and PSC could be updated to include a mechanism to ensure that both agencies are aware of the customer complaints that each receives relating to possible violations of quality of service standards. If this information is shared on an ongoing basis and not just in the context of a rate case proceeding, the DEP would be better informed on the number and nature of complaints regarding quality of service standards in order to effectively evaluate whether enforcement action is warranted. Likewise, the PSC would have a broader base of knowledge regarding quality of service standard complaints and possible solutions, and would be able to work with DEP to take the appropriate corrective action, if necessary.

Proposal 2 Decision

At the January 25, 2013 meeting, the Committee voted 9 to 4 to encourage the DEP and PSC to update the MOU between the agencies to define a mechanism for each agency to share with the other, any customer complaints it receives on secondary quality standards.

Conclusion

The Committee considered two proposals for Issue 9 related to water and wastewater quality of service. As modified by the Committee, the first proposal is applicable to both the PSC and counties which elect to regulate water and wastewater utilities.

The Committee adopts the proposal to amend Section 367.081, F.S., to establish a mechanism within a rate case proceeding to require the PSC to consider the extent to which a

utility meets the secondary water quality standards and wastewater operational requirements as established by DEP. The proposal also requires the PSC to conduct rulemaking to prescribe penalties, including fines and reductions of return on equity, for a utility's failure to adequately address the identified water or wastewater quality concerns. The proposal adopted by the Committee differs from the original proposal offered by OPC in four ways: (1) eliminates some subjective language from the original legislation; (2) requires the PSC to consider the quality standards established by a local government; (3) requires the PSC to consider customer complaints in determining whether a utility has met the secondary water quality standards; and (4) clarifies that the PSC must consider complaints filed by customers with local governments in addition to those filed at the PSC and DEP. The statutory language recommended by the Committee is contained in Attachment IV.9-D.

The Committee adopts the proposal to encourage the DEP and PSC to update the existing Memorandum of Understanding between the agencies to define a mechanism for each agency to share with the other, any customer complaints received on water or wastewater secondary quality standards.

**Office of Public Counsel
Proposed Language for Statutory Changes**

Quality of Service – Proposal 1

Section 367.081(2)(a) 3., 4., 5., 6., and 7., F.S. is added as follows:

3. In determining the value and quality of water service provided by a utility the commission shall consider the extent to which the utility meets secondary water quality standards established by the Florida Department of Environmental Protection regarding those that contribute to the taste, odor, color or corrosiveness of the water. In making this determination the commission shall consider the extent to which the customers can use the water to drink, cook, bathe, and wash clothes and whether the water damages the customer's water lines, plumbing fixtures or appliances.

4. In determining whether a utility has satisfied its obligation to provide water service to its customers which meets secondary water quality standards, the commission shall consider:

- a. testimony provided by customers; and
- b. the results of past tests required by the Florida Department of Environmental Protection or County Health Departments which measure the utility's compliance with the applicable secondary water quality standards which relate to the issues of taste, odor, color or corrosiveness; and
- c. if the commission deems it necessary, any updated tests.

5. In determining the value and quality of wastewater service provided by a utility the commission shall consider the extent to which the utility provides wastewater service to its customers which does not cause odor, noise, aerosol drift, or lighting, which adversely affects customers by unreasonably interfering with their enjoyment of life or property, including outdoor recreation.

6. In determining whether a utility is providing wastewater service which does not unreasonably interfere with the customer's enjoyment of life or property, the commission shall consider:

- a. testimony provided by customers; and
- b. all of the complaints filed with the Florida Department of Environmental Protection or County Health Departments for the past 5 years regarding the alleged odor, noise, aerosol drift or lighting problem; and
- c. all of the complaints filed with the commission for the past 5 years regarding the alleged odor, noise, aerosol drift or lighting problem.

6. If the commission determines that a utility has failed to provide water service which meets the Florida Department of Environmental Protection's secondary water quality standards regarding taste, odor, color or corrosiveness, or a utility provides wastewater service which unreasonably interferes with customer's enjoyment of life or property regarding odor, noise, aerosol drift or lighting, the utility shall be required to provide estimates of the costs and benefits of various solutions to the problems. The utility shall be required to meet with its customers to discuss the costs and benefits of the various solutions and report the conclusions of these meetings to the commission. The commission shall adopt rules to assess and enforce as necessary the utility's compliance with this section. The rules shall prescribe penalties, including fines and reduction of return on equity of up to 100 basis points, for a utility's failure to offer possible solutions to the problem(s) or if the utility fails to adequately address the water or wastewater problems.

DEP Enforcement of Secondary Water Standards

Table 1: Enforcement Priorities for Secondary Contaminant Violations In Small Community Public Water Systems Serving Fewer Than 3,300 Persons Chapter 62-550.310, 320, & Table 6

Contaminant (SMCL-mg/L)	Enforcement priority	Recommended Enforcement Action
1. Aluminum (0.2)	3	High levels are usually due to corrosion problems when aluminum components are used or when Alum is used as a coagulant during filtration. For all CPWS, require a component materials survey and the replacement of Al components as necessary. If problem is due to Alum use, encourage CPWS to modify coagulant use or request an exemption.
2. Chloride (250)	2	Causes a salty taste. Require corrective action if system users voice significant complaint.
3. Color (15 units)	2	Enforce if system users voice significant complaint. Also enforce when PWS provides treatment that should control color such as RO and conventional filtration.
4. Copper (1)	1	No exceptions to enforcement. Monitoring and treatment required under the Lead & Copper Rule, in Part 8 of Chapter 62-550.
5. Fluoride (2.0)	1	No exceptions to compliance with federal public notice as required under Rule 62-560.430, F.A.C. Require additional corrective action only if system users voice significant complaint or primary MCL is exceeded.
6. Foaming Agents (0.5)	2	Causes soapy appearance. Enforce if system users voice significant complaint
7. Iron (0.3)	2	Discolors piping fixtures, appliances, clothes. Require corrective action if system users voice significant complaint.
8. Manganese (0.05)	2	Discolors piping fixtures, appliances, and clothes. Require corrective action if system users voice significant complaints.
9. Odor (3 Units)	2	Require corrective action if users voice significant complaints.
10. pH (6.5 – 8.5)	1	Require corrective action when pH is below 6.5 and above 10
	2	Enforce pH below 7 as a part of the L&C Rule. Allow pH above 8.5 based on an affirmative written showing by PWS that a higher pH is necessary to reduce lead and copper problems.
11. Silver (0.1)	3	No known problems in Florida small systems. Silver was removed from the primary standards since no cases of Argyria were found in the US.
	3	Less than 400 mg/L – No action
12. Sulfates (250)	2	Over 400mg/L – require public notice using EPA health effects language from draft Phase V Rule. Health effects – causes loose stools, may cause diarrhea
	1	Over 1000 mg/L, require corrective action
13. TDS (500)	2	Above 500 mg/L, require corrective action based on customer complaints.
	1	Above 1000 mg/L. Require corrective action.
14. Zinc (5)	3	Few systems exceed. Require a recheck and a zinc materials and additives survey to determine if inexpensive changes can be made.
	1	Require corrective action above 40 mg/L, since health effects may be present. Health effects include muscle weakness and nausea.
15. Total sulfides (0.3 - 0.6)	3	Found in Rule 62-555.315
Total Sulfides (0.6 – 3.0)	2	Corrective action based on user complaints.
Total Sulfides > 3.0	1	Require corrective action per 62-555.315(5)(a)

Enforcement Priority Key – SHADED CONTAMINANTS ARE RELATED TO COLOR, CORROSION, AND ODOR ISSUES.

HIGHEST

- 1 - Full corrective action needs to be undertaken or formal enforcement should be considered.
- 2 - System users or consumer complaints dictate resolution is needed. Enforcement may be necessary if system does not initiate corrective action. Contaminant is largely an aesthetic problem only.
- 3 - Only excursions well in excess of SMCL should precipitate enforcement action. Often a materials survey of component materials may expose source of problem.

LOWEST

DEP Regulation Regarding Noise and Odor from Wastewater Plants

62-600.400 Design Requirements.

(2) Plant Sites.

(a) New treatment plants and modifications to existing plants shall be designed and located on the site so as to minimize adverse effects resulting from odors, noise, aerosol drift and lighting. The permittee shall give reasonable assurance that the treatment plant or modifications to an existing plant shall not cause odor, noise, aerosol drift or lighting in such amounts or at such levels that they adversely affect neighboring residents, in commercial or residential areas, so as to be potentially harmful or injurious to human health or welfare or unreasonably interfere with the enjoyment of life or property, including outdoor recreation. Reasonable assurance may be based on such means as aeration, landscaping, treatment of vented gases, setback distances, chemical additions, prechlorination, ozonation, innovative structural design or other similar techniques and methods. All such design measures shall be included in the preliminary design report.

62-600.410 Operation and Maintenance Requirements.

(8) In the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affect neighboring developed areas at the levels prohibited by paragraph 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modifications of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the Department.

Committee Staff Modified Proposed Language for Statutory Changes

Add new subsections 3.-7. to Section 367.081(2)(a), F.S.

Section 367.081(2)(a) 3., 4., 5., 6., and 7., F.S. is added as follows:

3. In determining the value and quality of water service provided by a utility the commission shall consider the extent to which the utility meets secondary water quality standards established by the Florida Department of Environmental Protection and local government regarding those that contribute to the taste, odor, color or corrosiveness of the water.

4. In determining whether a utility has satisfied its obligation to provide water service to its customers which meets secondary water quality standards, the commission shall consider:

a. testimony and evidence provided by customers and the utility;

b. the results of past tests required by the Florida Department of Environmental Protection or County Health Departments which measure the utility's compliance with the applicable secondary water quality standards which relate to the issues of taste, odor, color or corrosiveness;

c. complaints filed by the customers with the commission, the Florida Department of Environmental Protection, and local government for the past five years regarding the taste, odor, color or corrosiveness of the water; and

d. if the commission deems it necessary, the results of any updated tests.

5. In determining the value and quality of wastewater service provided by a utility the commission shall consider the extent to which the utility provides wastewater service to its customers which does not cause odor, noise, aerosol drift, or lighting, which adversely affects customers.

6. In determining whether a utility is providing wastewater service which does not cause odor, noise, aerosol drift, or lighting, which adversely affects customers, the commission shall consider:

a. testimony and evidence provided by customers and the utility; and

b. all of the complaints filed with the Florida Department of Environmental Protection, County Health Departments, and local government for the past 5 years regarding the alleged odor, noise, aerosol drift or lighting problem; and

c. all of the complaints filed with the commission for the past 5 years regarding the alleged odor, noise, aerosol drift or lighting problem.

7. If the commission determines that a utility has failed to provide water service which meets the Florida Department of Environmental Protection's and local

government's secondary water quality standards regarding taste, odor, color or corrosiveness, or a utility provides wastewater service which does not cause odor, noise, aerosol drift or lighting which adversely affects customers, the utility shall be required to provide estimates of the costs and benefits of various solutions to the problems. The utility shall be required to meet with its customers to discuss the costs and benefits of the various solutions and report the conclusions of these meetings to the commission. The commission shall adopt rules to assess and enforce as necessary the utility's compliance with this section. The rules shall prescribe penalties, including fines and reduction of return on equity of up to 100 basis points, for a utility's failure to offer possible solutions to the problem(s) or if the utility fails to adequately address the water or wastewater problems.

Issue 10: Consideration of the Public Service Commission's Used and Useful Rules.

Background

An inherent tension exists in every utility plant construction situation. As a general rule, it is more cost-effective to build one larger plant which can meet all current and anticipated future customer demand, rather than building a smaller plant and expanding it as customer demand increases. However, a dilemma arises over how much, if any, existing customers should pay for the potential to add future customers without additional utility investment, or, in other words, how much of the cost of infrastructure above and beyond that necessary to serve existing customers should the utility be permitted recover from existing customers. Used & Useful (U&U) calculations are an attempt to balance these two competing interests. The PSC's rules prescribe how the U&U percentage shall be calculated, and once calculated, the U&U percentage is then applied to the utility's investment in the plant and depreciation to determine how much of the investment should be recovered in current rates. Because this proposal only addresses the rules of the PSC it is inapplicable to county regulation of investor-owned utilities.

During its deliberations, this Committee has on many occasions discussed the challenges facing the water and wastewater industry today, including the need to repair and replace aging infrastructure; the need to comply with ever more stringent environmental and regulatory requirements; the increasing costs of these requirements; and the need to attract capital at reasonable rates to fund continued investment. Given the issues facing the industry, the Committee decided to consider whether to recommend the PSC revisit its rules regarding U&U, in order to ensure the PSC's U&U rules are not inadvertently affecting utilities' investment decisions in unanticipated ways.

Section 367.081(1)(a)2., F.S., requires the PSC to consider "utility property used and useful in the public service."²¹ U&U is that portion of a utility's plant in service deemed necessary and prudent to serve existing customers, including a statutory growth allowance. "Used" refers to that portion of a utility's plant that is in service (not under construction or standing idle) and "useful" refers to that portion of a utility's plant that is actively helping the utility provide efficient service to current customers.

The PSC currently has three rules which address U&U for water and wastewater plant: Rule 25-30.431, F.A.C., Used and Useful Consideration; Rule 25-30.432, F.A.C., Wastewater Treatment Plant Used and Useful Calculations; and Rule 25-30.4325, F.A.C., Water Treatment and Storage Used and Useful Calculations. The first two rules, regarding U&U consideration and U&U for wastewater plant, have been in place without amendments since 1999 and 2002, respectively. The third rule, regarding U&U for water treatment and storage plant, was adopted in 2008. None of the PSC rules address U&U for water distribution or wastewater collection plant.

²¹ This subsection specifically provides that "notwithstanding the provisions of this paragraph, the commission shall approve rates for service which allow a utility to recover from customers the full amount of environmental compliance costs."

Prior to 2008, there was no PSC rule which specified how water treatment and storage plant U&U would be calculated. In 2007, the PSC determined that its policy for the calculation of water U&U had sufficiently coalesced such that a rulemaking proceeding could take place. After conducting workshops and receiving comments from multiple entities, including the OPC, DEP, and Utilities, Inc., the PSC proposed to issue a rule for adoption. The OPC, however, requested a formal hearing on the rule, and accordingly, an administrative hearing was held. At that hearing, the PSC considered sworn testimony from Aqua Utilities Florida and Utilities, Inc., OPC, and staff from the PSC, DEP, and St. John's River Water Management District. Much of the testimony discussed the varying policy considerations necessary to balance the current vs. future tension identified above. At the conclusion of the full evidentiary hearing, a modified rule was adopted by the PSC.

As developed in the rulemaking record, the PSC took evidence on and considered over 20 factors that went into the rule, including the following:

- Special considerations for utilities with high-service pumping.
- Appropriate treatment of fire flow requirements and capability.
- Appropriate treatment of unaccounted-for water.
- Calculation of the appropriate peak demand, and how peak demand should be expressed in the rule.
- The appropriate definition of water treatment and water storage facilities.
- Methodology for consideration of economies of scale and a determination of the prudence of the investment.
- Allowance of and types of alternative calculations that may be submitted.
- Special circumstances resulting in an automatic 100 percent U&U determination.
- The appropriate definition and treatment of firm reliable capacity.

The Committee considered one proposal at the January 25, 2013 meeting, as follows:

Proposal 1: Consider whether to recommend that the PSC investigate and, if a need is identified, revise or amend its existing U&U rules. The investigation process should include input from industry stakeholders and members of the public, and should specifically consider the issues with which this Committee has expressed concern. Depending on the results of its investigation, the PSC may need to initiate rulemaking to amend its existing rules to more fully reflect changes in its treatment of water and wastewater U&U, if necessary, or to promulgate additional rules, such as for water distribution and wastewater collection plant.

Proposal 1 Discussion

During the Committee's discussion of this issue on January 25, 2013, one member expressed concern that the PSC's current rules have the potential for conflict with DEP requirements. Specifically, utilities can only receive State Revolving Loan funding for plant construction determined to be the most cost-effective solution (known as a "present worth solution") over a 25-year period. It was suggested that the PSC's current rules may directly conflict with this DEP requirement, given that the present U&U rules may encourage staging construction to meet demand over time. Another member suggested that a 20-year planning horizon for plant capacity is a more efficient time frame, and would increase economies of scale and other efficiencies available to utilities, especially compared to the current 5-year planning increment in the PSC U&U rules.

A second concern expressed by the Committee involved the lack of information on whether the PSC's current U&U rules are working or not. No evidence was presented to the Committee that the PSC's current U&U rules are causing utilities to construct undersized facilities, or are limiting or otherwise impacting investment in utility infrastructure. Further, Mr. Willis of the PSC staff stated he was not aware of any issues with the PSC's U&U rules, was not receiving complaints about them, and believed the rules to be working well. Several members expressed concern that the scope of and issues to be considered by the PSC, in either investigatory public workshops or a rulemaking proceeding, would need to be specified in advance. Given the lack of specific concerns or issues with the PSC's current U&U rules, the Committee believes it needs more information before deciding whether to recommend the PSC conduct an investigation, including public workshops, or initiate additional rulemaking.

Proposal 1 Decision

Given that modifications to the U&U rules could affect utilities' investment decisions, the Committee believes it would be important to specifically identify what issues exist and the appropriate means of addressing them. Based on the lack of information presented to the Committee, it is premature to recommend the PSC formally investigate or initiate proceedings to revise or amend its U&U Rules. Therefore, the Committee voted by consensus to make no recommendation regarding the PSC's U&U rules. The Committee notes that it will be providing a copy of this Report to the PSC, and is confident that the PSC will consider the concerns raised and take any action that it deems appropriate.

Conclusion

The Committee considered one proposal regarding Issue 10, whether to recommend the PSC investigate, and if necessary, amend its current Used and Useful Rules. By consensus, the Committee chose to take no action on Proposal 1, and makes no recommendation.

Issue 11: *Using technology to improve the efficiency of services provided by the Public Service Commission.*

Background

Several members of the Committee mentioned improving regulatory efficiency in one form or another at various points in the process. This issue was specifically directed at the PSC, and would therefore be inapplicable to counties regulating investor-owned water and wastewater utilities. The member representing the Southwest Florida Water Management District (District) informed the Committee that the District had embarked on a plan to automate its processing of various permitting procedures. The District established a system on its website allowing each permit applicant to set up their own password protected account. The account permits the applicant to fill out permit applications online and save incomplete applications to be completed at a later date if necessary. Once an application is complete and accepted, the application review process is also conducted electronically. All updates and corrections are made electronically online.

The District representative stated that the process development and implementation was begun on the simplest permits and also the ones involving the least technology-savvy clientele. The member explained that when the District's clients realized processing time was greatly reduced, it provided the needed incentives for clients to invest in the necessary technology to participate. Significant savings were realized by the District and by the clients they serve due to the electronic versus standard mail and paper processing.

Many of the services the PSC provides are likely very adaptable to an online application and processing approach if sufficient time and resources are allocated for that purpose. Water and wastewater regulation encompasses certification matters (new certificates, transfers, grandfathers, etc.), annual report submission and review, miscellaneous tariff related matters, and rate matters, including index and pass-through increases, rate cases, and limited scope rate proceedings. Many of these processes can likely be handled through an interactive online system.

Proposal 1 would recommend the PSC initiate an investigation of the feasibility of designing and implementing an online application process for the services it provides to the water and wastewater industry.

Proposal 1: The Committee recommends the PSC investigate the implementation of a fully electronic, interactive online filing and review process for water and wastewater regulatory activities. The investigation shall address PSC functions that would be suitable for electronic processing, the technical feasibility of implementation, and the costs and resources necessary to implement such a process.

Proposal 1 Discussion

At the January 25, 2013 meeting, members discussed the implementation of the District's electronic filing and processing system.

The Committee inquired about the treatment of confidential documents sometimes required and submitted to the PSC and whether the District system accommodated confidentiality. The District representative on the Committee stated most businesses and agencies have to deal with confidential documents and are trending toward electronic treatment for that purpose. He also mentioned electronic signatures as an issue widely dealt with electronically today.

The Committee also inquired whether any information had been provided regarding potential cost to the PSC, in light of the fact the cost to the District has exceeded \$1 million.

The DEP representative recalled DEP's experience with electronic applications and payments as having mixed results. The DEP has implemented online payment of certain permitting and licensing fees with some success. The implementation of permit applications has been less successful with use of online applications peaking rather quickly and dropping off after some period of time. The member cautioned the Committee about proceeding too quickly. The District member stated the District had a 97 percent participation rate for its well construction permitting system.

Promotion of an electronic system and training were key elements of increasing and sustaining participation by District clients. One member expressed the need to promote the monetary benefits of participation, such as the time saved because change happens slowly in the water and wastewater industry. The District representative agreed with the concerns expressed but also emphasized the importance of outreach and training to ensure participation.

Proposal 1 Decision

The Committee unanimously approved Proposal 1 to recommend the PSC investigate the implementation of a fully electronic, interactive online filing and review process for water and wastewater regulatory activities. The investigation shall address PSC functions that would be suitable for electronic processing, the technical feasibility of implementation, and the costs and resources necessary to implement such a process.

Conclusion

The Committee recommends the PSC investigate the implementation of a fully electronic, interactive online filing and review process for water and wastewater regulatory activities. The investigation shall address PSC functions that would be suitable for electronic processing, the technical feasibility of implementation, and the costs and resources necessary to implement such a process. Because this proposal only relates to the PSC, it does not apply to counties electing to regulate water and wastewater utilities.

Issue 12: Review of Public Service Commission Policies and Procedures.

Background

At the December 5, 2012 meeting (Eustis), the Committee voted to consider changes to the PSC's policies and procedures with regard to its regulation of investor-owned water and wastewater utilities. Because these are the policies and procedures of the PSC, this topic would not apply to any county regulating water and wastewater utilities. This broad topic has surfaced in several of the Committee meetings during discussion of other issues developed in this report. Discussions regarding changes to the PSC's policies and procedures have focused on the following topics:

- Increasing communication between the PSC and the utilities.
- Increasing communication between the utilities and their customers.
- Developing metrics for the evaluation of utility operations and to streamline the rate case process.
- Requiring utilities to file planning documents.
- Developing ways to increase the usefulness of data and information contained in the utilities' annual reports.
- Increasing the eligible items contained in the current statute which allows pass-through rate increases for specified expenses.

Section 1 - PSC Communication with Utilities

For the most part, the PSC communicates with a water and wastewater utility when the utility files some sort of application or document with the agency, such as a rate case, index or pass-through, tariff filing, certification matter, or annual report. There is little communication with utilities that is not initiated by the utility. Exceptions to this are formal documents, such as notices and orders of PSC-proposed rulemaking and the ultimate adoption or amendment of rules. For most of the Class A and B utilities, the current situation may be adequate since they generally have the sophistication and staffing to monitor PSC proceedings in order to stay abreast of changes. However, many of the smaller Class C utilities lack the ability to adequately keep up with changes in statutes, rules or internal procedures that could affect their operation. Therefore, while increased communication with all regulated water and wastewater utilities is important, effective communication with the Class C utilities is more critical.

Proposal 1: Recommend the PSC investigate and consider the implementation of measures to increase communication and education with Class C utilities, including more use of e-mail and social media communication, video training, use of the Internet teleconference technology, more utilization of the PSC website, and regional help sessions for small utilities.

Proposal 1 Discussion

During the course of the meetings, several members have suggested the PSC should make better use of technology to communicate with the regulated utilities in an effort to increase their efficiency and effectiveness as a utility. A major example of how technology could be used to enhance effective regulation of these systems is discussed in Issue 11. In addition, there are other ways to use technology in regulation that perhaps could be implemented more readily. One method to easily increase communication is to make more use of e-mail to communicate with the Class C utilities. Today most businesses, regardless of size, are readily using e-mail for communication. The PSC staff could use e-mail to advise small utilities of pending workshops or hearings on rulemaking or other proceedings that will affect their business and encourage their participation. The staff could use e-mail to advise small utilities of filing deficiencies and other requests for information that are usually mailed using the US postal service.

The PSC website currently has a great deal of useful information for regulated utilities; however, it could be more effectively used to inform and teach small utilities about a myriad of regulatory issues. An example is the completion of the Class C annual report. Mr. Willis, representing the PSC staff, advised the Committee in an early meeting that often the small Class C utilities do not complete the annual report accurately or completely. Thus, the information in Class C annual reports is often suspect and not as useful to PSC staff as it should or could be. In an effort to gain better reporting by the small utilities, the PSC staff could identify the common mistakes made by Class C utilities in completing the annual report. Once these are identified, a video could be prepared and posted on the PSC website, describing the common errors and instructs how to correctly provide the information. Class C utilities could be advised via e-mail of the video access and encouraged to visit the website for this and other information as it is posted on the PSC website.

Another relevant topic for the Class C utilities is the staff-assisted rate case process and the alternatives to a staff-assisted rate case proceeding that are available to Class C utilities. Currently, there are two PSC rules which provide alternatives to a SARC. These alternative ratemaking rules are designed to streamline the rate increase process for qualifying systems.²² This streamlined process is more efficient and less time consuming than a SARC and thus less costly for small utilities and their customers. One of the rules has been in place since 2005 and has been utilized in only two cases. An educational video on the purpose of these alternative ratesetting rules and the conditions under which they apply would be informative and useful to Class C utilities.

Videos posted on the PSC website could also be used by PSC staff to educate small utilities on other topics of interest, such as how to complete an index or pass-through application, the needs and expectations from a utility when it files an application for a SARC, under what conditions a limited scope rate proceeding (LIMP) is a viable alternative to a SARC, and rule changes affecting charges, billing, meter reading or other areas of utility operation. The PSC

²² One rule provides a means of determining the rate increase based on a comparison of operation and maintenance costs to revenues. The other rule allows a rate increase of up to 20 percent of service revenues for small utilities under certain circumstances.

also has the technological capability to use Internet conferencing for such educational opportunities.

More use of e-mail and social media communication and video training to educate small utilities would serve to increase the utilities regulatory effectiveness and efficiency. The PSC staff would benefit because it should result in more accurate and useful data used regularly by staff to conduct its analyses of annual reports and other filings. Additionally, the exercise of educating its utilities should provide feedback to PSC staff on how the forms used by utilities can be improved. For instance, an analysis of the common mistakes made in completing the Class C annual report could lead to changes to the schedules contained in the annual report form. Further, the videos prepared by PSC staff could be used as training tools for new or reassigned PSC employees and to increase consistency and efficiency in PSC staff's review process. This increased communication should also benefit customers of small utilities in that it could serve to increase utility management's awareness of regulatory options and procedures, and thus increase the utility's effectiveness.

At the January 25, 2013 meeting, one member suggested that in addition to e-mail communication, the PSC should explore the use of social media to increase communication. Another member noted that there will be some small utilities that do not use electronic means for communication, and he suggested that the PSC consider offering regional help sessions for Class C utilities held throughout the state for training purposes. A member also suggested that the regional help sessions could be tied into other conferences and meetings that utilities might be attending.

Proposal 1 Decision

At the January 25, 2013 meeting, the Committee voted unanimously to approve the following proposal: the Committee recommends that the PSC investigate and consider the implementation of measures to increase communication with and education of Class C utilities, including more use of e-mail and social media communication, video training, use of the WebEx technology, more utilization of the PSC website, and regional help sessions for small utilities.

Section 2 – Communication between Utilities and Customers

During several meetings, a number of members identified the need for the investor-owned water and wastewater utilities to communicate more effectively with their customers. As noted by some members, governmentally owned or controlled utilities routinely conduct meetings with customers prior to a rate increase in order to educate the customers of the factors that are driving the need for the potential increase and to get feedback. In the case of investor-owned utilities, such meetings with customers generally take place only after the rate request has been filed with the PSC and the meeting is conducted by the PSC.

Proposal 2.1: Recommend that the PSC investigate measures to encourage or require communication between utilities and customers outside of PSC proceedings.

Proposal 2.1 Discussion

During the discussion of the quality of service issue, several members suggested that when significant service concerns are identified by the utility it should endeavor to meet with the customers to convey the research it has conducted to identify the cause of the problem and the possible solutions, including the estimated cost. As members noted, such meetings with customers should result in a better understanding by the customers and could serve to gain their support for any cost recovery that may be needed to implement the solution.

Proposal 2.1 Decision

At the January 25, 2013 meeting, the Committee unanimously voted to approve Proposal 2.1 as follows: the Committee recommends that the PSC investigate measures to encourage or require communication between utilities and customers outside of PSC proceedings.

Proposal 2.2: Recommend that the PSC initiate rulemaking to require investor-owned water and wastewater utilities to conduct meetings with their customers at least annually. During this annual meeting the utility should, at a minimum, provide the status of the utility's operations, present the results of the Consumer Confidence Report (CCR), explain the need for projected improvements, and allow customer the opportunity to comment.

Proposal 2.2 Discussion

At the January 25, 2013 meeting, a member suggested that the Commission should initiate rulemaking to require investor-owned water and wastewater utilities to conduct meetings with their customers on a regular basis. Other members suggested that these meetings should be conducted at least annually. Members noted that the meetings should be for the purpose of providing a status of the utility's operations, informing the customers of the findings and results of the CCR, explaining the need for upcoming improvements, and to consider any customer comments. Based on this discussion, a proposal was suggested at the January 25, 2013 meeting to require investor-owned water and wastewater utilities to conduct meetings with customers at least annually.

Proposal 2.2 Decision

At the January 25, 2013 meeting, the Committee unanimously voted to approve Proposal 2.2 as follows: the Committee recommends that the PSC initiate rulemaking to require investor-owned water and wastewater utilities to conduct meetings with their customers at least annually. During this annual meeting the utility should, at a minimum, provide the status of the utility's operations, present the results of the CCR, explain the need for projected improvements, and consider any customer comments.

Section 3 – Development of Metrics and Streamlining Rate Case Review

Several members have suggested that the PSC should develop a database with a set of metrics that PSC staff can use in its evaluation of utility operations, and possibly for the purpose of streamlining rate case review. At the January 25, 2013 meeting, one member suggested that the PSC should develop standards and metrics that can be used to evaluate the utilities' performance in the area of customer service.

Proposal 3.1: Recommend that the PSC investigate the feasibility and usefulness of developing a database of metrics for use by its staff in evaluating utility operations and in streamlining rate case review. In addition, the PSC should investigate whether a change in the content or filing procedure of the Minimum Filing Requirements (MRFs) in a rate case proceeding is warranted.

Proposal 3.1 Discussion

Some of the data identified by members as being useful in evaluating utility operations includes: number of customers, type and size of treatment plants, age of treatment plants, number of employees by type (management, service, O&M), chemicals (both volume used and cost), energy cost, level of contributions in aid of construction (CIAC), and customer bills at 3,000 and 10,000 gallons per month. At the January 8, 2013 meeting, Mr. Willis, representing PSC staff, indicated that much of this information is currently available in the utility's annual report and other documents. A member suggested that a schedule should be included in the annual report form that requests this type of information so that it can be easily accessible for use by PSC staff in developing its database. He suggested that this metrics schedule could be used by PSC staff as a guidance document to evaluate the utility's management and operations. The member maintained that this data should be readily available to utility owners and should already be something that utility management reviews on a regular basis. As noted below in the section on changes to the annual report form, the Committee is suggesting that the PSC investigate whether the annual report form for Class C utilities should be revised. In conducting this review, the PSC may want to consider incorporating a schedule in the annual report form that will provide certain data for use by its staff in the development of a database of metrics. These metrics could be used to evaluate utility operations in rate case proceedings and ultimately may be helpful in streamlining the rate case review process.

At the January 25, 2013 meeting, one member raised a concern with creating an additional burden on the smaller Class C utilities by requiring additional information in the annual report. He questioned whether there are some requirements in the annual report that can be eliminated and offset by any additional information identified by the PSC in its investigation. He stated that he wanted to see no additional burden on the Class C utilities. A member responded that the metrics schedule could be prepared either by the utility or by PSC staff based on the information contained in the annual report. Another member mentioned that the PSC should review the contents and filing procedures of the rate case MRFs with the intent of streamlining both, where appropriate. He stated that currently the MFRs are voluminous and the utility is required to file 16 paper copies. The members suggested that a review of the MFRs should be added to the Proposal on this topic.

Proposal 3.1 Decision

At the January 25, 2013 meeting, the Committee unanimously voted to approve Proposal 3.1 with the addition of recommending that the PSC review the content and filing procedures of the MFRs. The following proposal is approved: the Committee recommends that the PSC investigate the feasibility and usefulness of developing a database of metrics for use by its staff in evaluating utility operations and in streamlining rate case review. In addition, the PSC should investigate whether a change in the content or filing procedure of the MFRs in a rate case proceeding is warranted.

Proposal 3.2: Recommend that the PSC investigate and, if appropriate, establish standards and benchmarks for the evaluation of the customer service provided by water and wastewater utilities.

Proposal 3.2 Discussion

At the January 25, 2013 meeting, one member suggested that the PSC should develop standards and benchmarks for customer service provided by utilities that could be used to evaluate the utility's performance. A proposal for the Committee's consideration was developed based on this suggestion.

Proposal 3.2 Decision

At the January 25, 2013 meeting, the Committee unanimously voted to approve Proposal 3.2 as follows: The Committee recommends that the PSC investigate and, if appropriate, establish standards and benchmarks for the evaluation of the customer service provided by water and wastewater utilities.

Section 4 – Long-Range Plan

During the course of discussions at several of the Committee meetings, members identified the need for a planning document to be filed with the PSC by investor-owned water and wastewater utilities. This planning document would describe the nature of the utility's operations and any anticipated changes over some specified period of time. It would be used in conjunction with other documents by PSC staff to evaluate the adequacy of the utility system and the long-term technical and financial ability of the utility owner. The planning document could be used in a rate case proceeding as a resource for PSC staff and other interested parties in the evaluation of the factors driving the need for a rate increase. Members suggested that the planning document should contain a description of anticipated growth in customers or other change in demand and how the utility plans to meet that demand. Members have suggested that the plan detail all anticipated infrastructure improvements or additions, including restoration and upgrading of facilities and equipment, as necessary, and improvements needed to gain or maintain compliance with DEP and other water and wastewater standards. Some members have stated that the preparation of such a plan should not be overly burdensome since utilities should already be conducting their own evaluation of future requirements needed to serve growth and maintain compliance with environmental regulations.

Proposal 4: The Committee recommends that the PSC explore the feasibility and usefulness of requiring long-range plans from investor-owned water and wastewater utilities. The PSC should consider that the planning document include, at a minimum, a description of anticipated growth in customers or other change in demand and how the utility plans to meet that demand; a description of all anticipated infrastructure improvements or additions, including restoration and upgrading of facilities and equipment, as necessary; and improvements needed to gain or maintain compliance with DEP and other water and wastewater standards.

Proposal 4 Discussion

At the January 25, 2013 meeting, members discussed a proposal in which the Committee would recommend to the PSC that it explore the feasibility and usefulness of requiring long-range plans from the water and wastewater utilities. All members agreed that a long-range plan would be a useful management tool for the utility, and would be valuable to the PSC in gaining a better understanding of the utility's current situation and anticipated requirements and projects. There was a discussion that if the PSC were to determine that utilities should file long-range plans, it would require a rulemaking proceeding, which would include workshops and an evaluation of the cost impact on utilities.

Some members questioned how long the planning horizon should be. One member asserted that the planning horizon should match the asset life of the utility investment. Others commented that perhaps the planning horizon should be different based on the size of the utilities. The suggestion was made that the planning horizon for Class A and B utilities should be 15 years, whereas the Class C utilities could use a 20-year horizon. There was also discussion that once the appropriate planning horizon is chosen, the plan would be updated on a regular basis, such as every 5 years.

There was discussion of the difficulty that some Class C utilities would have in preparing a long-range plan, and one member suggested that perhaps there could be a phase-in plan for Class C utilities in order to reduce this burden. One member stated that a lot of the systems of the smaller utilities are built out and perhaps their only long-range plan would be maintaining compliance and replacing infrastructure. Mr. Willis, representing PSC staff, acknowledged that the Class A and B annual report currently asks those utilities to provide a description of the future improvements they have identified.

Some members also mentioned that the plan should not be binding on the utility, but be used as a dynamic tool to help the utility make management decisions and to keep the PSC informed as to the utility's operations and future needs. One member suggested that the long-range plan could be a topic discussed at the annual customer meetings that the Committee is recommending be required in an earlier section of this issue.

Proposal 4 Decision

At the January 25, 2013 meeting, the Committee unanimously voted to approve Proposal 4 as follows: the Committee recommends that the PSC explore the feasibility and usefulness of

requiring long-range plans from the water and wastewater utilities. The PSC should consider that the planning document include, at a minimum, a description of anticipated growth in customers or other change in demand and how the utility plans to meet that demand; a description of all anticipated infrastructure improvements or additions, including restoration and upgrading of facilities and equipment, as necessary; and improvements needed to gain or maintain compliance with DEP and other water and wastewater standards.

Section 5 – Annual Report Requirements and Review

Pursuant to Rule 25-30.110, F.A.C., all IOUs are required to file annual reports by March 31 for the prior calendar year. There are two annual report forms: one for use by Class A and Class B utilities, and another, simpler form for the Class C utilities.

Proposal 5: The Committee recommends that the PSC investigate the need for revisions to the Class C annual report, specifically considering whether to add a requirement for a planning document and a metrics reporting schedule.

Proposal 5 Discussion

The topic of the content and usefulness of the annual reports has come up in several Committee meetings. In response to questions from members, Mr. Willis, representing PSC staff, advised that often Class C annual reports are not an accurate depiction of the financial status of the utility because they frequently contain inaccuracies or omissions. Some members have suggested that if the small utilities are not able to file annual reports that can be relied upon, then perhaps it is time to review the content of the annual report form with the goal of making it more useful. Mr. Willis cautioned against adding more requirements to the annual report form, noting that any additions would increase the utility's cost of preparation. Mr. Willis advised that the Commission has been hesitant to add requirements to the annual reports due to this increased cost, especially for the Class C utilities.

Several Committee members suggested that rather than adding to the information required in the annual report form, the PSC should investigate whether all of the information currently contained in the annual report is necessary in its current format. At the January 25, 2013 meeting, one member stated it was his intent that Class C utilities incur no additional burden as a result of changes to the annual report. Rather, he would like the PSC to investigate whether some of the information currently in the report could be eliminated or streamlined. The goal of revising the annual report would be to develop a tool that provides a more comprehensive and useful analysis of the utility operations. Because the Class C utilities appear to have the greatest difficulty in preparing an accurate and useful annual report, the Committee suggests that the PSC limit its investigation to the Class C annual report form at this time.

Two specific ideas expressed by several Committee members that could be incorporated into the Class C annual report are the requirement for a planning document, and the reporting of certain metrics related to the utility system. Both of these concepts are discussed above. Through workshops and possible rulemaking, the PSC could investigate how much these

requirements and others identified by the PSC and other interested persons would increase the cost of preparing the report.

At the January 25, 2013 meeting, it was discussed that since the annual report form is contained in a PSC rule, it would require a rulemaking proceeding to change it if the PSC determined that change is warranted. One member noted that since this would be a rulemaking proceeding, the PSC would also have to consider the cost of any changes to the annual report.

Proposal 5 Decision

At the January 25, 2013 meeting, the Committee unanimously voted to approve Proposal 5, related to the annual report review, as follows: the Committee recommends that the PSC investigate the need for revisions to the Class C annual report, specifically considering whether to add a requirement for a planning document and a metrics reporting schedule.

Section 6 - Pass-Through Rate Increases

Section 367.081(4)(b), F.S., provides a simplified mechanism by which a utility can automatically increase its rates to recover the incremental increase in certain expenses over which the utility may have no control. This “pass-through statute” provides relatively fast rate relief to the utility when it experiences an increase in a listed expense and may help to temporarily forestall a more comprehensive rate proceeding. If the utility chooses to utilize this process, it must file an application pursuant to Rule 25-30.425, F.A.C., and rates can be increased automatically in 45 days upon notice to the customers. Currently, the expenses eligible for pass-through recovery are enumerated by the statute, and are limited to increases or decreases in the utility’s cost for:

- Purchased water or wastewater service.
- Electric power.
- Ad valorem taxes.
- Regulatory Assessment Fees.
- DEP Fees for National Pollutant Discharge Elimination System Program.
- Water Quality or Wastewater Quality Testing required by DEP.

Prior to the January 25, 2013 meeting, the Committee decided to study whether to amend this section of the statute to include increases in the cost of additional expenses over which the utility may have no control.²³ Specifically, Committee members have discussed sludge hauling

²³ These expenses would be in addition to the Committee’s recommendation to the Legislature in Issue 2 that it create an additional pass-through provision allowing a pass-through for the loan service or origination fee for loans incurred to construct additional infrastructure needed to achieve or maintain compliance with applicable rules and regulations pertaining to the provision of service to existing customers.

expense,²⁴ sludge disposal fees,²⁵ hydro pneumatic tank inspections, and operating license fees as possible additional pass-through expenses.

At the January 25, 2013 meeting, members discussed other specific items to add to the pass-through statute. One member suggested a list of additional items, which he then supplied via subsequent e-mail. A second member provided additional specific items for the Committee to consider, also via subsequent e-mail.

While providing the list at the Committee meeting, however, the member suggested that rather than add these items to the current pass-through statute, he would prefer that the PSC be given the legislative authority to determine which items should be included in the pass-through statute through the rulemaking process. He opined that the PSC is in a better position to evaluate whether a particular expense should qualify as a pass-through item. Other members agreed and added that the PSC could react more quickly than the Legislature to the need for an additional pass-through item. Members noted that the ability to pass-through certain eligible expenses can postpone the need for a rate case proceeding or limited scope rate proceeding under Section 367.0822, F.S. It was also discussed that the rulemaking process, which allows participation of all interested parties, will ensure that careful thought is given to whether any particular pass-through item is consistent with the intent of the statute.

Some members cautioned that if the Committee recommends that the PSC be given the authority to consider future pass-through items, there is a risk that the Legislature will not agree. Therefore, some members suggested that the Committee should also recommend specific additions to the current list of pass-through items contained in the statute. Consistent with these discussions, three new proposals were developed: (1) a Modified Proposal that would contain additional items that should be included in the pass-through statute; (2) a new Proposal 7 that would revise the current pass-through statutory structure to delegate authority to the PSC to establish specific expense items eligible for recovery through the pass-through provision; and (3) an additional Proposal 8 that is designed to combine Proposals 6 (all eligible expenses enumerated in the statute) and 7 (PSC to establish eligible expenses by rule).

Proposals: (Note: Given the length of the proposals, they are summarized below, with the full text of each proposal being contained at the end of this section as Attachments IV.12-A – IV.12-C.)

Modified Proposal 6: Amend Section 367.081(4)(b), F.S., to enumerate all expense items eligible for expedited recovery via a pass-through rate adjustment. Attachment IV.12-A

Proposal 7: Amend Section 367.081(4)(b), F.S., to delegate authority to the Public Service Commission to establish, by rule, all expense items eligible for expedited recovery via a pass-through rate adjustment. Attachment IV.12-B

²⁴ Sludge is the residue remaining after the water or wastewater treatment process. Sludge hauling is the removal of the sludge to a certified disposal site.

²⁵ The sludge disposal fee is assessed by the certified disposal site.

Proposal 8: Amend Section 367.081(4)(b), F.S., to enumerate specific expense items eligible for expedited recovery via a pass-through rate adjustment, as well as delegate authority to the Public Service Commission to conduct rulemaking to add additional expense items eligible for pass-through rate adjustments. Attachment IV.12-C

Proposals 6, 7 and 8 Discussion

During the January 31, 2013 meeting, the member who suggested Proposal 6 clarified that Proposal 8 more correctly captured the intent of his proposal, and that he would support Proposal 8 to the exclusion of Proposals 6 and 7. The member, as well as another member, indicated that it was their intent to send two proposals to the Legislature, one that would contain a list of specific additional items to add to the existing statute, and a second that would authorize the PSC to add even more additional items through rulemaking. A number of members expressed concern that the list of items in Proposal 6 was too long, and that it contained items that would not be appropriate for the type of expedited, easily verifiable expenses beyond the control of the utility that are currently contained in the statute.

Another member questioned whether it would be appropriate to include some stipulation in the language that only expenses which increased more than a certain percentage could be eligible for a pass-through increase. Mr. Willis, of the PSC staff, indicated that pass-through items are normally minor costs, which are uncontrollable by the utility, easy to verify, and that the PSC has not seen abuses of the pass-through statute because of those limitations. In response to another member's question, Mr. Willis clarified that pass-throughs are not permanent rate increases, but could actually be decreases, not just increases. He stated that a utility would "net" increased expenses with decreased expenses in an application for a pass-through, but certain expenses (such as in electricity costs or the costs of fuel) certainly may decrease.

A member sought clarification whether the water quality testing listed in subsection 367.081(4)(b)(1)(f), F.S., of Proposals 6 and 8 would include testing required because of that system's poor water quality or failure to meet water quality standards. He believes the language should clarify that only testing expenses required by a statewide rule change should qualify for a pass-through, not any expenses incurred as a result of water quality problems. The members discussed the complexities involved with water quality testing and difficulties with allowing automatic pass-throughs of expenses associated with "water quality testing."

Proposals 6, 7, and 8 Decision

One member suggested that as an alternative to Proposal 8, the Committee could recommend that the Legislature leave subsection 367.081(4)(b), F.S., as it currently is, but amend it to include an additional section which would delegate rulemaking authority to the PSC to approve additional pass-through expenses by rule. In order to capture the complexities of these expenses, the PSC would be required to re-consider the items contained in the rule every five years. Several members agreed with this concept, but believed the Committee should suggest additional pass-through items to be included in the statute as part of recommended legislation. A suggestion was made that the Committee separate Proposal 8 into two parts, one regarding recommending additional pass-through items be included in the statute, and a second

part recommending the Legislature delegate rulemaking authority to the PSC to determine additional expenses. This motion was not made, and a motion to approve Proposal 8 as written failed to garner sufficient votes to pass, 6 to 6.

A second Motion was made to approve Proposal 7 as modified by the discussion; that is, to recommend the Legislature leave the existing portion of subsection 367.081(4)(b), F.S., as is, but add a second section that would delegate rulemaking authority to the PSC to approve additional pass-through expenses by rule, with the provision that the PSC would review the rule at least every five years. This Motion passed 7 to 5. After the Modified Proposal 7 was approved, a motion was made to make a second additional recommendation to the Legislature. Specifically, the second motion was that in addition to the recommendation that the Legislature amend subsection 367.081(4)(b), F.S., to delegate rulemaking authority to the PSC, the Committee make an additional recommendation that the Legislature amend the statute to include the additional pass-through items listed in Proposal 8, Paragraph 1, parts (a) through (l). The intent of this additional recommendation would be to allow the Legislature to choose either or both recommendations regarding amendment of the statute. This motion also passed 8 to 3.

Therefore, the Committee makes two recommendations regarding amendment of Section 367.081(4)(b), F.S. The Committee intends that the Legislature might amend the statute in one or both ways. Both Modified Proposal 7 and Modified Proposal 8 are included in full in Attachments IV.12-D and IV.12-E.

Conclusion

The Committee considered a number of proposals addressing the PSC's policies and procedures with regard to its regulation of investor-owned water and wastewater utilities. All six proposals are inapplicable to counties which regulate investor-owned water and wastewater utilities. These proposals are separated into six sections as follows:

Section 1 – PSC Communication with Utilities: The Committee adopts the proposal to recommend that the PSC investigate and consider the implementation of measures to increase communication and education with Class C utilities, including more use of e-mail and social media communication, video training, use of the WebEx technology, more utilization of the PSC website, and regional help sessions for small utilities.

Section 2 – Communication between Utilities and Customers: The Committee adopts the proposal to recommend that the PSC investigate measures to encourage or require communication between utilities and customers outside of PSC proceedings.

In addition, the Committee adopts the proposal to recommend that the PSC initiate rulemaking to require investor-owned water and wastewater utilities conduct meetings with their customers at least annually. During this annual meeting the utility should, at a minimum, provide the status of the utility's operations, present the results of the Consumer Confidence Report, explain the need for projected improvements, and consider any customer comments.

Section 3 – Development of Metrics and Streamlining Rate Case Review: The Committee adopts the proposal to recommend that the PSC investigate the feasibility and usefulness of developing a database of metrics for use by its staff in evaluating utility operations and in streamlining rate case review. In addition, the PSC should investigate whether a change in the content or filing procedure of the Minimum Filing Requirements in a rate case proceeding is warranted.

Further, the Committee adopts the proposal to recommend that the PSC investigate and, if appropriate, establish standards and benchmarks for the evaluation of the customer service provided by water and wastewater utilities.

Section 4 – Long-Range Plan: The Committee adopts the proposal to recommend that the PSC explore the feasibility and usefulness of requiring long-range plans from water and wastewater utilities. The PSC should consider that the planning document include, at a minimum, a description of anticipated growth in customers or other change in demand and how the utility plans to meet that demand; a description of all anticipated infrastructure improvements or additions, including restoration and upgrading of facilities and equipment, as necessary; and improvements needed to gain or maintain compliance with DEP and other water and wastewater standards.

Section 5 – Annual Report Requirements and Review: The Committee adopts the proposal to recommend that the PSC investigate the need for revisions to the Class C annual report, specifically considering whether to add a requirement for a planning document and a metrics reporting schedule.

Section 6 – Pass-Through Rate Increases: The Committee considered three proposals regarding possible amendments of the pass-through rate adjustment statute, Section 367.081(4)(b), F.S., and chose to make two separate but complimentary recommendations. First, the Committee recommends the Legislature amend the statute to delegate specific rulemaking authority to the PSC to approve additional expenses for pass-through treatment, in addition to those currently contained in the statute. The PSC would be required to revisit this rule at least every five years.

Second, the Committee recommends the Legislature amend the statute to add additional expenses to those expenses currently contained in the statute as being eligible for pass-through treatment. The Legislature could choose to amend Section 367.081(4)(b), F.S., in either or both ways. Both of these recommendations are independent of the Committee recommendation in Issue 2 regarding inclusion of loan origination or service fees as an expense eligible for pass-through treatment and are included in full in Attachments IV.12-D and IV.12-E following this issue.

Issue 12, Modified Proposal 6.

Amend Section 367.081(4)(b) to enumerate specified expense items eligible for expedited recovery via a pass-through rate adjustment.

Section 367.081(4)(b), Florida Statutes, is amended to read as follows:

1. The approved rates of any utility shall be automatically increased or decreased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase or decrease, that its costs for any expense item specified below have changed. The new rates authorized shall reflect, on an amortized or annual basis, as appropriate, the cost of, or the amount of change in the cost of, the specified expense item. The new rates, however, shall not reflect the costs of any specified expense items already included in a utility's rates. The following specified expense items shall be eligible for automatic increase or decrease of a utility's rates:
 - a. the rates charged by a governmental authority or other water or wastewater utility regulated by the commission which provides utility service to the utility;
 - b. the rates or fees that the utility is charged for electric power;
 - c. the amount of ad valorem taxes assessed against the utility's used and useful property;
 - d. the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program;
 - e. the regulatory assessment fees imposed upon the utility by the commission;
 - f. costs incurred for water quality or wastewater quality testing required by the Department of Environmental Protection or a local governmental authority;
 - g. the fees charged for wastewater sludge hauling and disposal;
 - h. a loan service fee or loan origination fee for a loan related to an eligible project associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers;
 - i. costs incurred for any tank inspections required by the Department of Environmental Protection or a local governmental authority;
 - j. operator and distribution system license fees required by the Department of Environmental Protection or a local governmental authority;
 - k. water or wastewater operating permit fees charged by the Department of Environmental Protection;
 - l. consumptive use permit fees charged by a Water Management District;
 - m. costs associated with odor abatement as required by the Department of Environmental Protection or a local governmental authority;
 - n. costs associated with risk management plans required by the Department of Environmental Protection or a local governmental authority;
 - o. costs for the installation of automatic flushing valves for dead end water distribution lines required by the Department of Environmental Protection or a local governmental authority;
 - p. costs of treatment chemicals required by the federal Safe Drinking Water Act, federal Clean Water Act, or the Department of Environmental Protection;

q. costs of staffing required by the Department of Environmental Protection related to capacity development;

r. costs associated with annual audits, annual reports, annual customer meetings, or other expenses required by commission rule;

s. costs associated with the preparation and delivery of the annual Consumer Confidence Report as required by the Department of Environmental Protection;

t. costs associated with monitoring or laboratory equipment necessary to comply with operating procedures required by the Department of Environmental Protection or a local governmental authority;

u. costs associated with system mapping as required by the Department of Environmental Protection; or

v. rate case expense pursuant to Section 367.0816, Florida Statutes.

2. A utility may not use this procedure to increase or decrease its rates as a result of any increase or decrease in any specified expense item identified above, which cost increase or decrease took place more than 12 months before the filing by the utility.

3. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).

~~The approved rates of any utility which receives all or any portion of its utility service from a governmental authority or from a water or wastewater utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the governmental authority or other utility have changed. The approved rates of any utility which is subject to an increase or decrease in the rates or fees that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the commission shall be increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental authority, or the regulatory assessment fees imposed upon it by the commission have changed. The new rates authorized shall reflect the amount of the change of the ad valorem taxes or rates imposed upon the utility by the governmental authority, other utility, or supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, required water quality or wastewater quality testing performed by laboratories approved~~

by the Department of Environmental Protection for that purpose. The new rates, however, shall not reflect the costs of any required water quality or wastewater quality testing already included in a utility's rates. A utility may not use this procedure to increase its rates as a result of water quality or wastewater quality testing or an increase in the cost of purchased water services, sewer services, or electric power or in assessed ad valorem taxes, which increase was initiated more than 12 months before the filing by the utility. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).

Issue 12, Proposal 7.

Amend Section 367.081(4)(b) to delegate authority to the Public Service Commission to establish, by rule, expense items eligible for expedited recovery via a pass-through rate adjustment.

Section 367.081(4)(b), Florida Statutes, is amended to read as follows:

1. In order to allow timely recovery of expenses beyond the utility's control, the Commission shall establish, by rule, specific expense items for which the approved rates of any utility shall be automatically increased or decreased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase or decrease, that its costs for such specified items have been changed. The new rates authorized shall reflect, on an amortized or annual basis, as appropriate, the cost of, or the amount of change in the cost of, the specific expense item. The new rates, however, shall not reflect the costs of any specific expense items already included in a utility's rates.
2. A utility may not use this procedure to increase or decrease its rates as a result of any increase or decrease in specific expense items, which cost increase or decrease took place more than 12 months before the filing by the utility.
3. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).

~~The approved rates of any utility which receives all or any portion of its utility service from a governmental authority or from a water or wastewater utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the governmental authority or other utility have changed. The approved rates of any utility which is subject to an increase or decrease in the rates or fees that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the commission shall be increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental authority, or the regulatory assessment fees imposed upon it by the commission have changed. The new rates authorized shall reflect the amount of the change of the ad valorem taxes or rates imposed upon the utility by the governmental authority, other utility, or supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the~~

~~cost of, required water quality or wastewater quality testing performed by laboratories approved by the Department of Environmental Protection for that purpose. The new rates, however, shall not reflect the costs of any required water quality or wastewater quality testing already included in a utility's rates. A utility may not use this procedure to increase its rates as a result of water quality or wastewater quality testing or an increase in the cost of purchased water services, sewer services, or electric power or in assessed ad valorem taxes, which increase was initiated more than 12 months before the filing by the utility. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).~~

Issue 12, Proposal 8.

Amend Section 367.081(4)(b) to enumerate specific expense items eligible for expedited recovery via a pass-through rate adjustment, as well as delegate authority to the Public Service Commission to conduct rulemaking to add additional expense items eligible for pass-through rate adjustments.

Section 367.081(4)(b), Florida Statutes, is amended to read as follows:

1. The approved rates of any utility shall be automatically increased or decreased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase or decrease, that its costs for any specified expense item have changed. The new rates authorized shall reflect, on an amortized or annual basis, as appropriate, the cost of, or the amount of change in the cost of, the specified expense item. The new rates, however, shall not reflect the costs of any specified expense items already included in a utility's rates. Specified expense items eligible for automatic increase or decrease of a utility's rates shall include, but are not limited to:

a. the rates charged by a governmental authority or other water or wastewater utility regulated by the commission which provides utility service to the utility;

b. the rates or fees that the utility is charged for electric power;

c. the amount of ad valorem taxes assessed against the utility's used and useful property;

d. the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program;

e. the regulatory assessment fees imposed upon the utility by the commission;

f. costs incurred for water quality or wastewater quality testing required by the Department of Environmental Protection;

g. the fees charged for wastewater sludge disposal;

h. a loan service fee or loan origination fee associated with a loan related to an eligible project associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers;

i. costs incurred for any tank inspections required by the Department of Environmental Protection or a local governmental authority;

j. operator and distribution license fees required by the Department of Environmental Protection or a local governmental authority;

k. water or wastewater operating permit fees charged by the Department of Environmental Protection or a local governmental authority;

l. consumptive or water use permit fees charged by a Water Management District;

2. The commission may establish, by rule, additional specific expense items in addition to those specified above. To be eligible, any such additional expense items must be imposed upon the utility by a local, state, or federal law, rule, order or notice, and must be outside of the control of the utility.

3. A utility may not use this procedure to increase or decrease its rates as a result of any increase or decrease in any specific expense item, which cost increase or decrease took place more than 12 months before the filing by the utility.

4. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).

~~The approved rates of any utility which receives all or any portion of its utility service from a governmental authority or from a water or wastewater utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the governmental authority or other utility have changed. The approved rates of any utility which is subject to an increase or decrease in the rates or fees that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the commission shall be increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental authority, or the regulatory assessment fees imposed upon it by the commission have changed. The new rates authorized shall reflect the amount of the change of the ad valorem taxes or rates imposed upon the utility by the governmental authority, other utility, or supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, required water quality or wastewater quality testing performed by laboratories approved by the Department of Environmental Protection for that purpose. The new rates, however, shall not reflect the costs of any required water quality or wastewater quality testing already included in a utility's rates. A utility may not use this procedure to increase its rates as a result of water quality or wastewater quality testing or an increase in the cost of purchased water services, sewer services, or electric power or in assessed ad valorem taxes, which increase was initiated more than 12 months before the filing by the utility. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).~~

Issue 12, Modified Proposal 7.

Amend Section 367.081(4)(b) to, in addition to the current statutory pass-through items, delegate authority to the Public Service Commission to establish, by rule, additional expense items eligible for expedited recovery via a pass-through rate adjustment, and require the PSC to reconsider the rule every five years.

Section 367.081(4)(b), Florida Statutes, is amended to read as follows:

1. The approved rates of any utility which receives all or any portion of its utility service from a governmental authority or from a water or wastewater utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the governmental authority or other utility have changed. The approved rates of any utility which is subject to an increase or decrease in the rates or fees that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the commission shall be increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental authority, or the regulatory assessment fees imposed upon it by the commission have changed. The new rates authorized shall reflect the amount of the change of the ad valorem taxes or rates imposed upon the utility by the governmental authority, other utility, or supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, required water quality or wastewater quality testing performed by laboratories approved by the Department of Environmental Protection for that purpose. The new rates, however, shall not reflect the costs of any required water quality or wastewater quality testing already included in a utility's rates. A utility may not use this procedure to increase its rates as a result of water quality or wastewater quality testing or an increase in the cost of purchased water services, sewer services, or electric power or in assessed ad valorem taxes, which increase was initiated more than 12 months before the filing by the utility. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).

2. The commission may establish, by rule, additional specific expense items which are eligible to automatically increase or decrease a utility's rates as provided in subsection (4)(b)1. To be eligible for such treatment, any such additional expense items must be imposed upon the utility by a local, state, or federal law, rule, order or notice, and must be outside of the control of the utility.

3. If any such additional expense item rule is established by the commission, it shall, no less than once every five (5) years, review the rule and determine whether each expense item should continue to be eligible for automatic increase or decrease of a utility's rates, or if any additional items should become eligible for automatic increase or decrease of a utility's rates as provided in subsection (4)(b)1.

Issue 12, Modified Proposal 8.

Amend Section 367.081(4)(b) to enumerate specific expense items eligible for expedited recovery via a pass-through rate adjustment, including additional expense items eligible for pass-through rate adjustments.

Section 367.081(4)(b), Florida Statutes, is amended to read as follows:

1. The approved rates of any utility shall be automatically increased or decreased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase or decrease, that its costs for any specified expense item have changed. The new rates authorized shall reflect, on an amortized or annual basis, as appropriate, the cost of, or the amount of change in the cost of, the specified expense item. The new rates, however, shall not reflect the costs of any specified expense items already included in a utility's rates. Specified expense items eligible for automatic increase or decrease of a utility's rates shall include, but are not limited to:
 - a. the rates charged by a governmental authority or other water or wastewater utility regulated by the commission which provides utility service to the utility;
 - b. the rates or fees that the utility is charged for electric power;
 - c. the amount of ad valorem taxes assessed against the utility's used and useful property;
 - d. the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program;
 - e. the regulatory assessment fees imposed upon the utility by the commission;
 - f. costs incurred for water quality or wastewater quality testing required by the Department of Environmental Protection;
 - g. the fees charged for wastewater sludge disposal;
 - h. a loan service fee or loan origination fee associated with a loan related to an eligible project associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers;
 - i. costs incurred for any tank inspections required by the Department of Environmental Protection or a local governmental authority;
 - j. operator and distribution license fees required by the Department of Environmental Protection or a local governmental authority;
 - k. water or wastewater operating permit fees charged by the Department of Environmental Protection or a local governmental authority;
 - l. consumptive or water use permit fees charged by a Water Management District;
2. A utility may not use this procedure to increase or decrease its rates as a result of any increase or decrease in any specific expense item, which cost increase or decrease took place more than 12 months before the filing by the utility.

3. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).

~~The approved rates of any utility which receives all or any portion of its utility service from a governmental authority or from a water or wastewater utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the governmental authority or other utility have changed. The approved rates of any utility which is subject to an increase or decrease in the rates or fees that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the commission shall be increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental authority, or the regulatory assessment fees imposed upon it by the commission have changed. The new rates authorized shall reflect the amount of the change of the ad valorem taxes or rates imposed upon the utility by the governmental authority, other utility, or supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, required water quality or wastewater quality testing performed by laboratories approved by the Department of Environmental Protection for that purpose. The new rates, however, shall not reflect the costs of any required water quality or wastewater quality testing already included in a utility's rates. A utility may not use this procedure to increase its rates as a result of water quality or wastewater quality testing or an increase in the cost of purchased water services, sewer services, or electric power or in assessed ad valorem taxes, which increase was initiated more than 12 months before the filing by the utility. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).~~

Appendices

APPENDIX I: LEGISLATION ESTABLISHING COMMITTEE

CHAPTER 2012-187

Committee Substitute for House Bill No. 1389

An act relating to water storage and water quality improvements; creating s. 373.4591, F.S.; requiring a specified determination as a condition of an agreement for water storage and water quality improvements on private agricultural lands; providing a methodology for such determination; providing for regulation of such lands for the duration of the agreement and after its expiration; creating the Study Committee on Investor-Owned Water and Wastewater Utility Systems; providing for membership and terms of service; prohibiting compensation of the members; providing for reimbursement of the members for certain expenses; providing for removal or suspension of members by the appointing authority; requiring the Public Service Commission to provide staff, information, assistance, and facilities that are deemed necessary for the committee to perform its duties; providing for funding from the Florida Public Service Regulatory Trust Fund; providing duties of the committee; providing for public meetings; requiring the committee to report its findings to the Governor, the Legislature, and appropriate agencies and make certain recommendations; providing for future termination of the committee; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 373.4591, Florida Statutes, is created to read:

373.4591 Improvements on private agricultural lands.—The Legislature encourages public-private partnerships to accomplish water storage and water quality improvements on private agricultural lands. When an agreement is entered into between a water management district or the department and a private landowner to establish such a partnership, a baseline condition determining the extent of wetlands and other surface waters on the property shall be established and documented in the agreement before improvements are constructed. The determination for the baseline condition shall be conducted using the methods set forth in the rules adopted pursuant to s. 373.421. The baseline condition documented in the agreement shall be considered the extent of wetlands and other surface waters on the property for the purpose of regulation under this chapter for the duration of the agreement and after its expiration.

Section 2. Study Committee on Investor-Owned Water and Wastewater Utility Systems.—

(1) There is created a Study Committee on Investor-Owned Water and Wastewater Utility Systems, which shall be composed of 18 residents of the state designated and appointed as follows:

1

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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(a) The chair of the Public Service Commission or a commissioner designated by the chair, who shall serve as chair of the committee and shall be a nonvoting member of the committee.

(b) The Secretary of Environmental Protection or his or her designee, who shall be a nonvoting member of the committee.

(c) The Public Counsel or his or her designee, who shall be a nonvoting member of the committee.

(d) One member of the Senate appointed by the President of the Senate.

(e) One member of the House of Representatives appointed by the Speaker of the House of Representatives.

(f) Two representatives of Class A investor-owned water or wastewater utilities appointed by the Governor.

(g) One representative of a Class B investor-owned water or wastewater utility appointed by the Governor.

(h) One representative of a Class C investor-owned water or wastewater utility appointed by the Governor.

(i) One customer of a Class A investor-owned water or wastewater utility appointed by the Governor.

(j) One customer of a Class B or Class C investor-owned water or wastewater utility appointed by the Governor.

(k) One representative of a water management district appointed by the Governor.

(l) One representative of the Florida Section of the American Water Works Association appointed by the Governor.

(m) One representative of the Florida Rural Water Association appointed by the Governor.

(n) One representative of a water or wastewater system owned or operated by a municipal or county government appointed by the Governor.

(o) One representative of a governmental authority that is created pursuant to chapter 163, Florida Statutes, appointed by the Governor.

(p) The chair of a county commission that regulates investor-owned water or wastewater utility systems appointed by the Governor.

(q) One representative of a county health department appointed by the Governor.

2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(2) The members shall serve until the work of the committee is complete and the committee is terminated, except that if a member no longer serves in the position required for appointment, the member shall be replaced by the individual who serves in such position.

(3) Members of the committee shall serve without compensation, but are entitled to reimbursement for all reasonable and necessary expenses, including travel expenses, in the performance of their duties as provided in s. 112.061, Florida Statutes.

(4) An appointing authority may remove or suspend a member appointed by it for cause, including, but not limited to, failure to attend two or more meetings of the committee.

(5) The Public Service Commission shall provide the staff, information, assistance, and facilities as are deemed necessary for the committee to carry out its duties under this section. Funding for the committee shall be paid from the Florida Public Service Regulatory Trust Fund.

(6) The committee shall identify issues of concern of investor-owned water and wastewater utility systems, particularly small systems, and their customers and research possible solutions. In addition, the committee shall consider:

(a) The ability of a small investor-owned water or wastewater utility to achieve economies of scale when purchasing equipment, commodities, or services.

(b) The availability of low interest loans to a small, privately owned water or wastewater utility.

(c) Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility.

(d) The impact on customer rates if a utility purchases an existing water or wastewater utility system.

(e) The impact on customer rates of a utility providing service through the use of a reseller.

(f) Other issues that the committee identifies during its investigation.

(7) The committee shall meet at the time and location as the chair determines, except that the committee shall meet a minimum of four times. At least two meetings must be held in an area that is centrally located to utility customers who have recently been affected by a significant increase in water or wastewater utility rates. The public shall be given the opportunity to speak at the meetings.

(8) By February 15, 2013, the committee shall prepare and submit to the Governor, the President of the Senate, and the Speaker of the House of

APPENDIX II: RECOMMENDED LEGISLATIVE ACTIONS

Issue 1: *The ability of a small investor-owned water or wastewater utility to achieve economies of scale when purchasing equipment, commodities, or services.*

The Committee recommends no legislative action regarding Issue 1.

Issue 2: *The availability of low interest loans to a small, privately-owned water or wastewater utility.*

The Committee recommends that the size restriction for investor-owned water utilities under the SRF loan program be eliminated so that all investor-owned water utilities, including Class A utilities, would have access to the SRF loan program.

The Committee recommends that Section 403.8532, F.S., be amended as follows:

403.8532 Drinking water state revolving loan fund; use; rules. -

(3) The department may make, or request that the corporation make, loans, grants, and deposits to community water systems, for-profit privately owned or investor-owned systems, nonprofit transient noncommunity water systems, and nonprofit nontransient noncommunity water systems to assist them in planning, designing, and constructing public water systems, ~~unless such public water systems are for-profit privately owned or investor owned systems that regularly serve 1,500 service connections or more within a single certified or franchised area. However, a for-profit privately owned or investor owned public water system that regularly serves 1,500 service connections or more within a single certified or franchised area may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems.~~ The department may provide loan guarantees, purchase loan insurance, and refinance local debt through the issue of new loans for projects approved by the department. Public water systems may borrow funds made available pursuant to this section and may pledge any revenues or other adequate security available to them to repay any funds borrowed.

The Committee recommends that Section 367.081(4)(b), F.S., be amended to add the following:

The approved rates of any utility shall be automatically increased, without hearing, and upon verified notice to the commission 45 days prior to implementation of the increase that the utility has incurred a loan service fee or loan origination fee for a loan related to an eligible project as determined by the commission. The commission shall conduct rulemaking to determine eligible

projects which shall be limited to projects associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers. Eligible projects may not include projects primarily intended to serve future growth.

The Committee recommends that the Legislature direct the PSC to amend Rule 25-30.425, Florida Administrative Code, to determine eligible projects for which the loan service or origination fee is associated. Such eligible projects should be consistent with the proposed statutory language and should include, but not limited to, projects which will: (1) facilitate compliance with federal, state, and local governmental primary or secondary drinking water regulations or wastewater treatment regulations; (2) address federal, state, and local governmental primary or secondary health standards that have been exceeded or to prevent future violations of such standards; (3) replace or upgrade aging water and/or wastewater infrastructure if needed to achieve or maintain compliance with federal, state, and local governmental primary or secondary regulations, and (4) be consistent with the utility's most recent long-range plan on file with the PSC. In addition, the PSC rulemaking should determine the filing requirements associated with the application for a pass-through of the loan service or origination fee.

The Committee recommends that the Legislature issue a Memorial to Congress to encourage the passage of pending legislation to eliminate the volume cap on Private Activity Bonds for water and wastewater facilities. The Committee also recommends that the Governor encourage Florida's congressional delegation to support federal legislation to relax the restriction on tax-exempt Private Activity Bonds for water and wastewater infrastructure.

The Committee recommends that the Legislature direct the Division of Bond Finance within the State Board of Administration to review the allocation of Private Activity Bonds in Florida with the specific purpose of determining how much is currently allocated to water and wastewater projects, how much of the allocation amounts are unused and reallocated, and whether an additional amount of the initial allocation or reallocation of Private Activity Bonds should be targeted for water and wastewater infrastructure projects.

The Committee recommends that the Legislature issue a Memorial to Congress to encourage amendment to the Federal Water Pollution Control Act, which would allow investor-owned wastewater utilities to be eligible for funding through the wastewater loan program. In addition, the Committee recommends that the Governor encourage Florida's congressional delegation to support federal legislation that would allow investor-owned wastewater utilities access to this funding mechanism.

Issue 3: *Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility.*

The Committee recommends the following constitutional and statutory amendments related to ad valorem and property tax exemptions:

The Committee recommends that Article VII, Section 3 of the Florida Constitution be amended to add a new subsection (i), as follows:

Article VII, Section 3. Taxes: Exemptions.

(i) There shall be granted an ad valorem tax exemption for real property dedicated to the provision of potable water by a community water system pursuant to Section 403.852(3) and investor-owned wastewater utilities.

The Committee recommends that Section 196.200, F.S., be amended to add a new subsection (1), as follows:

196.200x Investor-owned sewer and/or water company property exemption.—

(1) Property of any investor-owned sewer and water company owned or operated by a Florida corporation, shall be exempt from ad valorem taxation, provided the following criteria for exemption are met by the eligible investor-owned sewer and/or water company:

(a) Rates for services rendered by the company are established by the governing board of the county or counties within which the company provides service or by the Public Service Commission, in those counties in which rates are regulated by the commission.

(b) The property of the eligible investor-owned sewer and water company remains dedicated to the provision of public utility services.

The Committee recommends that Section 212.087(7), F.S., be amended to add a new subsection (kkk), as follows:

212.08(7) Miscellaneous exemptions.

(kkk) *Investor-owned water and sewer companies.* –Sales or leases to an investor owned sewer and/or water company owned or operated by a Florida corporation, are exempt from the tax imposed by this chapter if the sole or primary function of the corporation is to construct, maintain, or operate a water or sewer system in this state.

Issue 4: *The impact on customer rates if a utility purchases an existing water or wastewater utility system.*

The Committee recommends no legislative action regarding Issue 4.

Issue 5: *The impact on customer rates of a utility providing service through the use of a reseller.*

The Committee recommends Section 367.022, F.S., be amended to add a new subsection (9) as follows:

(9) Any person who resells water service to individually sub-metered residents or tenants of property owned by that person at a price that does not exceed the actual purchase price of the water plus the actual costs of meter reading and billing not to exceed 9 percent.

Issue 6: *The creation of a reserve fund to make low-cost funding accessible to investor-owned water and wastewater utilities for addressing critical infrastructure needs.*

The Committee recommends that the Legislature amend Section 367.081, F.S., to add a new subsection (2)(c) as follows:

367.081 Rates; procedure for fixing and changing.

(2)(c) In establishing rates for a utility, the commission may authorize creation of a utility reserve fund. The commission shall adopt rules to govern such a fund, including, but not limited to, expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for commission authorization prior to disbursements from the reserve fund.

The Committee recommends that Subsection 367.0814(3), F.S., be amended as follows:

367.0814 Staff assistance in changing rates and charges; interim rates.-

(3) The provisions of s. 367.081(1), (2)(a), 2(c), and (3) shall apply in determining the utility's rates and charges.

Issue 7: Interim Rates.

The Committee recommends no legislative action regarding Issue 7.

Issue 8: Rate Case Expense.

The Committee recommends that the Legislature amend Section 367.0814(3) as follows:

(3) The provisions of s. 367.081(1), (2)(a), ~~and (3) and (7)~~ shall apply in determining the utility's rates and charges, except, the commission shall not award rate case expense for attorney or other outside consultant fees engaged for the purpose of preparation or filing the case if a utility receives staff assistance in changing rates and charges pursuant to this section unless the Office of Public Counsel or interested parties have intervened. The commission may award rate case expense for attorney or other outside consultant fees, when those fees are incurred for the purpose of providing consulting or legal services to the utility after the initial staff report is made available to customers and the utility. In the event of a protest or an appeal by a party other than the utility, the commission may award rate case expense to the utility for attorney or other outside consultant fees for costs incurred subsequent to the protest or appeal. The commission shall adopt rules to implement this subsection.

The Committee recommends that the Legislature amend Section 367.0816, F.S., as follows:

Recovery of rate case expenses – (1) The amount of rate case expense determined by the commission to be reasonable pursuant to s. 367.081 ~~the provisions of this chapter to be recovered through a public utilities rate~~ shall be apportioned for recovery through the utility's rates over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of case expense previously included in rates.

(2) A utility may recover the 4-year amortized rate case expense for only one rate case at a time. In the event the commission approves and a utility implements a rate change from a subsequent rate case pursuant to this section, the utility forfeits any unamortized rate case expense from a prior rate case. The unamortized portion of rate case expense for a prior case must be removed from rates before the implementation of any additional amortized rate case expense for the most

recent rate proceeding. This limitation shall not apply to the recovery of rate case expense for a limited proceeding filed pursuant to Section 367.0822, F.S.

The Committee recommends that the Legislature amend Section 367.081(7), F.S., as follows:

(7) The commission shall determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable. No rate case expense determined to be unreasonable shall be paid by a consumer. In determining the reasonable level of rate case expense the commission shall consider the extent to which a utility has utilized or failed to utilize the provisions of paragraph (4)(b) and such other criteria as it may establish by rule. The commission shall not award rate case expense which exceeds the total rate increase approved by the commission, not including any rate case expense, in a rate case filed pursuant to this section.

Issue 9: Quality of Service.

The Committee recommends amendment of Section 367.081, F.S., to establish a mechanism within a rate case proceeding to require the PSC to consider the extent to which a utility meets the secondary water and wastewater standards as established by DEP, and to requires the PSC to conduct rulemaking to prescribe penalties, including fines and reductions of return on equity, for a utility's failure to adequately address the identified water or wastewater quality concerns. (The text of the recommended statutory change is contained in Attachment IV.9-D, which is behind Issue 9, on page 115.)

Issue 10: Consideration of the Public Service Commission's Used and Useful Rules.

The Committee recommends no legislative action regarding Issue 10.

Issue 11: Using technology to improve the efficiency of services provided by the PSC.

The Committee recommends no legislative action regarding Issue 11.

Issue 12: Review of PSC Policies and Procedures.

The Committee recommends the Legislature amend Section 367.081(4)(b), F.S., to delegate specific rulemaking authority to the PSC to approve additional expenses for pass-through

treatment, in addition to those currently contained in the statute. The PSC would be required to revisit this rule at least every five years. (The recommended statutory language is contained in Attachment IV.12-D, which is behind Issue 9, on page 143.)

The Committee recommends amendment to Section 367.081(4)(b), F.S., to add additional expenses to those expenses currently contained in the statute as being eligible for pass-through treatment. (The recommended statutory language is contained in Attachment IV.12-E, which is behind Issue 9, on page 145.)

The Legislature could choose to amend Section 367.081(4)(b), F.S., in either or both ways.

APPENDIX III: RECOMMENDED AGENCY RULEMAKING

Issue 1: *The ability of a small investor-owned water or wastewater utility to achieve economies of scale when purchasing equipment, commodities, or services.*

The Committee recommends that Rule 60A-1.005, F.A.C. be amended to add a new subsection (3) as follows:

(3) Any Public Service Commission or County certificated investor-owned water or wastewater utility located and physically operating in the State of Florida to serve Florida customers.

Issue 2: *The availability of low interest loans to a small, privately-owned water or wastewater utility.*

The Committee recommends no rulemaking action regarding Issue 2.

Issue 3: *Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility.*

The Committee recommends no rulemaking action regarding Issue 3.

Issue 4: *The impact on customer rates if a utility purchases an existing water or wastewater utility system.*

The Committee recommends no rulemaking action regarding Issue 4.

Issue 5: *The impact on customer rates of a utility providing service through the use of a reseller.*

The Committee recommends no rulemaking action regarding Issue 5.

Issue 6: *The creation of a reserve fund to make low-cost funding accessible to investor-owned water and wastewater utilities for addressing critical infrastructure needs.*

The Committee recommends no rulemaking action regarding Issue 6.

Issue 7: *Interim Rates.*

The Committee recommends no rulemaking action regarding Issue 7.

Issue 8: *Rate Case Expense.*

The Committee recommends no rulemaking action regarding Issue 8.

Issue 9: *Quality of Service.*

The Committee recommends no rulemaking action regarding Issue 9.

Issue 10: *Consideration of the Public Service Commission's Used and Useful Rules.*

The Committee recommends no rulemaking action regarding Issue 10.

Issue 11: *Using technology to improve the efficiency of services provided by the PSC.*

The Committee recommends no rulemaking action regarding Issue 11.

Issue 12: *Review of PSC Policies and Procedures.*

The Committee recommends that the PSC initiate rulemaking to require investor-owned water and wastewater utilities to conduct meetings with its customers at least annually. During this annual meeting the utility should, at a minimum, provide the status of the utility's operations, present the results of the Consumer Confidence Report, explain the need for projected improvements, and consider any customer comments.

**APPENDIX IV: RECOMMENDED AGENCY ACTIONS
OR OTHER**

Issue 1: *The ability of a small investor-owned water or wastewater utility to achieve economies of scale when purchasing equipment, commodities, or services.*

The Committee recommends that the Florida Rural Water Association develop a statewide online exchange/listing of available new and/or used equipment, materials, and supplies through the Florida Rural Water Association website.

Issue 2: *The availability of low interest loans to a small, privately-owned water or wastewater utility.*

The Committee took no action on the proposal to reduce the minimum loan amount related to the drinking water State Revolving Fund program. However, the Committee recommends that DEP review the SRF loan program requirements to determine if they can be streamlined.

The Committee encourages the creation of a collaborative outreach program targeting investor-owned water and wastewater utilities to make them more aware of opportunities for financial assistance. Such collaborative should to include, at a minimum, the PSC, DEP, Florida Rural Water Association, Florida Section of the American Water Works Association and the Florida Water Environment Association.

Issue 3: *Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility.*

The Committee recommends no other agency action regarding Issue 3.

Issue 4: *The impact on customer rates if a utility purchases an existing water or wastewater utility system.*

The Committee recommends no other agency action regarding Issue 4.

Issue 5: *The impact on customer rates of a utility providing service through the use of a reseller.*

The Committee recommends no other agency action regarding Issue 5.

Issue 6: *The creation of a reserve fund to make low-cost funding accessible to investor-owned water and wastewater utilities for addressing critical infrastructure needs.*

The Committee recommends no other agency action regarding Issue 6.

Issue 7: *Interim Rates.*

The Committee recommends no other agency action regarding Issue 7.

Issue 8: *Rate Case Expense.*

The Committee recommends that the PSC revise its rate case noticing procedures to inform customers on its initial notice after the order is issued by the Commission of the four-year rate case expense reduction and provide the rate comparison that appears in the final rate case order.

Issue 9: *Quality of Service.*

The Committee encourages the DEP and PSC to update the existing Memorandum of Understanding between the agencies to define a mechanism for each agency to share with the other, any customer complaints received on water or wastewater secondary quality standards.

Issue 10: *Consideration of the Public Service Commission's Used and Useful Rules.*

The Committee recommends no other agency action regarding Issue 10.

Issue 11: *Using technology to improve the efficiency of services provided by the Public Service Commission.*

The Committee recommends that the PSC investigate the implementation of a fully electronic, interactive online filing and review process for water and wastewater regulatory activities. The investigation should address PSC functions that would be suitable for electronic processing, the technical feasibility of implementation, and the costs and resources necessary to implement such a process.

Issue 12: Review of PSC Policies and Procedures.

The Committee recommends that the PSC investigate and consider the implementation of measures to increase communication and education with Class C utilities, including more use of e-mail and social media communication, video training, use of the WebEx technology, more utilization of the PSC website, and regional help sessions for small utilities.

The Committee recommends that the PSC investigate measures to encourage or require communication between utilities and customers outside of PSC proceedings.

The Committee recommends that the PSC investigate the feasibility and usefulness of developing a database of metrics for use by its staff in evaluating utility operations and in streamlining rate case review.

The Committee recommends that the PSC investigate whether a change in the content or filing procedure of the Minimum Filing Requirements in a rate case proceeding is warranted.

The Committee recommends that the PSC investigate and, if appropriate, establish standards and benchmarks for the evaluation of the customer service provided by water and wastewater utilities.

The Committee recommends that the PSC explore the feasibility and usefulness of requiring long-range plans from water and wastewater utilities. The PSC should consider that the planning document include, at a minimum, a description of anticipated growth in customers or other change in demand and how the utility plans to meet that demand; a description of all anticipated infrastructure improvements or additions, including restoration and upgrading of facilities and equipment, as necessary; and improvements needed to gain or maintain compliance with DEP and other water and wastewater standards.

The Committee recommends that the PSC investigate the need for revisions to the Class C annual report, specifically considering whether to add a requirement for a planning document and a metrics reporting schedule.

APPENDIX V: WRITTEN PROPOSALS BY COMMITTEE MEMBERS

Commissioner Mariano Conceptual Proposals for Legislation

Proposed Legislative and Regulatory Changes to PSC Regulation of Private Water and Wastewater Utilities

Utility Operation and Maintenance matters:

- Tie rate of return to regulatory compliance – for violations of rules relating to human health and safety or environmental protection, rate of return shall be reduced until the violation is corrected. If violation renders water undrinkable, utility billing should be suspended on a pro-rata basis.
- Utilities shall be required to prepare and maintain a plan for the routine maintenance, restoration and upgrading of all facilities and equipment, to be approved by PSC.
- Failure to adequately maintain, restore and upgrade facilities and equipment shall result in reduction rate of return and in the market valuation of the utility in any future sale and/or condemnation valuation.
- Before a utility may recover in rates any investment in new or replacement capacity, it must demonstrate to the PSC that it has communicated with governmental utilities in the surrounding area about the possibility of interconnection in lieu of making new additions or replacements, and that interconnection is not feasible or a more cost effective alternative.

Rate Case Expense:

- Allow the PSC to determine that all or a portion of a utility's rate case expense is unreasonable if quality of service is determined to be marginal or unsatisfactory, and cap recovery of costs for legal services related to the rate case at the rate state agencies may pay for specialized contract legal services unless the utility can prove certain exceptions spelled out by the Florida Department of Legal Service's Rules (Attorney General).
- Prohibit the PSC from "stacking" recovery of rate case expense by allowing a utility to recover rate case expense only after the expense from a prior rate case has been fully amortized and is no longer reflected in customer rates.

Utility Termination or Sale:

- In situation where the PSC revokes a certificate, require a court to consider certain minimum factors when determining the amount of money a new permanent owner must pay for the utility when that new owner is a local government or its governmental authority designee. The factors should include:
 - Reasons identified by the PSC for revoking or amending the certificate;
 - Period of time the owner has owned the utility;
 - History of the utility's violations of laws, rules or standards;
 - Investments made by the utility to comply with laws, rules and standards;
 - Investments required to achieve compliance with laws, rules, and standards; and
 - Injury or potential injury to the public health and safety or the environment from past and current non-compliance.

- Create a right of first refusal to nearby local governments to acquire water or sewer systems where a bona-fide offer has been made to or by a private utility. Also provide for delegation of this right to a governmental authority formed by interlocal agreement pursuant to Ch. 163, F.S.

Certificate Origination and Expansion:

- Currently, the PSC may deny an application for a new Class C wastewater utility certificate if adequate service can be provided by extending or modifying a current system. This authority should be expanded to include all water and wastewater utilities.

- In considering an application for issuance or modification of a certificate of authorization, the PSC may currently consider whether the application is consistent with the local government's comprehensive plan, but is not bound by the comprehensive plan. The PSC should be required to deny an application when inconsistent with a local government's comprehensive plan, except in cases where denial could cause an interruption in service to existing customers.

- Regarding decisions to grant an original certificate, in addition to the current restrictions regarding duplication and competition with other utilities, the PSC should have to obligation to deny the certificate if an existing public utility system operates within 3 miles of the proposed service territory and is willing and able to the area.

LEGISLATIVE PROPOSAL PROVIDED BY
COMMISSIONER JACK MARIANO

s. 71 112 F.S.

1 A bill to be entitled
2 An act relating to water and wastewater
3 utilities; creating s. 74.112, F.S.; requiring
4 courts to consider certain factors in determining
5 the amount of deposit and final compensation a
6 local government must pay when taking ownership
7 of certain utilities for which the Florida Public
8 Service Commission has cancelled, revoked,
9 rescinded or amended a certificate of
10 authorization; amending s. 367.045, F.S.;
11 expanding the types and classes of utilities for
12 which the Florida Public Service Commission may
13 deny a certificate of authorization, or an
14 amendment thereto, when service can be provided
15 by extending or modifying a current utility
16 system; requiring the Florida Public Service
17 Commission to consider the comprehensive plan of
18 a county or municipality prior to granting or
19 amending a certificate of authorization; amending
20 s. 367.071, F.S.; providing a local government
21 the right of first refusal to purchase a water or
22 wastewater utility for sale within the local
23 government; providing exceptions; providing
24 procedures for notification to the local
25 government of a bona fide offer or acceptance;
26 providing a time frame authorizing the transfer
27 of the local government's right of first refusal
28 to a governmental authority created pursuant to
29 ch. 163, F.S.; providing time requirements for
30 the exercise of the right of first refusal by a
31 local government or governmental authority;

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32 providing methods of allocating price in sales
33 involving multiple jurisdictions or sales based
34 on stock transfers; providing that the provisions
35 relating to the right of first refusal are
36 effective in every county of this state; amending
37 s. 367.081, F.S.; prohibiting the commission from
38 considering a utility's construction, expansion
39 or replacement of certain utility plant for
40 inclusion in ratebase unless the utility makes
41 certain specified demonstrations by competent
42 substantial evidence; authorizing the commission
43 to find a utility's rate case expense
44 unreasonable if the utility's quality of service
45 is marginal or unsatisfactory; establishing a cap
46 on hourly rates for legal services which may be
47 determined to be reasonable for the purposes of
48 authorizing recovery of rate case expenses in
49 rates; providing exceptions; amending s.
50 367.0816, F.S.; limiting the recovery of rate
51 case expense to one case at a time; and providing
52 an effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. A new section 74.112, Florida Statutes, is
57 created to read:

58 74.112 Cancellation, revocation or amendment of water
59 or wastewater utility certificate of authorization.-

60 In any action in which a local government, or a
61 separate legal entity created by interlocal agreement
62 pursuant to chapter 163 which is acting as the local

63 government's designee, has taken or may take possession of
64 property from a utility which has had its certificate of
65 authorization cancelled, revoked, rescinded or amended to
66 delete service territory by the Florida Public Service
67 Commission pursuant to law, when determining the deposit
68 required to vest title to such assets immediately in the
69 local government or its designee and in determining the
70 final compensation to be paid to the utility, if any, the
71 court shall consider, at a minimum, the following:

72 (1) The reasons identified by the Florida Public
73 Service Commission for cancelling, revoking, rescinding or
74 amending the utility's certificate of authorization;

75 (2) The period of time the owner has owned the
76 utility;

77 (3) The history of the utility's violations of laws,
78 rules or standards applicable to utility operations;

79 (4) The investments made by the utility to comply with
80 laws, rules and standards applicable to utility operations;

81 (5) The investments required to achieve compliance
82 with laws, rules and standards applicable to utility
83 operations; and

84 (6) Whether injury to the public health and safety or
85 to the environment from past and current non-compliance of
86 the utility with laws, rules and standards applicable to
87 utility operations has, or may, occur.

88 Section 2. Subsection (5) of section 367.045, Florida
89 Statutes, is amended to read:

90 (5) (a) The commission may grant or amend a certificate
91 of authorization, in whole or in part or with modifications
92 in the public interest, but may not grant authority greater
93 than that requested in the application or amendment thereto

94 and noticed under this section; or it may deny a
95 certificate of authorization or an amendment to a
96 certificate of authorization, if in the public interest.
97 The commission may deny an application for a certificate of
98 authorization for any new water or wastewater system ~~Class~~
99 ~~wastewater system, as defined by commission rule,~~ if the
100 public can be adequately served by modifying or extending a
101 current water or wastewater system. The commission may not
102 grant a certificate of authorization for a proposed system,
103 or an amendment to a certificate of authorization for the
104 extension of an existing system, which will be in
105 competition with, or a duplication of, any other system or
106 portion of a system, unless it first determines that such
107 other system or portion thereof is inadequate to meet the
108 reasonable needs of the public or that the person operating
109 the system is unable, refuses, or neglects to provide
110 reasonably adequate service.

111 (b) When granting or amending a certificate of
112 authorization, the commission ~~shall need not~~ consider
113 whether the issuance or amendment of the certificate of
114 authorization is inconsistent with the local comprehensive
115 plan of a county or municipality ~~when~~ unless a timely
116 objection to the notice required by this section has been
117 made by an appropriate motion or application. If such an
118 objection has been timely made, the commission shall
119 consider, ~~but is not bound by,~~ the local comprehensive plan
120 of the county or municipality. If the application for an
121 initial certificate of authorization is determined by the
122 commission to be inconsistent with the local comprehensive
123 plan of the county or municipality, the commission shall
124 deny the application. If the application for an amendment



125 to an existing certificate of authorization is determined
126 to be inconsistent with the local comprehensive plan, the
127 commission shall deny the application unless it also
128 determines that denial of the application would result in
129 an interruption of service to the utility's current
130 customers or current residents in the amended area proposed
131 to be included in the certificate of authorization cannot
132 obtain service economically from another service provider.

133 Section 3. Subsections (7) through (10) are added to
134 section 367.071, Florida Statutes, to read:

135 367.071 Sale, assignment, or transfer of certificate
136 of authorization, facilities, or control.-

137 (7) Local government's right of first refusal. -

138 (a) No person, firm, corporation, partnership,
139 association, or any other non-governmental entity of any
140 kind owning a water or wastewater utility in this state may
141 sell any such water or wastewater utility without first
142 notifying the governing body of the local government in
143 which the majority of its equivalent residential
144 connections served by the utility are located and offering
145 such local government the right to purchase the utility.

146 (b) A non-governmental owner of a water or wastewater
147 utility desiring to sell its franchise, water system or
148 wastewater system, or facilities located in this state that
149 has received a bona fide offer or acceptance from any
150 potential buyer which is satisfactory to the owner shall
151 notify the local government of the offer or acceptance
152 stating the price, terms, and conditions of sale and
153 provide a copy of the proposed contract of sale together
154 with all exhibits, within 10 days of the receipt of the
155 offer or acceptance.

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156 (c) After notification of a bona fide offer or
157 acceptance pursuant to paragraph (b), the local government
158 shall have the right to purchase the franchise, water
159 system or wastewater system or facilities that are the
160 subject of the offer or acceptance at the price, terms and
161 conditions of the bona fide offer or acceptance by
162 executing a contract with the owner within 45 days, unless
163 agreed to otherwise, from the date of receipt of the notice
164 of the offer or acceptance. If the local government fails
165 to execute a contract with the owner within such 45-day
166 period, and the owner does not alter or amend the terms of
167 the bona fide offer or acceptance in negotiating a sale to
168 the local government, or the local government does not
169 adopt a resolution transferring its right of first refusal
170 to a governmental authority created pursuant to chapter
171 163, then the owner has no further obligations under this
172 subsection.

173 (d) The local government shall have until the later of
174 the closing date set forth in the bona fide offer or
175 acceptance or 120 days from the local government's
176 execution of a contract pursuant to paragraph (c) to close
177 the transaction. The contract between the owner and the
178 local government shall be freely assignable by the local
179 government.

180 (e) If the local government does not exercise the
181 right of first refusal granted by this subsection and the
182 owner thereafter offers the franchise, utility, water
183 system or wastewater system on different terms or at a
184 price lower than the price specified in the notice to the
185 local government, the owner shall so notify the local
186 government and provide copies of the proposed contract of

187 sale containing the revised terms and conditions together
188 with all exhibits to the local government within 10 days of
189 the receipt of the received offer. The local government
190 shall have an additional 30 days from the date of the
191 receipt of the notice of the received offer to meet the
192 revised price, terms and conditions by executing the
193 proposed contract.

194 (f) A local government that receives notice of a bona
195 fide offer or acceptance pursuant to paragraph (b) may, by
196 resolution of the governing body of such local government,
197 authorize a governmental authority created by interlocal
198 agreement pursuant to chapter 163 to exercise the local
199 government's right of first refusal granted by this
200 subsection. If the local government adopts a resolution
201 transferring its right of first refusal to a governmental
202 authority, the authority shall be required to act within
203 the time periods specified in this subsection as if the
204 date of the resolution of the local government was the date
205 of notice of the bona fide offer or acceptance.

206 (8) Exceptions to a local government's right of first
207 refusal. - Notwithstanding the provisions of subsection
208 (7), a local government shall not have a right of first
209 refusal under the following circumstances:

210 (a) Any sale or transfer to a person who would be
211 included within the table of descent and distribution if
212 the owner were to die intestate.

213 (b) Any transfer by gift, devise, or operation of law.

214 (c) Any transfer by a partnership to any of its
215 partners.

216 (d) Any conveyance of an interest in a water or
217 wastewater utility's facilities incidental to the financing
218 of capital improvements.

219 (e) A conveyance resulting from the foreclosure of a
220 mortgage, deed of trust, or other instrument encumbering a
221 water or wastewater utility or any deed given in lieu of
222 such foreclosure.

223 (f) Any sale or transfer between or among joint
224 tenants or tenants in common owning a water or wastewater
225 utility.

226 (g) Any purchase of a water or wastewater utility by a
227 governmental authority.

228 (9) Applicability of right of first refusal to multi-
229 jurisdictional utilities and stock purchases. - In the
230 event a person, firm, corporation, partnership,
231 association, or any other non-governmental entity of any
232 kind owning a water or wastewater utility in this state
233 desires to sell to a non-governmental entity a water or
234 wastewater utility located within a local government
235 together with a utility located outside of the same local
236 government, the purchase price to be paid by the local
237 government shall be the price set forth in the contract of
238 sale for such portion of the water or wastewater utility
239 located within the local government. In the absence of an
240 allocation of purchase price in the contract of sale
241 between a utility located in the local government and one
242 located in another local government, the purchase price set
243 forth in the contract of sale shall be allocated by
244 dividing the purchase price by the number of equivalent
245 residential connections currently serviced by the systems
246 to be sold and multiplying the quotient by the number of

247 equivalent residential connections located within the local
248 government. In the event of a proposed stock purchase, the
249 local government shall have the right to purchase the water
250 or wastewater utility located within the local government
251 at a price equal to the purchase price allocation method
252 for a multi-jurisdictional sale plus an allocation of the
253 outstanding debt of the utility. The portion of the
254 outstanding debt to be allocated to the water or wastewater
255 utility to be purchased by the local government shall be
256 determined in the same manner as the purchase price
257 allocation. For the purpose of the allocations required by
258 this subsection, an equivalent residential connection for a
259 water utility shall equal 350 gallons per day, and an
260 equivalent residential connection for a wastewater utility
261 shall equal 280 gallons per day. Together with the notice
262 required in subsection (7), the utility shall provide the
263 local government with the data necessary to determine
264 equivalent residential connections for the purposes of this
265 subsection. The owner of the water or wastewater utility
266 may identify an alternative method for allocating the
267 purchase price to that portion of the utility located
268 within the local government. The local government has sole
269 discretion in determining the acceptability of the owner's
270 alternative method of allocation.

271 (10) Notwithstanding the provisions of s. 367.171,
272 subsections (7) through (9) shall be effective in all
273 counties of this state.

274 Section 4. Subsections (4), (5) and (6) of Section
275 367.081, Florida Statutes, are renumbered as subsections
276 (5), (6) and (7), present subsection (7) is amended and

277 renumbered as subsection (8), and a new subsection (4) is
278 added to said section, to read:
279 367.081 Rates; procedure for fixing and changing.--
280 (4) For the purpose of determining rate base, the
281 commission shall not consider a utility's investment in any
282 new construction, expansion or replacement of a utility's
283 water treatment plant, wells, wastewater treatment plant or
284 effluent disposal facilities to be either prudently
285 incurred or used and useful in the public service unless
286 the utility presents competent substantial evidence
287 establishing that:
288 (a) The utility notified each government or
289 governmental authority which owns or operates a utility
290 system within the same county or an adjoining county
291 wherein the utility intended to construct, expand, or
292 replace such utility property, of its intent to do so;
293 (b) Interconnecting the utility's property with the
294 utility system owned or operated by such local government
295 or governmental authority in lieu of such construction,
296 expansion, or replacement by the utility was cost
297 prohibitive, or otherwise not feasible;
298 (c) The local government or governmental authority was
299 given sufficient information pertaining to the proposed new
300 construction, expansion, or replacement project and the
301 opportunity to provide a competitive bid to the utility on
302 not less than 90-days-notice for the interconnection of the
303 utility's property to the utility system operated by the
304 local government or governmental authority in lieu of such
305 construction, expansion or replacement; and
306 (d) The local government or governmental authority:
307 1. Failed to respond to the utility's notice;

308 2. Agreed with the utility that interconnection of the
309 utility's property was cost prohibitive or otherwise not
310 feasible; or

311 3. Presented a bid for interconnection which was not
312 the least cost alternative available to the utility, and
313 was not preferable to the proposed construction, expansion,
314 or replacement by the utility for public health and safety
315 or environmental reasons.

316 ~~(5)-(4)~~(a) On or before March 31 of each year, the
317 commission by order shall establish a price increase or
318 decrease index for major categories of operating costs
319 incurred by utilities subject to its jurisdiction
320 reflecting the percentage of increase or decrease in such
321 costs from the most recent 12-month historical data
322 available. The commission by rule shall establish the
323 procedure to be used in determining such indices and a
324 procedure by which a utility, without further action by the
325 commission, or the commission on its own motion, may
326 implement an increase or decrease in its rates based upon
327 the application of the indices to the amount of the major
328 categories of operating costs incurred by the utility
329 during the immediately preceding calendar year, except to
330 the extent of any disallowances or adjustments for those
331 expenses of that utility in its most recent rate proceeding
332 before the commission. The rules shall provide that, upon a
333 finding of good cause, including inadequate service, the
334 commission may order a utility to refrain from implementing
335 a rate increase hereunder unless implemented under a bond
336 or corporate undertaking in the same manner as interim
337 rates may be implemented under s. 367.082. A utility may
338 not use this procedure between the official filing date of

339 the rate proceeding and 1 year thereafter, unless the case
340 is completed or terminated at an earlier date. A utility
341 may not use this procedure to increase any operating cost
342 for which an adjustment has been or could be made under
343 paragraph (b), or to increase its rates by application of a
344 price index other than the most recent price index
345 authorized by the commission at the time of filing.

346 (b) The approved rates of any utility which receives
347 all or any portion of its utility service from a
348 governmental authority or from a water or wastewater
349 utility regulated by the commission and which redistributes
350 that service to its utility customers shall be
351 automatically increased or decreased without hearing, upon
352 verified notice to the commission 45 days prior to its
353 implementation of the increase or decrease that the rates
354 charged by the governmental authority or other utility have
355 changed. The approved rates of any utility which is subject
356 to an increase or decrease in the rates or fees that it is
357 charged for electric power, the amount of ad valorem taxes
358 assessed against its used and useful property, the fees
359 charged by the Department of Environmental Protection in
360 connection with the National Pollutant Discharge
361 Elimination System Program, or the regulatory assessment
362 fees imposed upon it by the commission shall be increased
363 or decreased by the utility, without action by the
364 commission, upon verified notice to the commission 45 days
365 prior to its implementation of the increase or decrease
366 that the rates charged by the supplier of the electric
367 power or the taxes imposed by the governmental authority,
368 or the regulatory assessment fees imposed upon it by the
369 commission have changed. The new rates authorized shall

370 reflect the amount of the change of the ad valorem taxes or
371 rates imposed upon the utility by the governmental
372 authority, other utility, or supplier of electric power, or
373 the regulatory assessment fees imposed upon it by the
374 commission. The approved rates of any utility shall be
375 automatically increased, without hearing, upon verified
376 notice to the commission 45 days prior to implementation of
377 the increase that costs have been incurred for water
378 quality or wastewater quality testing required by the
379 Department of Environmental Protection. The new rates
380 authorized shall reflect, on an amortized basis, the cost
381 of, or the amount of change in the cost of, required water
382 quality or wastewater quality testing performed by
383 laboratories approved by the Department of Environmental
384 Protection for that purpose. The new rates, however, shall
385 not reflect the costs of any required water quality or
386 wastewater quality testing already included in a utility's
387 rates. A utility may not use this procedure to increase its
388 rates as a result of water quality or wastewater quality
389 testing or an increase in the cost of purchased water
390 services, sewer services, or electric power or in assessed
391 ad valorem taxes, which increase was initiated more than 12
392 months before the filing by the utility. The provisions of
393 this subsection do not prevent a utility from seeking a
394 change in rates pursuant to the provisions of subsection
395 (2).

396 (c) Before implementing a change in rates under this
397 subsection, the utility shall file an affirmation under
398 oath as to the accuracy of the figures and calculations
399 upon which the change in rates is based, stating that the
400 change will not cause the utility to exceed the range of

401 its last authorized rate of return on equity. Whoever makes
402 a false statement in the affirmation required hereunder,
403 which statement he or she does not believe to be true in
404 regard to any material matter, is guilty of a felony of the
405 third degree, punishable as provided in s. 775.082, s.
406 775.083, or s. 775.084.

407 (d) If, within 15 months after the filing of a
408 utility's annual report required by s. 367.121, the
409 commission finds that the utility exceeded the range of its
410 last authorized rate of return on equity after an
411 adjustment in rates as authorized by this subsection was
412 implemented within the year for which the report was filed
413 or was implemented in the preceding year, the commission
414 may order the utility to refund, with interest, the
415 difference to the ratepayers and adjust rates accordingly.
416 This provision shall not be construed to require a bond or
417 corporate undertaking not otherwise required.

418 (e) Notwithstanding anything herein to the contrary, a
419 utility may not adjust its rates under this subsection more
420 than two times in any 12-month period. For the purpose of
421 this paragraph, a combined application or simultaneously
422 filed applications that were filed under the provisions of
423 paragraphs (a) and (b) shall be considered one rate
424 adjustment.

425 (f) The commission may regularly, not less often than
426 once each year, establish by order a leverage formula or
427 formulae that reasonably reflect the range of returns on
428 common equity for an average water or wastewater utility
429 and which, for purposes of this section, shall be used to
430 calculate the last authorized rate of return on equity for
431 any utility which otherwise would have no established rate

432 of return on equity. In any other proceeding in which an
433 authorized rate of return on equity is to be established, a
434 utility, in lieu of presenting evidence on its rate of
435 return on common equity, may move the commission to adopt
436 the range of rates of return on common equity that has been
437 established under this paragraph.

438 (6)~~(5)~~ An application for a rate change must be
439 accompanied by a fee as provided by s. 367.145, except that
440 no fee shall be required for an application for a rate
441 change made pursuant to subsection (4).

442 (7)~~(6)~~ The commission may withhold consent to the
443 operation of any rate request or any portion thereof by a
444 vote to that effect within 60 days after the date of filing
445 of the rate request, or within a shorter period established
446 by rule of the commission. The order shall state a reason
447 or statement of good cause for the withholding of consent.
448 The commission shall provide a copy of the order to the
449 utility and all interested persons who have requested
450 notice. Such consent shall not be withheld for a period
451 longer than 8 months following the date of filing. The new
452 rates or all or any portion thereof not consented to may be
453 placed into effect by the utility under a bond, escrow, or
454 corporate undertaking subject to refund at the expiration
455 of such period upon notice to the commission and upon
456 filing the appropriate tariffs. The commission shall
457 determine whether the corporate undertaking may be filed in
458 lieu of the bond or escrow. The utility shall keep
459 accurate, detailed accounts of all amounts received because
460 of such rates becoming effective under bond, escrow, or
461 corporate undertaking subject to refund, specifying by whom
462 and in whose behalf such amounts were paid. In its final

463 order relating to such rate request, the commission shall
464 direct the utility to refund, with interest at a fair rate
465 to be determined by the commission in such manner as it may
466 direct, such portion of the increased rates which are found
467 not to be justified and which are collected during the
468 periods specified. The commission shall provide by rule for
469 the disposition of any funds not refunded, but in no event
470 shall such funds accrue to the benefit of the utility. The
471 commission shall take final action on the docket and enter
472 its final order within 12 months of the official date of
473 filing.

474 ~~(8)-(7)~~ The commission shall determine the
475 reasonableness of rate case expenses and shall disallow all
476 rate case expenses determined to be unreasonable. No rate
477 case expense determined to be unreasonable shall be paid by
478 a consumer. In determining the reasonable level of rate
479 case expense, the commission shall consider the extent to
480 which a utility has utilized or failed to utilize the
481 provisions of paragraph ~~(5)-(4)~~(a) or paragraph ~~(5)-(4)~~(b)
482 and such other criteria as the commission establishes it
483 may establish by rule. If a utility pays hourly rates for
484 legal services related to the rate case that are in excess
485 of the rates established by the department of legal affairs
486 in its standard fee schedule for specialized attorney
487 services, the commission shall determine the amount paid in
488 excess of the standard fee to be unreasonable unless the
489 utility demonstrates by competent substantial evidence the
490 applicability of one or more criteria set forth in the
491 standard fee schedule exceptions adopted by the department
492 of legal affairs. In a rate case proceeding, a finding by
493 the commission supported by competent substantial evidence

494 that a utility's quality of service is marginal or
495 unsatisfactory shall be a sufficient basis supporting a
496 determination by the commission that all or a portion of
497 the utility's rate case expense is unreasonable. ✕

498 (9)-(8) A utility may specifically request the
499 commission to process its petition for rate relief using
500 the agency's proposed agency action procedure, as
501 prescribed by commission rule. The commission shall enter
502 its vote on the proposed agency action within 5 months of
503 the official filing date. If the commission's proposed
504 action is protested, the final decision shall be rendered
505 by the commission within 8 months of the date the protest
506 is filed. At the expiration of 5 months following the
507 official filing date, if the commission has not taken
508 action or, if the commission's action is protested by a
509 party other than the utility, the utility may place its
510 requested rates into effect under bond, escrow, or
511 corporate undertaking subject to refund, upon notice to the
512 commission and upon filing the appropriate tariffs. The
513 utility shall keep accurate records of amounts received as
514 provided by subsection (7)-(6).

515 Section 5. Section 367.0816, Florida Statutes, is
516 amended to read:

517 367.0816 Recovery of rate case expenses.—

518 (1) The amount of rate case expense determined by the
519 commission to be reasonable pursuant to s. 367.081 ~~the~~
520 ~~provisions of this chapter to be recovered through a public~~
521 ~~utilities rate~~ shall be apportioned for recovery through
522 the utility's rates over a period of 4 years. At the
523 conclusion of the recovery period, the rate of the public

524 utility shall be reduced immediately by the amount of rate
525 case expense previously included in rates.

526 (2) A utility may recover the 4-year amortized rate
527 case expense for only one rate case at a time. Any rate
528 case expense for a prior rate proceeding must be fully
529 amortized before a utility is eligible to recover in its
530 rates any additional rate case expense related to its most
531 recent rate proceeding.

532 Section 6. This act shall take effect upon becoming
533 law.

OPC Conceptual Proposals

PROPOSED IDEAS FOR CONSIDERATION BY THE WATER STUDY COMMITTEE

Rate Case Expense

Section 367.081(7), F.S., provides that the Commission shall determine the reasonableness of rate case expenses to be awarded to a utility that files a petition for a rate increase. Section 367.0816, F.S., provides that the amount of rate case expense determined by the Commission shall be apportioned for recovery over a period of 4 years. Section 367.0814, F.S., provides the Commission may establish rules to allow a water or wastewater utility whose gross annual revenues are under \$250,000 to request and obtain staff assistance for the purpose of changing its rates or charges; i.e., in filing a petition for a rate increase. These are commonly referred to as Staff Assisted Rate Cases or SARC.

Proposal 1: As a general rule, the Commission should not award rate case expenses for attorney or consultant fees in staff assisted rate cases (SARC's). However, if in the course of processing a SARC, the Commission staff requires the assistance of an outside consultant, the reasonable cost of the consultant's services should be recoverable from ratepayers as rate case expense.

Proposal 2: In a proceeding under Section 367.081, F.S., ("file and suspend" rate case) or Section 367.0814, F.S., (staff assisted rate case), the revenue requirement approved by the Commission should only include the four-year amortization of the rate case expense in the instant case. Any unamortized rate case expense associated with an earlier rate case filing should be discontinued. This limitation should not apply to rate case expense associated with limited proceedings, filed pursuant to Section 367.0822, F.S.

Proposal 3: In no event should an award of rate case expense exceed the total rate increase approved by the Commission (not including any rate case expense) in a "file and suspend" rate case filed pursuant to Section 367.081, F.S.

Interim Rates

Section 367.082, F.S., provides that the Commission may award interim rate increases during the pendency of a rate case filing. If a prima facie case is established, this statute provides the Commission shall authorize an interim rate increase within 60 days of the filing for such relief. Section 367.021(9), F.S., defines "official date of filing" to mean the date upon which it has been determined that the utility has filed with the clerk the minimum filing requirements as established by Commission rule. The process for the "determination of official date of filing" is set forth in Section 367.083, F.S.

Proposal 1: No interim rate increases should be awarded until and unless a utility files its completed set of the minimum filing requirements as set forth in the Commission's rules and Section 367.083, F.S. Section 367.082(2)(a), F.S., should be amended to require the Commission to authorize collection of an interim rate increase only after the official filing date has been established pursuant to Section 367.083, F.S.

Quality of Service

Pursuant to Chapter 403, F.S., and Chapters 62-550, 555, 560, 602 and 699, F.A.C., the Florida Department of Environmental Protection (FDEP) is responsible for implementing and enforcing the Federal and State Safe Drinking Water Acts. Pursuant to Chapter 403, F.S., and Chapters 62-600, 604, 610, 620, 621 and 640, F.A.C., FDEP is also responsible for permitting and monitoring wastewater facilities in the state. Depending upon the capacities of the water and wastewater systems, some of these responsibilities are delegated to County Health Departments.

The focus of FDEP's permitting, monitoring and enforcement of water systems is to guarantee the health and safety of public drinking water. The focus of FDEP's permitting, monitoring and enforcement of wastewater systems is to ensure that discharges from wastewater operations do not degrade the environment, including the aquifer, and do not pose a threat to the public's health and safety. FDEP is the state agency which has been granted "primacy" to protect the environment and the water supply from contaminants that can be injurious to the public's health and safety.

While FDEP has established secondary standards for water (taste, smell and color), the focus of its monitoring and enforcement actions is to ensure compliance with its primary standards that protect the public's health and safety. Likewise, the focus of FDEP's monitoring and enforcement of wastewater operations is to ensure that the wastewater product (effluent) is sufficiently treated so that its discharge into the environment will not degrade the environment, including the aquifer, and will not pose a threat to the public's health and safety.

In some water cases, the Commission has made a finding that the quality of the product is satisfactory because it meets "FDEP standards," and is not the subject of a FDEP consent order or other enforcement action, even when the water is discolored, smells or tastes bad. In some of the more egregious cases, the customers could not drink, cook or bathe with the water, or use it to wash clothes. In some wastewater cases, the Commission has made a finding that a wastewater system meets "FDEP's standards" and is not the subject of any consent order or other enforcement action; however, the customers (particularly those living close to the treatment plant) suffer from noxious odors that destroy the quality of their lives and the value of their homes and property.

With regard to water systems, the Commission's determination of the value and quality of the utility's product does not adequately consider the extent to which the utility fails to meet reasonable secondary water standards (taste, smell or color) and the degree to which customers

can use the water for normal daily living. With regard to wastewater systems, the Commission's determination of the value and quality of the wastewater service does not adequately consider the extent to which the utility fails to meet reasonable secondary wastewater standards, and the degree to which the wastewater operation produces excessive odors in the service territory.

Proposal 1: Section 367.081, F.S., should be amended to require the Commission to adopt rules to establish secondary water and wastewater standards and to establish a rating system which assesses the degree to which a utility meets the secondary water and wastewater standards. When the standards are not being met, the rule should require the utility to provide estimates of the costs and benefits of various solutions to the secondary standard problems. The rule should also prescribe penalties and sanctions if a utility fails to provide water and wastewater service that meets the secondary standards or fails to offer possible solutions to the problem(s). The Commission should consider compliance with the secondary water and wastewater standards in all rate proceedings to set new rates.

Office of Public Counsel
Proposed Language for Statutory Changes

1. Rate Case Expense – Proposal 1

Section 367.0814(7), F.S., is amended to read:

(3) The provisions of s.367.081(1),(2) and (3) shall apply in determining the utility's rates and charges. However, the commission shall not award rate case expense for attorney or other outside consultant fees if a utility receives staff assistance in changing rates and charges pursuant to this section. However, in the event of a protest or a appeal by a party other than the utility, the commission may award rate case expense for attorney or other outside consultant fees to the utility for costs incurred subsequent to the protest or appeal.

2. Rate Case Expense – Proposal 2

Section 367.0816, F.S., shall be amended to read:

Recovery of rate case expenses. – The amount of rate case expense determined by the commission pursuant to the provisions of this chapter to be recovered through a public utilities rate shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates. Only one 4 year amortization of rate case expense shall be recovered in rates at any given time. If the commission approves the recovery of rate case expense in a subsequent case prior to the conclusion of the recovery period of a prior case, the recovery of the rate case expense for the prior case shall immediately cease upon the commencement of the new rate, including recovery of rate case expense for the subsequent case. This limitation shall not apply to the recovery of rate case expense for a limited proceeding filed pursuant to Section 367.0822, F.S.

3. Rate Case Expense – Proposal 3

Section 367.081(7), F.S., shall be amended to read:

(7) The commission shall determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable. No rate case expense determined to be unreasonable shall be paid by a consumer. In determining the reasonable level of rate case expense the commission shall consider the extent to which a utility has utilized or failed to utilize the provisions of paragraph (4)(b) and such other criteria as it may establish by rule. The commission shall not award rate case expense which exceeds the total rate increase approved by the commission, not including any rate case expense, in a rate case filed pursuant to this section.

4. Interim Rates – Proposal 1

Section 367.082(2)(a), F.S., shall be amended to read:

(2)(a) In a proceeding for an interim increase in rates, the commission shall authorize, within 60 days of the ~~filing for such relief~~ official filing date, the collection of rates sufficient to earn the minimum of the range of rate of return calculated in accordance with subparagraph (5)(b)2. The difference between the interim rates and the previously authorized rates shall be collected under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the commission.

5. Quality of Service – Proposal 2

Add new subsections 3.-5. to Section 367.081(2)(a), F.S.

Section 367.081(2)(a) 3., 4., and 5., is added as follows:

3. In determining the value and quality of water service provided by a utility the commission shall consider the extent to which the utility meets reasonable secondary water standards regarding the taste, smell or color of the water and the extent to which the customers can use the water to drink, cook, bathe and wash clothes.

4. In determining the value and quality of wastewater service provided by a utility the commission shall consider the extent to which the utility meets reasonable secondary wastewater standards regarding avoidance of odor produced by the wastewater operation in the utility's service territory.

5. The commission shall adopt rules to establish secondary water and wastewater standards and to establish a rating system which assesses the degree to which a utility meets those standards. When the standards are not met the rules shall require the utility to provide estimates of the costs and benefits of various solutions to the secondary standard problems. The utility shall be required to meet with its customers to discuss the costs and benefits of the various solutions and report the conclusions of these meetings to the commission. The rules shall prescribe penalties and sanctions if a utility fails to offer possible solutions to the problem(s) or if the utility fails to adequately address the secondary standard problems.

Ralph Terrero Pass-through Proposal
Page 1 of 2

From: Terrero, Ralph (WASD) [TERRERO@miamidade.gov]
Sent: Wednesday, January 30, 2013 11:00 AM
To: JoAnn Chase
Cc: Greg Shafer; Larry Harris; Katherine Pennington
Subject: RE: Water Study Committee - Discussion document for conference call on 1/31
JoAnn, In addition to Gary's List, here are some quick issues we are also experiencing that could be related to IOU, please pass these to the other Committee members, tnx, Ralph

Current Pass Throughs

- Electric Power
- Ad Valorem Taxes
- Water or Wastewater Testing required by FDEP

Suggested Additional Pass Throughs

- Loan service origination fees – SRF, USDA RD, etc.
- **Water/Wastewater** Sludge hauling / disposal cost increases
- Elevated and Ground Storage Tank Engineering Inspections (5-year) as required by FDEP
- Operator and Distribution System License Fees as required by FDEP
- Water or Wastewater Operating Permit Fees as required by FDEP/**Local Municipalities**
- Installation of automatic flushing valves for dead end lines as required by FDEP/**Cost of pumping/chemicals to maintain secondary drinking water standards**
- Consumptive Use Permit Fees as required by WMD's
- Treatment Chemicals (chlorine, chloramines, ortho/polyphosphate, etc.) required to meet SDWA and CWA(**A good publication from WRF "Supply of Critical Drinking Water and Wastewater Chemicals-A White Paper for Understanding Recent Chemical Price Increases and Shortages"**)
- Staffing requirements as required by FDEP for Capacity Development
- Annual Audits
- Annual Reports / User Meeting /other PSC requirements and cost
- Consumer Confidence Reports-- Prepare and deliver
- Monitoring/Lab equipment to achieve DEP SOP's
- Rate Case Expense
- System Mapping requirement fees per DEP
- Odor abatement per DEP
- Risk Management Plans per DEP/**Security**
- **Fuel/Natural/LP gas**
- **Local Permits(seems like municipalities are being more strict on ROW Permitting and Repairs)(In Dade County, before you could patch an intersection, today you have to resurface the complete**

Ralph Terrero Pass-through Proposal
Page 2 of 2

intersection. Difference in cost from \$4500 to \$40000 each project). Also service lines construction cost increases from \$1500 Average to \$3500 +/-

- Cost of MOT
- Emergency Infrastructure Replacement
- Emergency Interconnections
- Scada

Ralph Terrero Annual Report Proposal

Annual Report:
 Schedule E-11, Executive Summary Section (One each, water and wastewater)

System Name	
County	
No. Customers	
No. ERCs	
Size Plant	
Treatment Type	
Volume Sold	
Vol. Produced	
Vol. Purchased	
Diff. between Sold and Produced+Purchased	
Operating Costs	
Cost of Power	
Chemicals Used	
(chemical/volume/cost)	
(chemical/volume/cost)	
(chemical/volume/cost)	
(chemical/volume/cost)	
(chemical/volume/cost)	
Employees	
No. Mgt. Emps.	
No. Cust. Serv. Emps.	
No. Ops./Maint. Emps.	
Total Emps.	
Serv. Avail. Charges [per customer]	
[Type/Amt.(\$)]	
[Type/Amt.(\$)]	
Bills:	
3,000/mo.	
5,000/mo.	
7,000/mo.	
10,000/mo.	

Gary Williams Pass-Through Proposal

From: Gary Williams [gary.williams@frwa.net]
Sent: Monday, January 28, 2013 4:37 PM
To: JoAnn Chase; Greg Shafer
Subject: information I mentioned at recent meeting and handed in hand written.
Florida Public Services Commission Rate Pass Throughs

Current Pass Throughs

- Electric Power
- Ad Valorem Taxes
- Water or Wastewater Testing required by FDEP

Suggested Additional Pass Throughs

- Loan service origination fees – SRF, USDA RD, etc.
- Sludge hauling / disposal cost increases
- Elevated and Ground Storage Tank Engineering Inspections (5-year) as required by FDEP
- Operator and Distribution System License Fees as required by FDEP
- Water or Wastewater Operating Permit Fees as required by FDEP
- Installation of automatic flushing valves for dead end lines as required by FDEP
- Consumptive Use Permit Fees as required by WMD's
- Treatment Chemicals (chlorine, chloramines, ortho/polyphosphate, etc.) required to meet SDWA and CWA
- Staffing requirements as required by FDEP for Capacity Development
- Annual Audits
- Annual Reports / User Meeting /other PSC requirements and cost
- Consumer Confidence Reports-- Prepare and deliver
- Monitoring/Lab equipment to achieve DEP SOP's
- Rate Case Expense
- System Mapping requirement fees per DEP
- Odor abatement per DEP
- Risk Management Plans per DEP

I'm sure there are others that should be considered, but this a list of ones I was able to come up with at this point.

Gary

Appendix VI: Public Input

Section (7) of Chapter 2012-187, which established the Committee, specifically requires the Committee to meet a minimum of four times, with two of those meetings to be held in areas outside of Tallahassee “in an area centrally located to utility customers who have recently been affected by a significant increase in water or wastewater utility rates.” The section further provides that “[t]he public shall be given the opportunity to speak at the meetings.” Given the charge of the Committee and this legislative directive, public comment and input have been encouraged in a number of forms.

First, at every Committee meeting, public input has been solicited, including identifying public comment as an item on the published agenda in advance of each meeting. For meetings held by telephone conference call, the Committee Chair has made available a call-in number for those members of the public interested in providing comments.

In addition, as previously discussed, the Committee established a website to keep the public apprised of all of the Committee’s activities, including notices and agendas of upcoming Committee meetings, as well as information on how the public may contact the Committee.

Finally, in order to maximize public participation from areas particularly affected by water and wastewater issues, the Committee selected Pasco and Lake Counties for two of its Committee meetings, specifically to obtain public comment. In addition to those two meetings held in areas outside of Tallahassee as required by the legislation, the Committee chose to hold its January 25, 2013 meeting in Tampa, Florida.

The Committee’s efforts to solicit public comment have been successful. Thirty persons have publicly addressed the Committee, while another 18 have provided written comments, including a petition signed by 522 residents of two subdivisions. Summaries of public input received by the Committee were included in the minutes of Committee meetings, as well as included in the discussion documents prepared in advance of Committee meetings. When possible, written comments were attached to the discussion documents.

At the New Port Richey and Eustis field meetings, customers were informed that they could provide additional written comments. Fourteen comments were received following the field meetings either on pre-printed customer comment forms or by e-mail.

Summary of Public Comments

In brief, the public comments related to the following areas:

- Creation of a statewide fund, similar to the Telephone Universal Service Fund, to assist utilities with expenses.
- A requirement that utilities explore interconnection with existing utilities prior to expanding infrastructure.
- The amount of rate case expense passed through to ratepayers.
- Benchmarking of utility costs and expenses.
- Customer notifications.
- Rates charged for water and wastewater service.
- Poor service provided by utility companies.
- Water quality issues, including taste, smell, color, and compliance with secondary drinking water standards.
- The provision of possibly unsafe drinking water.
- The effectiveness of regulation, including enforcement of rules and standards.
- Ownership and lack of regulation of the Florida Governmental Utilities Authority (FGUA).

Conclusion

In conclusion, the Committee made significant efforts to solicit public input and conduct business in an open and transparent manner. In addition to the opportunity for live comments at every meeting, the Committee accepted written comments electronically and by mail, as well as by pre-printed customer comment forms. These efforts resulted in over 47 comments being received and considered by the Committee. The remainder of this Appendix contains the input received by the Committee. Part 1 is a Summary of Oral Comments, Part 2 contains the written comments received after the field meetings, and Part 3 contains all other written input received by the Committee.

Part 1: Summary of Oral Comments

September 6, 2012 - Tallahassee

PSC Chairman Ronald Brisé

Chairman Brisé acknowledged that there are challenges related to Florida's water infrastructure, and those challenges will have to be met as Florida continues to grow. He is thankful that the Committee will make proposals for the Legislature to consider, and thanked the Legislature for recognizing water infrastructure as an important issue and creating the Committee as a forum to consider the issue.

Senator Alan Hays

Senator Hays began by thanking each member for their service on the Committee. Senator Hays stated that the Legislature needs the Committee's product, and needs the collective wisdom of the Committee members. Senator Hays acknowledged that the Legislature is full of good intentioned people who want to do the right thing but the expertise of the Committee members cannot be duplicated in the Legislature.

Senator Hays stated he was the sponsor of Senate Bill 1244, and encouraged the members to look the bill up, as it was his beginning attempt to address these issues. The Senator stated that the single most frequent constituent complaint he hears relates to the poor service and high rates of some water companies. Senator Hays stated he finds this to be unconscionable and reprehensible, and that public policy makers owe it to Florida's citizens to require an acceptable level of service.

Senator Hays stated that he hopes the Committee members can formulate a definition of what constitutes an acceptable quality of service. He would like clear definitions of water quality standards, and the Committee's recommendations on how to enforce a failure to live up to those standards. He would like the Committee to recommend which agency should be responsible for enforcement of quality standards. At this point, the Department of Environmental Protection, the Department of Health, and the Public Service Commission are all conducting inspections. The Senator believes it is important to clarify and define what the standards are, task one agency with enforcement of those standards, and define the frequency of inspections. The Senator also understands that there is a rating system for a utility's performance, and suggests that for utilities that receive unsatisfactory or poor quality ratings, they should have to perform at a satisfactory level before they can be granted a rate increase.

Senator Hays is also concerned about situations where the new owner of a utility comes before the PSC with a request for an enormous amount of money, perhaps needing millions of dollars to bring the purchased system up to quality standards. The Senator believes prevention is

the far better way to go, and would like recommendations to require inspections and that utility equipment be kept in good repair.

The Senator is also concerned about situations where a utility issues a large bill for months of unbilled service, and believes that if a utility does not accurately bill its customers because its equipment doesn't work, that expense should be the responsibility of the utility. Senator Hays also expressed his concern with conservation or tiered rates. He does not have an answer, and is not in favor of allowing people to just run water, but he is concerned about situations where low gallons are inexpensive while higher monthly consumption becomes exorbitantly expensive. He encouraged the Committee members to come up with a solution.

Mr. Ralph Lair is the legislative aide to House Speaker Will Weatherford. He stated that Senator Hays is passionate on the issue of water, and that in a body with 160 elected officials, who are all showing passion, it is often hard to achieve results. He stated that it is very good that the Committee is going to look at these issues. He reiterated that the Committee is facing a big task with a short period of time to produce the final product that the Legislature looks forward to receiving, and that he is also looking forward to that work product.

Mr. Frank Reams, a citizen activist on water issues, travelled to Tallahassee from Zephyrhills to address the Committee. Mr. Reams suggested that the Committee consider establishing a fund similar to those found in the electric and telecommunications industries. The fund would be intended to help small water systems upgrade their infrastructure and would be financed through a small monthly fee assessed on all water customers.

November 28, 2012 - Tallahassee

Mr. Brian Armstrong, an attorney practicing in local governmental law, suggested that utilities that plan on expanding infrastructure be required to determine if a neighboring utility has the capacity to serve the additional customers before a self-build option is initiated. Mr. Armstrong believes that inter connecting adjacent systems could provide in some cases a cost-effective alternative for small utilities.

December 5, 2012 - New Port Richey, Florida

Mr. Villei, a resident of Palm Terrace, stated that all the customers were present because of Aqua. Mr. Villei stated that since 2004, water quality was down to an unacceptable rating, but rates were up. Mr. Villei stated that the customers want Aqua out, and for Pasco to take over the Jasmine Lakes and Palm Terrace neighborhoods.

Mr. Todd stated that property values were going down due to Aqua and wanted to see changes made. Mr. Todd stated that politicians were not doing a good job, fixed income folks

were losing ground, rates keep going up, and that his taxes were lower than his water rates. Mr. Todd asked for a tax abatement for the devaluation of his property.

Ms. Linda Wittkopp, a Jasmine Lakes resident, produced a sample of black water drawn from her tap, which she presented to the Committee. Ms. Wittkopp indicated she had this black water on Thanksgiving, and that her houseguests will not shower due to smell and color. She stated her water bill was higher than her cable and electric bills. She stated she had no black water prior to Aqua taking the system over, and that property values were way below what residents paid 27 years ago.

Ms. Tammi Clark, a Palm Terrace resident, stated that the water smelled and caused her son to have skin issues. She stated she had not received a bill in six months. She stated she contacted the PSC with a complaint, and the PSC contacted Aqua but the Company did not respond.

Ms. Joyce Drabenstot of Jasmine Lakes stated that prior to Aqua, Jasmine Lakes had county water which was very good. Aqua is now in Jasmine Lakes, and the residents get boil water notices with prior dates. She stated her bill is always going up. She stated rates are too high, and to please let Pasco County take over the subdivision's utilities.

Mr. Bruce Adrian is a homeowner for over 16 years in Jasmine Lakes. Mr. Adrian was concerned that Aqua does its own testing and gives itself passing grades. He states that the water is enough to make you vomit. Jasmine Lakes residents pay nearly three times Pasco County rates and county water is great. He stated he has received notice of possible cancer or kidney failure due to the water, and that no one drinks it. He feels the water is a public safety issue. Mr. Adrian is also concerned that the fire hydrants have not been painted in years, and that Aqua does not inspect the sewers. He urged the Committee to develop reasonable solutions to this problem, and for Pasco County to do something to get county water to Jasmine Lakes. He thanked Commissioner Mariano for his help.

Mr. Michael Paeon, a resident of Palm Coast Gardens, stated that water was \$22 when he moved in, and is now \$100 for less usage. He is a retired plumber, and believes Aqua does only patchwork repairs. He stated Aqua does not do proper maintenance and has rude customer service. He stated that repairs are often delayed for days, Aqua's water rates are taking jobs away from Pasco County, and that residents have had no raises for 5 years while Aqua has had 3 rate increases in that time. He also stated that Aqua's customer service was very bad.

Ms. Carol Talaga has lived in the Palm Terrace subdivision since 1983, and the water was good until Aqua took over. She stated she gives bottled water to her cat, and that the tap water smells like rotten eggs. She stated she got sick from drinking a small bit of tap water in the middle of night, and had three days of dysentery. She stated she can not afford any more increases, and the neighborhood is full of empty homes. She uses less than 1,000 gallons per month and has a \$75 - \$80 per month bill.

Mr. James Foster resides in Jasmine Lakes, and has gone to the health department to have his water tested. He provided several discolored samples of water, and states the water smells and looks like urine. He reports that the highest mortality rate in Florida is in Pasco County, with heart disease, cancer, and respiratory issues. He blames Aqua's water. He also asked for information regarding the Florida Governmental Utilities Authority. He stated that the PSC has raised rates when water is not drinkable, the PSC is ignoring their issues, and wondered what the PSC does when samples are provided.

Mr. John Ahern of Zephyr Shores made a comparison of Pasco County vs. Aqua, mainly with regards to service. He stated that seasonal residents pay a \$54\month base facility charge with no usage. He supports Pasco taking over the water system.

Ms. Rena Ahern of Zephyr Shores states she is the one that calls with problems regarding odor and color. She wondered what happens when a problem occurs and Aqua can not reach the residents, or when equipment fails and there are no residents (due to seasonality) to call Aqua and report the equipment failures. (Ms. Ahern states that the residents have to call Aqua when equipment alarms go off; Aqua does not monitor the alarms.) She reported an incident where a sewer lift station failed. Ms. Ahern reports that the Aqua service man says Aqua does no maintenance on the equipment, only repairs, and wants Pasco County or the FGUA.

Ms. Erica Milligan is a Utilities, Inc. customer of the Summertree system; she was not complaining about Aqua, but rather about Utilities, Inc. She states she has the second highest rates in the county, and while her water does not have a smell problem, some of her neighbors' water does. She states she has some discoloration but the water is not black. She states there is a high rust content in the water, and her water bills are very high. She states that Utilities, Inc. is wasting a lot of water, and that Aqua is not the only problem in the county. She reports the Colony Lake neighborhood has Pasco rates which are about half of Summertree's.

Mr. Guirantes of Jasmine Lakes reports the same issues as other speakers, and has resided in Jasmine Lakes since 1996. He stated the neighborhood was his dream retirement, which is now a nightmare due to Aqua. He stated Jasmine Lakes is starting to look like the ghetto he lived in as a kid, and wants to be rid of Aqua to save Jasmine Lakes.

Mr. Bob Yates of the Pleasure Islands subdivision in Hudson stated he had a different problem. He sympathized with Aqua customers, but stated his neighborhood suffers from a poor sewer installation by Hudson, which is now Ni Utilities. He is concerned about the poor installation of the sewer lines and that as a result, the roads all have depressions where sewer mains were installed. He believes the sewer company should pay for repaving the roads, which are falling apart.

Mr. Dave Bussey of Zephyrhills spoke about "water predators." He stated that Aqua bought high cost systems no one else wanted. The rates are high, many folks have spoken in Tallahassee over the past several years, but the PSC could not solve the problems, because they

are unwilling and unable. He helped found FLOWFlorida to develop legislation with Speaker of the House Weatherford and State Senator Hays. He stated the Legislature was overwhelmed so they created the Study Committee. He believes legislation similar to that introduced last year has already been implemented in New Jersey and can be done in Florida. He is concerned that the Study Committee does not seem to be doing what the original legislation intended, which is to provide protection from water predators.

Mr. Paul Staikun of Zephyr Shores believes both private and public utilities should be subject to the same standards and enforcement. He suggests that legislation should require the same standards. He stated the PSC is not accountable to the public and is using a different set of rules. PSC members are political appointees, but all members and staff should be vetted for qualifications. He also had questions regarding oversight of utilities, and what do state agencies do to ensure good service? He believes there should be a system of fines for utilities to force compliance and remedy violations.

Mr. Robert Provost of Palm Terrace thanked Commissioner Mariano, and State Representatives Fasano and Legg. He stated when he was served by Florida Water it was okay, the rates were a little higher than other systems. After Aqua, problems started and rates went up. He has seen only limited improvements, such as a new meter and new trucks. He stated the neighborhood is over 30 percent empty, with many residents leaving because the price of water is too high. He also indicated there are many widows in the neighborhood who need assistance with high bills.

Mr. Pat Brophy, a resident of Jasmine Lakes, stated that he had spent over \$2,000 on a water ionizer and reverse osmosis (RO) filter. He brought his RO filter and the filter from his well for the members to examine. The RO filter is now black in color. He stated that it was originally white. The well filter appeared similar. The RO filter was about one year old, while the well filter was removed that morning. He stated that his water now has odors and bad taste. Mr. Brophy was concerned that the utility's trihalomethanes reports exceeded regulatory limits.

Ms. Ann Marie Ryan is a spokesperson for the Summertree subdivision, which is served by Utilities, Inc. She urged the Committee to think out-of-the-box and find a way to fix the problem. She stated customers can not choose the best way to get water, and the residents need safe, clean water, and more help. She believes water quality standards are too low, and that when customers complain of color, taste, and odors, the PSC says it is not a problem the PSC can address.

Ms. Roseanne Bright, a resident of Pasco County, was concerned about who owns the Florida Governmental Utilities Authority and what is the source of their funding. She was also concerned that the FGUA or its funding was related to the United Nations, Agenda 21.

Mr. Bussey spoke a second time, regarding the FGUA. He indicated they are a funding organization, and use bonds to finance the purchase of systems. He believes FGUA would yield better quality and service in the short-term and lower rates in the long-term.

Ms. Talaga spoke for a second time; she indicated that her son requires regular dermatology exams due to the water.

Mr. Adrian spoke for a second time; he stated that if Aqua supplies water that affects health, it is a public safety issue that has to be addressed.

Mr. Foster spoke for a second time; he stated that there is a bad sewer gas smell at night that burns eyes. He would like Pasco County to buy Aqua out.

December 5, 2012 - Eustis, Florida

Mr. Roger Sperling of Leesburg expressed concerns on the rate setting process, including rate case expense issues. Mr. Sperling suggested that rate case expenses be reduced for unjustified rate filings, and further that a penalty be imposed for poor filings.

Mr. George Auger of Leesburg also expressed concerns regarding rate case expense. He believes it is abusive for customers to pay utilities' expenses in raising customer water rates, with no benefits to customers. Mr. Auger presented some ideas on reforming the PSC's treatment of rate case expense, including write-offs of previously incurred rate case expenses and a splitting between the utility and customers.

January 8, 2013 - Tallahassee, Florida

Mr. John Williams of Utilities, Inc. stated that he believes the Committee should focus on streamlining cost recovery instead of imposing additional regulatory burdens on utilities as suggested by some participants. In particular, Mr. Williams noted that the interim rates statute already requires that utilities provide sufficient data to establish interim rates so that revising these data requirements is unnecessary. With respect to rate case expense, Mr. Williams noted that Florida is the only state he is aware of that reduces rates after rate case expenses have been amortized. Also, he is unaware of any state that allows rate case expense to be shared between ratepayers and the utility other than in a settlement agreement. Finally, Mr. Williams noted that Florida's Limited Proceeding statute has not proven effective in providing an alternative to traditional rate cases. In particular, he noted that since the Limited Proceeding statute does not require that the Commission resolve a case in a prescribed amount of time, he believes that a traditional rate case offers a more timely alternative for obtaining rate relief compared to a limited proceeding.

Mr. Brian Armstrong stated that benchmarking of utility cost characteristics can be helpful in identifying why some utilities have high rates. He suggested that the PSC compile

such a database based upon data already filed with the Commission and that the database be made available to any interested party.

January 25, 2013 - Tampa, Florida

Mr. Michael Larson, a customer of Labrador Utilities, stated that customer notifications of water line breaks and any resulting boil water notices need to be made on a more timely basis.

Synopsis of Written Comments:

In addition to speaking at the December 5, 2012 Eustis, Florida Committee meeting, Mr. George Auger of Leesburg provided additional written comments regarding rate case expense. Mr. Auger cites two recent cases argued before the PSC in which rate case expense represented a significant portion of the approved revenue requirement. He notes that since customers currently bear full responsibility for cost recovery of these expenses, the utility has no incentive to control these costs. Mr. Auger suggests that a formula be developed which would cap rate expense or to require that the utilities bear the cost of rate case expense.

In addition to participating actively at the December 5, 2012, New Port Richey, Florida meeting, Mr. Dave Bussey of Zephyrhills provided written comments listing areas that could be investigated by the Committee. These areas included: (1) a modification to statutory language that would allow the Commission unquestionable authority to rescind a utility's certification; (2) proposing that a utility's rate of return should be set in accordance with the number of customer complaints; (3) proposing penalties for poor quality of service; (4) reducing rate case expense; (5) limits on how often rate cases can be filed; and (6) competitive rates.

Mr. Robert Patterson of Acorn Hill provided written comments on base facility charges. Mr. Patterson notes that his bill contains three base facility charges: one for indoor water service, one for irrigation service, and one for wastewater service which together total \$55.39 per month. Mr. Patterson suggests that these charges are unreasonable.

Mr. Frank Reams of Zephyrhills, who travelled to Tallahassee to speak at the Committee's September 6, 2012 Tallahassee meeting, provided written comments on several topics. First, Mr. Reams noted that in Ohio, rate case expenses are proposed to be shared 50/50 between customers and the utility for those systems with more than 15,000 customers. He also noted that the New York Public Service Commission instituted a penalty system for Aqua Utilities based upon the number of customer complaints filed against the utility. Finally, Mr. Reams noted that current automated meter reading technology should allow utilities to detect billing problems more quickly compared to manual meter reading. Mr. Reams, therefore, concludes that Florida's current statute allowing utilities to back bill for 12 months of service is obsolete and should be reduced to a shorter period of time.

Thirteen customers provided responses on the pre-printed customer comment forms made available after the Committee's meetings. Ten of the thirteen comments identified high rates as a problem, ten identified poor quality of service as a problem, two suggested the regulatory process is undependable, and one related to billing issues.

The Committee received a petition signed by 522 customers of the Turtle Lakes and Oak Grove subdivisions in Pasco County, which are served by the FGUA, an entity exempt from PSC regulation. The petition cites the recent 94 percent rate increase imposed by FGUA as unreasonable and requests that the FGUA be subject to some form of regulatory oversight. In response, the Committee received an e-mail from FGUA regarding the petition which states that FGUA is currently meeting with the customers of the Turtle Lakes/Oak Grove subdivisions to resolve customer concerns.

Part 2: Customer Comments Following Field Meetings

**The Study Committee on Investor-Owned Water & Wastewater Utility Systems
Customer Comments**

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Name Harold M. Todd

Address [REDACTED]

Email HM Todd 31@AOL.COM

CONSUMER COMMENTS
To ALL OF THE ABOVE NAMED PERSONS, MY COMMENTS
THE STUDY COMMITTEE'S LIST OF THE SIX TOPICS -
LOOKS LIKE A WISH LIST WRITTEN BY AN FOV
THE INVESTOR OWNED UTILITIES
AS IF THE RATES WEREN'T HIGH ENOUGH
NOW TO ABUSE THE PEOPLE EVEN MORE
SOMEONE WOULD GO INTO OUR TAX PAYER POCKETS
TO TAKE MORE MONEY TO SEND OUT OF STATE
TO RICH SHARE HOLDERS.
MONEY THAT COULD BE USED TO FUND THE TAKE-
OVER BY EMINENT DOMAIN FOR THE GOOD OF THE PEOPLE.
AND REPORT RETAIL SALES AS SALES TAXES HAVE
(DO THE PEOPLES WORK AS YOU ARE PAID TO DO!)

Fold and tape - - see back for address

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JoAnn Chase

From: Anna McCoon [ammjwm@gmail.com]
Sent: Wednesday, December 26, 2012 10:01 AM
To: floridawaterstudy@gmail.com
Subject: Aqua Utilities

I am writing to you at this time in regards to Aqua Utilities. Unfortunately, we have been STUCK with Aqua Utilities as our water company for 8 years. I have had to contact the state to help me when Aqua Utilities over charged us by 5300 gallons one month. With the states help, it still took them 9 months to refund the money they over charged us. Their service people are not very well trained. I requested a service person when our bills got even more ridiculous then usual to see if we had a leak. Upon checking our meter, which kept turning with all water sources off, their service rep. told me everything was perfect. I then had to pay a plumber to tell me that there was a leak in the system since, duh, the meter never stopped. There are only 2 people in our household and we pay a average of \$95.00 a month for water from Aqua Utilities (which we only use to shower, wash clothes and dishes). Then every week we also have to buy water for our animals and for us to drink and cook with. The water Aqua Utilities supplies us is unusable for human or animal consumption. It is discolored and heavily laced with chemicals smells. If you were to use the water in your coffee maker, you will be replacing your coffee maker within 6 months, since the water will eat up and corrode the water lines. This has happened to us and many residents in the area we live. It is our HOPE that something will be done to help the consumers not Aqua Utilities. This seems to not be case since we just received a notice that our rates were approved to be raised AGAIN and the new rates actually went into effect before we were notified AGAIN. many of our neighbors are elderly and alone in their households, however, they still pay close to \$90.00 a month. THIS IS RIDICULOUS. The cost verses the quality is way out of proportion and they keep getting rate hike approvals. When will this ever be corrected and the CONSUMER be protected? Unfortunately we have to work full time so we are unable to make it to any of the meetings held on this subject, however, that does not mean that we are not affected by this outrageous injustice nor does it mean that we do not deserve a solution to help ALL Aqua Utility customers not continue to allow them to increase our rates and in return give us POOR QUALITY WATER AND SERVICE.



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Name Frances Holliday

Address [REDACTED]

Email _____

CONSUMER COMMENTS
poor water pool service in my 50 years, living several places never paid so much, always more than electric bill no notice for bad water, which happens quite often

Fold and tape -- see back for address

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JoAnn Chase

From: John Pavka [taxauditoriv@hotmail.com]
Sent: Monday, December 24, 2012 1:14 PM
To: jmariano@pascocounty.fl.net
Cc: JoAnn Chase
Subject: FGUA needs Statute changes/regulation
Commissioner Mariano,

I did want to attend your committee Meeting on water & waste water rates but the timing was bad. This email will have to suffice.

As a homeowner and consumer of water, imagine my surprise when my water bill nearly doubled. In June I had heavy use, attempting to establish a new lawn. \$51 was not unexpected. But the July bill for \$98 was unexpected, because this was based on ZERO outside water use in July. Oh, but the Florida Governmental Utility Authority (FGUA) was prepared to provide me with the service, so they charged me \$19.63 for ZERO use.

Plus another \$19.63 to dispose of my waste water and yet a third \$19.63 charge to sell me their water for inside use. The inside water sale was yet a fourth charge.

Very close to \$60 in base service charges..... all increases
My July water bill should have been closer to \$40 NOT \$100

As a trained accountant it is painfully obvious to me that FGUA is allowing me to buy Mad Hatter's business for them. Mad Hatter is the local water utility FGUA negotiated to purchase after the Public Service Commission denied Mad Hatter's rate increase. FGUA is using MY money to their benefit. When I asked PSC who regulates FGUA, their answer was not PSC. When I asked PSC who sets the FGUA rates I was told the FGUA Board of Directors. Imagine if TECO or Florida Power set their own rates ??

Clearly it's past time for FGUA to be regulated

But I fear worse is coming. I am the volunteer Treasurer for my Home Owners Association, Twin Lakes Subdivision Association. We recently started receiving complaints about our community pool. There are rust stains on the bottom of our pool.

These indicate to me we are getting ground water from FGUA. The source of the iron oxide creating rust stains in our pool. This raises all sorts of issues, questions and concerns. The use of Florida ground water brings in many more contaminants.

Now I understand why FGUA has increased chlorination of their water. But that does NOT address the other contaminants such as fertilizers, pesticides, herbicides, etc.

Which is why Mad Hatter was preparing to install a reverse osmosis system.

A much more sophisticated system but just 'too expensive' for FGUA

I did attend a meeting with FGUA officials done at a Lutz Church earlier last week.

But let me stop complaining long enough to offer a rational solution.

In doing my homework, I stumbled across a report. A Special Examination, done by Office of Program Policy Analysis and Government Accountability (OPPAGA), subtitled "Intergovernmental Authorities Provide Public Benefits, But they Lack Accountability", dated December 2002, Report No. 02-67

The subtitle says most of it. It's only 10 pages long. There are recommendations in the Report which should be enacted into Florida Statute. Including the PSC should be involved in any rate setting involving the Public for an essential service like water.

Unlike Cable TV, the Public has NO choice when it comes to water. Thus making it a monopoly which needs oversight and regulation.

But NO, the makeup of FGUA's Board of Directors does not allow ONE County's Representative from blocking rate increases.

Page 2 of 2

Please, it's past time to regulate FGJA
I trust the above helps

John Pavka
Volunteer Treasurer Twin Lakes Subdivision Association

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Customer Comments**

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Name DON B. HOWARD
Address [REDACTED]
[REDACTED]
Email _____

CONSUMER COMMENTS
I HAD ATTENDED THE LAST MEETING AT THE GOVERNMENT CENTER THAT IS IN PASCO CO.
I USE WATER THAT IS REGULATED BY AQUA WATER LTD.
I'VE BEEN LIVING IN THE AREA FOR 27 YEARS I NEVER HAD PROBLEMS WITH JASMINE UTIL. UNTIL AQUA TOOK OVER RATES HAVE GONE UP & QUALITY HAS GONE DOWN. I HAD PUT IN AN INLINE WATER FILTER SYSTEM SINCE AQUA TOOK OVER CHANGING EVERY THREE MONTHS. NEXT MEETING I'LL BRING IN THE FILTERS. PLEASE DO SOMETHING.

Fold and tape sealed back with address

THANK YOU SINCERELY
DON B. HOWARD

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Page 1 of 1

JoAnn Chase



From: Patterson, Robert [Robert.Patterson@spx.com]
Sent: Sunday, December 02, 2012 11:10 AM
To: FloridaWaterStudy@gmail.com
Subject: Water Rates

Dear Florida Water Study,

Reading through your web page it appears the upcoming agenda deals with low cost solutions for water providers, even though combining many small owners to one large should have lower cost due to economy of scale. Additionally, beyond studying the rates these utilities charge, you should look at the "Service Charges" companies like FGUA charges. We have 3 Base charges on our bill, Basic Water is \$19.86 no matter how much water is used, Irrigation Water Base charge is \$19.86 and then there is a sewer Base Charge of \$15.67. That amounts to \$55.39/month in base charges, before any water rates are included. So if you just look at the rates, it is not a true indication of what these companies are charging. FGUA is collecting just from me \$664.68 a year in base charges supposedly to maintain my meters. That's outrageous. Then to only consider items that further extend help to the utility, is just not acceptable.

Regards,

Robert Patterson



Robert.patterson@spx.com
813-406-4105

JoAnn Chase

From: Nanjean47@aol.com
Sent: Sunday, December 09, 2012 11:58 AM
To: floridawaterstudy@gmail.com
Subject: Questions:

I live in another park in Pasco County, not served by Aqua Utilities, but we have somewhat similar situations as those folks.

My question today is, if you are able to provide an answer is this: It is my understanding that Labrador Utilities is planning a water outage over night one night this next week for the purpose is making repairs at our sewer treatment plant. **Do they not have a duty to respond in writing to each household of this matter and the possibility of a boil water notice, to follow such action.** There are many folks in our community that don't get to the common areas to see notices, or postings at the entrances and exits of the park. We are a park of over 800 homes, and it seems to me that there should be a better way than word of mouth, or a notice at the common areas, or entrance/exit to the community for such action. In the early 90's when this park was in its infancy, each home received a door hanger every time there was an expected problem, don't those rules and safety procedures still apply??

This park by the way is Forest Lake Estates, Forest Lake Dr Zephyrhills, Fl.

Thank you for your time regarding this touchy subject with many residents.

Sincerely,

Nancy J Bailey
Nanjean47@aol.com

**The Study Committee on Investor-Owned Water & Wastewater Utility Systems
Customer Comments**

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Name Amy Mclean

Address 


Email _____

CONSUMER COMMENTS
- Aqua's water smells terrible
- It is often "yellowish" or discolored
- The monthly water bills are extremely high - in a house with only 2 adults / no sprinkler system our bill averages \$120-\$130 per month vs the \$50-\$70 a month when we had Pasco county water
- the pressure is often lower than normal

Fold and tape - - see back for address

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JoAnn Chase

From: Crzyctldy9@aol.com
Sent: Saturday, December 08, 2012 6:45 AM
To: FloridaWaterStudy@gmail.com
Subject: Consumer Comments from Jeff & Felice Merry

We have lived in Palm Terrace for almost 8 years. Our water comes from Aqua Utilities and our water bill is off the charts. I happen to tell my mother about my bill and she said it had to be an error or we had a water leak somewhere. She pays about \$30 a month. I have a water bill of \$100 or more a month. Of that portion, we just recently learned that \$60 of our bill is just to keep connected.

We have tried everything to get our water bill down. The following are some of the ways we have had to conserve:

- We only flush once per day

- We are using our neighbor's well water by filling 20 lbs water jugs to do dishes & cleaning.

- There is no such thing as enjoying a hot shower. We turn the water on, wet down and shut it off until we are ready to rinse.

- We use the water from the well for our cats and then we recycle this water to water our plants.

- We had to buy a new washing machine (there was nothing wrong with our old one) because it uses only 17 gallons versus 40 gallons. We can barely afford the monthly payments and it has not made a whole lot of difference

We don't have a pool, a sprinkler system or a dish washer and yet we continue to receive bills for water at \$100 or more month. Even after having done all of the above it seems to make very little difference in our bill. I mean why would it? Even if we never use a drop of water we would still be paying \$60 a month just to keep our water on. Tell me where is the justice in this???????????

We don't drink the water and we cringe at taking a shower because the water is so disgusting! What gives Aqua Utilities the right to let people have to live this way. Why are we paying to a water company that is not in the state of Florida? Why are thousands of customers like us having to suffer and tolerate these outrageous prices when all around us others are paying rates as low as \$30 a month? Every time I see the water running I just want to cry!!! I am horrified and

embarrassed to even have to tell you this is how we have had to live!! But if it can make a change for the better for us and other people who are struggling like us, so be it.

Jeff & Felice Merry

From: Sam Wimbish [laurelsam@verizon.net]
Sent: Monday, December 03, 2012 8:10 PM
To: FloridaWaterStudy@gmail.com
Subject: Your Water Study on Wed in Pasco County

For your information in this study. Our water bills in our community of Gulf Landings, we are in Sea Colony section are extremely high. Our bills monthly range from \$67 to \$155. There are only 2 of us in this home. We do have a swimming pool, but we limit when we add water due to the extremely high rates. We also have an in ground sprinkler system, but we don't use it because of the costs also. We have noticed within the last 5 years that our water quality is worse. If the water sits...in the tank...it ends up have a very strong sulphur smell. Also the worst is we have black appliances in the kitchen and our water dispenser on the fridge has white film all over it. Our dishes are brown and show white film all over them, whether I wash by hand or use dish washer. A lot of our dark clothes have been ruined after one wash....they are faded and the coloring/dye turns different colors....If it's a black or navy color - it might end up with orange tint all over it. We don't know if we need a conditioner or not. We probably should get our water tested but we're afraid of the companies out there that just want you to buy their product. Could our water get tested. We are under FGUA. It use to be Lindrick. It's a private water company just for our area. When our bill was \$150.34 it said we had a usage of "7"....showed meter was 228 then current was 235, for 31 days. Each month we go to GA for a week....so most of our monthly bills are for only 3 weeks of use and that's high. Our other friends that are under other water systems usually pay between \$35-\$50 per month. Why is our water bill so high. Other neighbors have had bills that are \$200 and one was \$300. We have had someone out to check for leaks and there aren't any. Don't these bills seem extremely high? Thank you for any help you can give. Also....what can we do to counteract the white film we get? Is it safe? Laurel Wimbish 5547 Jobeth Dr, New Port Richey FL 34652. 727 845 5380. Email - laurelsam@verizon.net.

1/7/2013

Comments by George Auger

George Auger

I want to discuss Rate Case Expense and its Accounting Treatment

First off, we customers find it abusive that we are required, by law, to pay the utility's expense for raising our water rates. The customer derives no benefit from this expense.

The utility hires a law firm and pays them up to \$340 an hour to put together the rate case. But what do they care what it costs? They are not the ones who are paying the bill. The PSC staff analyzes rate case expense to be sure that the amount is reasonable, but they do not take exception to the fact that it costs up to \$340 an hour for legal services. Further, we customers have no say in who is hired to prepare the rate case – our job is to simply pay the bill.

But it gets worse. Since rate case expense is amortized over four years, a portion of the expense is treated as a capital asset and we are required to pay the utility profit on it and then to gross up the profit to pay the taxes on their profit. So the utility is actually incentivized to spend as much on rate case expense as they can possibly get away with. The more they spend, the more profit they make – and we customers foot the bill.

This year (Docket 120037-WS) the utility filed to increase our rates by \$278,474 with rate case expense estimated at \$229,000. The utility planned to spend \$229,000 to raise our rates \$278,474.

And then there is “pancaking”. The PSC staff can explain it better but basically what happens is that when a new rate case is brought before the four year amortization of the old rate case is completed, the new rate case expense is added to amortization expense from the old rate case resulting in new water rates that include a double charge for rate case expense. There is an Accounting principle that states “intangible assets should be tested for impairment and written off to the extent that they have lost value”. When new rates take effect, expense relating to the old case no longer has any value. The unamortized balance of old rate case expense should be written off and not included in the new rates.

What is Needed?

- 1) Rate case Expense should be borne entirely by the utility as it provides no benefit to the customer.
- 2) Pancaking should be eliminated by requiring unamortized rate case expense to be written off upon the establishment of new rates and not be included in the calculation of new rates.
- 3) If rate case expense is allowed to continue to be charged to the customer it could be split between the two parties as is done in some other states. Rate case expense should be excluded from all profit calculations.
- 4) If rate case expense continues, the amount of approved expense (and its related amortization) should be accounted for separately from non-approved rate case expense. Currently the PSC staff wastes time going through their records to separate out approved and non-approved rate case expense. Requiring the utility to record approved and non-approved rate case expense and amortization in separate accounts will simplify the PSC staff's work.

Respectfully,

George J Auger
552 Grand Vista Trail
Leesburg, FL 34748
352-728-6075

Comments by George Auger

Rate Case Expense

It is recognized that every utility needs to apply for a rate increase from time to time and therefore the cost that they incur can be viewed as an ordinary expense incurred in the normal course of doing business. However, the state of New Jersey in establishing that Rate Case Expense would be shared 50/50 stated that "the utility also benefits from a renewed opportunity to earn a fair return on equity". Minnesota also found that shareholders benefit from rate cases and established that the cost would be split between customers and the utility.

The issue that concerns customers most of all, however, is the high cost of Rate Case Expense. The utility regularly engages a third party to prepare the rate case at costs that run to several hundreds of dollars per hour. As a result the cost of pursuing a rate case has become so inflated as to become unreasonable. For example, under Docket 120037-WS, requesting an increase in rates of \$278,474, the utility initially estimated Rate Case Expense of \$229,091 then revised it to \$100,983. The PSC staff ultimately approved \$49,814, less than half of the lower, revised amount. Even that amount was not inconsequential as the annual amortization expense of the \$49,814 (\$12,453) represented 20 % of the rate hike (\$61,132) recommended by the PSC staff.

In the 2009 rate case (Docket 090392-WS) amortization of approved Rate Case Expense amounted to 25 % of the recommended increase in rates.

Since under current Florida law we customers bear 100 % of the cost of Rate Case Expense, we feel that the utility inflates Rate Case Expense as they have "no skin in the game" and as a matter of fact, since we pay them a profit on a portion of Rate Case Expense (along with a gross-up for taxes) they are actually incentivized to incur as much Rate Case Expense as possible.

Rate Case Expense need not be a "one size fits all" proposition. Utilities' customers are classed by size (A,B,C) and the application of Rate Case Expense could also be dealt with, differently, by size. Surely Utilities Inc of Pennbrooke with a customer like Pennbrooke Fairways, that comprises 1,239 homes, need not be handled the same as Florida Light & Power. To this end, I would suggest a formula such as one that would cap Rate Case Amortization Expense at 5 % of the new rates. It is only when the utility feels compelled by a constraint on their bottom line that they will make a serious effort to prudently manage their spending on Rate Case Expense. The best result for the customer would be for the utility to bear 100 % of Rate Case expense.

Of course it goes without saying that Rate Case Expense must be excluded from any profit calculation.

George Auger
552 Grand Vista Trail
Leesburg, FL 34748
352-728-6075 352-348-6509

Comments by Roger Sperling

My name is Roger Sperling. I live at 548 Grand Vista Trail, Leesburg. I am here to speak not only for the people who are customers of privately owned utilities but also for everyone who pays taxes in Florida. My comments concern the process by which utility rates are established.

Put simply, utilities propose rate increases and the Public Service Commission reviews the proposals and approves what they determine to be rates that allow the utilities to provide adequate service and make a reasonable profit. Sounds logical.

It sounds logical until you realize that the rate case process has become a high stakes game of deception by the utilities which costs taxpayers countless hours of work by the PSC and the Office of Public Counsel. In two cases I have studied, a utility has been allowed rate increases that are 22% and 28% of the those proposed in their rate case filings. This, after months of study and analysis by the PSC. So most of the justification in the rate case filings was determined to be unacceptable, inadequate, inflated or false. PSC questions to the utility involved were answered evasively, incompletely and in some case not answered at all.

Utilities use third parties to prepare rate case filings. This puts distance between the utility and content of the filing in the event the PSC finds fraudulent content. The preparer can say, "I worked with the information I was given", and the utility can say, "Those numbers are the result of analysis by the preparer."

It is significant that rate case preparation cost is added to the rates and charged to the customers. Further, profit is added and actually grossed up for taxes. This incentivizes utilities to spend without limit on rate case filings. The result is hundreds of mind numbing pages of numbers in very small print purporting to justify rates that the PSC knows are mostly unjustified, and will spend hundreds of hours on the taxpayers' dime to document it.

I have some suggestions:

- 1) Eliminate profit on rate case cost. This will remove one of the reasons filings are so voluminous and expensive. Utilities will still be reimbursed for allowable rate case costs.
- 2) Disallow rate case expense proportionately to other disallowed costs presented in the filing. This is fair. Rate case costs will be lower if attempts to justify the unjustifiable are omitted from the filings.
- 3) Establish stiff penalties for filing unjustified rate increase requests. I'm not talking about a \$5000 fine when millions of dollars are at stake. A preparer who

Comments by Roger Sperling

intentionally tries to deceive the PSC will know that he will be looking a jail time. When utilities are wasting hundreds of thousands of taxpayers' dollars the stakes must be higher than a slap on the wrist. Officers of utilities must be personally subject to the same penalties so that they can't make a scapegoat of a clerk.

- 4) Benchmark utility performance and compare rates to those charged by well-run public and private utilities of similar size. Consider "best practices", especially with regard to administrative functions. Eliminate the current situation in which utilities' profits can be increased by adding unneeded layers of management and adopting inefficient practices and systems. If a utility chooses to operate inefficiently, they must suffer loss of profit, just as is the case in a competitive business environment.
- 5) Compare rate case filings among utilities. The best filings ask for rates that are largely approved. The worst have most of the requested increases denied by the PSC. Utilities that file the bad cases must be subjected to additional penalties. One simple method is to allow full profit only for the best quartile, based on percent of the requested rate increase that is granted after evaluation by the PSC. The second quartile will lose a percent of its profit, the third quartile two percent and the bottom quartile three percent.

If the charter of the commission gathered to meet here tonight is to assure rates are fair and improve the performance and cost effectiveness of privately held utilities, a focus on the process by which rates are set will be a necessary part of your work. Holding utilities accountable for the deceptions deliberately woven into their rate case filings is central to improving the process and gaining control of the PSC's workload, and the resulting cost to the taxpayers. Simplification, measurements, rewards and penalties, judiciously applied will reduce cost to the taxpayers and the utility customers while enabling effectively-run utilities to profit and causing poorly-run utilities to either improve or be acquired by competent new owners through bankruptcy proceedings.

RS 12/5/12

Part 3: Other Written Comments

Letter from Frank Reams

November 1, 2012

Ms. Katharine Fleming,

I have been very involved with the actions to establish this Water Study Committee, I have met with some of the legislators in person and at customer hearings which were held around the state, and attended Highlands county, Seminole county, Palatka, Gainesville, Eustis, New Port Richey, and the Lakeland customers hearings held in late 2011.

I'm cognizant of the many issues associated with the safe delivery of water to the citizens of Florida, I'm also concerned that the committee will be given adequate time to discuss many issues which pertain to the Larger Investor Owned Utilities which was one of the drivers for this committee. Senator Hayes at the first meeting also addressed this to the committee.

I'm also suggesting that there needs to be some way to separate the very small operators from the large ones. In Ohio they are proposing a bill that would limit the amount of dollars which would be paid by the customer for the Utilities rate case expense. This legislation as proposed sets the lower limits at 15,000 customers if the utility has less than this number the rule does not apply. However, for those over this number then the stockholders would be paying 50% percent of the cost of the rate case.

Partial language of Ohio HB 87

(B) No water-works company that serves fifteen thousand or more customers in Ohio, no sewage disposal system company that serves 15,000 or more customer in Ohio. And no water-works company that is also a sewage disposal system company that serves a total of fifteen thousand or more customers in Ohio may recover from its customer more than fifty per cent of the total amount of rate-case expense that it incurs for an application filed under section 4909.18 of the Revised Code. Company	Year	Rate Case Expense	50% Rate Case Expense
Ohio American	1999	400,000.00	200,000.00
Aqua Ohio	2000	50,000.00	25,000.00
Aqua Ohio	2001	100,000.00	50,000.00
Ohio American	2001	296,000.00	123,000.00
Aqua Ohio	2003	100,000.00	50,000.00
Ohio American	2003	399,960.00	199,980.00
Aqua Ohio	2007	75,000.00	37,500.00
Ohio American	2007	400,001	200,001
Ohio American	2009	523,417	261,709
Aqua Ohio	2009	96,000.00	48,000.00
Aqua Ohio	2009	172,000.00	86,000.00
Total		2,854,378.00	1,422,190.00

Email From Robert Patterson

Subject: FW: Water Rates
From: Patterson, Robert [mailto:Robert.Patterson@spx.com]
Sent: Sunday, December 02, 2012 11:10 AM
To: FloridaWaterStudy@gmail.com
Subject: Water Rates

Dear Florida Water Study, Reading through your web page it appears the upcoming agenda deals with low cost solutions for water providers, even though combining many small owners to one large should have lower cost due to economy of scale. Additionally, beyond studying the rates these utilities charge, you should look at the "Service Charges" companies like FGUA charges. We have 3 Base charges on our bill, Basic Water is \$19.86 no matter how much water is used, Irrigation Water Base charge is \$19.86 and then there is a sewer Base Charge of \$15.67. That amounts to \$55.39/month in base charges, before any water rates are included. So if you just look at the rates, it is not a true indication of what these companies are charging. FGUA is collecting just from me \$664.68 a year in base charges supposedly to maintain my meters. That's outrageous. Then to only consider items that further extend help to the utility, is just not acceptable.

Regards,

Robert Patterson
23701 Acorn Hill Dr.
Lutz, Florida 33559
Robert.patterson@spx.com
813-406-4105

Email From Dave Bussey

From: Dave Bussey [mailto:dbussey@hotmail.com]
Sent: Friday, December 14, 2012 1:38 PM
To: Ken Goodman; JoAnn Chase; FloridaWaterStudy@gmail.com; Jack Pasco Commr Mariano
Cc: Dave Bussey; Alan Sen Hays; Jason Rep Brodeur; Lair, Ralph
Subject: Proposed Legislation - HB 1379 (Brodeur)
FYI,

This is the legislation that was filed, similar to the bill filed in the Senate (Hays), at the end of last year's session of congress.

It was determined that there was too much to deal with, so only the Study Commission portion of the bills were pursued.

I would hope future legislation would address some key issues of concern, with regard to large water/wastewater investor-owned utility companies, including:

- 1) The PSC needs additional legislative language that will give them the unquestionable ability to withdraw a certificate, for other than abandonment.
- 2) Rate of Return should be gaged according to the amount of Customer Complaints.
- 3) Stiff penalties for insufficient Quality of Service.
- 4) Customers should not have to pay for Rate Case Expenses.
- 5) Limits on how often a rate case can be filed.
- 6) Competitive rates.
- 7) Dis-allowance of certificates for IOU's, whose portfolio is not balanced with profitable service areas that will reduce the cost of their "high-cost" systems.

Dave Bussey
4948 Britni Way
Zephyrhills, FL 33541
813-713-9796 (res)
330-714-5784 (cell)

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

HB 1379

2012

1 A bill to be entitled
2 An act relating to water and wastewater utilities;
3 amending s. 367.081, F.S.; prohibiting the Public
4 Service Commission from approving tiered rates that
5 are based upon consumption by the customer; requiring
6 the commission to find a utility's rate case expense
7 unreasonable if the utility's quality of service is
8 marginal or unsatisfactory; providing an exception;
9 amending s. 367.0816, F.S.; limiting the amount that
10 certain utilities may recover as rate case expense to
11 50 percent of the total amount; limiting the recovery
12 of rate case expense to one case at a time; amending
13 s. 367.111, F.S.; requiring that systems be designed
14 and operated to meet certain standards; requiring the
15 commission to establish by rule a mechanism by which
16 monetary penalties are imposed on utility systems that
17 fail to provide sufficient quality of service;
18 providing rule requirements; providing that such
19 systems have the burden of proof in certain
20 proceedings; prohibiting a utility from recovering
21 certain expenses from ratepayers; amending s. 367.165,
22 F.S.; providing for the continuation of service if a
23 utility's certificate of authority is revoked or
24 suspended; requiring the commission to notify the
25 county or counties in which a utility is located that
26 its certificate of authority is revoked or suspended;
27 requiring the county or counties to assume operation
28 and control; providing that any rate structure of a

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F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

HB 1379

2012

29 water or wastewater utility which increases the rate
30 based upon increased consumption by the customer is
31 void and of no effect; creating the Study Committee on
32 Investor-Owned Water and Wastewater Utility Systems;
33 providing for membership and terms of service;
34 prohibiting compensation of the members; providing for
35 reimbursement of the members for certain expenses;
36 providing for removal or suspension of members by the
37 appointing authority; requiring the Public Service
38 Commission to provide staff, information, assistance,
39 and facilities that are deemed necessary for the
40 committee to perform its duties; providing for funding
41 from the Florida Public Service Regulatory Trust Fund;
42 providing duties for the committee; providing for
43 public meetings; requiring the committee to report to
44 the Governor and Legislature its findings and make
45 recommendation for legislative changes; providing for
46 future termination of the committee; providing an
47 effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Subsections (1) and (7) of section 367.081,
52 Florida Statutes, are amended to read:

53 367.081 Rates; procedure for fixing and changing.—

54 (1) Except as provided in subsection (4) or subsection
55 (6), a utility may ~~only~~ charge only rates and charges that have
56 been approved by the commission. However, the commission may not

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57 approve tiered rates that are based upon consumption by the
58 customer.

59 (7) The commission shall determine the reasonableness of
60 rate case expenses and shall disallow all rate case expenses
61 determined to be unreasonable. No rate case expense determined
62 to be unreasonable shall be paid by a consumer. In determining
63 the reasonable level of rate case expense, the commission shall
64 consider the extent to which a utility has utilized or failed to
65 utilize the provisions of paragraph (4) (a) or paragraph (4) (b)
66 and such other criteria as the commission establishes ~~it may~~
67 ~~establish~~ by rule. In a rate case proceeding, if the commission
68 finds that a utility's quality of service is marginal or
69 unsatisfactory, the commission shall find the utility's rate
70 case expense unreasonable unless the commission finds a
71 compelling reason to determine that all or a portion of the
72 expense is reasonable.

73 Section 2. Section 367.0816, Florida Statutes, is amended
74 to read:

75 367.0816 Recovery of rate case expenses.—

76 (1) The amount of rate case expense determined by the
77 commission to be reasonable pursuant to s. 367.081 ~~the~~
78 ~~provisions of this chapter to be recovered through a public~~
79 ~~utilities rate~~ shall be apportioned for recovery through the
80 utility's rates over a period of 4 years. At the conclusion of
81 the recovery period, the rate of the public utility shall be
82 reduced immediately by the amount of rate case expense
83 previously included in rates. A utility that has \$1 million or
84 more of annual operating revenues for water or wastewater

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85 operations, including its affiliated systems in this state, may
86 recover no more than 50 percent of the total amount of rate case
87 expense that the commission determines is reasonable.

88 (2) A utility may recover the 4-year amortized rate case
89 expense for only one rate case at a time. Any unamortized rate
90 case expense for a prior rate proceeding must be removed from
91 rates before the inclusion of any additional amortized rate case
92 expense for the most recent rate proceeding.

93 Section 3. Subsection (2) of section 367.111, Florida
94 Statutes, is amended, and subsection (3) is added to that
95 section, to read:

96 367.111 Service.—

97 (2) Each utility shall provide to each customer person
98 ~~reasonably entitled thereto~~ such safe, efficient, and sufficient
99 service as ~~is~~ prescribed by part VI of chapter 403 and parts I
100 and II of chapter 373, or rules adopted pursuant to those parts;
101 however, the thereto, but such service may shall not be less
102 safe, less efficient, or less sufficient than is consistent with
103 the approved engineering design of the system and the reasonable
104 and proper operation of the utility in the public interest. Each
105 water utility system shall be designed and operated so that the
106 water supplied to all customers is reasonably free from
107 objectionable taste, color, odor, or sand or other sediment. If
108 the commission finds that a utility has failed to provide its
109 customers with water or wastewater service that meets the
110 standards adopted promulgated by the Department of Environmental
111 Protection or the water management districts, or required by
112 this section, the commission may reduce the utility's return on

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113 equity until the standards are met.
114 (3) (a) The commission shall establish by rule a mechanism,
115 applied on an annual basis, by which a monetary penalty is
116 imposed on any utility system that fails to provide sufficient
117 quality of service to its retail customers. The rule shall:
118 1. Measure each utility system's quality of service based
119 on the rate of jurisdictional customer complaints it receives
120 per every 100 retail customers of the system.
121 2. Exclude those customer complaints that:
122 a. Solely concern matters outside the commission's
123 jurisdiction.
124 b. Solely concern proposed rates and charges.
125 c. Solely concern commission-approved rates and charges.
126 d. Duplicate a prior complaint made by the same customer.
127 e. Are found by the commission to be without merit.
128 f. Are voluntarily withdrawn by the customer.
129 3. Provide for a monetary penalty, in an amount no more
130 than the equivalent of 50 basis points on the utility's
131 authorized rate of return on equity for the period that the
132 customer complaint rate was calculated, to be imposed on each
133 utility system whose customer complaint rate exceeds the mean
134 customer complaint rate for all other utility systems, excluding
135 other systems operated by the same utility, by a 10 percent
136 level of statistical significance. Subject to the 50 basis point
137 limit, the commission may establish penalty levels that increase
138 as customer complaint rates exceed this level of statistical
139 significance.
140 4. Provide for a monetary penalty, in an amount no more

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141 than the equivalent of 100 basis points on the utility's
142 authorized rate of return on equity for the period that the
143 customer complaint rate was calculated, to be imposed on each
144 affected utility system where the customer complaint rates of
145 more than one system operated by the same utility exceed the
146 mean customer complaint rate for all other utility systems,
147 excluding other systems operated by the same utility, by a 10
148 percent level of statistical significance. Subject to the 100
149 basis point limit, the commission may establish penalty levels
150 that increase as customer complaint rates exceed this level of
151 statistical significance.

152 5. Establish a means to determine an appropriate monetary
153 penalty to be imposed on a utility system that has an equity
154 ratio of less than 30 percent or that does not utilize equity
155 financing. This mechanism should be designed to result in
156 monetary penalties that, as closely as possible, equate to the
157 penalties that would be imposed pursuant to subparagraphs 3. and
158 4. for other utility systems.

159 6. Credit the proceeds of any monetary penalty imposed
160 under the rule to the ratepayers of the affected utility system
161 or systems in a timely and equitable manner.

162 7. Provide that each utility system with a customer
163 complaint rate that is found to be excessive pursuant to the
164 rule must show cause why it should not be penalized.

165 (b) A utility system that is required to show cause why it
166 should not be penalized pursuant to the rule has the burden of
167 proof to establish that it should not be penalized. A utility
168 may not recover from its ratepayers any expense arising from a

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169 proceeding held pursuant to this subsection.

170 Section 4. Section 367.165, Florida Statutes, is amended
171 to read:

172 367.165 Continuity of service in instances of revocation
173 or suspension of certificate; abandonment.—It is the intent of
174 the Legislature that water or wastewater service to the
175 customers of a utility not be interrupted by the revocation or
176 suspension of the utility's certificate of authorization or the
177 abandonment or placement into receivership of the utility. ~~Fe~~
178 ~~that end.~~

179 (1) Within 30 days after the issuance of a final order of
180 suspension or revocation of a utility's certificate of
181 authorization, the commission shall notify the county or
182 counties in which the utility is located of the effective date
183 of the suspension or revocation. The county or counties shall
184 assume operation and control of the utility pursuant to the
185 procedures provided in chapter 74.

186 (2) (a) ~~(1)~~ A No person, lessee, trustee, or receiver
187 owning, operating, managing, or controlling a utility may not
188 ~~shall~~ abandon the utility without giving 60 days' notice to the
189 county or counties in which the utility is located and to the
190 commission. Anyone who violates the provisions of this paragraph
191 commits subsection is guilty of a misdemeanor of the first
192 degree, punishable as provided in s. 775.082 or s. 775.083. Each
193 day of ~~such~~ abandonment constitutes a separate offense. In
194 addition, the ~~such~~ act of abandonment is a violation of this
195 chapter, and the commission may impose upon the utility a
196 penalty for each such offense of not more than \$5,000 or may

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197 amend, suspend, or revoke its certificate of authorization.~~†~~
198 Each day of ~~such~~ abandonment without prior notice constitutes a
199 separate offense.

200 ~~(b)(2)~~ After receiving ~~such~~ notice, the county, or
201 counties acting jointly if more than one county is affected,
202 shall petition the circuit court of the judicial circuit in
203 which ~~the~~ ~~such~~ utility is domiciled to appoint a receiver, which
204 may be the governing body of a political subdivision or any
205 other person deemed appropriate. The receiver shall operate the
206 utility from the date of abandonment until ~~such time as~~ the
207 receiver disposes of the property of the utility in a manner
208 designed to continue the efficient and effective operation of
209 utility service.

210 ~~(c)(3)~~ The notification to the commission under paragraph
211 (a) subsection (1) is sufficient cause for revocation,
212 suspension, or amendment of the certificate of authorization of
213 the utility as of the date of abandonment. The receiver
214 operating ~~the~~ ~~such~~ utility shall ~~be considered to~~ hold a
215 temporary authorization from the commission, and the approved
216 rates of the utility are ~~shall be deemed to be~~ the interim rates
217 of the receiver until modified by the commission.

218 Section 5. Effective July 1, 2012, any rate structure of a
219 water or wastewater utility which provides for an increase in
220 the rate based upon an increase in consumption by the customer
221 is void and of no effect.

222 Section 6. Study Committee on Investor-Owned Water and
223 Wastewater Utility Systems.-

224 (1) There is created a Study Committee on Investor-Owned

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225 Water and Wastewater Utility Systems, which shall be composed of
226 17 members designated and appointed as follows:

227 (a) Two Senators appointed by the President of the Senate,
228 one of whom shall be appointed as chair by the President of the
229 Senate.

230 (b) Two Representatives appointed by the Speaker of the
231 House of Representatives.

232 (c) The Secretary of Environmental Protection or his or
233 her designee, who shall be a nonvoting member of the committee.

234 (d) The chair of the Public Service Commission or his or
235 her designee, who shall be a nonvoting member of the committee.

236 (e) A representative of a water management district
237 appointed by the Governor.

238 (f) A representative of a water or wastewater system owned
239 or operated by a municipal government appointed by the Governor.

240 (g) A representative of a water or wastewater system owned
241 or operated by a county government appointed by the Governor.

242 (h) The chair of a county commission that regulates
243 inventor-owned water or wastewater utility systems, who shall be
244 a nonvoting member of the committee.

245 (i) A representative of a county health department
246 appointed by the Governor, who shall be a nonvoting member of
247 the committee.

248 (j) A representative of the Florida Rural Water
249 Association appointed by the Governor.

250 (k) A representative of a small investor-owned water or
251 wastewater utility appointed by the Governor.

252 (l) A representative of a large investor-owned water or

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253 wastewater utility appointed by the Governor.
254 (m) The Public Counsel or his or her designee.
255 (n) A customer of a Class C water or wastewater utility
256 appointed by the Governor.
257 (o) A representative of a government authority that was
258 created pursuant to chapter 367, Florida Statutes, appointed by
259 the Governor.
260 (2) The members shall serve until the work of the
261 committee is complete and the committee is terminated, except
262 that if a member no longer serves in the position required for
263 appointment, the member shall be replaced by the individual who
264 serves in such position.
265 (3) Members of the committee shall serve without
266 compensation, but are entitled to reimbursement for all
267 reasonable and necessary expenses, including travel expenses, in
268 the performance of their duties as provided in s. 112.061,
269 Florida Statutes.
270 (4) The appointing authority may remove or suspend a
271 member appointed by it for cause, including, but not limited to,
272 failure to attend two or more meetings of the committee.
273 (5) The Public Service Commission shall provide the staff,
274 information, assistance, and facilities as are deemed necessary
275 for the committee to carry out its duties under this section.
276 Funding for the committee shall be paid from the Florida Public
277 Service Regulatory Trust Fund.
278 (6) The committee shall identify issues of concern of
279 investor-owned water and wastewater utility systems,
280 particularly small systems, and their customers and research

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hb1379-00

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

HB 1379

2012

281 possible solutions. In addition, the committee shall consider:
282 (a) The ability of a small investor-owned water and
283 wastewater utility to achieve economies of scale when purchasing
284 equipment, commodities, or services.
285 (b) The availability of low interest loans to a small,
286 privately owned water or wastewater utility.
287 (c) Any tax incentives or exemptions, temporary or
288 permanent, which are available to a small water or wastewater
289 utility.
290 (d) The impact on customer rates if a utility purchases an
291 existing water or wastewater utility system.
292 (e) The impact on customer rates of a utility providing
293 service through the use of a reseller.
294 (f) Other issues that the committee identifies during its
295 investigation.
296 (7) The committee shall meet at the time and location as
297 the chair determines, except that the committee shall meet a
298 minimum of four times. At least two meetings must be held in an
299 area that is centrally located to utility customers who have
300 recently been affected by a significant increase in water or
301 wastewater utility rates. The public shall be given the
302 opportunity to speak at the meeting.
303 (8) By December 31, 2012, the committee shall prepare and
304 submit to the Governor, the President of the Senate, and the
305 Speaker of the House of Representatives a report detailing its
306 findings pursuant to subsection (6) and making specific
307 legislative recommendations.
308 (9) This section expires and the committee terminates June

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hb1379-00

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

HB 1379

2012

309 | 30, 2013.

310 | Section 7. This act shall take effect July 1, 2012.

Petition Regarding FGUA

From: Cliff & Sue Parker
1214 Foggy Ridge Pkwy.
Lutz, Fl. 33559

November 2, 2012

Ernest & Dorothy Penton
23846 Dutch Lane
Lutz, Fl. 33559

Re: Florida Governmental Utility Authority
280 Wekiva Springs Rd. Ste. 2000
Longwood, Fl. 32779

To: Water Study Committee
Gerald L. Hunter Bldg.
2540 Shumand Oak Blvd.
Tallahassee, Fl. 32399-0850

We are sending you a list of 522 signatures that we collected, during the last two months, from our local areas of Turtle Lakes and Oak Grove subdivisions in East Pasco County in a petition of our protest and discernment against the 94% rate increase that the FGUA levied on us in August of 2012.

We are four retirees, in our late sixties and seventies, amongst several in this small area, that are affected, personally, by this outrageous increase in a utility that is imperative and mandatory to our daily lives and welfare.

This is, also, home to many middle class families with children and house hold pets, that are struggling to deal with the economy that we all have to live in.

We four retirees wanted to see if there were other residents, in our neighborhood, that were as concerned and devastated by this increase as we were, so we canvassed these areas, by foot, and found that everyone, that we talked to, were very devastated by this inconsiderate and unconstitutional rate hike in a utility that is a natural commodity that we all need and use every day.

We are hoping that you will acknowledge this petition, of 522 signatures, and will take into consideration to try, and possibly, enforce some kind of regulation on this particular privately owned utility to cut this rate hike to a reasonable amount, or at least, restrict them from imposing a rate hike of this magnitude in the future.

Please take into consideration this petition on behalf of this small community of Pasco County residents, voters, and tax payers and our welfare in this matter.

Thank you for your time,

Cliff & Sue Parker

Cliff Parker Sue Parker

Ernest & Dorothy Penton

Ernest Penton Dorothy J. Penton



PETITION

Re: Florida Governmental Utility Auth.

P.O. Box 150106

Cape Coral, Fl. 33915

6915 Perrine Ranch. Rd.

New Port Richey, Fl. 34655

This petition is in regards to the above named Co. in protest to the recent increase of **94%**, on the residential water bills, sent out, in August 2012, to the residents of the Turtle Lakes and Oak Grove subdivisions.

This area is a very well established community of several years old and is home to many retirees, people on disability and middle class income families.

We feel this **outrageous** rate increase is, very, **unjust, unfair and discriminatory** and **detrimental** to our welfare and wellbeing! We have already been paying above normal water bills, for several years, due to Mad Hatter's negligence a few years ago and this **94%** increase just adds to that cost for us as customers.

We feel this was without proper notification or logic in this deteriorating economy!!

PETITION

Re: the 94% increase in the water bill

1. Dorothy Ernest Pearson 23846 Dutch Lane Lutz, FL
2. ~~Confidential~~ 23856 Dutch Lane Lutz FL
3. Sam Pillas 23845 Dutch Ln Lutz FL 33559
4. Rick Pugh 1127 DocksIDE DR. LUTZ, FL 33559
5. CHRISTIAN VILLAGOMEZA 1119 DOCKSIDE DR. LUTZ, FL 33559
6. John PUTNEY 1025 DOCKSIDE LUTZ 33590
7. ~~Confidential~~ 1021 DOCKSIDE DR Lutz FL Jessica Largent
8. Skip Johnson 1044 Dock side Dr. Lutz FL 33559 Chaney
9. Darren Orlando 1126 Dockside DR Lutz FL 33559
10. RALPH M. COBLE 1124 DOCKSIDE DR. LUTZ FL 33559 RALPH
11. DAVE OLIVER Dawn McQuinn 1144 DOCKSIDE DR LUTZ FL 33559
12. ALLEN BOGEMAN ~~1154~~ 1154 Dockside Dr
13. Lamy L. Baskin MD 1205 DOCKSIDE DR
14. Jesus & Rosa Vallejo 23838 Dutch Lane Lutz FL 33559
15. Robert Turner 1033 Sawyers Ct Lutz FL 33559
16. Jim Kay 1023 SAWYERS Ct. LUTZ, FL 33559 Jim Kay
17. Ruth Kay 1023 SAWYERS Ct. LUTZ, FL 33559 Ruth Kay
18. Amy Beal 1028 SAWYERS CT. Lutz FL 33559
19. Phillip Ppelta 1011 Windsor way Lutz FL 33559
20. ~~Confidential~~ 1016 Windsor Way Lutz FL 33559
21. ~~Confidential~~ 1032 Windsor Way Lutz FL 33559
22. Wendel 1053 Windsor Way Lutz FL 33559
23. Terry Shields 1042 Windsor Way LUTZ, FL 33559
24. Cheryl White 1107 Windsor Way Lutz, FL 33559
25. Doug Peterson 1509 TWIN PALMS LOOP LUTZ FL 33559
26. Polysthymel 1045 FOGGY RIDGE PKWY LUTZ FL 33559
27. Malby Polka 409 DOCKSIDE DR LUTZ FL 33559

3

- 28. JOHN KILKENNY 1118 DOCKSIDE DR. LUTZ, FL 33559 *John Kell*
- 29. Marina Umego 23903 Dutch Ln Lutz FL 33559 *(Handwritten signature)*
- 30. Vicky Persad 23908 dutch LN Lutz, FL 33559 *Vicky Persad*
- 31. Barbara Cots 1125 Windsor Way Lutz, 33559
- 32. *Ann D. M.* 1125 WINDSOR WAY LUTZ 33559
- 33. Betty Price 1137 Windsor Way Lutz, FL 33559
- 34. Larry Chapman 1145 Windsor Way Lutz, FL 33559
- 35. *Tina* 1155 Windsor Way Lutz 33559
- 36. Renee *Sh* " " Lutz "
- 37. Shirley Overton 1214 Windsor Way, Lutz, FL 33559
- 38. Carol Bogedain 1211 Windsor Way Lutz FL 33559
- 39. *Norma* Guilford 1219 Windsor Way Lutz 33559
- 40. Eddie Madison 1229 Windsor Way Lutz FL 33559
- 41. Jeannette M. Johanson 1237 Windsor Way Lutz FL 3355
- 42. *Patricia & Wendell* 1245 Windsor Way Lutz FL 3355
- 43. Judy + Stan Carnucki 1259 Windsor Way Lutz 33559
- 44. *Mad & Lois* Johnson 1305 WINDSOR Way Lutz FL 33559
- 45. *Shel & Lillian* Webb 1347 Windsor Way Lutz FL 33559
- 46. *Wanda* DelSquadra - 1334 - WINDSOR WAY, LUTZ, FL 33559
- 47. *D* Church & Sonia Ponda - 1308 Windsor Way Lutz, FL
- 48. Karin Trand - 1128 Windsor Way Lutz, FL
- 49. Adam D. Meid - 24321 Landing Dr Lutz, 33559
- 50. Cindy Meid 24321 Landing Dr Lutz, FL 33559
- 51. *Janifine* Oquendo 1162 Windsor Way Lutz, FL 3355
- 52. *Marian* Bonta 1204 Windsorway Lutz FL 33559
- 53. *Cary* Ward 1224 Windsor Way, Lutz, 33559
- 54. Denise Tucker 1234 Windsor Way Lutz, FL 33559
- 55. *Marly* Tucker Steve Tucker 1234 Windsor Way Lutz 33559
- 56. *Connie* & *Oliver* 1244 Windsor Way, Lutz FL 33559
- 57. *John E* Allen 24118 HAMPTON PL Lutz FL 33559
- 58. Dennis Mays 24126 HAMPTON PL Lutz FL

Jack

(Handwritten symbol)

WH

WH

TBW

- 59. Daniel Belton 24134 Hampton Pl Lot 2
- 60. Robin Williams 24142 Hampton Pl Lot 2
- 61. Margaret Skatter 24804 Hampton Pl Lot 2 33559
- 62. ~~John~~ 24212 Hampton Place Lot 2 FL 33559
- 63. ~~John~~ 24203 HAMPTON PLACE
- 64. Belinda Boman 24203 Hampton Place
- 65. Judith Behlani 24135 Hampton Place Lot 2 FL 33559
- 66. Joseph Amalene 24127 Hampton Pl. Lot 2, F 33559
- 67. Darryl Matted 24119 Hampton Pl Lot 2 FL 33559
- 68. Alan & Suzanne Anderson 1108 Dockside Dr Lot 2 FL 33559
- 69. Alberto Harrison 23817 Lake Hills Dr 33559
- 70. Robert Kellog 23805 Lake Hills Dr. 33559
- 71. Peg Armstrong 23755 Lake Hills Dr 33559
- 72. Jessica Messmer 23749 Lake Hills Dr. 33559
- 73. Karen Carbajal 23743 Lake Hills Dr 33559
- 74. Sean Wolf 23737 Lake Hills Dr. 33559
- 75. Crystal Rodgers 23737 Lake Hills Dr. 33559
- 76. John McVay 23731 Lake Hills Dr. 33559
- 77. ELLEN VANSCO 23718 LAKE HILLS DR 33559
- 78. SUZANNE PYZIK 23718 LAKE HILLS DR 33559
- 79. SANDI STOUT 23707 Lake Hills Dr. 33559 (Lot 2.)
- 80. Mark R. Stout 23707 Lake Hills Dr 33559
- 81. CARL R. MISSON 23701 Lake Hills Dr 33559 (Lot 2)
- 82. Lanny Monis 23703 Lake Hills Drive 33559 Lot 2
- 83. Sydney Monis 23703 Lake Hills Drive 33559 Lot 2
- 84. Rod Skiffin 23700 Lake Hills Drive 33559 Lot 2
- 85. AMY D. FALLS 23708 LAKE HILLS DR 33559 Lot 2
- 86. Vicki Jacobson 23719 Lake Hills Dr Lot 2 33559
- 87. ~~John~~ 23728 Lake Hills Dr 33559
- 88. ~~John~~ 23754 LAKE HILLS DR. 33559
- 89. ~~John~~ 1045 Waterdale CT 33559
- 90. ~~John~~ 1032 Waterdale Ct. 33559
- 91. Ronald & Audrey 1035 WATERDALE CT 33559

Re: the 94% increase in the water bill

92. Cliff & Sue Parker 1214 FOGGY RIDGE PKWY
 93. Jill & Janice Banhart 1236 FOGGY RIDGE PKWY
 94. Rozali Taylor 23910 Lakebark Ct, Lutz, FL 33559
 95. Alfred & Fay Taylor 23910 Lakebark Ct Lutz 33559
 96. Beverly Bonner 23906 Lakebark Ct. Lutz 33559
 97. R.D. Pulgar 23907 Lakebark Ct
 98. Diana Shampkema 1250 FOGGY RIDGE PKWY 33559
 99. Sean Thomas 1388 FOGGY RIDGE PKWY 33559
 100. Michael Stephenson 1301 FOGGY RIDGE PKWY 33559
 101. Janet Stephenson 1301 FOGGY RIDGE PKWY 33559
 102. Kelley King 1245 FOGGY RIDGE PKWY 33559
 103. Tom Arnold 1237 FOGGY RIDGE PKWY 33559
 104. MARY RITCHEY 12311 FOGGY RIDGE FLA 33559
 105. Mannel Rizzo 1211 Waterbury Loop, FL 33559
 106. Ignacio Rivera 1107 Waterbury Loop, FL 33559
 107. Leanne Richard 1223 FOGGY RIDGE PKWY Lutz, FL 33559
-
108. Freda Shelton 1206 Waterbury Lp, Lutz, FL 33558
 109. Romney Shelton ' ' Lutz, FL 33559
 110. Meredith Nickles 1214 Waterbury hp. Lutz FL 33559
 111. Mark Harried 1230 Waterbury Loop Lutz FL 33559
 112. Adrian Thomas 1238 Waterbury Lp. Lutz 33559
 113. Scott Bygford 1242 Waterbury Lp Lutz 33559
 114. Richard F. Han 1246 Waterbury Loop, Lutz 33559
 115. WAC HAN 1246 Waterbury Loop Lutz 33559
 116. John King 1243 Waterbury Lp Lutz 33559
 117. Donald P. Allen 1318 EDGEWATER CT. Lutz FL 33559
 118. Donald P. Allen 1336 Edgewater Ct. Lutz 33559
 119. Vernon Larner 1344 Edgewater Ct Lutz 33559
 120. William J. Larner Sr. 1344 Edgewater Ct. Lutz, 33559
 121. Carol Boyer 1403 Edgewater Ct Lutz, FL 33559
 122. Sam Palmer 1355 Edgewater Ct 33559
 123. F. Stachew 1250 Waterbury Loop 33559

124. Inchicully 24020 Tinkerock Ct, Lutz, FL 33559
125. Walter & Dawn 24036 Tinkerock Ct, Lutz, FL 33559
126. Teffler 24124 LakeRush Ct
127. Teodora Petrova 24130 LakeRush Ct, Lutz, FL 33559
128. Judy Benson 24142 LakeRush Ct - Lutz FL 33559
129. Michael Proten 24208 LakeRush Ct Lutz FL 33559
130. Zoilo Orland 24202 LakeRush Ct -
131. Mary Cinchillo 24220 LakeRush Ct
132. Yarbin SVOBODA 24235 LakeRush Court - Lutz, FL 33559
133. TONYA SVOBODA 24235 LAKE RUSH CT LUTZ FL 33559
134. Lon Russ 24224 LAKE RUSH CT. LUTZ FL 33559
135. Jorge L Rodriguez 1928 Tinker DR Lutz, FL, 33559
136. Rachel McCooce 24225 LakeRush Ct Lutz FL 33559
137. James Mahoney 24208 LakeRush Ct Lutz, 33559
138. Walter J. Rodriguez 24138 LakeRush Ct Lutz, 33559
139. Gene Casnerd 24114 Royal Fern Dr. Lutz, 33559
140. Geraldine Morales 24136 Royal Fern Dr. Lutz, 33559
141. Faheen A. Khan 24142 Royal Fern Dr Lutz, 33559
142. Shawn Sliwka 24211 Royal Fern Dr 33559
143. Karin Snell 24205 Royal Fern Dr 33559
144. ERIL ORTIZ 24149 Royal Fern Dr. 33559
145. Fitzgerald Ortiz 24149 Royal Fern Dr 33559
146. Diette Kennie 24141 Royal Fern - Lutz 33559
147. Danny Rodriguez 24135 Royal Fern Dr. Lutz FL 33559
148. Tami Rodriguez 24135 Royal Fern Dr. Lutz, FL 33559
149. Steffany Sciacca 24129 Royal Fern Dr Lutz FL 33559
150. Frank Sciacca 24129 Royal Fern Dr Lutz FL 33559
151. Garrett Jensen 1223 Waterbury Ln Lutz, FL 33559
152. Ava La-Ruble 1227 Waterbury Loop Lutz FL 33559
153. Dwight Conley 1239 Waterbury Loop Lutz, FL, 33559
154. Steve Bagnall 1329 Edgewater Ct Lutz FL 33559
155. Dawn Hall 1337 Edgewater Ct Lutz FL 33559
156. Stephen J Goodrich 1045 Edgewater Ct Lutz FL 33559

- 157. Tulah Murray - 1410 FOGGY RIDGE
- 158. Hubert Murray "
- 159. Marine Wilson "
- 160. Charles Fink 1434 "
- 161. Keith Cut 1442 Forest Road Pkwy.
- 162. Richard Blackwood 1508 FOGGY BRIDGE PKWY
- 163. Olivia Blackwood 1508 FOGGY BRIDGE PKWY
- 164. Betty Kuczyński 1516 FOGGY RIDGE PKWY
- 165. DAVID CARL 23611 TURTLE LAKES LN LUTZ FL 33559
- 166. Waldemar Kuchuc 23527 Turtle Lakes Ln Lutz FL 33559
- 167. Brent Patch 23527 Turtle Lakes Ln Lutz FL 33559
- 168. Allevinson 1553 Embridge Ct Lutz FL 33559
- 169. David A. Huff 1557 Embridge Ct. Lutz, FL 33559
- 170. Victor M. Peters 24130 Eastwick LUTZ FL 33559
- 171. Cristina Vazquez 24146 Eastwick Lane Lutz, FL 33559
- 172. Dan Krank 1259 KAYAK COVE LUTZ FL 33559
- 173. Jan Smith 1218 KAYAK COVE Lutz, FL 33559
- 174. John Smith 1207 KAYAK COVE Lutz FL 33559
- 175. Judy Lane 24131 Landing Dr. Lutz, 33559
- 176. Jeff & Lynn 24131 Landing Dr. Lutz, 33559
- 177. James R. Kovacs 24179 LANDING DR. LUTZ 33559
- 178. Toni Cellaro 24242 Rolling View Ct Lutz 33559
- 179. Teresa Burns 24248 Rolling View Ct Lutz 33559
- 180. BARBARA Tappin 24306 Rolling View Ct Lutz 33559
- 181. Daniel Lauricello 24318 Rolling View Ct Lutz 33559
- 182. Ryan Nicolotto 24324 Rolling View Ct Lutz 33559
- 183. Elizabeth Pico Andrew 24324 Rolling View Ct 33559
- 184. JOSEPH C. FRANKO 24342 ROLLINGVIEW CT 33559
- 185. Chalong Suchalard 24346 Rollingview ct 33559
- 186. Ronald Watson 24346 Rollingview Ct 33559.
- 187. F+H Haynes 24352 Rolling View Ct Lutz 33559
- 188. Bobbie Frye 24337 Rolling View Ct Lutz FL 33559
- 189. Andrea March 24331 Rolling View Ct. Lutz, FL 33559

- 190. Kenneth Manning 1211 Royal Gatz
- 191. Gary Stells 1536 Newrock Dr
- 192. Anthony Mallett 1547 Emblide Ct.
- 193. Bob Hill 1547 Emblidge St
- 194. Marina Myers 24111 Landing Dr
- 195. Elwood J. Fritz 24180 Landing Drive
- 196. Wanda J. Fritz 24180 Landing Dr. Lutz Fl.
- 197. Christy Peoples 24210 Landing Dr Lutz FL 33559
- 198. Nickie + Mark 24220 Landing DR, Lutz FL 33559
- 199. Ann + Chris LAMARR 24302 Landing DR 33559
- 200. Diane + Dan Roberts 24308 Landing Dr. 33559
- 201. Don Pichl 24314 Landing Dr. 33559
- 202. Frank Kyr 24326 Landing Dr. 33559
- 203. Christoph 24326 Landing Dr. 33559
- 204. William Maddox 24332 Landing Drive 33559
- 205. Janet D 24348 Landing DR 33559
- 206. Nicole McCoy 24406 Landing Dr 33559 Lutz
- 207. Roger Beck 24414 Landing Dr. 33559 Lutz
- 208. Jamie Truck 24432 Landing Drive 33559 Lutz
- 209. Manuel E. Claudio 24452 Landing
- 210. Alfred A 24516 Landing Dr. FL 33559 Lutz
- 211. Khenda Edwards 24230 Landing Dr Lutz FL 33559
- 212. Mike Burns 24245 Royal Fern Dr Lutz 33559
- 213. Bob 24244 Royal Fern Dr., Lutz, 33559
- 214. Meaghan D'Neal 24231 Satinwood Dr
- 215. S.D. M. H. 24228 Satinwood Ct
- 216. Pete Sainz 24246 SATINWOOD CT
- 217. Robert Lopez 24202 SATINWOOD CT
- 218. Sara Warr 24253 SATINWOOD CT
- 219. Chig Paristay 24247 Satinwood CT Lutz, FL 33559
- 220. James Cook 24531 Summer Nights Ct Lutz 33559
- 221. Christina 24401 Summer Nights Ct 33559
- 222. John James 24317 DEWAL CT Lutz FL 33559

223.	Anneke Y Schun	24148	Denali Ct
224.	Jules Lee	24202	Denali Ct
225.	John & Susan	24162	Denali Ct
226.	Porty Groc	24220	DENALI CT
227.		24234	DENALI CT
228.		24240	DENALI CT
229.	Quang Nguyen	24246	Denali Ct.
230.	Ray Joseph	24150	TS, rocky oak Ct
231.	Niall & Porter	24504	Breezy Oak Ct.
232.	Wendy Sam	24526	Summer Wind Ct.
233.	Jodi Watson	24512	Summer Wind Ct
234.	John & Lisa	24448	Summer Wind Ct
235.	Michelle	24426	Summer Wind Ct.
236.	Michelle & Jeff	24410	Summer Wind Ct.
237.	Frank & Family	2440	Summer Wind Ct
238.		24342	Summer Wind Ct
239.	John & Lisa	24330	Summer Wind Ct.
240.		24316	Summer Wind Ct.
241.		24310	Summer Wind Ct.
242.		24304	Summer Wind Ct.
243.	A. T. & Family	24240	Summer Wind Ct
244.	M. D. B.	24419	MISTWOOD CT Lutz
245.	Ken & Lisa	24413	Mistwood Ct Lutz
246.	Wendy & Harry	24423	Mistwood Ct. Lutz 33559
247.	John & Lisa	24423	MISTWOOD CT Lutz 33559
248.	James & Natalie Wilson	24431	MISTWOOD Ct. Lutz 33559
249.	Carlos Iglesias	24437	MISTWOOD Ct Lutz FL 33559
250.	David & Lisa	24443	MISTWOOD CT Lutz FL 33559
251.	David Iglesias	24501	Karnali Ct Lutz, FL 33559
252.	Jamain Hill	24510	Mistwood ct. Lutz, FL 33559
253.	Tracey Curtis	24518	Karnali Ct Lutz FL 33559
254.	Irene Kostro	24512	Karnali Ct Lutz, FL 33559

- 286. Paul Jones 1258 WATERBURY LOOP 33559
- 287. Alan W. Jones 1258 WATERBURY LOOP 33559
- 288. Steven L. Wilford 1502 TWIN PALMS LOOP 33559.
- 289. Alan Jones 1514 Twin Palms Loop 33559
- 290. Yvonne I. Santiago 1556 Twin Palms Loop Lutz, 33559
- 291. Yvonne I. Santiago 1556 Twin Palms Loop Lutz, 33559.
- 292. Adrianna Santiago 1556 Twin Palms Loop 33559
- 293. Wanda E. Santiago 1556 Twin Palms Loop Lutz FL 33559
- 294. Dana L. Faggan 1562 Twin Palms Loop Lutz, FL 33559
- 295. Sonya Kadlec 1447 FOGGY RIDGE PKWY LUTZ, FL 33559.
- 296. Paul Almeda 1404 Windjammer Loop Lutz, FL, 33559

- 297. Dawnna Reid 1408 Windjammer Loop - Lutz 33559
- 298. Brian Van Winkle 1457 Windjammer Loop - Lutz 33559
- 299. Nancy Royal 1456 Windjammer Loop Lutz 33559
- 300. Ray L. Conder 1480 WINDJAMMER LOOP, LUTZ 33559
- 301. Glenn Whitcomb 1314 Windjammer Loop Lutz, FL 33559
- 302. Donna Haun 1423 Windjammer Loop FL 33559
- 303. MICHAEL A HUNTER 1141 FOGGY RIDGE PKWY LUTZ, FL 33559
- 304. Christine Malatesta 23809 LAKEWALK CT LUTZ, FL, 33559
- 305. William J. 2nd " " " "
- 306. Derek Maenke 23801 LAKEWALK CT. LUTZ 33559
- 307. Ryan Maenke 23801 LAKEWALK CT. LUTZ 33559
- 308. Phong Duong 23747 LAKEWALK CT. LUTZ 33559
- 309. Marbell Malatesta 23809 LAKEWALK CT, LUTZ, FL.
- 310. Christine & William Fore 1034 Lake Haven Dr Lutz FL. 33559
- 311. JOE KELLI HIMES 1527 FOGGY RIDGE PKWY LUTZ FL 33559
- 312. Quinn Housley 1509 " " " "
- 313. Elizabeth Ramerod 1222 Kayak Cove, Lutz, FL 33559
- 314. Paul W. 1st 1254 Kayak Cove Lutz FL 33559
- 315. Paul W. 1st 1256 Kayak
- 316. Paul W. 1st 1243 Kayak

317. ~~Str 7~~ 1251 Dockside Dr.
318. ~~Michael R. Bradley~~ 1248 Dockside Dr. Lutz, 33559
318. Albert E. Fox Jr. 1340 Foggy Ridge PKY LUTZ 33559
319. Gail Silverwood 1360 Foggy Ridge Pkwy Lutz, 33559
320. ~~Sturgeson~~ " " "
321. ~~MM~~ 1401 " "
322. ~~WHL~~ 1404 Windrunner Loop Lutz 33559
323. MAURICE SANDERS 1405 Windrunner Loop Lutz, FL 33559
324. Marina Urrego 23903 Dutch Ind Lutz, FL 33559
325. Rod Hamm 1352 Edgewater Ct Lutz 33559
326. ~~Mang Ding~~ 24029 Timberlawn
327. ~~JJ~~ 24019 Timberlawn Ct. Lutz FL 33559
328. ~~JJ~~ " " " " " "
329. Jennifer Cramingham 24011 Timberlawn Ct Lutz FL 33559
330. Barry Cunningham 24011 Timberlawn Ct Lutz FL 33559
331. Janice Miller 24004 Timberlawn Ct. Lutz 33559
332. ~~Quinn Miller~~ 24012 Timberlawn
333. Ronald H. Redfield 24020 Timberlawn Ct Lutz FL
334. ~~Robert~~ 24030 Timberlawn Ct Lutz FL
335. Valerie M. Andra 1749 Foggy Ridge Pkwy Lutz, FL 33559
336. Robert Cunningham 24055 Timberlawn Ct Lutz, FL 33559
337. Kathy Cunningham 24055 Timberset Ct. Lutz, FL 33559
338. Ciji Duncombe-Clarke 24038 Timberset Ct. Lutz, FL 33559
339. Laura Bessler 24020 Timberset Ct Lutz FL 33559
340. Jodi Farris 24031 Timberset Ct. Lutz, FL 33559
341. Blayne Ferris 24031 Timberset Ct, Lutz, FL 33559
342. ~~Robert~~ 24015 Timberset Ct Lutz, FL 33559
343. ~~Guadalupe~~ 24101 Turtlerock Ct Lutz FL 33559
344. Jettee Ferrin 24047 Turtlerock Ct Lutz, FL 33559
345. Jennifer Beckler 24041 Turtlerock Ct, Lutz, FL 33559
346. M. Alban 24014 Turtlerock Ct Lutz 33559

378. ~~John~~ 24110 Landing Drive, Lutz FL 33559
379. Beadie Reamer 24130 Landing Dr. Lutz, FL 33559
380. Michael Hayer 24440 Landing Dr. Lutz FL 33559
381. Bill O'Connor 24231 Landing Dr Lutz 33559
382. Nancy Hayer 24241 landing Lutz 33559
383. Jenifer Lipinski 24321 Landing Dr Lutz, FL 33559
384. JOAN M HUNT 24401 LANDING DR. LUTZ, FL 33559
385. Nena Khuerenberg 24407 Landing Dr Lutz FL 33559
386. Osol Oliveira 24427 Landing Dr. Lutz FL 33559
387. Chr D K 24441 LANDING DR LUTZ FL 33559
388. Chris D 24439 LANDING DR LUTZ FL 33559
389. Joan Wilton 24447 Landing Dr Lutz FL 33559
390. John 24517 Landing Dr Lutz FL 33559
391. John Pandy 24537 landing Dr Lutz, FL 33549
392. Wesley Rodriguez 24529 landing DR. Lutz FL 33559
393. ALBERTO RODRIGUEZ 24539 landing DR. Lutz, FL 33559
394. SCARLETT MATZKE 1017 DOCKSIDE DR. LUTZ, FL 33559
395. Patricia Ceballos 24452 Mistwood Ct FL 33559
396. William Robinson 24440 Mistwood Ct Lutz FL 33559
397. Judith Garcia 24424 Mistwood Ct Lutz FL 33559
398. John 24000 Mistwood Ct Lutz
399. Laura B 24352 mistwood ct Lutz
400. Cassiel Medina 24342 mistwood ct. Lutz
401. Bryan Egan 24332 Mistwood Ct Lutz
402. Rose Clark 24327 Mistwood Ct Lutz, FL 33559
403. Mackel Clark 24327 Mistwood Ct Lutz, FL 33559
404. Ugna Napolitano 24322 Mistwood Ct Lutz, FL 33559
405. Kenneth Smith 24318 mistwood Ct Lutz FL 33559
406. JARED SANCHEZ 24337 MISTWOOD CT LUTZ FL 33559
407. JESSICA Giorgi 24343 Mistwood Ct Lutz FL 33559
408. Philip + Laurie Kraus 24349 mistwood Ct Lutz 33559
409. Lita Dwyer 24353 Mistwood Ct. Lutz 33559
410. Andres Rios 24409 mistwood ct Lutz FL 33559

411. Ran Colletti 24421 Breezy Oak Ct Lutz, FL 33559
412. Zoa Gomez 24415 Breezy Oak Ct Lutz, FL 33559
413. Cheryl Powensia 24409 Breezy Oak Ct Lutz, FL 33559
414. DANA G. NELSON 24403 BREEZY OAK CT. LUTZ, FL 33559
415. Ira Anario 24341 Breezy Oak Ct Lutz, FL 33559
416. Rita Tompkins 24311 Breezy Oak Ct Lutz, FL 33559
417. Kaye Chusorathy 24316 Breezy Oak Ct Lutz, FL 33559
418. KIRKINNA D. DOSTEN 24270 Breezy Oak Ct Lutz, FL 33559
419. MARLYN HAMES 24222 Breezy Oak Ct Lutz, FL 33559
412. GABRIEL CASTANO 24330 Breezy Oak Ct Lutz, FL 33559
413. Jimmy Rodriguez 24402 Breezy Oak Ct Lutz, FL 33559
414. BRYAN GROSS 24426 BREEZY OAK CT, LUTZ, FL, 33559
415. John Ross 24430 Breezy Oak Ct, Lutz, FL 33559
416. Robert Amdy 24436 Breezy Oak Ct, Lutz, FL 33559
417. Luigi Verzura 24448 Breezy Oak Ct Lutz, FL 33559
418. Angela Calas 24305 Summerwind Ct Lutz, FL 33559
419. MARCO A TELERIO 24311 SUMMER WIND CT. LUTZ, FL, 33559
420. Cristina Vazquez 24317 Summer Wind Ct Lutz, FL 33559
421. Robert B. Stinson 24331 Summer Wind Ct Lutz, FL 33559
422. Helan O'Brien 24343 Summer Wind Ct Lutz, FL 33559
423. John W. W. 24349 Summer Wind Ct Lutz, FL 33559
424. John W. W. 24401 Summer Wind Ct Lutz, FL 33559
425. John W. W. 24405 Summer Wind Ct 33559
426. Melvin Maxplace 24409 Summer Wind Ct.
427. Vince 24419 Summer Wind Ct.
428. Onobley 24431 Summer Wind Ct
429. R. DeLorme 24443 Summer Wind Ct Lutz
430. Mito Murray 24409 Summer Wind Ct Lutz
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431. Isabella Kosto 24512 Karnali Lutz, FL 33559
432. David Kosto 24512 Karnali Lutz, FL 33559
433. AKKIS KOSTO 24512 Karnali Lutz, FL 33559

434. ~~Star~~ 24325 Rolling View Ct
 435. ~~Star~~ 24341 Branchwood Ct
 436. ~~Star~~ 24242 Branchwood Ct
 437. ~~Star~~ 24239 Branchwood Ct
 438. ~~Star~~ 24304 Branchwood Ct.
 439. Patricia Tuley 24317 Branchwood Ct.
 440. Marlene Ingram 24317 Branchwood Ct.
 441. William Speed 24330 Branchwood Ct.
 442. William Rosello 24336 Branchwood Ct
 443. Amanda Himmelbus 24342 Branchwood Ct.
 444. ~~Star~~ 24350 Branchwood Ct.
 DVH 445. ~~Star~~ Bonnie J. Crane 1023 ~~2310~~ Waterdale Ct., Lutz ²⁰⁰ mo.
 446. John K. Feder 1023 Waterdale Ct Lutz
 447. Tawnya Nichols 1023 Waterdale Ct Lutz
 448. Russa Spade 2617 " " "
 449. ~~Star~~ Lynn McCall 1016 Waterdale Ct Lutz, FL 33559
 450. Arthur McKinnon 1026 Waterdale Ct Lutz FL 33559
 451. ~~Star~~ 23810 Lake hills Dr, Lutz, FL 33559
 452. Mike + Leuklin Quick 1025 Lakehaven Dr. Lutz, FL 33559
 453. Cynthia J. Bernardo 1017 Lakehaven Dr Lutz FL 33559
 454. William Fine 1022 Lakehaven Dr, Lutz 33559
 455. William Fine 1034 Lakehaven Dr, Lutz 33559
 456. Jim Brantley 1057 Foggy Ridge Pkwy Lutz 33559
 457. Amy McHenry 1057 Foggy Ridge Pkwy Lutz 33559
 458. Tim Rumburg 1057 Foggy Ridge Pkwy Lutz 33559
 459. Holly King 1521 Foggy Ridge Pkwy Lutz, FL 33559.
 460. Debbie Coonice 1505 Foggy Ridge Pkwy

461. Raunue Crawford 24421 Karnali Ct. Lutz, FL 33559
462. ROBERT ESPOSITO 24420 KARNALI CT LUTZ 33559
463. Michelle Garcia 24416 Karnali Ct Lutz 33559
464. GALIA YATES 24425 KARNALI CT. LUTZ, FL 33559
465. José Van Solórzano 24437 Karnali Ct. Lutz FL 33559
466. Anne Cullison 24445 Karnali Ct Lutz FL 33559
467. Margie Perez 24451 Karnali Court Lutz FL 33559
468. Shaila Boyer 24501 Karnali Ct. Lutz FL 33559
469. Pamela Kenney 24519 Karnali Ct Lutz FL 33559
478. Yor Sr Stepanuk 24520 Summer Nights Ct. FL 33559
479. Wilson Hernandez 24452 Summer Nights Ct. FL 33559
480. Sarah Quispe 24446 Summer Nights Ct Lutz FL 33559
481. Derald Johnson 24406 Summer Nights Ct Lutz FL 33559
482. LEAH DEJONGE 24336 Summer Nights Ct Lutz FL 33559
483. Tara Edwards 24330 Summer Nights Ct, Lutz FL 33559
484. Rhonda Fountain 24335 Summer Nights Ct. Lutz FL 33559
485. RAFAEL CASANO, 24341 " " " " "
486. Jennifer Parry 24351 Summer Nights Ct. Lutz FL 33559
487. Scott Robinson 24345 Summer Nights Ct Lutz FL 33559
488. Daniel Roach 24411 Summer Nights Ct. Lutz FL 33559
489. Dorcas J. Cothern 24419 Summer Nights Ct, Lutz. 33549
490. Norman Y Collins 24425 Summer Nights Ct Lutz 33559
491. Sharon Kemp 24515 Breezy Oak Ct. Lutz, FL 33559
492. Jack Jhn 24509 Breezy Oak Ct Lutz, FL 33559
493. Christina Coffman 24447 Breezy Oak Ct. Lutz, FL 33559 CDC
494. Linda Pentwood 24441 Breezy Oak Ct Lutz FL 33559
495. Jennifer Puder 24435 Breezy Oak Ct Lutz 33559

496. A. Garcia - 24350 Branchwood Ct Lutz 33559
 497. Santa Cesya Qulit - 24350 Branchwood Ct Lutz
 498. Nicole Duncan - 24349 Branch Ct Lutz 33559
 499. Daphne Farrell - 24335 Branchwood Ct Lutz, FL 33559
 500. Deswin Farrell - " " " " 33559
 501. ORLANDO Hdez 24329 BRANCHWOOD CT
 502. Heggy E. Jones 24305 Branchwood Ct.
 503. BERT CORBETT 24251 BRANCHWOOD CT. LUTZ, FL 33559
 504. Kim Crocker 24247 Silkway Ct Lutz FL 33559
 505. Robin Crocker 24247 Silkway Ct Lutz FL 33559
 506. Rebecca Lucksted 24243 Silkway Ct Lutz FL 33559
 507. David Lucksted 24243 Silkway Ct Lutz FL 33559
 508. Steve Dunne 24242 Silkway Ct Lutz FL 33559
 509. Heather Rivera 24246 Silkway Ct. Lutz, FL 33559
 510. Adrianna Hunt 24306 SILKWAY CT LUTZ 33559
 511. DAVID CAINEVA PEREZ 24312 SILKWAY CT LUTZ 33559
 512. ORLANDO YOUNG 24249 SILKWAY CT FL 33559
 513. Nadia Priddy 24311 Denali Ct Lutz 33559
 514. John LaCruz 24305 Denali Ct. 33559
 515. GABRIEL AQUINO 24249 DENALI CT 33559
 516. Ida Rodriguez 24237 Denali Ct 33559
 517. LUY MARGGIO 24213 DENALI CT 33559
 518. B. Sprunt 24207 Denali Ct Lutz 33559
 519. B. Woodard 24149 Denali Ct. Lutz FL 33559
 520. David + Rebecca William 24145 Denali Ct Lutz 33559
 521. John G. Smith 24139 Denali Ct
 522. ZEINAT HASSAN SM 24140 DENALI CT LUTZ 33559

(813
949
5607)

Response of FGUA to Petition

From: Garner, Bill [<mailto:bgarner@ngn-tally.com>]

Sent: Tuesday, November 27, 2012 12:45 PM

To: Julie I. Brown

Cc: ray.pilon@myfloridahouse.gov; scarlet_frisina@columbiacountyfla.com; jmariano@pascocountyfl.net; Kelly.jr@leg.state.fl.us; Katherine Fleming; van.hoofnagle@dep.state.fl.us; burkimwater@aol.com; pcflynn@uiwater.com; john-frame@comcast.net; garyfries@polk-county.net; donna_gregory@doh.state.fl.us; bobby.lue@watermatters.org; utilityconsultant@yahoo.com; terrero@miamidade.gov; marionutl@aol.com; Gary.Williams@frwa.net; kgoodman@comcast.net; JoAnn Chase; Larry Harris

Subject: Petition by FGUA Customers in Pasco County's Turtle Lakes and Oak Grove Subdivisions

Dear Chairperson Brown,

It has come to our attention that the Study Committee on Investor-Owned Water and Wastewater Utilities has received a petition from some FGUA customers served by the Mad Hatter Utility System seeking relief from rates characterized as too high. The FGUA never takes dissatisfaction among its customers lightly, and works diligently to foster relationships of trust and cooperation with its customers. These efforts, generally, result in a high level of satisfaction among FGUA customers, as confirmed in the attached documents.

The FGUA begins establishing positive relationships with customers even before acquisition. As part of its acquisition model, the FGUA works cooperatively with a utility's customers and with the local government that is host to the private utility system. Such cooperation typically begins well before the date of acquisition and creates a relationship of trust which enhances the ability of the FGUA to deliver a high level of customer satisfaction during the acquisition process and after the FGUA becomes the owner and operator of the system.

The FGUA immediately contacted customer representatives from the Turtle Lakes/Oak Grove area upon receipt of this petition and discussions have been initiated. Committee members should be aware that FGUA representatives held several meetings with customers of Mad Hatter prior to the FGUA acquisition. The rates approved by the FGUA were significantly lower than the rates the prior owner was seeking from the Florida Public Service Commission and the only customers to appear before the FGUA Board at the public hearing to approve the acquisition supported it. The FGUA acquisition also had the unanimous support of the Pasco County Board of County Commissioners, which requested that the FGUA accomplish the purchase in the first place.

Should you have any questions regarding the attached document, the FGUA acquisition of the Mad Hatter Utility System, or the FGUA in general, please feel free to contact Brian Armstrong at 850-322-4097.

Respectfully,

William C. Garner (Bill)



1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308
(850) 224-4070 Tel.
(850) 224-4073 Fax

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FGUA Acquires Mad Hatter Utility, Inc. and Paradise Lakes, LLC
Residents in Lutz and Land O' Lakes, Florida have a new utility provider. Click for more info.

The Florida Governmental Utility Authority provides services to approximately 90,000 Floridians every day. This website is designed to provide you information about the system that serves you, to provide the convenience of online bill paying, and give you an opportunity to learn more or provide feedback.

We're listening, and we're interested in what you think!

FGUA Systems

AFB MacDill
Aloha Gardens
Angus Valley
Colonial Manor
Dixie Grove Estates

Golden Gate
Holiday
Lehigh Acres
Lindrick

Mad Hatter
North Fort Myers
Seven Springs
Virginia City



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- 8731 Citizens Drive - New Port Richey 34654
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District 1 - Ted Schrader
District 2 - Pat Mulleri, Ed.D.
District 3 - Ann Hildebrand
District 4 - Henry Wilson
District 5 - Jack Mariano

November 7, 2012

Re: Florida Governmental Utility Authority Aqua Utility Acquisition

To Whom It May Concern:

Those of us in government, both elected and appointed officials, understand that one of the most essential services we provide to promote public safety, welfare, and health is water and sewer service.

In Florida, water and sewer is sometimes provided by private investor-owned utilities. For years, many Pasco County residents were serviced by a certain private company and paid very high rates for poor water quality. They called it Black Water due to the hydrogen sulfide issues.

The County attempted to buy the system, but we were unable to reach an acceptable purchase agreement. Customers bombarded the Public Service Commission with complaints while rates kept increasing, and neither water quality nor customer service improved.

We approached the Florida Governmental Utility Authority (FGUA) to acquire the utility. It did not happen overnight, but in a diligent, responsible way, FGUA evaluated the County system, including the costs to bring water supply and treatment facilities up to County standards, and negotiated a purchase agreement. This enabled us to move the utility to public ownership. The customers have been very happy with the change and with FGUA's commitment to improving water quality and service. In short, FGUA did everything they promised and more.

This has turned out to be an excellent intergovernmental relationship. Our residents are getting high quality water and service. Although additional utility system debt must be incurred to finance the acquisition and provide improvement, FGUA has managed to maintain rates below what customers would have been paying under continued private ownership.

November 7, 2012

Re: Florida Governmental Utility Authority Aqua Utility Acquisition
Page Two

At the County, we have been so pleased with the FGUA that we have supported their acquisition of other private utilities in the County. Without reservation, and from the standpoint of a "host" government representative, I can tell you that the FGUA is a partner in the truest sense of the word.

I am available to answer any questions you may have. Please feel free to contact me at 727-847-8100 or jmariano@pascocountyfl.net.

Sincerely,



Jack Mariano
District 5

JM/JDR:lp

cc: Board of County Commissioners
John J. Gallagher, County Administrator
Bruce E. Kennedy, P.E., Assistant County Administrator (Utilities Services)
Joseph D. Richards, Senior Assistant County Attorney

EXECUTIVE SUMMARY

A random sample of 578 customers were interviewed by telephone between January 23 and January 30, 2012. This list was derived from the Florida Government Utility Authority's (FGUA) customer listings in the four geographic service areas.

The data in the FGUA Customer Service Survey revealed considerable satisfaction with water and/or sewer services.

Of those who have contacted the FGUA Service Center, 75 percent give FGUA either a “good” or “excellent” overall service rating. Of those, 75 percent say the last time they contacted FGUA about an issue, it was handled in a “good” or “excellent” manner. Likewise, 92 percent of customers were either “satisfied” or “very satisfied” with FGUA’s response to water/sewer emergencies, 94 percent were either “satisfied” or “very satisfied” with FGUA’s response to their request for new service, and 91 percent were either “satisfied” or “very satisfied” with FGUA’s response to maintenance requests.

A number of findings are worthy of consideration and some action steps are presented.

- Ninety-eight percent of the customers interviewed said they were the person who pays the water and/or sewer bill at their home. We also had about as many (29 percent) new customers (<2 years) as long-term (31 percent) customers (>10 years). Only about one-in-three (31 percent) customers have had the occasion to call FGUA customer service.
- By nearly a three-to-one ratio (45 percent), billing questions over starting services (12 percent) were the most frequently cited reason for contacting FGUA customer service. The final, open-ended question on the survey also revealed that billing issues garnered the greatest number of suggestions for improvement.
- Examining the mean (average) scores on customer evaluations of the FGUA representatives they spoke with, all scores pointed to a positive customer experience. The highest (3.20) was for “courtesy” followed by “level of knowledge” (3.06), then the “overall rating” (3.04) and “handling the inquiry to the satisfaction of the customer” (3.03). The lowest rating was for “speed with which the issue was resolved” (2.97).



- It is accurate to state that FGUA customer service representatives are courteous, knowledgeable, and provide overall satisfaction to most customers.
- The vast majority of customers (92 percent) said they didn't have any trouble reaching FGUA customer service representatives.
- For the 7 percent who reported difficulties reaching a FGUA representative, the most frequently cited difficulties were: trouble getting a supervisor, the problem wasn't fixed after they reported it, and/or they can't get a real person to speak with, only a recording.
- Satisfaction with services is quite high. On a four-point Likert scale from "very dissatisfied" (1) to "very satisfied" (4) customers rated FGUA above "good" (3) on all these questions. The greatest satisfaction was with emergency response (3.21), then requests for new/changes in services (3.17), followed by maintenance issues (3.15).
- There was one significant difference among the intervally-scaled service, satisfaction and FGUA Newsletter variables. Customers in the Golden Gate service area are significantly less satisfied than any of the other service areas in FGUA's response to an emergency (water outage, low pressure, flooding, etc.).
- The fact that only one-third (32 percent) of FGUA customers needed to contact the FGUA service center indicates that water and/or sewer service is reliable. Further, the scores given by customers who did have to call the FGUA service center were "Good". Nothing about FGUA customer service appears to need change. Reviewing the responses to the open-ended question in the survey might help fine tune FGUA's customer service.



Customer Testimonials

Providing the best, cost-efficient water and wastewater services are not just about the experts on the ground. It begins and ends with the customer.

FGUA maintains a close relationship with all of its customers. From the community service representatives that are part of each system to the regular meetings and newsletters, FGUA is a positive part of every family served.

And customers agree, especially after bad experiences with previous private utility owners.

State Sen. Mike Fasano, an FGUA customer in Pasco County

"Please know how much we appreciate your good work.

If we still had Aloha (a private company) today, we would be paying higher prices with nothing being done on the quality of water and service."

John Andrews, Chair of Committee for Better Water Now, a citizen initiative started to improve water quality under the previous utility owner

"As a very satisfied FGUA/U.S. Water customer, I want to express my appreciation for your outstanding management of our water utility – FGUA/Pasco Systems.

You provide an example of what a great water utility can offer all of its customers. Your company's responsiveness has exceeded our expectations.

I know that members of our Committee for Better Water Now welcome your personal expertise, dedication and openness. And we are impressed with the knowledge and involvement of your key employees, who keep us well informed about plans, current activities and progress.

For nearly 15 years, Aloha Utilities customers in the Seven Springs service area complained about Aloha's black, smelly water and very poor customer service. Aloha refused to cooperate or improve the water, and often took legal actions to avoid system improvements.

Finally, success was achieved when Pasco County commissioners voted to join the FGUA. The FGUA purchased Aloha Utilities in February 2009, and U.S. Water became the facilities manager.

You and your employees are doing an outstanding job of operating these facilities, performing repairs, implementing system upgrades, and improving customer service. During monthly meetings, the FGUA/U.S. Water team provides CBWN members excellent status information as system upgrades continue. And the FGUA newsletter, website and public meetings keep customers informed about progress.

We look forward to the completion of major infrastructure upgrades by August 2011, and turn-over of the Pasco County utilities interface. We will celebrate the arrival of even better processed water that we so rightfully deserve.

Thank you for your professionalism, expertise, dedication and commitment to the customers. We especially appreciate your attendance at many of our monthly FGUA-CBWN meetings."

John Ford shares a pipe repair experience at his home

"On Monday around 4 p.m., my wife noticed water flowing from the ground in the park across the street from our home in Trinity.

Within minutes of our calling, the lady who had been in our neighborhood reading meters returned. She put on a pair of boots and waded into the water.

Finding something to kneel upon, she proceeded to reach into the service box up to her shoulders reaching for something to stop the flow of water. Despite her valiant attempts, she was unsuccessful.

She proceeded to call for the plans to find a shut-off valve in the street. In short order, several teams arrived. The pressure of the water had washed out a section of soil, sand and mulch, and filled the hole with water. As they pumped the water out, one man put on boots and then jumped into the hole, only to find himself in water up to his waist.

Undeterred, he searched in the water-filled hole and found the broken pipe that caused the problem.

[Once fixed], they then filled the hole with sand they brought to the site and topped it off with mulch to match. They power-washed the sidewalk and street to be sure all signs of the leak were addressed. Two days later, they returned with shrubs that matched those that were washed away.

I am now retired after spending over 40 years in business dealing with the public. I know how tough it can be and how it can wear on people that are face-to-face with customers.

I talked at length with the men and the woman on the scene. They had all worked for the prior water system operator. They are all proud to be working for U.S. Water Corp., and it showed in their work.

I have learned that the distance from a meeting room to a customer contact point is huge. Concepts and plans from senior management do not always make it to the frontline people. I can tell you that is not a problem with U.S. Water Corp.

You and your team are showing the community what a well-run water company looks like, and I can tell you, they all like what they see."

FGUA Board Member and Lee County Utilities Director, Pam Keyes, shares her commendations on the completion of the Waterway Estates Interconnection project

"I do want to give a special thank you to Rob [Dickson, FGUA Capital Program Manager] and his efforts, especially in the last month or two.

Like any big project that last couple of months gets a little hairy and I think with his efforts to respond to our needs as well the Del Prado needs were really commendable.

I also want to say that Guymann really outperformed, just did a wonderful job; so I hope they can attend one of the meetings so that we can thank them in person...

But it was quite a project, and thank you so much for your help especially that last couple of months. Thank you."

Denise Hendley, an FGUA customer in Pasco County

"The customers in the previous Lindrick System permitted the FGUA to purchase the system with the understanding that the County at some point would take over the system.

Having said that, even though the rates are a little higher than the county, Lindrick customers are perfectly happy with the FGUA.

Improvements are brought up quickly and efficiently, and customer service has been the best it has ever been and communications with customers has been excellent."

St. Petersburg Times
tampabay.com

August 24, 2011

Aloha Utilities customers finally get their wish: good, clean water

By Lee Logan, Times Staff Writer

It took years for Aloha customers to see this day.

The long fight for better water is almost over for residents of Seven Springs.

Today, the government agency that bought the Aloha Utilities water system will throw the switch on an upgraded water treatment plant that will clean the sour, smelly water that residents complained about for years.

"The customers are going to be very, very pleased to finally have good, clean water to drink," said John Andrews, a Trinity resident who leads the Better Water Now citizen group.

The new treatment plant, located next to Seven Springs Elementary, is part of \$7.8 million in upgrades to the system. The plant will treat water from the utility's nine wells to remove color and sediments. It will also remove hydrogen sulfide, the cause of blackish tint and rotten egg odors in the water. Other upgrades include 6.5 miles of new water mains and five connections to the Pasco County utility system.

The switch will mean seven to 10 days of discoloration or cloudiness, but officials say it will only be temporary. Most of the changes are caused by the release of built-up sediment in the lines as the new system takes over.

The Florida Governmental Utility Authority bought the Aloha Utility in 2009 for \$90.5 million. The utility serves 20,000 residents in Holiday and Trinity.

Many of the complaints began in earnest in the mid '90s when two new wells came online that provided some of the worst water to the Chelsea Place and Trinity Oaks neighborhoods.

Stephen Spratt, the assistant systems manager for FGUA, said the agency already implemented some short-term fixes, including relying less on those wells and pumping more water from other wells. The utility also completely flushed the system to remove built-up hydrogen sulfide.

The new plant will treat just more than 2 million gallons pumped daily from the utility's nine wells. The rest of the 2.8 million gallon demand will be purchased from Pasco County's utility system. Demand is expected to grow as the economy improves, resulting in more water from the county.

FGUA considers itself a transitional agency that buys a troubled private system, improves it and then turns it over to a local government. Its agreement allows Pasco to take over the system at any time, and FGUA has made similar deals in several counties across Florida.

"It really allows somebody to focus on the problem for the county," Spratt said.

Last fall, FGUA refinanced bonds used to buy the utility, saving customers \$400,000 in interest costs. That will allow the utility to reduce the planned increase in rates that take effect in October. Under those proposed new rates, a Seven Springs home using 5,000 gallons a month would see water and sewer bills increase from \$76 to \$81.

Andrews said residents don't like the higher rates, but he quipped, "We used to get rate increases with no improvements to the water."

Lee Logan can be reached at llogan@sptimes.com or (727) 869-6236.

Getting to this day

Customers of Aloha Utilities have been complaining about the water quality for more than 15 years. Among the most iconic moments in the saga:

m In 1996: To demonstrate how dirty her water was, Gloria Pilotte of New Port Richey ran the hot water tap in her bathtub. Her family began complaining to Aloha Utilities in 1994.

m In 1998: "That's bad water," said Bob Crouch, who supervised engineering for the state Public Service Commission. He and then-PSC chairwoman Julia Johnson watched as Aloha Utilities president Steve Watford let the water flow from a hydrant in New Port Richey. The demonstration suggested that separate from the utility's black water problem, the utility was not properly flushing its hydrants.

m In 2004: More than 200 customers packed into a hearing of the Public Service Commission to complain about the poor water quality. Residents showed up in force at countless Aloha meetings over the years and even picketed outside the utility offices, demanding better water.



August 23, 2011

Seven Springs' long wait for odorless, clear water almost over

By Times Wire

Turn on the tap Thursday in southwest Pasco and the flowing water will be unfamiliar. It'll be clear and odor free. At least that's the aim, though the 20,000 customers formerly served by Aloha Utilities, may see initial turbidity and some residual black water. Don't worry. It will be temporary and should clear up in a week to 10 days.

Thursday, the Florida Governmental Utility Authority's on-site operator - U.S. Water Services Corp. - throws the switch on an improved water treatment plant, 6.5 miles of water mains and five connections to Pasco County Utilities. Water drawn from nine existing wells will be treated at the plant with chlorine and ammonia and mixed with water purchased from Pasco County for delivery to homes and businesses in Seven Springs.

The milestone concludes the 16-year saga of complaints about black, smelly water that sparked squabbling among customers, the utility's private owners, elected officials and the Public Service Commission. Two years ago, FGUA purchased the utility from Aloha for \$90.5 million and began short-term changes to better the water quality immediately, and a two-year capital program that culminates this week with a permanent fix.

Besides the improved product coming from domestic taps, the new system will benefit the environment by reducing groundwater pumping to an average of 2 million gallons per day. That is half the production Aloha relied upon when it routinely exceeded its permitted capacity. For the time being, the new utility plans to deliver just 2.8 million gallons of water to its customers, with more than a quarter of it purchased from Pasco. Demand is down because of customers' conservation and the prevalence of vacant homes and shuttered businesses.

The plant, pipes and connections cost less than the projected price of \$7.8 million, and the utility now plans to seek a smaller-than-expected rate increase beginning Oct. 1. "We used to get rate increases with no improvements to the water," deadpanned John Andrews, chairman of the citizens advocacy group that pushed for change.

His and other customers' patience is about to be rewarded with better water for drinking, cooking and bathing.

St. Petersburg Times



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Trinity-Seven Springs residents, officials dedicate water filtration plant

Carl Orth/SUNCOAST



Residents and officials toured the new FGUA treatment plant on Mitchell Ranch Road which ended some 17 years of foul, black water problems.

By **CARL ORTH** | The Suncoast News

Published: October 25, 2011
Updated: 10/25/2011 05:51 pm

TRINITY - Nearly two decades of foul tap water problems were declared to be at an end Friday as residents, officials and Florida Governmental Utility Authority managers dedicated the new filtration facility.

"It's been a long time coming," state Sen. Mike Fasano, R-New Port Richey, commented during the dedication ceremonies.

The first call Fasano received after being elected to the Florida House of Representatives in 1994 came from a fellow Aloha Utilities customer with black water problems. A build up of excess hydrogen sulfide in the former Aloha system was blamed for the foul smell or discoloration of tap water provided by Aloha.

Fasano became one of the most vocal critics of Aloha Utilities' drinking water quality. For years, Aloha executives said the pipes in the homes of the complaining customers were the source of the black water problem.

"God bless you all," Fasano said in concluding his remarks at the dedication.

"This is a glorious, glorious day," Commission Chairwoman Ann Hildebrand remarked about the dedication. She and other Pasco commissioners helped pave the way for FGUA to buy Aloha in February 2009.

Prior to the buy-out, Hildebrand recalled, aloha customers often packed public hearings and waved signs at protests. Many brought samples of Aloha water from the faucets at their homes.

The highly publicized Aloha water problems made business leaders reluctant to locate in the Trinity-Seven Springs area, Commissioner Jack Mariano said.

Some customers have grumbled a bit about the higher rates FGUA has received to pay for the upgrades. Mariano, however, said FGUA's rates are much lower than those Aloha executives had been seeking prior to the sale.



FGUA spokesman Matthew Rihs offers guests bottles filled with tap water filtered at the new treatment plant in southwestern Pasco.

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Trinity-Seven Springs residents, officials dedicate water filtration plant

Page 2 of 2

"It's hard to find enough adjectives," John Andrews, chairman of Better Water Now, a group of Altha customers who were critical of the private utility, said about the "17-year journey" to improved water quality.

The treatment plant runs so well that neighbors have not complained about any odor, Steve Spratt, FGUA's assistant system manager and director of municipal services for Government Services Group, said. The Tallahassee-based Government Services Group provides management services for government entities such as FGUA.

The FGUA filtration plant, which began operating in August, can process some 2.9 million gallons of water a day, Spratt said.

Gary Deremer of U.S. Water, a contractor for FGUA, ushered officials on tours of the plant at 7937 Mitchell Ranch Road. He showed various features, such as the two-part scrubbing process, computerized controls and the 650-kilowatt diesel-powered backup generator at the plant.

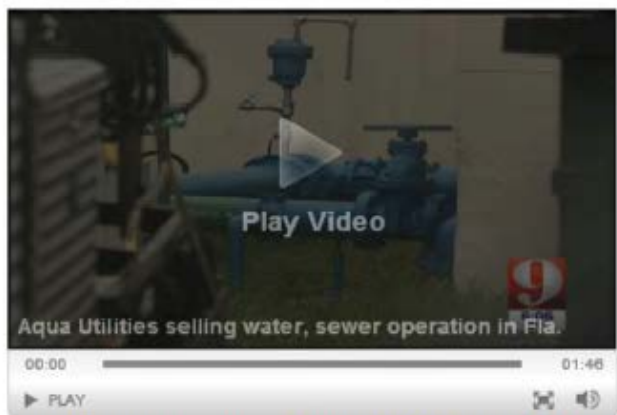
The improvements cost some \$12 million, Matthew Rihs, a FGUA spokesman in the FGUA office on Perrine Ranch Road, said.

To demonstrate the effectiveness of the treatment plant, staff members handed out plastic bottles filled with tap water from the FGUA system.

For information, contact the FGUA Pasco Customer Service Office at (727) 372-0115 or mrihs@govmserv.com.

Carl Orth can be reached at 727-615-1068 or corth@suncoastnews.com.

Aqua Utilities selling water, sewer operation in Fla.



CENTRAL FLORIDA — WFTV found out Monday Aqua Utilities Florida is trying to sell its water and sewer systems in Central Florida.

The company serves at least one community in nearly every county in Central Florida.

For years, residents have experienced several problems, including brown, smelly water coming from residents' faucets in Chuluota.

Carol Well said it's not worth the \$100 Aqua Utilities charges her every month.

"It's been clear, but it's got odor to it. It's still not good water to drink," said Wells. "Sometimes it smells like rotten eggs."

It's why she and her neighbors in Chuluota have been fighting Aqua for years and now the fight may be over.

Aqua Utilities are trying to sell its entire Florida operation because, according to an offer letter obtained by WFTV, it's the best alternative for customers and shareholders.

The company poured in millions to improve the water but then turned off customers when it proposed significant water-rate increases.

The buyer will likely be Florida Governmental Utility Authority, a special government authority that buys private systems and operates them for cities and counties across the state. It has a solid track record of taking over troubled utilities.

"We want to do the best we can for customers and if we feel like we can't do any better, then obviously, it would not be good to buy the system, but we feel like we do a great job all around the state," said Lea Ann Thomas, FGUA chairperson and assistant Polk County manager.

And that gives Carol Well high hopes.

"Better water, better water pressure, better taste, the works," she said.

FGUA has to get the OK from all the counties where Aqua Utilities operates in order for the \$95-million deal to go through. They expect the deal to close by February 1.

Field
Report

STEVE SPRATT



Spratt



These clarifier tanks (above) and reuse water chlorine contact chambers (right) are part of the water and wastewater facilities at MacDill Air Force Base near Tampa, Fla. Ownership and maintenance of the facilities were transferred to the Florida Governmental Utility Authority, a "hybrid" governmental unit that will supply water and sewer services to approximately 20,000 people.

Defense Department Monetizes and Outsources Water and Wastewater Facilities With "Hybrid" Government

After 29 months, countless e-mails and meetings, and tens of thousands of staff hours, a contract was negotiated transferring ownership and management of the MacDill Air Force Base water and wastewater facilities to the Florida Governmental Utility Authority (FGUA). The contract will be carried out over 50 years at a value of \$200 million. (The purchase is amortized over 50 years as part of a capital recovery schedule. The utility is also required to carry out renewal and replacement projects for all assets based on their useful life.)

FGUA now provides water and wastewater services to more than 12,000 military personnel and 1,300 civilians who work at the base near Tampa, Fla., in addition to the 6,300 people living on MacDill.

More than 1 mgd of water is treated and distributed (acquired on a wholesale basis from the city of Tampa) through 76 miles of pipe covering 9 square miles. The system also treats 400,000 gpd of wastewater.

POSITIVE CHANGE AT THE RIGHT TIME

Just like virtually all other levels of government, the US Department of Defense (DoD) faces its own finan-

cial pressure, which leads to continuous demand for making operations more cost-effective. About a decade ago, Congress directed DoD to transfer certain noncore mission responsibilities to private entities with the requisite expertise and to "monetize" the department's equity in public facilities. In doing so, DoD would leverage private investment in public assets. This directive led to passage of the National Defense Authorization Act in 1998 with a goal of selling housing and utilities like those at MacDill by 2000. The process, however, has taken longer than expected, so the deadline for privatizing such operations was moved to 2017.

Making FGUA a partner in this endeavor made sense, but the expense and time needed to pursue such a deal for MacDill required a considerable investment. Groups looking to buy these federally owned utilities must spend an enormous amount of energy navigating a complex and competitive application process that includes extensive scrutiny of their qualifications, financial capability, operations and maintenance capabilities, and cost-accounting standards. There are also rigorous requirements for detailed, long-range opera-

tions, emergency, and capital improvement planning—with accompanying pricing.

Every step of the way, the federal government measures proposed pricing against competitive target standards to ensure that the amount of money being saved is consistent with established goals and guidelines. If not, the entire process could come to a full stop with no privatization contract awarded. DoD has already sold more than 500 of its 2,600 military base utility systems; of those that remain, 26% are also in the process of being sold.

The MacDill acquisition marks the first time the FGUA has purchased a utility owned by the federal government. In the past, sellers were private investor-owned companies that local governments wanted to transition to public ownership. Unlike past acquisitions, which are typically acquire–upgrade–manage or sell, MacDill is the longest-term contract for the FGUA, running through 2061.

FINDING, FIXING, AND IMPROVING

The peninsula just south of Tampa where MacDill is located was first used as a military staging area for the Spanish–American War, including Teddy’s Roosevelt’s Rough Riders. The site became a military base in 1939 during the leadup to World War II. Today, MacDill is the home of US Central Command, the coordination hub for Middle East antiterrorism efforts. It’s also where the US Special Operations Command and the 6th Air Mobility Wing are based. Its facilities, including base residential housing, are expanding.

The 11 other facilities acquired by FGUA have pre-pared the utility well to carry out the MacDill contract. Nearly all FGUA-acquired systems have been in some state of maintenance-deferred condition. Steadily, FGUA has improved all of them, bringing them into full regulatory compliance with best utility operating practices. An example of this is found with the former Aloha Utilities in Pasco County, just north of Tampa. Customers there had water quality problems for more than a decade, including chronic black-water conditions. After FGUA acquired it, short-term measures were immediately implemented. These included well production management, water-line looping projects, and alternative treatment, all of which have significantly improved this situation.

The private utility was also under a long-standing consent order for overpumping its wells by as much as double its consumptive use permit. Under a settlement agreement negotiated with the Southwest Florida Water Management District there, FGUA has completed five interconnections with Pasco County for alternative water supply that will correct this problem.

During the next five years, FGUA expects to complete more than \$18 million in capital improvements at MacDill. The 50-year contract allows FGUA to develop a thorough, long-range plan for repair, replacement,

and capital asset improvements. With dedicated federal funding, FGUA will be able to execute projects over time, keeping the MacDill system operating at peak performance levels.

MacDill maintains its existing bulk water purchase agreement with the city of Tampa, and FGUA provides the facilities to receive, treat, and distribute water to users. The current water treatment plant, constructed in 2007, uses chloramine disinfection. Near the Tampa supply lines, the plant treats water using fluoridation and chloramines, which are more stable than free chlorine and won’t dissipate before reaching customers.

As part of its required due diligence, FGUA identified a series of system deficiencies in the wastewater facility. FGUA’s plan includes 25 separate improvement projects that will cost nearly \$10.5 million over the first five years of the contract. FGUA is also planning substantial gravity sewer system rehabilitation as well as several smaller projects and studies. Other system upgrades include a water quality project that enhances disinfection, control, and monitoring; a constant-run booster and automated chlorine feed system; cathodic protection; a water tower supervisory control and data acquisition system; and geographic information system mapping.

FGUA IS ADAPTING TO WATER NEEDS

Because some private water and wastewater facilities didn’t meet local government standards—and local government was not positioned to acquire them—FGUA offered an alternative. This alternative provided the leverage, buying power, and expertise found in government, acting on behalf of government. Further, because FGUA operates with no employees of its own and exclusively with contract management and operations, it has offered unique nimbleness in expanding and contracting as needed.

Over the past decade, FGUA has acquired and upgraded dozens of water and wastewater facilities. Whether continuously managing facilities or transferring them back to the “host” government, FGUA involves local governments in its decision-making process by providing them with a seat on the FGUA board of directors. FGUA has continued its evolution with the MacDill partnership—again saving the taxpayers’ money and allowing the assisted government to focus on its core mission.

PARTNERING FOR SUCCESS

FGUA worked through the lengthy federal procurement process by showing consistent cost savings across the board for the government. FGUA can access capital at lower cost because of its status as a government entity with a strong bond rating. FGUA also brings the expertise of an experienced management company and private operations contractor, which allow it to move immediately to undertake

What Is A Governmental Utility Authority?

A governmental utility authority (GUA) is the power of multiple governments combined into a single entity. GUAs are authorized by law and created through interlocal agreements between governments, such as the one in Florida charged with operating the MacDill Air Force Base water and wastewater utility. Each participating, or member, government has a seat on the board of directors, making decisions to acquire, upgrade, and convey utilities as well as set rates and service policies.

Through GUAs, governments can collaborate to optimize borrowing strength, manage rates, and improve services. Using organizations like this, local governments can have a partner government provide a dedicated service focus and tap a larger collective of management and operational strength at lower costs than doing so on their own.

GUAs are "portable," allowing them to move into multiple jurisdictions around the state. This allows any of the 67 county or 450 city governments in Florida to access the Florida Government Utility Authority (FGUA) and its considerable resources, by simply joining an interlocal agreement.

A GUA can also contract out service, meaning it doesn't have any actual employees to manage. This allows GUAs to expand and contract as necessary, meeting fluctuating responsibilities with flexibility and effectiveness.

GUAs operate as a special-purpose unit of local government, just like a city, county, or special district. Notice of meetings is posted, and documents remain public record in full compliance with the Florida Sunshine Law. This provides for complete transparency and accountability to customers, helping them to better understand and participate in their utility services.

Following this model, FGUA operates without employees of its own and instead employs private management and operations contractors. It has successfully managed \$447 million in acquisition, sales, and refinancing transactions and is currently managing more than \$286 million in capital projects. Most geographic regions in Florida have been represented in some form on the FGUA since its inception in 1999.

upgrades and overall operations, while significantly reducing overhead.

Government Services Group (GSG) is a Tallahassee-based government consulting and service firm that provides management staff, contract oversight, financial administration, procurement, data management, and other critical services to FGUA. GSG has been the backbone of the FGUA since it was established in 1999. US Water Services Corp., which provides services to 550 facilities in 61 Florida counties, is working with GSG on the MacDill project.

A board of directors representing the host government where FGUA systems operate governs and sets the service policy and rates for each utility. This has provided communities with a real voice in how FGUA is managed. Each system is treated as its own enterprise entity, so any revenue received or expenses incurred by a given system stays with that system.

In all, FGUA operates eight water and wastewater facilities in four counties, supporting more than 80,000 customer connections. FGUA has and is managing more than \$286 million in capital projects, so it can deliver 11.1 mgd of drinking water and treat another 7.75 mgd of wastewater.

FOCUSED ON CORE STRATEGIES

FGUA's acquisition of the MacDill water and wastewater system demonstrates how strategies in this vital industry are evolving and how important public-private collaborations are working. It represents another advancement of FGUA's core mission of helping other governments through cost-effective acquisition, upgrades, and management of utility systems.

Staying close to that focus has improved opportunities for FGUA's success. MacDill supports some of the United States' most critical military missions and has military service members and civilians—including on-base residents—expecting nothing but the highest-quality water and wastewater service. Shifting those responsibilities to a governmental organization with private contractors that have specialized expertise in the field will ensure that excellent services are provided, save the US taxpayers money, and allow our military more time to do what it does best—defend our freedom.

—Steve Spratt is director of municipal services for Government Services Group Inc., a Tallahassee, Fla.-based company that manages the Florida Governmental Utility Authority. He is a former Pinellas County Administrator in the Tampa Bay area. Spratt may be contacted at sspratt@govmserv.com.

Information in Field Report may describe products offered by companies in the water industry. AWWA does not endorse these products, nor is it responsible for any claims made by the companies concerned.



**Board of County Commissioners
DEPARTMENT OF WATER RESOURCES**

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www.bocc.citrus.fl.us

January 28, 2011

WRI-11-01

Honorable Mayor and Members of the Village Council:

This serves to share my observations and experience with the Florida Governmental Utility Authority as a local government official and utility professional. I have been working in the utility business for over thirty-five years, worked in local government for eleven years and served as a Director on the Authority Board for three years. I am currently serving as Vice-Chair on the FGUA Board of Directors.

At the County's request, the FGUA acquired a collection of small individual utility systems formerly held by private investors in 2003. Having transitioned the systems to public ownership on behalf of the County, Citrus County purchased the systems from the FGUA in 2007. We remain as a governmental member on the Board with the knowledge that the FGUA remains a potentially valuable resource for further assistance to the County.

Since being on the Board, I have observed the FGUA, its system management team, Government Services Group, operations contractors and a wide variety of specialized team members solve many tough problems for local governments. They have successfully completed critical capital projects to historically maintenance-neglected utilities. They have brought innovative management, state of the art technology and best utility operating practices to some very troubled systems. They have demonstrated great skill in navigating the public financing markets with strong credit standing to secure excellent financing for utility improvements. They know how to secure governmental grants. Most recently, our team competed against over 750 proposers nationally in a federal privatization procurement resulting in a 50-year \$201 million contract to own, improve and operate the utilities at MacDill Air Force Base in Tampa.

To summarize, I believe very strongly in the unique value of the FGUA to local government. It has a results-proven track record of solving difficult problems. The Village of Islamorada would be very well served by joining the FGUA to successfully complete your wastewater expansion project.

I would be pleased to provide any additional information you may need.

Sincerely,

Robert Knight, Director
Department of Water Resources

RK/cjo

James P. Freeman
Interim County Manager

William D. Beasley, P.E.
Interim Deputy County Manager

Lea Ann Thomas
Assistant County Manager



Board of County Commissioners

330 West Church Street
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Drawer CAD1
Barrow, FL 33851

Telephone: (863) 534-6444
Fax: (863) 534-7069

January 28, 2011

Honorable Mayor and Members of the Village Council,

I am writing in regard to your evaluation of alternative approaches to executing your wastewater expansion program and on behalf of the Florida Governmental Utility Authority (FGUA). I have served on the FGUA Board of Directors as Polk County's designated representative since the Authority's formation in 1999 and have served as its Chairman from 1999 to the present.

Having worked in various capacities in local government for many years, I understand the range of complex challenges we must tackle on behalf of our citizens, as well as the pitfalls and benefits of exploring alternative solutions. Privatization and public-private partnerships are often cited as useful and innovative courses of action to deliver public projects and services. However, as you know, these approaches also carry with them certain risks for local government. I firmly believe that the FGUA concept has demonstrated the best blend of private sector economies and "nimbleness" with strong public sector control, accountability and transparency.

Over its history, the FGUA has been called upon by numerous local governments throughout the state to help bring about corrections and expansions to water and wastewater utilities. These have usually required particularly difficult "catch up" capital programs with strict completion deadlines – often with regulatory agency agreements. In partnership with the "host" local government member, the FGUA has consistently delivered the required results. As the proposal will describe more fully, we are currently delivering these types of results in Pasco and Lee counties and have been selected to do so for the US Government at MacDill Air Force Base in Tampa. The Authority has no public employees and relies exclusively on private contractors to deliver these results led by Government Services Group, Inc. (GSG) as the System Manager. GSG staff has hundreds of years of local government management experience, particularly in Florida. The FGUA's broad team of engineering firms, operations contractors and utility consultants provides access to extraordinary resources and flexibility to member governments. This structure maximizes private sector efficiency and cost control together with advantages of public sector management expertise, financing, accountability and public involvement.

In summary, I have found the FGUA to be an ideal and one-of-a-kind solution to help local government solve its utility problems. I highly recommend that you favorably consider a partnership with the FGUA to expeditiously and effectively address your needs. Please feel free to contact me for additional information if needed.

Sincerely,

Lea Ann Thomas

Assistant County Manager

Equal Opportunity Employer



SPRING 2012 — Pasco County Systems

updates & information from your
water and wastewater utility

www.fgua.com

Wastewater Capital Improvements in Motion

Following the FGUA's successful completion of its Mitchell Road Water Treatment Plant and water system improvements, the FGUA is focusing its capital improvement efforts this year on the Seven Springs Wastewater Treatment Plant. As the community surrounding the FGUA Seven Springs System has grown, many residential neighborhoods have been developed.

With the growth of the communities, neighbors and community members visiting the area have expressed concerns regarding the odors emitted from the plant during the wastewater treatment process. These odors may be more prevalent to the neighboring community due to wind direction and cooler weather, which keeps odors closer to the ground.

In a proactive effort to address these concerns, we are quickly moving to reduce the odors at the wastewater treatment plant and have budgeted \$300,000 for the necessary capital improvements.

As part of the improvements to the existing waste water treatment plant, we will install covers on the equalization tank, which is a holding tank that controls the flow of wastewater from the community to the water treatment plant equipment. We will also be installing an odor control system at the plant site, using forced-drafted aeration equipment similar to odor control equipment installed last year at the



Mitchell Ranch Road Water Treatment Plant, to minimize odors emitted from the water during the treatment process.

Our contract operator, U.S. Water/WadeTrim, is in the process of engineering and designing the necessary improvements and will be able to finish plans later this spring. We will then choose a contractor for building the improvements. The improvements are scheduled for completion by January 2013.

In the meantime, we are considering the use of temporary measures and are closely monitoring the wastewater treatment plant to minimize the odors as much as possible. We appreciate our neighbors' patience during these improvements.

Customers experiencing odors may report them to the FGUA by calling the FGUA Pasco Customer Service Office at (727) 372-0115, or e-mail the FGUA at FguaCS_PascoCo@govserv.com.

FGUA Launches Education Section on Website

In January, the FGUA launched a new section on the website aimed at providing customers from all systems with educational content related to water awareness. Here, customers can watch videos, take an interactive tour of a water system, and read about the FGUA's involvement in different initiatives related to education and community outreach. The new section of the website also contains information regarding education related announcements, such as the United Nation's World Water Day on March 22nd. The FGUA will be updating content regularly to provide customers with an informative and fun experience. For more information, please visit: <http://education.fgua.com>.



FGUA Toilet Rebate Program Impacts Local Economy

This December, the FGUA concluded its inaugural Low Flow Toilet Rebate Program. The program resulted in over \$23,500 of positive economic impact to the New Port Richey and Trinity community. This is the cost directly paid to local



businesses as a result of the FGUA's partnership with Southwest Florida Water Management District and customer participation in the program. Customer satisfaction surveys are currently being sent out to all the participants to assess the customer's experience with the program. The program provided Aloha Gardens and Seven Springs Systems customers account credits for successful replacement of conventional toilets with ultra-low flow toilets (1.6 gallons per flush) or high efficiency toilets (1.2 gallons per flush or less). The FGUA will be expanding its low flow toilet rebate program this spring by increasing the number of available toilets and expanding the program to include all FGUA Pasco Systems. An announcement on the commencement of the 2012 program is scheduled to occur later this spring.

Customer Committee Expands, Changes Name to Reflect Region-Wide Focus

Following the completion in August 2011 of Seven Springs System Improvements, the **Committee for Better Water Now (CBWN)**, a customer advocacy group that has played an important role in supporting customers' concerns, advocating the acquisition of the previous Aloha Utilities System with the community and meeting with the FGUA monthly for the past three years, recently agreed to expand the group to include representation from the Lindrick Utility System. Representatives include community leaders and advocacy group members from the previous Lindrick Services Company Utility System. The committee, which formally approved a name change to the **Pasco Customer Committee (PCC)** in January, meets every other month and committee members review and provide recommendations on Capital Projects, Customer Service, Policies and Procedures, and Rates for the FGUA Pasco Systems to FGUA Management and the Board. Customers from the Aloha Gardens or Consolidated Systems (Angus Valley, Colonial Manor, Holiday, Dixie Groves or Virginia City) who are interested in participating in the PCC or any FGUA Pasco Systems customers requesting additional information may contact Matthew Rihs, Community Service Representative, at (727) 372-0115, x330.

UPDATES

ALL SYSTEMS We recently started our annual fire hydrant flow testing, ensuring adequate water pressure and service for the approximate 800 fire hydrants serving the FGUA Pasco Utility Systems. The FGUA is providing advance notice of activity by locating hydrant flushing signs at the entrances of the affected communities at least 24 hours prior to testing. Customers are not expected to experience any interruption of service, but may experience temporary fluctuations in pressure, air in the lines, or discoloration. Customers experiencing discoloration are encouraged to run their lines briefly until the water clears up.

CONSOLIDATED We are replacing the well shaft at well #4, which serves the FGUA Angus Valley System. The well shaft is the tube used for drawing raw water from the ground.

ALOHA GARDENS SYSTEM We are rehabilitating wastewater lift stations serving the FGUA Aloha Gardens System. Lift stations draw wastewater from customers' sewer lines, pulling wastewater along wastewater mains through the county, to the City of New Port Richey wastewater treatment plant. The FGUA relocated water service lines on Sunray Drive and San Luis Road in Holiday in advance of Pasco County Stormwater Management drainage improvements.

SEVEN SPRINGS SYSTEM The Seven Springs Wastewater Treatment Plant recently received a rerating of its permitted daily wastewater treatment levels. The plant is in the permitting process to process 2.5 million gallons per day, an increase from the 2.1 million gallons per day it was previously permitted to treat. The FGUA relocated water service lines on Mexicalt Drive and Murrow Street in the Veterans' Village Community in advance of Pasco County Stormwater Management drainage system improvements.

LINDRICK SYSTEM We will begin pipeline replacement and potnt repairs this March following a chloride study and collection survey. The FGUA measured and studied the chloride concentration from saltwater which infiltrated the wastewater system, and ranked six priority areas requiring wastewater pipe repairs or replacement. The FGUA announced the project at the February 2 Gulf Harbors Civic Association meeting, and provided notices to all customers with their February billing statements. Customers in the priority areas will be notified with door hangers prior to activity beginning in their area. Project status updates, priority area maps, and a fact sheet will be available on the FGUA website at www.fgua.com, by clicking on the "Lindrick" link under "services provided." We anticipate completion by October.

FGUA AT YOUR SERVICE

Pasco County Office
 727-372-0115
 6915 Perrine Ranch Road
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FLORIDA GOVERNMENTAL UTILITY AUTHORITY Board Members Lee Ann Thomas, Chairperson (863-534-6031); Ken Cheek, Vice Chair (252-527-7947); Michele L. Baker, Vice Chair (727-847-8115); Douglas L. Maurer (239-479-8779); Sharron Parker (863-675-5220); Michael Crumpton, PE (863-491-7500) **Alternates** Pascoe Bruce E. Kennedy, PE (727-847-8115); Lee Ann Thomas, System Management Robert E. Sheets, System Manager (850-683-3717); Robert Dickson, Capital Program Manager (877-552-3482); Jerry Connolly, Operations Manager (877-552-3482) **Contact** Kasmirya Penick, Clerk to the Board, FGUA Operations Office, Suite 2000, 280 Wekiva Springs Rd, Longwood FL 32779, 877-552-FGUA (3482) Toll Free, 407-639-6900. **System Office & Customer Service Centers** Golden Gate: 239-465-1383, Lighthouse: 239-368-3615, North Fort Myers: 239-543-1005, Pasco Systems: 727-372-0115 WWW.FGUA.COM **FGUA News Editor:** mrihs@govserv.com

FGUA + SCHOOLS

Seven Springs Elementary Receives Much-Needed Supplies

As part of the FGUA's ongoing community outreach initiatives, the FGUA Pasco Systems Office recently wrapped up a school supply drive for Pasco County Schools which began in late 2011. The recipient of the much needed supplies was Seven Springs Elementary School. FGUA Community Services Staff had a meeting with Principal Vicki Garner to deliver the supplies on February 2. Ms. Garner and her staff were pleased to receive the donations and thankful for the FGUA's support.

The program received a range of donations from FGUA customers and the Pasco Systems office staff that included: tissues, glue, crayons, folders, pencils, calculators, erasers, hand sanitizer, and rulers. We would like to personally thank all of the Pasco Systems office staff and our customers for contributing to this program.

To help continue meeting the school supply needs of Pasco County students and teachers, please contact an administrator at a school within your community for more information about ways that you can help. For telephone listings of Pasco County Public Schools, please go to: www.pasco.k12.fl.us/schools.

Annual Poster Contest Underway

The FGUA and Pasco County Utilities are once again collaborating for the third annual Water Awareness Poster Contest. This year's theme, "The Adventures of Drippy: How Does He Get to My Home?" focuses on the infrastructure that brings water from the ground to the Pasco County community. The program contest mascot, Drippy, is a water droplet stuck deep underground in the Floridian Aquifer and the contest traces his story from the Floridian Aquifer to customers' homes.

The poster contest now includes a lesson plan for teachers, aligned with objectives for Florida science standards so that students learn about the science behind how water gets from one area to another. After learning about how water makes its way from the ground to the tap, students will have the opportunity to illustrate what they have learned by drawing a poster, which will be entered into the poster contest.

Registration for the contest began in February with the registration deadline coinciding with United Nations' World Water Day in March. Posters are scheduled to be submitted by mid-April. Judging will also occur in April, with all participants receiving certificates for their efforts and contest winners for each grade level being recognized at award presentations at the participating schools. Additionally, top finishers will be awarded generous donations from well-known educational attractions and sponsors. For registration information, sponsorship information, or additional information, please contact Matthew Rihs, Community Service Representative at (727) 372-0115, x330.





WINTER 2011 — Golden Gate/Lehigh Acres/North Ft. Myers

updates & information from your
 water and wastewater utility

www.fgua.com

Art Imitating Life in Area Elementary Schools!

The FGUA is excited to announce an inaugural art contest in coordination with Lee County Public Schools. All elementary school level students in the East and North zones can send original drawings on the theme "Enjoying Florida's Water Responsibly". The picture should show how the students use water wisely such as picking up your trash when you go to the beach so the water doesn't become polluted, or participating in a catch and release program when you are fishing to help maintain the local ecosystem, using native plants in your garden that don't need as much water or turning the faucet off instead of allowing it to run.

Winners will be chosen by a panel of judges, expected to include County Commissioner Tammy Hall, Dr. Sandi Agle of Lee County Public Schools, FGUA Assistant System Manager Steve Spratt, and an FGUA Board

representative from Lee County. Winners will be notified of the award ceremony date in early 2012. Winning artwork will be displayed in public buildings after the award ceremony and available for download on the FGUA website.

Prizes include passes to local attractions including the Calusa Nature Center, The Butterfly Estate, Sunsplash Water Park, The Naples Zoo, Airboat rides, and the Everblades. A complete list of art contest winners and sponsors will be in a later newsletter.

If you have a child interested in participating, ask your school for details or contact the FGUA directly for more information. You can email or call Barbara Kerby at bkerby@govmserv.com or 239-368-1615 or Donna Lizotte at dlizotte@govmserv.com or 239-543-1005.

All elementary school level students can send original drawings on the theme, "Enjoying Florida's Water Responsibly."



Some of the winning art from the 2010 FGUA contest held in Pasco County.

Rain, Rain, Come This Way

Everything looks greener after a good rain, but have you considered that the rain that runs over roofs, driveways, and sidewalks carry pollutants such as fertilizer, oil, pesticides, and pet waste? These pollutants will run into storm drains and eventually into the nearest stream or river. A small and simple rain garden can help improve the environment and the quality of water for yourself, your neighbors, and the native wildlife.

Rain gardens are natural or built depressions in the landscape that divert rain water to your landscape. A rain garden is a natural filtration system that filters out pollutants, sediments, and debris, essentially cleaning the runoff and recharging our aquifers.

If you take care in choosing plants, your rain garden will attract birds, butterflies, and bees, and will reduce pollution by up to 90%.

Adapted from an article in the City of Redding, CA Utility Newsletter with permission from and special thanks to Pam Clackler. Additional resources available at www.rainKC.com and www.raingardens.org.



Going Green with E-Bills

Many customers have requested additional quick and easy ways to access their account information and pay their bill. As a result, the FGUA added the ability to view account information and make a payment online at www.fgua.com.

The latest FGUA enhancement gives customers another convenience in addition to the opportunity to make a difference and help keep our environment green by switching from paper bills to electronic bills. An electronic bill (e-bill) is the same bill you receive via paper but is more convenient, secure and environmentally friendly since no paper is required and it comes straight to the email address you provide. E-bills contain all of the same information you're used to seeing on your paper bills and can be printed or filed for record-keeping if needed.

If you would like to sign up to receive an e-bill, simply submit a request via the e-mail addresses or phone numbers below. Our customer service representative will send an email verification to the email address you provide authorizing your account for e-billing.

Your participation in electronic billing is completely voluntary and you may change your preference at any time by contacting the local FGUA customer service office. Some notices may continue to be mailed so it is important to maintain a correct mailing address with the FGUA.

Golden Gate Customers: Email: fguacs_goldengate@govserv.com or call 239-455-1583

Lehigh Acres Customers: Email: fguacs_lehigh@govserv.com or call 239-368-1615

North Fort Myers Customers: Email: fguacs_nftm@govserv.com or call 239-543-1005

Pasco Area Customers: Email: fguacs_pasco@govserv.com or call 727-372-0115



Want to avoid payment delays?

Did you know that your payment could be delayed, even if you make it in plenty of time? If you use online bill pay through your bank, that payment may take 5-7 business days to arrive at the local FGUA office. That is because the banks do not process these payments to the FGUA electronically, they print and mail a check just like you would. And they do that on the payment day you request, which means a payment date of only a few days prior to the due date could result in a late fee on your account. Be sure to avoid this by requesting your bank make the payment at least 5-7 days early.



Another delay can be caused by having the wrong payment address. The FGUA utilizes a separate location to process payments so sending your check (or the check coming from your bank) to the local customer service office could add extra processing time. To avoid this, check the bottom of your billing statement and verify that you are using the correct address.

You can also take advantage of our online bill payment option at www.fgua.com, or sign up for EZ Pay.

Each month the FGUA will send a request to your bank for an electronic funds transfer to pay your bill. You will still receive a statement, complete with the approximate date the bank will debit your account.

Lehigh Acres Office
 866-310-4878 or
 239-368-1615
 1229 Homestead Rd N
 Lehigh Acres FL 33936-6003
FguaCS_Lehigh@govserv.com

Golden Gate Office
 800-818-9677 or
 239-455-1583
 11985 Collier Blvd, Site 7
 Golden Gate, FL 34116
FguaCS_GoldenGate@govserv.com

North Ft. Myers Office
 239-543-1005
 5660 Bayshore Rd, Site 36
 Ft. Myers, FL 33917
FguaCS_NFM@govserv.com

UPDATES

GOLDEN GATE

The rehabilitation and repair of the lift stations including replacing pumps, manholes, and fire hydrants continues in Golden Gate. One ground storage tank inspection is left to be completed at the Water Treatment Plant (WTP). Replacement of old water meters is starting for the 2012 fiscal year as part of the FGUA water meter replacement program. Meters have a useful life of 10 years or one million gallons for residential properties. Wastewater Treatment Plant (WWTP) improvements will be done as well, such as sludge handling and new blower controls. This is expected to reduce power consumption at the WWTP.

LEHIGH ACRES The design plans for the membrane softening unit for Water Treatment Plant 2 located in Mirror Lakes are complete. The request for bids from contractors to install the unit will be announced on the FGUA website and construction is expected to begin in January 2012. The project will be complete by December 2012. Repair and rehabilitation of the second lime softening unit at the Water Treatment Plant 1

on Coolidge Avenue started at the beginning of November and will be done by the end of the year. This included removing rusted steel, sand blasting the entire tank, and painting. Rehabilitation and repair of lift stations, including replacing pumps, manholes, and fire hydrants continues in the Lehigh Acres system. Inspection of all ground storage tanks has begun. Five tanks will be cleaned and repaired as part of the process.

N. FT. MYERS Thank you to the residents of Lake Fairways and Pine Lakes who provided water samples to FGUA for lead and copper testing. The FGUA does not have lead pipes in the system, but is still required to test for lead and copper in the water. Property owners in these subdivisions were kind enough to provide the samples for the utility. Replacement of old water meters is also starting for the 2012 fiscal year in North Fort Myers. The rehabilitation and repair of the lift stations including replacing pumps, manholes, and fire hydrants continues in N. Ft. Myers. Five new fire hydrants will be installed as part of this project. The Del Prado plant expansion is on schedule to be completed by August 2012 and construction continues on the Waterway Estates wastewater diversion project.

Request for Reconsideration of Policy Proposals

Subject: FW: Reconsideration of Policy Proposals

From: Garner, Bill
Sent: Tuesday, November 27, 2012 3:34 PM
To: jibrown@psc.state.fl.us
Cc: 'keflemin@psc.state.fl.us'; 'JoAnn Chase'; LHarris@PSC.STATE.FL.US; Armstrong, Brian
Subject: Reconsideration of Policy Proposals

Dear Chairperson Brown,

Please find attached model language for two policy concepts recently discussed by the Study Committee on Investor Owned Water and Wastewater Utilities. The attached consists of two proposed bills for the Legislature, the first proposing a right of first refusal. The second proposing a statutory requirement that private utilities produce evidence in a rate case that a private utility has investigated whether it was more cost effective to interconnect with a neighboring public utility before investing in new or expanded treatment plants. If the private utility fails to produce evidence that it investigated the interconnect option, then it will not receive rate base treatment of its investment.

As things stand today, some private utilities avoid interconnecting with public utilities since they do not earn a return on the money they pay the public utility to provide water or treat wastewater. Private utilities only earn a return on money they invest to build or expand plants. The result often may be higher rates charged to customers.

We are asking members of the Committee make or support a motion to re-address these issues as the Committee voted to take no action on them, together with a number of other ideas, at its last meeting. Brian Armstrong will be present at the meeting to explain these concepts and to address any questions the Committee or its staff may have, if that would be the Committee's desire.

Thank you, and we look forward to having the opportunity to address the Committee.

My best,

William C. Garner (Bill)



1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308
(850) 224-4070 Tel.
(850) 224-4073 Fax

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Proposed Legislation to Address Quality of Service and Rate Impacts from Insufficient Economies of Scale

The following describes proposed legislation that addresses significant problems for customers with regard to small private water and sewer utilities. Costs of service from such utilities are typically high due to absence of economies of scale and because of the dual economic burdens of the regulatory regime and the requirement for private owners to earn a "rate of return" on investment. Private utilities with severe cost pressures also typically offer lower quality of service for a variety of reasons. The simplest means to address these problems – economies of scale, burdensome regulatory costs and quality of service – is to foster public ownership of these systems. The proposed language described below, will foster a shift toward greater public ownership of water and sewer systems.

Local government's right of first refusal – The language creates a right of first refusal to nearby local governments to acquire water or sewer systems where a bona-fide offer has been made to or by a private utility. The amendment also provides for delegation of this right to a governmental authority formed by interlocal agreement pursuant to ch. 163, F.S. In cases where the utility system crosses political boundaries, the right of first refusal belongs to the jurisdiction where the greatest number of ERCs are located. This provision will encourage public ownership and control over local utility systems and will facilitate consolidation where local communities have chosen to pursue that policy. In addition, it allows local governments more control over the timing and circumstances of acquisition, which ultimately will improve service to customers and keep rates lower. This provision is based on concepts already contained in Florida law, in particular the right of first refusal granted to residents of mobile home parks on sale of the park or facilities serving the residents of the park. Some counties currently include the right of first refusal in their regulatory ordinances. To date, no one has challenged the right of first refusal in these counties' ordinances.

Capacity Additions – The language requires that before a PSC-regulated utility may recover in rates any investment in new or replacement capacity, it must demonstrate to the PSC that it has communicated with governmental utilities in the surrounding area about the possibility of interconnection in lieu of making new additions or replacements, and that interconnection is not feasible or a more cost effective alternative. This provision eliminates a utility owner's incentive to invest in unnecessary additional plant capacity for the purpose of increasing the amount of plant upon which he or she may earn a return on investment, and ensures lower rates for customers by avoiding unnecessary capacity additions when lower cost alternatives may be available. Historically, the PSC has avoided requiring this kind of local cooperation because it lacked the authority to require local governments to interconnect with utilities.

Right of First Refusal

Section . Subsections (7) through (10) are added to section 367.071, Florida Statutes, to read:

367.071 Sale, assignment, or transfer of certificate of authorization, facilities, or control.-

(7) Local government's right of first refusal. -

(a) No person, firm, corporation, partnership, association, or any other non-governmental entity of any kind owning a water or wastewater utility in this state may sell any such water or wastewater utility without first notifying the governing body of the local government in which the majority of its equivalent residential connections served by the utility are located and offering such local government the right to purchase the utility.

(b) A non-governmental owner of a water or wastewater utility desiring to sell its franchise, water system or wastewater system, or facilities located in this state that has received a bona fide offer or acceptance from any potential buyer which is satisfactory to the owner shall notify the local government of the offer or acceptance stating the price, terms, and conditions of sale and provide a copy of the proposed contract of sale together with all exhibits, within 10 days of the receipt of the offer or acceptance.

(c) After notification of a bona fide offer or acceptance pursuant to paragraph (b), the local government shall have the right to purchase the franchise, water system or wastewater system or facilities that are the subject of the offer or acceptance at the price, terms and conditions of the bona fide offer or acceptance by executing a contract with the owner within 45 days, unless agreed to otherwise, from the date of receipt of the notice of the offer or acceptance. If the local government fails to execute a contract with the owner within

such 45-day period, and the owner does not alter or amend the terms of the bona fide offer or acceptance in negotiating a sale to the local government, or the local government does not adopt a resolution transferring its right of first refusal to a governmental authority created pursuant to chapter 163, then the owner has no further obligations under this subsection.

(d) The local government shall have until the later of the closing date set forth in the bona fide offer or acceptance or 120 days from the local government's execution of a contract pursuant to paragraph (c) to close the transaction. The contract between the owner and the local government shall be freely assignable by the local government.

(e) If the local government does not exercise the right of first refusal granted by this subsection and the owner thereafter offers the franchise, utility, water system or wastewater system on different terms or at a price lower than the price specified in the notice to the local government, the owner shall so notify the local government and provide copies of the proposed contract of sale containing the revised terms and conditions together with all exhibits to the local government within 10 days of the receipt of the received offer. The local government shall have an additional 30 days from the date of the receipt of the notice of the received offer to meet the revised price, terms and conditions by executing the proposed contract.

(f) A local government that receives notice of a bona fide offer or acceptance pursuant to paragraph (b) may, by resolution of the governing body of such local government, authorize a governmental authority created by interlocal agreement pursuant to chapter 163 to exercise the local government's right of first refusal granted by this subsection. If the local government adopts a resolution transferring its right of first refusal to a governmental authority, the authority shall be required to act

within the time periods specified in this subsection as if the date of the resolution of the local government was the date of notice of the bona fide offer or acceptance.

(8) Exceptions to a local government's right of first refusal. - Notwithstanding the provisions of subsection (7), a local government shall not have a right of first refusal under the following circumstances:

(a) Any sale or transfer to a person who would be included within the table of descent and distribution if the owner were to die intestate.

(b) Any transfer by gift, devise, or operation of law.

(c) Any transfer by a partnership to any of its partners.

(d) Any conveyance of an interest in a water or wastewater utility's facilities incidental to the financing of capital improvements.

(e) A conveyance resulting from the foreclosure of a mortgage, deed of trust, or other instrument encumbering a water or wastewater utility or any deed given in lieu of such foreclosure.

(f) Any sale or transfer between or among joint tenants or tenants in common owning a water or wastewater utility.

(g) Any purchase of a water or wastewater utility by a governmental authority.

(9) Applicability of right of first refusal to multi-jurisdictional utilities and stock purchases. - In the event a person, firm, corporation, partnership, association, or any other non-governmental entity of any kind owning a water or wastewater utility in this state desires to sell to a non-governmental entity a water or wastewater utility located within a local government together with a utility located outside of the same local government, the purchase price to be paid by the local government shall be the price set forth in the contract of

sale for such portion of the water or wastewater utility located within the local government. In the absence of an allocation of purchase price in the contract of sale between a utility located in the local government and one located in another local government, the purchase price set forth in the contract of sale shall be allocated by dividing the purchase price by the number of equivalent residential connections currently serviced by the systems to be sold and multiplying the quotient by the number of equivalent residential connections located within the local government. In the event of a proposed stock purchase, the local government shall have the right to purchase the water or wastewater utility located within the local government at a price equal to the purchase price allocation method for a multi-jurisdictional sale plus an allocation of the outstanding debt of the utility. The portion of the outstanding debt to be allocated to the water or wastewater utility to be purchased by the local government shall be determined in the same manner as the purchase price allocation. For the purpose of the allocations required by this subsection, an equivalent residential connection for a water utility shall equal 350 gallons per day, and an equivalent residential connection for a wastewater utility shall equal 280 gallons per day. Together with the notice required in subsection (7), the utility shall provide the local government with the data necessary to determine equivalent residential connections for the purposes of this subsection. The owner of the water or wastewater utility may identify an alternative method for allocating the purchase price to that portion of the utility located within the local government. The local government has sole discretion in determining the acceptability of the owner's alternative method of allocation.

(10) Notwithstanding the provisions of s. 367.171, subsections (7) through (9) shall be effective in all counties of this state.

Rate Base/Interconnection Feasibility

Section . Subsections (4), (5), (6) and (7) of Section 367.081, Florida Statutes, are renumbered as subsections (5), (6), (7) and (8), and a new subsection (4) is added to said section, to read:

367.081 Rates; procedure for fixing and changing.-

(4) For the purpose of determining rate base, the commission shall not consider a utility's investment in any new construction, expansion or replacement of a utility's water treatment plant, wells, wastewater treatment plant or effluent disposal facilities to be either prudently incurred or used and useful in the public service unless the utility presents competent substantial evidence establishing that:

(a) The utility notified each government or governmental authority which owns or operates a utility system within the same county or an adjoining county wherein the utility intended to construct, expand, or replace such utility property, of its intent to do so;

(b) Interconnecting the utility's property with the utility system owned or operated by such local government or governmental authority in lieu of such construction, expansion, or replacement by the utility was cost prohibitive, or otherwise not feasible;

(c) The local government or governmental authority was given sufficient information pertaining to the proposed new construction, expansion, or replacement project and the opportunity to provide a competitive bid to the utility on not less than 90-days-notice for the interconnection of the

utility's property to the utility system operated by the local government or governmental authority in lieu of such construction, expansion or replacement; and

(d) The local government or governmental authority:

1. Failed to respond to the utility's notice;

2. Agreed with the utility that interconnection of the utility's property was cost prohibitive or otherwise not feasible; or

3. Presented a bid for interconnection which was not the least cost alternative available to the utility, and was not preferable to the proposed construction, expansion, or replacement by the utility for public health and safety or environmental reasons.

Letter From NAWC



MOVING WATER FORWARD

Michael Deane
Executive Director

2001 L Street, NW, Suite 850 • Washington, DC 20036 • T 202.833.8383 • F 202.331.7442 • www.nawc.org

January 18, 2013

Dear Study Committee Members:

On behalf of the National Association of Water Companies, I would like to thank you for your diligent work on the Study Committee on Investor-Owned Water Companies. Founded in 1895 by a handful of small water companies in Pennsylvania, the NAWC has members located throughout the nation, ranging in size from large companies owning, operating or partnering with hundreds of utilities in multiple states to individual utilities serving a few hundred customers. Our members provide the services required to help ensure safe and reliable water treatment and delivery.

We have been following the proceedings of the Study Committee with great interest and we appreciate the very thoughtful deliberative approach the committee has taken to make recommendations that streamline regulation and promote the ongoing responsibility of quality customer service. We are appreciative of the desire to keep the regulatory compact intact. It is, of course, imperative that the industry supply quality water to existing and new customers for the long term by maintaining and replacing aging infrastructure. Of course, a fair return is critical in order for water service companies to be able to attract the capital necessary to provide this service and infrastructure.

Water is a very capital intensive industry with rising costs. The United States Environmental Protection Agency estimates that \$335 billion are needed over the next 20 years for drinking water infrastructure related expenses, including an estimated \$12.8 Billion for Florida. (The EPA estimates similar numbers nationwide for wastewater infrastructure as well.) Therefore, we commend the focus of this Committee to streamlining procedures. Timely cost recovery will ensure that all state and federal requirements are met, rate shock is lessened or avoided, and service is only improved.

As the national association representing the private water services industry, we monitor regulatory and investment issues such as rate application length, rate case expense, returns on investment, and the flow of capital, all of which ultimately impact the customer. Not surprisingly, we have seen a correlation with these issues and certain regulatory policies and the overall regulatory environment in various states.

For years, Florida has been touted as a "Best Practices" state in a number of areas in water and wastewater regulation. In fact, many of the "Best Practices" listed in the 2005 NARUC Resolution (attached) are utilized in Florida. For example, the staff

assisted rate case process is a model regulatory process and it has worked effectively for years to allow Class C companies to stay current in rate relief. Other best practices include interim rates, projected test years, and pass through adjustments.

It is the desire to preserve these effective practices, and identify others that serves as the purpose for our letter to you. Based on proposals submitted by the Office of Public Counsel and the conversations held in the last committee meeting, we offer the following thoughts for your consideration:

1. Interim Rates.¹ Interim rates are designed to allow cost recovery during the regulatory lag associated with a lengthy rate case.² The Interim Rate Statute is a separate statute from the “file and suspend” rate case statute in that the standard is not tied to the minimum filing requirements. In fact, approval of interim rates is based upon a different legal standard. Companies can even submit each petition using a different test year.³ The expedited review or the “quick and dirty” analysis used by the PSC of interim rate filings is for the sole purpose of immediate rate relief during the pendency of a rate case. All stakeholders are protected. The interim rates are collected subject to refund. Therefore, if a refund is required, the customer receives the refund with interest.⁴

With these proven consumer protections in place, there has been no overwhelming reason offered to remove a company’s ability to seek interim rate relief. The companies must be able to address ongoing deficiencies while a rate case is pending.

2. Rate Case Expense. The PSC currently enjoys broad discretion in approval, rejection, or modification of rate case expense.⁵ To support a change to any statute on rate case expense actually removes Staff’s discretion and frankly holds this industry to a different standard than any other regulated industry. The purpose for doing so has not been adequately discussed nor considered.

3. Secondary Standards. The Florida water industry is already a fragmented industry with multiple levels of regulation. To introduce a new requirement to report to the PSC, DEP, or any other agency on secondary environmental standards only creates excess and unnecessary regulation and additional costs. The DEP currently has this

¹ Section 367.082, Florida Statutes

² *Citizens of Fla. v. PSC*, 425 So.2d 534, 540 (Fla. 1982).

³ *Citizens of Fla. v. PSC*, 435 So.2d 784 (Fla. 1983).

⁴ *Id.* at 784, 786.

⁵ “...the principle is well settled that the Commission enjoys a broad discretion with respect to allowance of rate case expense.” *Florida Crown Utility Services, Inc. v. Utility Regulatory Board of the City of Jacksonville*, 274 So. 2d 597 (Fla. 1st DCA 1973).

jurisdiction. We welcome the added scrutiny, but not at the expense of costs to the company or to the customer. The cost of regulation is borne by the ratepayer. The collaborative committee proposal offered by the PSC staff is well-intentioned and we commit to working within that structure if that is the ultimate decision. However, we note that whatever recommendations that are collaboratively structured from that task force must include the appropriate finding of prudence or mandate for cost recovery. Otherwise, the committee has no weight nor will participation be effective.

Study Committee members, we need to remember that the water industry, the capital markets, and the consumers all rely on regulatory certainty. While OPC's proposals may be well-intended, there are unintended consequences that harm the larger group of ratepayers and constituents. Making cost recovery even harder and uncertain will surely impact access to capital. In a rising-cost industry that needs to make ongoing significant infrastructure improvements, negatively impacting access to capital is a real problem.

Thank you for allowing us to participate in this process. We look forward to answering any questions you may have.

Sincerely,

A handwritten signature in blue ink that reads "Michael Deane". The signature is written in a cursive, flowing style.

Michael Deane
Executive Director
National Association of Water Companies

Resolution Supporting Consideration of Regulatory Policies Deemed as "Best Practices"

WHEREAS, A number of innovative regulatory policies and mechanisms have been implemented by public utility commissions throughout the United States which have contributed to the ability of the water industry to effectively meet water quality and infrastructure challenges; *and*

WHEREAS, The capacity of such policies and mechanism to facilitate resolution of these challenges in appropriate circumstances supports identification of such policies and mechanisms as "best practices"; *and*

WHEREAS, During a recent educational dialogue, the "2005 NAWC Water Policy Forum," held among representatives from the water industry, State economic regulators, and State and federal drinking water program administrators, participants discussed (consensus was not sought nor determined) and identified over 30 innovative policies and mechanisms that have been summarized in a report of the Forum to be available on the website of the Committee on Water at www.naruc.org; *and*

WHEREAS, As public utility commissions continue to grapple with finding solutions to meet the myriad water and wastewater industry challenges, the Committee on Water hereby acknowledges the Forum's *Summary Report* as a starting point in a commission's review of available and proven regulatory mechanisms whenever additional regulatory policies and mechanisms are being considered; *and*

WHEREAS, To meet the challenges of the water and wastewater industry which may face a combined capital investment requirement nearing one trillion dollars over a 20-year period, the following policies and mechanisms were identified to help ensure sustainable practices in promoting needed capital investment and cost-effective rates: a) the use of prospectively relevant test years; b) the distribution system improvement charge; c) construction work in progress; d) pass-through adjustments; e) staff-assisted rate cases; f) consolidation to achieve economies of scale; g) acquisition adjustment policies to promote consolidation and elimination of non-viable systems; h) a streamlined rate case process; i) mediation and settlement procedures; j) defined timeframes for rate cases; k) integrated water resource management; l) a fair return on capital investment; *and* m) improved communications with ratepayers and stakeholders; *and*

WHEREAS, Due to the massive capital investment required to meet current and future water quality and infrastructure requirements, adequately adjusting allowed equity returns to recognize industry risk in order to provide a fair return on invested capital was recognized as crucial; *and*

WHEREAS, In light of the possibility that rate increases necessary to remediate aging infrastructure to comply with increasing water quality standards could adversely affect the affordability of water service to some customers, the following were identified as best practices to address these concerns: a) rate case phase-ins; b) innovative payment arrangements; c) allowing the consolidation of rates ("Single Tariff Pricing") of a multi-divisional water utility to spread capital costs over a larger base of customers; *and* d) targeted customer assistance programs; *and*

WHEREAS, Small water company viability issues continue to be a challenge for regulators, drinking water program administrators and the water industry; best practices identified by Forum participants include: a) stakeholder collaboration; b) a memoranda of understanding among relevant

State agencies and health departments; c) condemnation and receivership authority; and d) capacity development planning; *and*

WHEREAS, The U.S. Environmental Protection Agency's "Four-Pillar Approach" was discussed as yet another best practice essential for water and wastewater systems to sustain a robust and sustainable infrastructure to comprehensively ensure safe drinking water and clean wastewater, including: a) better management at the local or facility level; b) full-cost pricing; c) water efficiency or water conservation; *and* d) adopting the watershed approach, all of which economic regulators can help promote; *and*

WHEREAS, State drinking water program administrators emphasized the following mechanisms which Forum participants identified as best practices: a) active and effective security programs; b) interagency coordination to assist with new water quality regulation development and implementation, such as a memorandum of understanding; c) expanded technical assistance for small water systems; d) data system modernization to improve data reliability; e) effective administration and oversight of the Drinking Water State Revolving Fund to maximize infrastructure remediation, along with permitting investor owned water companies access in all States; f) the move from source water assessment to actual protection; *and* g) providing State drinking water programs with adequate resources to carry out their mandates; *now therefore be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners (NARUC), convened in its July 2005 Summer Meetings in Austin, Texas, conceptually supports review and consideration of the innovative regulatory policies and practices identified herein as "best practices;" *and be it further*

RESOLVED, That NARUC recommends that economic regulators consider and adopt as many as appropriate of the regulatory mechanisms identified herein as best practices; *and be it further*

RESOLVED, That the Committee on Water stands ready to assist economic regulators with implementation of any of the best practices set forth within this Resolution.

*Sponsored by the Committee on Water
Adopted by the NARUC Board of Directors July 27, 2005*

APPENDIX VII: MINUTES OF COMMITTEE MEETINGS



Study Committee on Investor-Owned Water and Wastewater Utility Systems
MEETING MINUTES
September 6, 2012, Tallahassee Florida

Chairman Julie Brown called the meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to order at 11:00 a.m. A voting quorum of members was present. The following members were excused from the meeting: Mr. Gus Alexakos, and Mr. Tim Thompson. Representative Ray Pilon joined the meeting in progress via conference call.

The Chairman introduced herself and the primary staff members assigned to the Study Committee. Mr. Larry Harris of the Public Service Commission staff briefly discussed ex parte communication and the specific limitations on Chairman Brown in her role as a member of the Public Service Commission.

Members of the Study Committee introduced themselves and provided a brief summary of their current position and their representation before the Study Committee.

Chairman Brown recognized Ron Brisé, Chairman of the Public Service Commission. Commissioner Brisé thanked Chairman Brown for agreeing to serve as Chairman of the Study Committee and thanked the Legislature for recognizing the importance of the issues before the Study Committee.

Chairman Brown recognized and introduced Senator Alan Hays who thanked the members of the Study Committee for agreeing to serve, and indicated that the Legislature awaits the Study Committee's finished product. Senator Hays outlined several issues that he hopes the Study Committee will address including acceptable levels of service, enforcement, utility company performance, rate case expenses, tiered or conservation rates, and developer owners of utility systems.

The Chairman recognized Ms. Mary Bane, Energy Advisor to Governor Rick Scott. She also recognized Mr. Ralph Lair, Chief Legislative Aide to Speaker-Designate Will Weatherford. On behalf of the Speaker-Designate, Mr. Lair sent his congratulations to the Study Committee to the members and everyone looks forward to receiving the finished product from the Study Committee.

Presentations

Overview of Florida's Sunshine Law: Pat Gleason from Attorney General Pam Bondi's office provided an overview of Florida's Government in the Sunshine law and public records laws. Ms. Gleason discussed the courts' broad interpretation of Florida's Sunshine law, that whenever two or more members of a board get together, that meeting or communication must be open to the public. There are no private discussions regarding any matter discussed by a board. Meetings include all means of face-to-face discussion and any communication via any means of technology.

Travel and Reimbursement Procedures: Bobby Maddox, Public Service Commission staff, provided an overview of travel and reimbursement procedures and other administrative issues to the Study Committee.

Parliamentary Procedures: Katherine Pennington, Public Service Commission staff, provided a brief overview of parliamentary procedures for the Study Committee to follow during its deliberations.

Overview of Chapter 2012-187, L.O.F.: Katherine Pennington, Public Service Commission staff, also went through the enabling legislation that authorized the creation of the Study Committee, and identified the issues that the Study Committee must consider in its deliberations.

PSC Regulatory Authority: Marshall Willis, Public Service Commission staff, made a presentation regarding statutes (Chapter 367, Florida Statutes) and administrative rules (Chapter 25-30, Florida Administrative Code) which govern the regulation of investor-owned water and wastewater utility systems.

Mr. Willis explained that the Public Service Commission, local governments or local governing authorities regulate water and wastewater utilities. He discussed the certification process and statutory exemptions from utility certification. He further discussed the different type of rate increases and the numerous processes for rate cases.

Role of the Office of Public Counsel in Regulatory Oversight: Steve Reilly, Office of Public Counsel, provided an overview of the Office of Public Counsel and its statutory responsibilities. Mr. Reilly discussed the role of the Public Counsel to provide legal representation for citizens in proceedings before the Public Service Commission, the Judicial System, federal agencies, and various associations and tribunals. Mr. Reilly explained that the Office of Public Counsel operates independently of the Public Service Commission.

DISCUSSIONS

Discussion of Topics and Methodologies: Chairman Brown led a discussion of possible topics for the Study Committee to consider (in addition to the six subject areas required by the enabling legislation). Several committee members previously submitted suggestions and ideas for consideration.

The Study Committee identified several specific topics for additional consideration and research by the Committee. The topics would be summarized and distributed to the members prior to the next meeting. Chairman Brown asked the members of the Study Committee to review the topics and to come to the next meeting prepared to recommend up to five topics for discussion. The topics should be in ranked order for purposes of discussion.

Study Committee on Water and Wastewater Utility Systems
Page 3

Future Meeting Dates:

Chairman Brown announced the next meeting is October 3, 2012, tentatively set for 11:00 a.m. until 5:00 p.m. The meeting will be in Morris Hall, Room LL-17, House Office Building, in Tallahassee.

Chairman Brown asked the members to keep open October 18, 2012 open as a possible teleconference meeting of the Study Committee. Possible future meeting dates are November 29, 2012, and December 5-6 or December 13-14, 2012, and January 15, 2013. Additional meetings, if needed, will be discussed at future meetings.

Regarding where the statutorily required public hearings will be held, Chairman Brown recognized Joann Chase of Public Service Commission staff to discuss possible locations. Ms. Chase said that she is currently working with local officials and staff to identify possible meeting locations and dates.

Public Comment:

1. Mr. Frank Reams, utility customer from Zephyrhills, addressed the Study Committee members.

The meeting adjourned the meeting at approximately 4:50 p.m.

MINUTES OF COMMITTEE MEETINGS



Study Committee on Investor-Owned Water and Wastewater Utility Systems
MEETING MINUTES
October 3, 2012, Tallahassee Florida

Chairman Julie Brown called the meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to order at 11:00 a.m. A voting quorum of members was present. Due to a prior commitment, Representative Ray Pilon was excused from the meeting. Chairman Brown announced that due to circumstances beyond his control, Mr. Gus Alexakos resigned from the Study Committee and that the Governor has not yet named a member to replace Mr. Alexakos. Additionally, the Study Committee does not yet have a Senate appointee.

Mr. Kelly made two corrections to the minutes of the September 5, 2012, Study Committee meeting. The members approved the minutes, as amended. The minutes will be posted on the Study Committee's web site at <http://www.floridawaterstudy.com>.

Presentations

Department of Environmental Protection (DEP) Drinking Water Program: Mr. Van Hoofnagle from DEP staff discussed the roles and responsibilities of the DEP as it relates to public water systems and provided a brief history of the Safe Drinking Water Act (SDWA).

Department of Environmental Protection Domestic Wastewater Program: Mr. Richard Addison from DEP staff provided an overview of the approximately 2100 wastewater facilities regulated by the DEP. Mr. Addison said that the Department of Health regulates many of the smaller on-site wastewater systems, which cover about one-third of Florida's population.

St. Johns River Water Management District (SJRWMD), Role and Responsibilities in the Regulation of Investor-Owned Water Utilities: Mr. Carl Larrabee from SJRWMD staff presented the roles and responsibilities of the water management districts in consumptive use permitting; i.e., getting the water out of the ground.

Southwest Florida Water Management District, Conservation Rate Structures: Mr. Jay Yingling from SWFWMD staff discussed conservation rate structures. He explained the background of water conserving rate structures, and the goal of these rate structures is to induce conservation without negatively affecting utility revenues.

LUNCH BREAK

Florida Governmental Utility Authority (FGUA), Basics of a Governmental Utility Authority (GUA): Brian Armstrong, Esq., from the Law Offices of Nabors, Giblin & Nickerson, P.A. discussed the concept of a governmental utility authority (GUA) as defined in section 163.01(7), Florida Statutes.

TOPIC DISCUSSIONS

Ms. Joann Chase and Mr. Greg Shafer, staff to the Study Committee, led a discussion of the mandatory issues required by the enabling legislation and topics submitted by members of the Study Committee. The Study Committee also discussed topics submitted by Commissioner Jack Mariano and Commissioner Scarlet Frisina prior to the meeting. Discussions related to the following topics that are mandated by the enabling legislation:

1. The ability of a small investor-owned water or wastewater utility to achieve economies of scale when purchasing equipment, commodities, or services.
2. The availability of low interest loans to a small, privately-owned water or wastewater utility.
3. Tax incentives or exemptions, temporary or permanent, available to a small water or wastewater utility.
4. The impact on customer rates if a utility purchases an existing water or wastewater utility system.
5. The impact on customer rates of a utility providing service through the use of a reseller.

Some additional topics discussed included:

1. The establishment of a funding reserve for small water and wastewater utilities to utilize for infrastructure repairs and equipment replacement costs. Further discussion on this topic will occur at a future meeting.
2. A mechanism for smaller utilities to implement incremental increases based upon the indexing performed by the Public Service Commission. Smaller utilities often delay or forgo application for a rate increase because of the expense involved with bringing the rate case before the Commission.
3. Possible efficiencies, administratively and statutorily, that could lower the costs of rate proceedings to small water or wastewater utility systems. The Study Committee members discussed a variety of methods to reduce or avoid rate case expenses.

Chairman Brown directed staff to prepare recommendations for the five topics mandated by the enabling legislation, based upon the ideas discussed at today's meetings, and asked that the members be prepared to make decisions regarding these five topics at the next Study Committee meeting. She cautioned members that final decisions have not been made and that all discussions and topics will continue to be available for discussion and decision at subsequent meetings.

Announcements:

Chairman Brown announced that next meeting is a teleconference call, via WebEx, on October 18, 2012, beginning at 10:00 a.m. For members who want to attend the meeting in person, the meeting will be in the Betty Easley Center, Room 140, 4075 Esplanade Way, Tallahassee, FL. Additional information regarding directions for members to sign into the meeting via WebEx, and the call-in number for members of the public will be available on the Study Committee's website.

There will be another teleconference call, via WebEx, on November 1, 2012 to continue discussions of a draft document. The meeting will begin at 1:00 p.m., the location of this meeting has not yet been determined.

Additionally, Chairman Brown asked the members to reserve November 29, 2012, as a possible meeting date for a face-to-face meeting in Tallahassee.

Public hearings, as prescribed by the enabling legislation, have been scheduled for public input on Wednesday, December 5, 2012. The Study Committee will meet in the Pasco County Commission chambers beginning at 9:00 a.m. until 12:00 p.m. The second hearing will be at the Eustis Community Center from 6:00 p.m. until 9:00 p.m. on the same day.

There may also be a January 10 or 25, 2013 meeting in Tallahassee. Staff will provide further information regarding subsequent meeting dates at a future meeting.

Public Comment:

None

The meeting adjourned at approximately 5:00 p.m.



Study Committee on Investor-Owned Water and Wastewater Utility Systems

MEETING MINUTES

October 18, 2012, Tallahassee Florida

Chairman Julie Brown called the teleconference of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to order at 10:00 a.m. A voting quorum of members was present. The following members were excused from the meeting: Mr. Keith Burge, Representative Ray Pilon, Mr. Robert Holmden, and Mr. Ralph Terrero.

Chairman Brown welcomed everyone to the first conference call of the Study Committee and briefly explained how WebEx conference calls work. She indicated that her computer screen would identify which member was requesting to speak by "raising his or her hand" (electronically). She explained that if any member was uncomfortable with the WebEx technology to let her know by just speaking telephonically. The teleconference has the same importance as an "in-person" meeting.

DISCUSSION OF STATUTORY RECOMMENDATIONS

The purpose of this meeting was to discuss the statutory provisions required by the enabling legislation, and to determine which issues the Study Committee will further consider. The five issues contained in the enabling legislation are labeled Issue 1 in Attachment 1. An additional issue related to a funding reserve is labeled Issue 6. An affirmative vote at this time only indicates that staff will work on specific language for consideration. The members will take a final vote at a subsequent meeting.

The attached table (Attachment 1) below summarizes the issues discussed and voted upon on October 18, 2012. Members did not take a vote on Item 3.2, "pursuing a narrower tax exemption policy for Investor-Owned Utilities". This issue was deferred until additional information was available to the committee members.

The Study Committee members did not have time to consider issues 4-6, but Chairman Brown indicated that she would begin with issue #4 at the November 1, 2012 meeting. Once Issues 4-6 are thoroughly addressed, additional issues proposed by members of the Study Committee will be considered.

FUTURE MEETINGS

Chairman Brown announced that the next meeting of the Study Committee will be November 1, 2012, and that the meeting has changed from a teleconference call to an "in-person" meeting, beginning at 1:00 p.m. The meeting will take place in Morris Hall, LL-17 of the House Office Building in Tallahassee.

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The Study Committee will also meet on November 29, 2012, in Tallahassee. Future meeting dates include November 29 in Tallahassee and December 5 in Pasco County and Eustis.

Public Comment:

None

The teleconference adjourned at approximately 12:00 p.m.

Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson**	Gary Williams
(1) Economies of Scale													
1.1 Permit IOUs to take advantage of state purchasing contracts	Excused	YES	YES	YES	YES	YES	YES	Did not Vote*	Excused	YES	Absent	Absent	YES
1.2 Encourage government and large IOUs to permit small IOUs to piggy-back on utility purchases	Excused	YES	YES	NO	YES	YES	YES	Did not Vote*	Excused	YES	Absent	Absent	YES
1.3 Encourage contract service companies that purchase in bulk to allow small IOUs to purchase supplies thru them	Excused	YES	YES	YES	YES	YES	YES	Did not Vote*	Excused	YES	Absent	Absent	YES
1.4 Staff will develop language to encourage statewide and trade associations to develop an "exchange" system for new and/or used equipment.	Excused	YES	YES	YES	YES	YES	YES	Did not Vote*	Excused	YES	Absent	Absent	YES
(2) Low Interest Loans													
2.1 Expand restriction for loans to IOUs from less than 1,000 connections to a larger amount	Excused	YES	YES	YES	YES	YES	YES	YES	Excused	NO	Absent	Absent	YES
2.2 Decrease minimum amount of loan from \$75,000 to a lesser amount	Excused	YES	YES	YES	YES	YES	YES	YES	Excused	NO	Absent	Absent	YES
2.3 Authorize pass thru of loan service fee for SRF loan	Excused	YES	YES	YES	YES	YES	YES	YES	Excused	NO	Absent	Absent	YES
2.4 Create surcharge to be used as a source of funding – either separate fund or part of SRF	Issue temporarily deferred - for discussion with Issue #6 relating to the creation or authorization of a reserve fund.												
2.5 Encourage outreach program to advise of availability of loans and grants	Excused	YES	YES	YES	YES	YES	YES	Did not Vote*	Excused	NO	Absent	Absent	YES
2.6 Increase allocation of PABs for water & wastewater improvements	Excused	YES	YES	YES	YES	YES	YES	YES	Excused	NO	Absent	Absent	YES
(3) Tax Incentives or Exemptions													
3.1 Extend sales, property and ad valorem tax exemptions available to govt. utilities to IOUs	Excused	YES	YES	YES	YES	YES	YES	YES	Excused	YES	Absent	Absent	YES
3.2 Pursue a narrower tax exemption policy for IOUs	Issue discussed, but no vote taken during 10/18/2012 teleconference												
(4) Impact on rates of utility purchase of existing systems													
4.1 Require rate impact analysis in approval of transfer	No vote taken during 10/18/2012 teleconference												

Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson**	Gary Williams
4.2 Direct PSC to initiate rulemaking to require purchaser to disclose how purchased system would be treated for rate setting purposes – stand alone or combined – and provide rate impact	No vote taken during 10/18/2012 teleconference												
4.3 Direct PSC to initiate rulemaking to codify an acquisition adjustment policy that reflects appropriate sharing of risk and benefit of the purchase of an existing system	No vote taken during 10/18/2012 teleconference												
4.4 Authorize rate change at time of transfer of existing system not to exceed 5% per year until rates reach that of purchaser.	No vote taken during 10/18/2012 teleconference												
(5) Impact on rates of utility acting as EXEMPT Reseller													
5.1 Expand the reseller exemption provision to allow recovery of meter reading and billing costs	No vote taken during 10/18/2012 teleconference												
(5a) Impact on rates of utility acting as PSC REGULATED Reseller													
5.2 Authorize PSC to review wholesale rates in cases where a complaint has been filed	No vote taken during 10/18/2012 teleconference												
5.3 Authorize PSC to review wholesale rates in cases where the customers are not residents of the government unit providing the wholesale service	No vote taken during 10/18/2012 teleconference												
5.4 Authorize PSC to review all wholesale water & wastewater rates charged to IOUs	No vote taken during 10/18/2012 teleconference												
(6) Reserve Fund													
6.1 Authorize PSC to establish infrastructure repair & replacement reserve for each utility that would be funded thru rates	No vote taken during 10/18/2012 teleconference												
6.2 Levy a statewide incremental assessment on the bills of IOU customers to be administered by a fund administrator	No vote taken during 10/18/2012 teleconference												
*Commissioner Mariano had a technical problem during the teleconference and was not audible during all roll call votes.													
** Although Mr. Thompson's presence was noted on the WebEx screen, no audio connection was established; therefore, no votes are recorded for Mr. Thompson.													



Study Committee on Investor-Owned Water and Wastewater Utility Systems

MEETING MINUTES

November 1, 2012, Tallahassee Florida

Chairman Julie Brown called the meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to order at 1:00 p.m. A voting quorum of members was present. Chairman Brown welcomed Mr. Keith Goodman to the Study Committee (via telephone). Mr. Goodman replaces Mr. Gus Alexakos as a customer of a Class "A" utility. The following members were previously excused from the meeting: Representative Ray Pilon and Commissioner Scarlett Frisina. Chairman Brown announced that Mr. Thomas Shiflett is the new member of the Study Committee as designated by Secretary Herschel Vinyard of the Department of Environmental Protection.

DISCUSSION OF STATUTORY RECOMMENDATIONS

The purpose of this meeting was to continue discussion of the statutory provisions required by the enabling legislation, and to determine additional issues that members of the Study Committee wish to consider further. The five statutory recommendations are listed on Attachment 1 and are contained in the enabling legislation. One additional issue entitled "Funding Reserve" is labeled Issue 6. The Study Committee previously took action on several of the conceptual recommendations at the October 18, 2012 meeting and those votes are included on Attachment 1. Chairman Brown reminded the Study Committee members before the vote that an affirmative vote at this time indicates that staff will work on specific language for consideration. The members will take a final vote at a subsequent meeting.

Chairman Brown reported that since the October 18, 2012, Study Committee meeting via teleconference, staff revised possible recommendations based upon members' comment at the teleconference.

The attached table, revised since October 18, 2012 Study Committee meeting, (Attachment 1) summarizes the issues discussed and voted upon on November 1, 2012. Members did not take a vote on Item 3.2, "pursuing a narrower tax exemption policy for Investor-Owned Utilities". This issue was deferred until additional information is available to the committee members.

The Study Committee members did not take a vote on any options relating to the establishment of a Reserve Fund (Issue 6 on Attachment 1), but requested staff to conduct additional research on viable options.

Study Committee on Water and Wastewater Utility Systems
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FUTURE MEETINGS

Chairman Brown announced that the Study Committee would next meet on November 28, 2012, in Tallahassee at the Betty Easley Conference Center, 4075 Esplanade Way, Room 148. The statutorily required public hearings will be December 5 in Pasco County (9:00 a.m. until 12:00 p.m.) and Eustis (6:00 p.m. until 9:00 p.m.).

Public Comment:

None

The meeting adjourned at approximately 4:45 p.m.

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
(3) Tax Incentives on Exemptions														
3.1 Extend sales, property and ad valorem tax exemptions available to govt. utilities to IOUs.	Vote taken at October 18, 2012 Study Committee conference call													
3.2 Pursue a narrower tax exemption policy.	No vote taken November 1, 2012. Additional discussion may occur at November 28, 2012 Study Committee Meeting.													
(4) Impact on rates of utility purchase of existing systems														
4.1 Statutory change to require rate impact analysis in approval of transfer if purchaser has uniform or banded rate structure.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote
4.2 PSC initiate rulemaking to require purchaser to disclose how purchased system would be treated for ratesetting purposes – stand alone or combined – & provide impact.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote
4.3 PSC initiates rulemaking to codify an acquisition adjustment policy that reflects appropriate sharing of risk and benefit of the purchase of an existing system.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote
4.4 Statutory change to authorize rate change at time of transfer of existing system not to exceed 5% per year until rates reach that of purchaser.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote
4.5 Statutory change & rulemaking to require selling utility to enter into negotiations with local governments before contract with IOU.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote
4.6 Statutory change & rulemaking to give local governments right of first refusal before PSC approval.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote
4.7 PSC initiate rulemaking to require that the notice of transfer provided to customers include the disclosure of any needed system improvements, including the approximate cost.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote
4.8 No change	YES	YES	YES	NO	EXC	YES	NO	NO	NO	EXC	YES	YES	NO	YES

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams	
(5a) Impact on rates of utility acting as EXEMPT Reseller															
5a.1 Expand the reseller exemption provision to allow recovery of meter reading and billing costs and other options. Direct staff to research additional options.	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES	
(5b) Impact on rates of utility acting as REGULATED Reseller															
5b.2 Authorize PSC to review wholesale rates in cases where a complaint has been filed.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	
5b.3 Authorize PSC to review wholesale rates in cases where the customers are not residents of the governmental unit providing the wholesale service.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	
5b.4 Authorize PSC to review all wholesale water and wastewater rates charged to IOUs.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	
5b.5 No change	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES	
(6) Reserve Fund															
6.1 Authorize PSC to establish infrastructure repair and replacement reserve for each utility that would be funded through rates.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	
6.2 Levy a statewide incremental assessment on the bills of IOU customers to be administered by a fund administrator.	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	EXC	No vote	No vote	No vote	No vote	
(7) Pass-Through and Indexing															
7.1 Research additional pass-through amendments and indexing options that, with full transparency, would benefit smaller utilities. Should comply with Consumer Confidence Reports.	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES	



Study Committee on Investor-Owned Water and Wastewater Utility Systems

MEETING MINUTES

November 28, 2012, Tallahassee Florida

Chairman Julie Brown called the meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to order at 12:30 p.m. A voting quorum of members was present. Commissioner Jack Mariano participated via telephone. The following members were excused from the meeting: Representative Ray Pilon and Commissioner Scarlett Frisina. Chairman Brown welcomed Mr. Van Hoofnagle as a new member of the Study Committee, designated by Secretary Herschel Vinyard of the Department of Environmental Protection, and as authorized by the enabling legislation.

Chairman Brown acknowledged the November 2, 2012 passing of Mr. Frank Reams, a tireless advocate for water and wastewater issues in Florida. She recognized his efforts on behalf of customers throughout the state and indicated that Mr. Reams will be missed.

Staff distributed a list of issues of consideration, previously identified by members of the Study Committee. Chairman Brown asked members to review the list of issues and to identify and rank, in priority order, issues that each member would like the Study Committee to review and consider. She asked that members be prepared to discuss these issues, if time permits, after the public testimony at the Eustis meeting on December 5, 2012 meeting.

PRESENTATION

Mr. Paul Stallcup of the Public Service Commission staff presented an "Overview of Rate Bands" for the Study Committee.

DISCUSSION OF STATUTORY RECOMMENDATIONS

The Study Committee continued its discussions of the statutory issues identified in the Committee's enabling legislation. Staff revised possible recommendations based on discussions at previous meetings. The attached table (Attachment 1) summarizes the issues discussed and voted upon on November 28, 2012. The Study Committee deferred further discussion and a vote on several issues until a future meeting, likely the conclusion of the Eustis public hearing on December 5, 2012. Actions taken or not taken are indicated on the attachment. Chairman Brown gave staff flexibility to revise recommendations based upon members' input and further direction.

Study Committee on Water and Wastewater Utility Systems
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FUTURE MEETINGS

Chairman Brown announced that the Study Committee would next meet on December 5 in New Port Richey (9:00 a.m. until 12:00 p.m.) and Eustis (6:00 p.m. until 9:00 p.m.). These two meetings will constitute the public testimony meetings required by the Study Committee's enabling legislation.

Chairman Brown further announced that conference calls may be scheduled later in December and that at least one in-person meeting may be held in January 2013.

Public Comment:

Brian Armstrong – on behalf of Florida Governmental Utility Association (FGUA)

The meeting adjourned at 5:10 p.m.

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Water and Wastewater Study Committee
Vote Sheet for November 28, 2012

Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
Issue 1: The ability of a small investor-owned water or wastewater utility to achieve economies of scale when purchasing equipment, commodities, or services.														
1.1(modified) The Committee recommends that the Governor direct the Department of Management Services to initiate rulemaking to amend Rule 60A-1.005, FAC, to include investor owned water and wastewater utilities as an eligible user. For example, a sub-section (3) could be added: <u>"(3) Any Public Service Commission or County certificated investor-owned water or wastewater utility located and physically operating in Florida.</u> (Staff given flexibility to ensure that nonprofits are included in this recommendation if they are not already eligible.)	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES
1.2/3(modified) The Committee recommends that a working group be established to facilitate shared purchasing by government-owned and large investor-owned water and wastewater utilities, and contract service companies servicing water and wastewater utilities.	No Vote Taken on this issue on November 28, 2012													
1.4(new) Develop a statewide online exchange/listing of available new and/or used equipment and supplies through the Florida Rural Water Association (FRWA) website	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES
Issue 2: The availability of low interest loans to a small, privately-owned water or wastewater utility.														
2.1(modified) Expand the size restriction for investor-owned water utilities under the SRF loan program to include Class "A" utilities.. All Class "C" and most Class "B" water utilities regulated by the PSC are currently eligible for the SRF loan program.	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES

Study Committee on Water and Wastewater Utility Systems
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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p>2.2(modified) Since it appears that it may not be cost effective for a utility to use the SRF program for a loan of less than \$75,000 due to the costs involved in preparing the required documentation and studies, no legislative change in the minimum amount of the drinking water SRF loan is recommended. However, there will be a recommendation for DEP to review its processes to determine if the loan process can be streamlined.</p>	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES
<p>2.3(modified) The Committee should suggest that the Legislature add the following language to Section 367.081(4)(b), Florida Statutes: <u>The approved rates of any utility shall be automatically increased, without hearing, and upon verified notice to the commission 45 days prior to implementation of the increase that the utility has incurred a loan service fee associated with an approved loan from the State Revolving Fund established pursuant to Section 403.8532, Florida Statutes. The new rates shall reflect the amount of the loan service fee.</u> In addition, the Committee should suggest that the Legislature direct the PSC to amend Rule 25-30.425, Florida Administrative Code, which details the filing and noticing requirements for pass through rate adjustments, to include the filing requirements associated with the pass through of the loan service fee.</p>	No vote taken at November 28, 2012 meeting; item deferred until December 5, 2012.													
<p>2.6a(modified) The Committee should recommend that the Legislature adopt a Memorial, which is a resolution to Congress to encourage certain action be taken. The Memorial would encourage the passage of pending legislation to</p>	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES

Study Committee on Water and Wastewater Utility Systems
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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
eliminate the volume cap on PABs for water and wastewater facilities. If this option is approved by the members, staff will prepare a draft Memorial consistent with the information and argument contained in the attached documents. The draft Memorial will be contained in the Final Report. In addition, the Committee should recommend that the Governor encourage Florida's congressional delegation to support federal legislation to relax the restriction on tax-exempt PABs for water and wastewater infrastructure.														
2.6b(modified) The Committee should recommend that the Legislature direct the Division of Bond Finance within the State Board of Administration to review the allocation of PABs in Florida with the specific purpose of determining how much is currently allocated to water and wastewater projects, how much of the allocation amounts are unused and reallocated, and whether an additional amount of the initial allocation or reallocation of PABs should be targeted for water and wastewater infrastructure projects.	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES
2.7(modified) The Committee should recommend that the Legislature issue a Memorial to Congress to encourage amendment to the Federal Water Pollution Control Act to allow investor-owned wastewater utilities to be eligible for funding. In addition, the Committee could recommend that the Governor encourage Florida's congressional delegation to support legislation that would allow investor-owned wastewater utilities access to this funding mechanism.	YES	YES	YES	YES	EXC	YES	YES	YES	YES	EXC	YES	YES	YES	YES

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
Issue 3: Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility.														
Ad valorem exemption Recommend proposed amendment to the Florida Constitution for ad valorem tax exemption for real property dedicated to the provision of potable water by member-owned nonprofit or investor-owned community water system pursuant to section 403.852(3), Florida Statutes, and to a member-owned nonprofit or investor-owned community wastewater system. (also includes proposed statutory language for property tax exemption)	No vote taken at November 28, 2012 meeting; item deferred until December 5, 2012.													
Sales tax exemption Recommend proposed constitutional amendment for sales tax exemption for investor owned sewer and/or water company owned or operated by a Florida corporation and eligible for staff assistance in changing rates and charges pursuant to s. 367.0814(1), are exempt from the tax imposed by this chapter if the sole or primary function of the corporation is to construct, maintain, or operate a water or sewer system.	No vote taken at November 28, 2012 meeting; item deferred until December 5, 2012.													
Issue 4: the impact on customer rates if a utility purchases an existing water or wastewater utility system.														
Motion to reconsider the vote by which ISSUE 4, item 8 passed at the November 1, 2012 Study Committee meeting. ISSUE 4, Item 8 was a vote for "no change" to the issue of "impact on rates of utility purchase of existing water or wastewater utility systems. Motion failed 8-4.	NO	NO	NO	YES	EXC	NO	NO	YES	YES	EXC	NO	YES	NO	NO
Issue 5: The impact on customer rates of a utility providing service through the use of a reseller.														
5.1(modified) In order to encourage conservation of water, the Committee should suggest the following addition to the list of PSC-exempt entities contained in Section 367.022, Florida Statutes, as follows:	YES	YES	YES	YES	EXC	YES	YES	YES	NO	EXC	NO	NO	YES	YES

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<u>(9) Any person who resells water service to individually sub-metered residents or tenants of property owned by that person at a price that does not exceed the actual purchase price of the water plus the actual cost of meter reading and billing, not to exceed 9 percent.</u>														
Issue 6: The creation of a reserve fund to make low-cost funding accessible to investor-owned water and wastewater utilities for addressing critical infrastructure needs.														
6.1(modified) Recommend that the Legislature direct PSC rulemaking to permit the establishment of an infrastructure repair and replacement reserve account for individual water and/or wastewater utilities, funded by a portion of the utility's rates. Rulemaking should address the condition(s) under which a reserve account would be approved, the magnitude of the account for each utility, options for securing the account, the criteria for allowing PSC staff authorization of account withdrawals, and other administrative details. Staff directed to develop statutory language to permit the PSC to establish a reserve fund account for investor-owned water and wastewater utilities and to conduct rulemaking to establish the criteria under which a reserve fund account would be approved and the conditions under which moneys could be withdrawn from the reserve fund account.	YES	YES	YES	YES	EXC	YES	YES	YES	NO	EXC	YES	YES	NO	YES
6.2(modified) Seek legislative authority to levy an incremental assessment on each water and wastewater connection each month through the monthly bill for a period of one year either as a per thousand gallon assessment or as a flat monthly assessment. The assessment should be	No vote taken at November 28, 2012 meeting.													

Study Committee on Water and Wastewater Utility Systems
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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p>designed to establish a \$20M fund over a period of 5 years at which time collections would cease. The fund would be administered by DEP and structured as a revolving fund to provide low cost loans to eligible utilities. DEP and the PSC should work cooperatively to establish rules for the administration of the fund in accordance with guidance provided by the Study Committee on Investor-Owned Water & Wastewater Utility Systems. In establishing rules, the DEP should limit the availability of loans to small investor-owned utilities eligible for staff assistance pursuant to s. 367.0814(1), F.S. Rules relating to loan application and eligibility criteria consider the expense and level of sophistication of small investor-owned water and wastewater utilities. In addition, the DEP shall consider establishing repayment terms that more closely match regulatory treatment of utility assets, including the impact of used and useful considerations and utility related depreciation schedules.</p>														
<p>6.3(new) Vote taken on motion to WITHDRAW this recommendation passed 11-1. Seek legislative change to establish a revolving fund to be funded by general revenues. The revolving fund should be funded at \$2M per year for a period of 5 years resulting in a maximum fund size of \$10M. The fund should be available only to small investor-owned utilities eligible for staff assistance pursuant to s. 367.0814(1), F.S. The fund shall be administered by DEP. DEP, in cooperation with the PSC, shall establish rules regarding the eligibility</p>	YES	YES	YES	YES	EXC	YES	YES	NO	YES	EXC	YES	YES	YES	YES

Study Committee on Water and Wastewater Utility Systems
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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p>of loan applicants and the types of projects which may be funded. The amount of any individual loan shall not exceed \$75,000. In the context of the rulemaking proceeding, the DEP shall consider establishing repayment terms that more closely match regulatory treatment of utility assets, including the impact of used and useful considerations and utility related depreciation schedules</p>														



Study Committee on Investor-Owned Water and Wastewater Utility Systems

MEETING MINUTES

December 5, 2012, Field Meeting
Eustis, Florida

Chairman Julie Brown called the second field meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Committee) to order at 6:00 p.m. All Committee members were present except Representative Pilon, who was previously excused.

Chairman Brown noted that this was the second of two legislatively required field meetings of the Committee, which are intended to gather public input from customers recently affected by increases in water or wastewater rates. After member introductions, the Chair opened the floor to public comment. Two members of the public spoke.

Mr. Roger Sperling of Leesburg expressed concerns on the rate setting process, including rate case expense issues. Mr. Sperling suggested that rate case expenses be reduced for unjustified rate filings, and further that a penalty be imposed for poor filings.

Mr. George Auger of Leesburg also expressed concerns regarding rate case expense. He believes it is abusive for customers to pay utilities' expenses in raising customer water rates, with no benefits to customers. Mr. Auger presented some ideas on reforming the Public Service Commission's treatment of rate case expense, including write-offs of previously incurred rate case expenses and a splitting between the utility and customers.

No other customers wished to address the Committee, and after stating that further comments could be sent in by U.S. Mail, electronic mail, or fax, the field meeting was adjourned at 6:30 p.m.



Study Committee on Investor-Owned Water and Wastewater Utility Systems

MEETING MINUTES

December 5, 2012, Regular Committee Meeting
Eustis, Florida

Chairman Julie Brown called the meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Committee) to order at 6:30 p.m. All members were present except for Representative Ray Pilon, who was previously excused from the meeting. After motion and a second, the minutes of the November 28, 2012 meeting were approved.

Staff distributed a revised discussion document for Issues 2 and 3, deferred from the November 28, 2012 meeting. Staff also distributed a document/table ranking the member's additional issues by priority.

DISCUSSION OF STATUTORY RECOMMENDATIONS

The Study Committee continued its discussions of the statutory issues identified in the Committee's enabling legislation. Staff revised possible recommendations based on discussions at previous meetings, including the November 28, 2012 meeting.

The Committee held extensive discussion on staff's revised language for Issue 2, Option 3 (a pass through provision to recover the SRF loan service origination fee). After extensive discussion, this Issue was tabled, with direction to staff to continue to revise the language according to the Committee's discussion. The Chair indicated this matter will be addressed at the December 19, 2012 conference call.

The Committee also discussed proposed language relating to Issue 3, Option 1 (the extension of sales, property, and ad valorem tax exemptions available to government owned utilities to IOUs). After discussion, a Motion was made to recommend both exemptions as drafted by staff and distributed in the discussion document. The motion was seconded, and passed 10-3, with Members Frisina, Lue, and Mariano voting nay.

DISCUSSION OF MEMBER SUGGESTED ADDITIONAL ISSUES

Following the discussion of the statutorily required issues, the members discussed additional issues for the Committee to consider. Mr. Kelly stated that his office had submitted 3 issues for the Committee's consideration, which had previously been circulated to the members. In addition, staff provided a table with additional issues proposed by Members ranked according to votes as to priority. Mr. Williams made the Motion that the Committee should consider the Office of Public Counsel's 3 issues, as well as the top three member proposed issues as indicated in the ranking table.

After extensive discussions, Mr. Flynn made a Motion that the Committee recommend the Legislature direct the Department of Environmental Protection to initiate rulemaking to identify and address the disparity between current primary and secondary water standards and customer's perceptions of the quality of the product. After Mr. Kelly indicated concern, Mr. Flynn withdrew the Motion until after Mr. Kelly's proposed quality of service issue is discussed by the Committee. Mr. Smallridge objected to Mr. Kelly's request that the motion be withdrawn.

Mr. William's Motion was re-addressed, and after a second, the Motion that the Committee consider the three issues proposed by the Office of Public Counsel and the top three member suggested issues (as identified in the table) passed unanimously.

FUTURE MEETINGS

Chairman Brown announced that the Study Committee would next meet through a conference call on December 19, 2012 at 11:00 a.m. The chair announced the limited purpose of this meeting would be to conclude Issue 2 and consider staff's revised language for Issue 6 (regarding utility reserve funds and deferred from the November 28, 2012 meeting). The Chair also indicated possible additional live meetings in Tallahassee on Tuesday, January 8, 2013 at 1:00 p.m. and Friday, January 25, 2013. Chairman Brown further announced that additional calls or meetings may be scheduled for the last week of January, 2013.

After invitation, no members of the public wished to address the Committee.

The meeting adjourned at 8:30 p.m.

**Study Committee on Investor-Owned
Water & Wastewater Utility Systems
Ranking by Members – Additional Issues Matrix**

Issue	Burge	Frame	Flynn	Fries	Frisina	Goodman	Gregory	Lue	Mariano	Pilon	Smallridge	Terrero	Thompson	Williams
Review of PSC policy and procedures: a) Lower cost rate proceedings, b) Annual report requirements and review process (usefulness), c) Additional pass-through items.	3	5	1	1		3	1	3		2		2	1	1
Ways to increase efficiencies	4		3	5			3	2		3		6	2	9
Using technology to improve regulatory process	5		4	8			2	1		4		5		11
Sending environmental compliance reports to customers	10		6	11			6	9		11		11		10
Streamline consumptive use permitting process.	7		9	10			7	11		1		3	3	8
Performance bond for new utilities	6		10	2			8	10		5		10		4
Use of metrics in rate increases	8	2	5	9		1	11	6		7		8		5
Examine abandonment process.	9		8	3			5	7		8		7		6
PSC used and useful rule	1		7	6		2	10	4		6		1	4	2
PSC depreciation rule	2		2	7			9	8		9		4	5	3
Periodic financial & environmental evaluations of systems.	11	3	11	4			4	5		10		9		7
Change Rule 25-30.350 for backbilling from 12 to 6 months		4												
Quality of Service – reasonable secondary water standards		1												
PSC Customer Deposit procedure											1			

12/4/2012

Issue	Priority 1	Priority 2	Priority 3	Priority 4	Total votes Priority 1, 2, 3	Total votes Priority 1, 2, 3,4
Review of PSC policy and procedures: a) Lower cost rate proceedings, b) Annual report requirements and review process (usefulness), c) Additional pass-through items.	5	2	3	0	10	10
Ways to increase efficiencies	0	2	3	1	5	6
Using technology to improve regulatory process	1	1	0	2	2	4
Sending environmental compliance reports to customers	0	0	0	0	0	0
Streamline consumptive use permitting process.	1	0	2	0	3	3
Performance bond for new utilities	0	1	0	1	1	2
Use of metrics in rate increases	1	1	0	0	2	2
Examine abandonment process.	0	0	1	0	1	1
PSC used and useful rule	2	2	0	2	4	6
PSC depreciation rule	0	2	1	1	3	4
Periodic financial & environmental evaluations of systems.	0	0	1	2	1	3

12/4/2012



Study Committee on Investor-Owned Water and Wastewater Utility Systems

MEETING MINUTES

December 5, 2012, Field Meeting
New Port Richey, Florida

Chairman Julie Brown called the first field meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Committee) to order at 9:00 a.m. All Committee members were present except Representative Pilon, who was previously excused.

Chairman Brown noted that this was the first of two legislatively required field meetings of the Committee, which are intended to gather public input from customers recently affected by increases in water or wastewater rates. After member introductions, the Chair opened the floor to public comment. Twenty-one members of the public spoke.

Mr. Villei, a resident of Palm Terrace, stated that all the customers were present because of Aqua. Mr. Villei stated that since 2004, water quality was down to an unacceptable rating, but rates were up. Mr. Villei stated that the customers want Aqua out, and for Pasco to take over the Jasmine Lakes and Palm Terrace neighborhoods.

Mr. Todd stated that property values were going down due to Aqua and wanted to see changes made. Mr. Todd stated that politicians were not doing good job; fixed income folks were losing ground; rates keep going up; and that his taxes were lower than his water rates. Mr. Todd asked for a tax abatement for the devaluation of his property.

Ms. Linda Wittkopp, a Jasmine Lakes resident, produced a sample of black water drawn from her tap, which she presented to the committee. Ms. Wittkopp indicated she had this black water on Thanksgiving, and that her houseguests will not shower due to smell and color. She stated her water bill was higher than her cable and electric bills. She stated she had no black water prior to Aqua taking the system over, and that property values were way below what residents paid 27 years ago.

Ms. Tammi Clark, Palm Terrace, stated that the water smelled and caused her son to have skin issues due to water. She stated she hadn't received a bill in six months. She stated she contacted the PSC with a complaint, and the PSC contacted Aqua but the Company did not respond.

Ms. Joyce Drabenstot of Jasmine Lakes stated that prior to Aqua, Jasmine Lakes had county water which was very good. Aqua is now in Jasmine Lakes, and the residents get boil water notices with prior dates. She stated her bill is always goes up. She stated rates are too high, and to please let Pasco County take over the subdivision's utilities.

Mr. Bruce Adrian is a homeowner for over 16 years in Jasmine Lakes. Mr. Adrian was concerned that Aqua does its own testing and gives itself passing grades. He states

Study Committee on Water and Wastewater Utility Systems
New Port Richey Field Meeting Minutes, December 5, 2012
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that the water is enough to make you vomit. Jasmine Lakes pays nearly 3 times Pasco County rates and county water is great. He stated he has received notice of possible cancer or kidney failure due to the water, and that no one drinks it. He feels the water is a public safety issue. Mr. Adrian is also concerned that the fire hydrants have not been painted in years, and that Aqua does not inspect the sewers. He urged the Committee to develop reasonable solutions to this problem, and for Pasco County to do something to get county water to Jasmine Lakes. He thanked Commissioner Mariano for his help.

Mr. Michael Paeon, a resident of Palm Coast Gardens, stated that water was \$22 when he moved in, and is now \$100 for less use. He is a retired plumber, and believes Aqua does only patchwork repairs. He stated Aqua does not do proper maintenance and has rude customer service. He stated that repairs are often delayed for days, Aqua's water rates are taking jobs away from Pasco County, and that residents have had no raises for 5 years while Aqua has had 3 rate increases in that time. He also stated that Aqua's customer service was very bad.

Ms. Carol Talaga has lived in the Palm Terrace subdivision since 1983, and the water was good until Aqua took over. She stated she gives bottled water to her cat, and that the tap water smells like rotten eggs. She stated she got sick from drinking a small bit of tap water in the middle of night, and had 3 days of dysentery. She stated she can't afford any more increases, and the neighborhood is full of empty homes. She uses less than 1000 gallons per month and has a \$75-80 per month bill.

Mr. James Foster resides in Jasmine Lakes, and he has gone to the health department to have his water tested. He provided several discolored samples of water, and states the water smells and looks like urine. He reports that the highest mortality rate in Florida is in Pasco county, with heart disease, cancer, and respiratory issues. He blames Aqua's water. He also asked for information regarding the Florida Government Utilities Authority (FGUA). He stated that the PSC has raised rates when water is not drinkable, the PSC is ignoring our issues, and wondered what the PSC does when samples are provided?

Mr. John Ahern of Zephyr Shores made a comparison of Pasco County vs. Aqua, mainly with regards to service. He stated that seasonal residents pay a \$54/month base facility charge with no usage. He supports Pasco taking over the water system.

Ms. Rena Ahern of Zephyr Shores states she is the one that calls with problems regarding odor and color. She wondered what happens when a problem occurs and Aqua can't reach the residents, or when equipment fails and there are no residents (due to seasonality) to call Aqua and report the equipment failures. (Ms. Ahern states that the residents have to call Aqua when equipment alarms go off, Aqua doesn't monitor the alarms.) She reported an incident where a sewer lift station failed. Ms. Ahern reports that the Aqua service man says Aqua does no maintenance on the equipment, only repairs, and wants Pasco County or the FGUA.

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New Port Richey Field Meeting Minutes, December 5, 2012
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Ms. Erica Milligan is a Utilities, Inc. customer of the Summertree system; she was not complaining about Aqua, but rather about Utilities Inc. She states she has the second highest rates in the county, and while she does not have a smell problem some neighbors do. She states she has some discoloration but the water is not black. She states there is a high rust content in water, and her water bills are very high. She states that Utilities Inc. is wasting a lot of water, and that Aqua is not the only problem in county. She reports the Colony Lake neighborhood has Pasco rates which are about half of Summertree's.

Mr. Guirantes of Jasmine Lakes reports the same issues as other speakers, and has resided in Jasmine Lakes since 1996. He stated the neighborhood was his dream retirement, which is now a nightmare due to Aqua. He stated Jasmine Lakes is starting to look like the ghetto he lived in as a kid, and wants to be rid of Aqua to save Jasmine Lakes.

Mr. Bob Yates of the Pleasure Islands subdivision in Hudson stated he had a different problem. He sympathized with Aqua customers, but stated his neighborhood suffers from a poor sewer installation by Hudson, which is now Ni Utilities. He is concerned about the poor installation of the sewer lines and that as a result, the roads all have depressions where sewer mains were installed. He believes the sewer company should pay for repaving the roads, which are falling apart.

Mr. Dave Bussey of Zephyrhills spoke about "water predators." He stated that Aqua bought high cost systems no one else wanted. The rates are high, many folks spoke in Tallahassee, but the PSC could not solve the problems, because they are unwilling and unable. He helped found FLOWFlorida to develop legislation with Speaker of the House Weatherford and State Senator Hayes. He stated the legislature was overwhelmed so they created the Study Committee. He believes legislation similar to that introduced last year has already been implemented in New Jersey and can be done in Florida. He is concerned that the Study Committee don't seem to be doing what the original legislation intended, which is to provide protection from water predators.

Mr. Paul Staikun of Zephyr Shores believes both private and public utilities should be subject to same standards and enforcement. He suggests that legislation should require the same standards. He stated the PSC is not accountable to the public and is using a different set of rules. PSC members are political appointees, but all members and staff should be vetted for qualifications. He also had questions regarding oversight of utilities, and what do state agencies do to insure good service? He believes there should be a system of fines for utilities to force compliance and remedy violations.

Mr. Robert Provost of Palm Terrace thanked Commissioner Mariano, Representatives Fasano and Legg. He stated when he was served by Florida Water it was ok, the rates were a little higher than other systems. After Aqua, problems started and rates went up. He has seen only limited improvements, such as a new meter and new trucks. He stated the neighborhood is over 30% empty, with many residents leaving because the price of water is too high. He also indicated there are many widows in the neighborhood who need assistance with high bills.

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New Port Richey Field Meeting Minutes, December 5, 2012
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Mr. Pat Brophy, a resident of Jasmine Lakes, stated that he had spent over \$2,000 on a water ionizer and reverse osmosis filter. He brought his RO filter and the filter from his well for the members to examine. The RO filter is now black, he stated that it was originally white. The well filter appeared similar. The RO filter was about one year old, while the well filter was removed that morning. He stated that his water now has odors and bad taste. Mr. Brophy was concerned that the utility's trihalomethanes reports exceeded regulatory limits.

Ms. Ann Marie Ryan, is a spokesperson for the Summertree subdivision, which is served by Utilities Inc. She urged the Committee to think out of the box and find a way to fix the problem. She stated customers can't choose the best way to get water, and the residents need safe, clean water and more help. She believes water quality standards are too low, and that when customers complain of color, taste, and odors, the PSC says it is not a problem the PSC can address.

Ms. Roseanne Bright, a resident of Pasco County, was concerned about who owns the FGUA and what is the source of their funding? She was also concerned that the FGUA or its funding was related to the United Nations, Agenda 21.

Mr. Bussey spoke a second time, regarding the FGUA. He indicated they are a funding organization, and use bonds to finance the purchase of systems. He believes FGUA would yield better quality and service in the short term, and lower rates in the long term.

Ms. Talaga spoke for a second time; she indicated that her son requires regular dermatology exams due to the water.

Mr. Adrian spoke for a second time; he stated that if Aqua supplies water that affects health it is a public safety issue that has to be addressed.

Mr. Foster spoke for a second time; he stated that there is a bad sewer gas smell at night that burns eyes. He would like Pasco County to buy Aqua out.

No other customers wished to address the Committee, and after stating that further comments could be sent in by U.S. Mail, electronic mail, or fax, the field meeting was adjourned at 11:30 a.m.



Study Committee on Investor-Owned Water and Wastewater Utility Systems
TELECONFERENCE MINUTES
December 19, 2012

Chairman Julie Brown called the meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to order at 11:00 a.m. via teleconference/WebEx. A voting quorum of members was present via telephone. The following members were excused from the meeting: Mr. John Frame, Mr. Van Hoofnagle, Representative Ray Pilon, and Mr. Tim Thompson. Commission Scarlet Frisina and Mr. Michael Smallridge were absent. Chairman Brown briefly reacquainted the members with the WebEx conference call system.

DISCUSSION OF STATUTORY RECOMMENDATIONS

Chairman Brown announced that the purpose of the teleconference was to discuss and vote on several carryover issues from the previous business meeting on December 5, 2012. A discussion document for the meeting was previously provided to members of the Study Committee and was posted on the Committee's website at <http://floridawaterstudy.com>. Attachment "A" outlines the issues discussed and the votes taken during the teleconference.

FUTURE MEETINGS

Chairman Brown announced that the next meeting of the Study Committee is Tuesday, January 8, 2013, in Tallahassee in the Internal Affairs Conference Room of the Public Service Commission. This meeting room is located at the Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

At the January 8, 2013 meeting, the Study Committee will consider the proposals offered by the Office of Public Counsel (OPC), including possible statutory changes. The Study Committee will also consider Issue 2 (pass through of loan service fees) on which a final vote has not yet been taken.

Subsequent to the January 8, 2013 meeting, a meeting has been tentatively scheduled for Friday, January 25, 2013. A teleconference call may be scheduled for the last week of January 2013.

PUBLIC COMMENT

None

Chairman Brown adjourned the meeting at approximately 12:10 p.m.

Study Committee on Water and Wastewater Utility Systems
 Teleconference Minutes, December 19, 2012
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Water and Wastewater Study Committee
 Vote Sheet for December 19, 2012

Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
Issue 2: The availability of low interest loans to a small, privately-owned water or wastewater utility.														
NOTE: Voted on concept; staff will work on revisions to language.														
<p>2.3 (modified) Modified Option 3: The Committee should suggest that the Legislature add the following language to Section 367.081(4)(b), Florida Statutes:</p> <p><u>The approved rates of any utility shall be automatically increased, without hearing, and upon verified notice to the commission 45 days prior to implementation of the increase that the utility has incurred a loan service fee or loan origination fee associated with an approved loan related to new or upgraded utility facilities. The new rates shall reflect the amount of the loan service fee or loan origination fee and shall be in effect for one year.</u></p> <p>In addition, the Committee should suggest that the Legislature direct the PSC to amend Rule 25-30.425, Florida Administrative Code, which details the filing and noticing requirements for pass through rate adjustments, to include the filing requirements associated with the pass through of the loan service fee.</p>	YES	EXC	YES	YES	Did Not Vote	YES	YES	YES	YES	EXC	Did Not Vote	YES	EXC	YES
Issue 6: The creation of a reserve fund to make low-cost funding accessible to investor-owned water and wastewater utilities for addressing critical infrastructure needs.														
<p>6.1 (modified) Recommend PSC rulemaking to permit the establishment of an infrastructure repair and replacement reserve account for individual water and/or</p>	YES	EXC	YES	YES	Did not vote	YES	YES	YES	YES	EXC	Did not vote	YES	EXC	YES

Study Committee on Water and Wastewater Utility Systems
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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
wastewater utilities that would be funded by a portion of the utility's rates. The PSC rulemaking should address the conditions under which a reserve account would be approved, the magnitude of the account for each utility, options for securing the account, the criteria for allowing PSC staff authorization of account withdrawals, and any other necessary administrative details.														



Study Committee on Investor-Owned Water and Wastewater Utility Systems

MEETING MINUTES

January 8, 2013, Tallahassee Florida

Chairman Julie Brown called the meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to order at 1:00 p.m. A quorum of voting members and non-voting members was present. The following members were previously excused from the meeting: Mr. Patrick Flynn and Representative Ray Pilon.

Staff distributed two documents to the Study Committee members. The first document contained additional comments from a citizen who spoke at the Eustis public hearing. The citizen requested that the communication be distributed to the Study Committee members. The second document was an email from Mr. Patrick Flynn, Study Committee member. Mr. Flynn indicated that due to a prior conflict, he was unable to attend the meeting and he respectfully requested that the Study Committee not take a vote on Issues 7, 8, and 9, proposed by the Office of Public Counsel (OPC) that were to be discussed at the meeting. Chairman Brown indicated that it was not her desire to vote on Issues 7, 8, and 9. These issues were for "discussion purposes" on the agenda. A vote will be considered at a future meeting.

The minutes from the December 19, 2012 teleconference meeting of the Study Committee were approved as submitted.

DISCUSSION OF RECOMMENDATIONS

The first issue that the Study Committee addressed was a discussion and vote for Issue 2, Option 3 relating to the availability of low interest loans to a small, privately owned water or wastewater utility. Option 3 would recommend an addition pass-through provision for utilities to recover loan service or origination fees. Staff provided an overview of the option and after discussion, the "modified" recommendation for Issue 2, Option 3 was approved. The voting document, containing the approved language, follows this document as Attachment 1.

Following are the issues proposed by the Office of Public Counsel (OPC). The Study Committee took no action on these recommendations other than discussion:

Issue 7: Interim Rates

Option 1. The OPC proposed that the Study Committee recommend a change to the PSC's authority to award interim rate increases in water and wastewater rate cases processed pursuant to section 367.081, Florida Statutes. The OPC proposes that the PSC

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not authorize the award of interim rates until all deficiencies in the utility's rate case minimum filing requirements (MFRs) are corrected. This proposal would require amendments to section 367.082, Florida Statutes to prohibit the award of interim rates prior to the utility curing all MFR deficiencies and the establishment of an official date of filing.

Issue 8: Rate Case Expense

Option 1. As a general rule, the Commission should not award rate case expenses for attorney or consultant fees in staff assisted rate cases (SARCs). However, if in the course of processing a SARC, the Commission staff require the assistance of an outside consultant, the reasonable cost of the consultant's services should be recoverable from ratepayers as rate case expense.

Option 2. In a proceeding under section 367.081, F. S., ("file and suspend" rate case) or section 367.081, F. S. (staff assisted rate case), the revenue requirement approved by the Commission should only include the four-year amortization of the rate case expense in the instant case. Any unamortized rate case expense associated with an earlier rate case filing should be discontinued. This limitation should not apply to rate case expense associated with limited proceedings, filed pursuant to section 367.0822, F.S.

Option 3. In no event should an award of rate case expense exceed the total rate increase approved by the Commission (not including any rate case expense) in a "file and suspend" rate case filed pursuant to section 367.081, F.S.

Issue 9: Quality of Service

Option 1. The OPC proposed statutory changes to address quality of service with regard to secondary quality standards at the time of a rate case proceeding. The Department of Environmental Protection (DEP) establishes secondary water and wastewater quality standards. The OPC proposal would set forth factors that must be considered by the PSC in determining whether the utility meets the secondary standards established by DEP. The proposal would also set forth a process to enforce compliance with DEP standards, including penalties and fines.

Option 2. (Committee staff proposal) Committee staff noted that DEP's policy regarding the enforcement of secondary standards is to require corrective action if there are significant customer complaints. However, it is unclear how DEP defines a "significant" number of complaints. Committee staff suggested a coordinating committee of representatives from DEP, PSC, OPC, Water Management Districts, and local governments to track complaints by customers of investor-owned water and wastewater utilities related to secondary quality standards. The coordinating committee would regularly meet to discuss complaints and to decide what, if any, corrective action may be appropriate.

Study Committee on Water and Wastewater Utility Systems
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FUTURE MEETINGS

Chairman Brown announced that the Study Committee would next meet on January 25, 2013, in Tampa at a location to be determined. Mr. Lue agreed he would check the availability of a suitable meeting room at the Water Management District offices in either Tampa or Brooksville. Staff will provide further information once Mr. Lue determines if a room is available. The meeting will begin at 9:00 a.m.

Chairman Brown told the members that at the January 25, 2013, meeting, we will review policies and procedures of the Public Service Commission for potential proposals aimed at increasing efficiencies, will discuss the "used and useful" rule, and will continue discussion of the OPC proposals (and hopefully a vote).

The Study Committee will also meet, via teleconference, January 31, 2013 in Tallahassee, beginning at 10:00 a.m. and potentially on February 7, 2013, to approve the final report.

Mr. Smallridge indicated his desire that the Study Committee find time to discuss "member issues" and Chairman Brown indicated that, as time permits, that discussion will occur.

PUBLIC COMMENT

- Mr. John Williams, Director of Governmental Affairs, Utilities, Inc.
- Mr. Brian Armstrong, Nabors, Giblin, & Nickerson, P.A., Tallahassee

The meeting adjourned at 4:50 p.m.

Study Committee on Water and Wastewater Utility Systems
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ATTACHMENT 1

Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
Issue 2: The availability of low interest loans to a small, privately-owned water or wastewater utility.														
<p>2.3 (modified) Modified Option 3: Section 367.081(4)(b), F.S., should be amended to add the following: The approved rates of any utility shall be automatically increased, without hearing, and upon verified notice to the commission 45 days prior to implementation of the increase that the utility has incurred a loan service fee or loan origination fee associated with for a loan related to an eligible project as determined by the commission. The commission shall conduct rulemaking to determine eligible projects which shall be limited to projects associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, or state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers. Eligible projects may not include projects primarily intended to serve future growth.</p>	YES	YES	EXC	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES
<p>The PSC should be directed to conduct rulemaking as follows: The Legislature should direct the PSC to amend Rule 25-30.425, Florida Administrative Code, to determine eligible projects for which the loan service or origination fee is associated. Such eligible projects should be consistent with the proposed statutory language and should include, but not limited to, projects which will: (1) facilitate compliance with federal, or state, and local governmental primary or secondary drinking water regulations</p>	YES	YES	EXC	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
or wastewater treatment regulations; (2) address federal, or state, <u>and local governmental</u> primary or secondary health standards that have been exceeded or to prevent future violations of such standards; (3) replace or upgrade aging water and/or wastewater infrastructure if needed to achieve or maintain compliance with federal, or state, <u>and local governmental</u> primary or secondary regulations, and (4) be consistent with the utility's most recent long range plan on file with the PSC. In addition, the PSC rulemaking should determine the filing requirements associated with the application for a pass through of the loan service or origination fee.														



Study Committee on Investor-Owned Water & Wastewater Utility Systems

MEETING MINUTES

January 25, 2013, Tampa Florida

Chairman Julie Brown called the meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to order at 9:00 a.m. The meeting convened in the Board room of the Tampa office of the Southwest Florida Water Management District. A quorum of voting and non-voting members was present. Representative Ray Pilon was excused from the meeting for a prior commitment. The minutes of the January 8, 2013, were approved.

The purpose of the meeting was to review and consider two discussion documents. Both documents were previously distributed to members and were publicly available on the Study Committee's website. The first document contained proposals and suggested language submitted by the Office of Public Counsel (OPC) (as modified by staff after discussion with OPC staff). The second document contained proposals and suggested language regarding issues the Study Committee previously agreed to research and review. Individual issues identified in each document, including the recorded votes, are included as Attachments 1 and 2.

During the Study Committee's discussion, members identified additional options for discussion and voting. After a short lunch break, staff distributed these issues (Attachment 2) for discussion and voting purposes and identified these additional options under Issue 12, "Review of PSC Policies and Procedures". This document summarizes additional issues identified by the Study Committee during the meeting. A matrix of these five additional issues, including the recorded votes, is included as Attachment 3.

FUTURE MEETINGS

Chairman Brown announced that the next meeting of the Study Committee is a teleconference call via WebEx technology, on January 31, 2013, beginning at 10:00 a.m. The purpose of this meeting is for additional discussion and a vote on Issue 12, Option 6 relating to possible legislative recommendations regarding specific items eligible for pass-through rate increases. Staff will develop proposed statutory language for consideration at the January 31, 2013 meeting.

The Study Committee will hold its last meeting, also a teleconference call via WebEx technology, on February 7, 2013. The sole purpose of this meeting is to discuss and approve the final draft report. Chairman Brown indicated her desire to send a draft of the final report to the Study Committee members on February 4, 2013.

Chairman Brown fielded questions from members regarding the inclusion in the final draft report of "dissenting comments" from Study Committee members. The Study

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Committee members did not reach a consensus to include “dissenting comments” in the final draft report. Commissioner Mariano asked about further discussion regarding issues submitted by members, specifically a legislative proposal that he had previously submitted to the Study Committee. Chairman Brown responded that, with time constraints regarding the required February 15, 2013 submission date for the report, the Study Committee would not have time to consider additional issues.

PUBLIC COMMENT

- Mr. Michael Larkin, a customer of Utilities, Inc., 6032 Presidential Circle, Zephyrhills Florida 33540.

The meeting adjourned at 3:30 p.m.

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ATTACHMENT 1

Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
Issue 7: Interim Rates														
Issue 7, Option 1: Section 367.082(2)(a), F.S. should be amended to read:														
(2)(a) In a proceeding for an interim increase in rates, the commission shall authorize, within 60 days of the filing for such relief <u>official date of filing</u> , the collection of rates sufficient to earn the minimum of the range of rate of return calculated in accordance with subparagraph (5)(b)2. The difference between the interim rates and the previously authorized rates shall be collected under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the commission. DID NOT PASS: YES – 6 NO - 7	NO	YES	NO	YES	YES	YES	YES	NO	YES	EXC	NO	NO	NO	NO
Issue 8: Rate Case Expense														
Issue 8, Option 1: Section 367.0814(3), F.S., is amended to read: (3) The provisions of s. 367.081(1), (2)(a), and (3) and (7) shall apply in determining the utility's rates and charges., except, the commission shall not award rate case expense for attorney or other outside consultant fees engaged for the purpose of preparation or filing the case if a utility receives staff assistance in changing rates and charges pursuant to this section unless the Office of Public Counsel or interested parties have intervened. The commission may award rate case expense for attorney or other outside consultant fees, when those fees are incurred for														
	NO	YES	NO	YES	YES	YES	YES	YES	YES	EXC	NO	NO	NO	NO

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p><u>the purpose of providing consulting or legal services to the utility after the initial staff report is made available to customers and the utility. In the event of a protest or an appeal by a party other than the utility, the commission may award rate case expense to the utility for attorney or other outside consultant fees for costs incurred subsequent to the protest or appeal. The commission shall adopt rules to implement this subsection.</u></p> <p>PASSED: YES – 7, NO - 6</p>														
<p>Issue 8, Option 2 (modified): Section 367.0816, F.S., shall be amended to read:</p> <p>-Recovery of rate case expenses – <u>(1) The amount of rate case expense determined by the commission to be reasonable pursuant to s. 367.081 the provisions of this chapter to be recovered through a public utilities rate shall be apportioned for recovery through the utility's rates over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of case expense previously included in rates.</u></p> <p><u>(2) A utility may recover the 4-year amortized rate case expense for only one rate case at a time. In the event the commission approves and a utility implements a rate change from a subsequent rate case pursuant to this section, the utility forfeits any unamortized rate case expense from a prior rate case. The unamortized portion of rate case expense for a prior case must be removed from rates</u></p>	NO	YES	NO	YES	YES	YES	YES	YES	EXC	NO	NO	NO	NO	

Study Committee on Water and Wastewater Utility Systems
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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<u>before the implementation of any additional amortized rate case expense for the most recent rate proceeding. This limitation shall not apply to the recovery of rate case expense for a limited proceeding filed pursuant to Section 367.0822, F.S. PASSED: YES - 7, NO - 6</u>														
Issue 8, Option 3: Section 367.081(7), F.S., shall be amended to read: (7) The commission shall determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable. No rate case expense determined to be unreasonable shall be paid by a consumer. In determining the reasonable level of rate case expense the commission shall consider the extent to which a utility has utilized or failed to utilize the provisions of paragraph (4)(b) and such other criteria as it may establish by rule. <u>The commission shall not award rate case expense which exceeds the total rate increase approved by the commission, not including any rate case expense, in a rate case filed pursuant to this section</u> PASSED: YES - 7, NO - 6	NO	YES	NO	YES	YES	YES	YES	YES	YES	EXC	NO	NO	NO	NO
Issue 8, Option 4a: Section 367.0816, F.S., shall be amended to read: Recovery of rate case expenses - (1) <u>The Fifty percent of the amount of rate case expense determined by the commission to be reasonable pursuant to s. 367.081 the provisions of this chapter to be recovered through a public utilities rate shall be apportioned for recovery over a</u>	NO	YES	NO	NO	YES	NO	YES	NO	YES	EXC	NO	NO	NO	NO

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p>period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates. The commission shall initiate rulemaking to implement this subsection.</p> <p>FAILED: YES – 4, NO - 9</p>														
<p>Issue 8, Option 4b: Section 367.0816, F.S., shall be amended to read: Recovery of rate case expenses – (1) <u>The A percentage not less than twenty-five percent and not greater than seventy-five percent of the amount of rate case expense determined by the commission to be reasonable pursuant to s. 367.081 the provisions of this chapter to be recovered through a public utilities</u> rate shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates. The commission shall initiate rulemaking to implement this subsection, including development of a methodology for determination of the appropriate percentage of rate case expense to be recovered.</p> <p>FAILED: YES – 5, NO - 8</p>	NO	NO	NO	YES	YES	YES	YES	NO	YES	EXC	NO	NO	NO	NO
Issue 9: Quality of Service														
<p>Issue 9, Option 1: Paragraphs 3, 4, 5, 6, and 7, are added to Section 367.081(2)(a), F.S. to read:</p> <p><u>3. In determining the value and quality of water service provided by a</u></p>	No Vote Taken; Adopted Option 1 (modified)													

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p><u>utility the commission shall consider the extent to which the utility meets secondary water quality standards established by the Florida Department of Environmental Protection and local government regarding those that contribute to the taste, odor, color or corrosiveness of the water. In making this determination the commission shall consider the extent to which the customers can use the water to drink, cook, bathe, and wash clothes and whether the water damages the customer's water lines, plumbing fixtures or appliances.</u></p> <p><u>4. In determining whether a utility has satisfied its obligation to provide water service to its customers which meets secondary water quality standards, the commission shall consider:</u></p> <p><u>a. testimony and evidence provided by customers and the utility; and</u></p> <p><u>b. the results of past tests required by the Florida Department of Environmental Protection or County Health Departments which measure the utility's compliance with the applicable secondary water quality standards which relate to the issues of taste, odor, color or corrosiveness; and</u></p> <p><u>c. if the commission deems it necessary, any updated tests.</u></p> <p><u>5. In determining the value and quality of wastewater service provided by a utility the commission shall consider the extent to which the utility provides wastewater service to its customers which does not cause odor, noise, aerosol drift, or lighting, which adversely affects customers by</u></p>														

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p><u>unreasonably interfering with their enjoyment of life or property, including outdoor recreation.</u></p> <p><u>6. In determining whether a utility is providing wastewater service which does not unreasonably interfere with the customer's enjoyment of life or property, the commission shall consider:</u></p> <p><u>a. testimony provided by customers; and</u></p> <p><u>b. all of the complaints filed with the Florida Department of Environmental Protection or County Health Departments for the past 5 years regarding the alleged odor, noise, aerosol drift or lighting problem; and</u></p> <p><u>c. all of the complaints filed with the commission for the past 5 years regarding the alleged odor, noise, aerosol drift or lighting problem.</u></p> <p><u>7. If the commission determines that a utility has failed to provide water service which meets the Florida Department of Environmental Protection's secondary water quality standards regarding taste, odor, color or corrosiveness, or a utility provides wastewater service which unreasonably interferes with customer's enjoyment of life or property regarding odor, noise, aerosol drift or lighting, the utility shall be required to provide estimates of the costs and benefits of various solutions to the problems. The utility shall be required to meet with its customers to discuss the costs and benefits of the various solutions and report the conclusions of these meetings to the commission. The commission shall adopt rules to assess</u></p>														

Study Committee on Water and Wastewater Utility Systems
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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<u>and enforce as necessary the utility's compliance with this section. The rules shall prescribe penalties, including fines and reduction of return on equity of up to 100 basis points, for a utility's failure to offer possible solutions to the problem(s) or if the utility fails to adequately address the water or wastewater problems.</u>														
Issue 9, Option 1 (modified) Paragraphs 3, 4, 5, 6, and 7, are added to Section 367.081(2)(a), F.S. to read: <u>3. In determining the value and quality of water service provided by a utility the commission shall consider the extent to which the utility meets secondary water quality standards established by the Florida Department of Environmental Protection and local government regarding those that contribute to the taste, odor, color or corrosiveness of the water. In making this determination the commission shall consider the extent to which the customers can use the water to drink, cook, bathe, and wash clothes and whether the water damages the customer's water lines, plumbing fixtures or appliances.</u> <u>4. In determining whether a utility has satisfied its obligation to provide water service to its customers which meets secondary water quality standards, the commission shall consider:</u> <u>a. testimony and evidence provided by customers and the utility; and</u> <u>b. the results of past tests required by the Florida Department of Environmental Protection or County</u>	NO	YES	NO	YES	YES	YES	YES	YES	YES	EXC	NO	NO	NO	NO

Study Committee on Water and Wastewater Utility Systems
 Meeting Minutes, January 25, 2013
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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p>Health Departments which measure the utility's compliance with the applicable secondary water quality standards which relate to the issues of taste, odor, color or corrosiveness; <u>and</u></p> <p>c. complaints filed by the customers with the commission, the Department of Environmental Protection, and local government, for the past five years regarding the taste, odor, color or corrosiveness of the water; and</p> <p>d. if the commission deems it necessary, the results of any updated tests.</p> <p>5. In determining the value and quality of wastewater service provided by a utility the commission shall consider the extent to which the utility provides wastewater service to its customers which does not cause odor, noise, aerosol drift, or lighting, which adversely affects customers by <u>unreasonably interfering with their enjoyment of life or property, including outdoor recreation.</u></p> <p>6. In determining whether a utility is providing wastewater service which <u>does not unreasonably interfere with the customer's enjoyment of life or property</u> does not cause odor, noise, aerosol drift, or lighting, which adversely affects customers, the commission shall consider:</p> <p>a. testimony and evidence provided by customers and the utility; <u>and</u></p> <p>b. all of the complaints filed with the Florida Department of Environmental Protection, or County Health Departments and local government for the past 5 years regarding the alleged odor, noise, aerosol drift or</p>														

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p><u>lighting problem; and</u> <u>c. all of the complaints filed with the commission for the past 5 years regarding the alleged odor, noise, aerosol drift or lighting problem.</u> <u>7. If the commission determines that a utility has failed to provide water service which meets the Florida Department of Environmental Protection's and local government's secondary water quality standards regarding taste, odor, color or corrosiveness, or a utility provides wastewater service which unreasonably interferes with customer's enjoyment of life or property regarding does not cause odor, noise, aerosol drift or lighting which adversely affects customers, the utility shall be required to provide estimates of the costs and benefits of various solutions to the problems. The utility shall be required to meet with its customers to discuss the costs and benefits of the various solutions and report the conclusions of these meetings to the commission. The commission shall adopt rules to assess and enforce as necessary the utility's compliance with this section. The rules shall prescribe penalties, including fines and reduction of return on equity of up to 100 basis points, for a utility's failure to offer possible solutions to the problem(s) or if the utility fails to adequately address the water or wastewater problems.</u> PASSED: YES – 7, NO - 6</p>														
<p>Issue 9, Option 2 (Staff Proposal) Update the MOU to include a mechanism to ensure that both</p>	NO	YES	NO	YES	YES	YES	YES	YES	YES	EXC	NO	NO	YES	YES

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
agencies are aware of the customer complaints that each receives relating to possible violations of secondary standards. The Committee should encourage the DEP and PSC to update the MOU between the agencies to define a mechanism for each agency to share with the other, any customer complaints it receives on secondary quality standards. PASSED: YES - 9, NO - 4														

ATTACHMENT 2

ISSUE	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
Issue 10: PSC Used and Useful Rule														
Issue 10, Option 1: Recommend that the PSC investigate and, if it determines necessary, initiate rulemaking to amend its existing Used and Useful rules or propose additional rules. The Commission's investigation should consider the issues discussed and the recommendations made by the Committee, as well as input from affected stakeholders. NO RECOMMENDATION	Consensus (voice vote) to make no recommendation regarding this issue.													
Issue 11: Using technology to improve the efficiency of services provided by the PSC														
Issue 11, Option 1: Recommend the PSC investigate the implementation of a fully electronic, interactive online filing and review process for water and wastewater regulatory activities. The investigation shall address PSC functions that would be suitable for electronic processing, the technical feasibility of implementation, and the costs and resources necessary to implement such a process. PASSED: YES – 13, NO - 0	YES	YES	YES	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES
Issue 12: Review of PSC Policies and Procedures														
Issue 12, Option 1: Recommend that the PSC investigate the implementation of measures to increase communication and education with Class "C" utilities, including increased use of email communication, video training, use of the WebEx technology, and increased utilization of the PSC website. PASSED: YES – 13, NO – 0	YES	YES	YES	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES

Study Committee on Water and Wastewater Utility Systems
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ISSUE	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p>Issue 12, Option 2: Recommend that the PSC investigate measures to encourage or require communication between utilities and customers outside of PSC proceedings. <u>The Committee also recommends that the PSC initiate rulemaking to require investor-owned water and wastewater utilities to conduct meetings with its customers at least annually to provide the status of the utility's operations, need for projected improvements, and customer comments.</u> PASSED: YES – 13, NO - 0</p>	YES	YES	YES	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES
<p>Issue 12, Option 3: Recommend that the PSC investigate the feasibility and usefulness of developing a database of metrics for use by its staff in evaluating utility operations and in streamlining rate case review. Include MFR requirements. The Committee also recommends that the PSC investigate and, if appropriate, establish standards and benchmarks for the evaluation of customer service standards provided by water and wastewater utilities. PASSED: YES – 13, NO - 0</p>	YES	YES	YES	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES
<p>Issue 12, Option 4: Recommend that the PSC explore the feasibility and usefulness of requiring long range plans from the water and wastewater utilities. The PSC should consider that the planning document include, at a minimum, a description of anticipated growth in customers or other change in demand and how the utility plans to meet that demand; a description of all anticipated infrastructure improvements or additions, including restoration and</p>	YES	YES	YES	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES

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ISSUE	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
upgrading of facilities and equipment, as necessary; and improvements needed to gain or maintain compliance with DEP and other water and wastewater standards PASSED: YES – 13, NO - 0.														
Issue 12, Option 5: Recommend that the PSC investigate the need for revisions to the Class “C” annual report, specifically considering whether to add a requirement for a planning document and a metrics reporting schedule. PASSED: YES – 13, NO - 0	YES	YES	YES	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES
Issue 12, Option 6 (conceptual): Propose draft legislative changes to Section 367.081(4)(b), F.S., to include specific additional items eligible for pass through rate increases. Staff will develop proposed statutory language for approval at the January 31, 2013 conference call. PASSED: YES – 13, NO - 0	YES	YES	YES	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES

Additional Issues Identified – January 25, 2013

Rate Reduction Notice

The Committee recommends that the PSC revise its rate case noticing procedures to inform customers on its initial notice that rate case expense will be removed after four years and provide the rate comparison that appears in the final rate case order. Notice will continue to be provided at the time of the actual reduction.

Return on Rate Case Expense

Section 367.0816, Florida Statutes – Recovery of Rate Case Expense

The amount of rate case expense determined by the commission pursuant to the provisions of this chapter to be recovered through a public utilities rate shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates. Rate case expense shall not be included in a utility's working capital.

Annual Customer Meetings

The Committee recommends that the PSC initiate rulemaking to require investor-owned water and wastewater utilities to conduct meetings with its customers at least annually. During this annual meeting the utility should, at a minimum, provide the status of the utility's operations, explain the need for projected improvements, and consider customer comments.

Customer Service Standards

The Committee recommends that the PSC investigate and, if appropriate, establish standards and benchmarks for the evaluation of the customer service provided by water and wastewater utilities.

Consumer Confidence Reports

The Committee recommends that the PSC require all water and wastewater utilities to include a customer response form with the annual consumer confidence report. The utility shall allow 30 days for customer responses, and shall provide copies of all responses received to the DEP and PSC no more than 30 days thereafter.

Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
Additional Issues Identified at the January 25, 2013 Study Committee Meeting														
Rate Reduce Notices: The Committee recommends that the PSC revise its rate case noticing procedures to inform customers on its initial notice that rate case expense will be removed after four years and provide the rate comparison that appears in the final rate case order. Notice will continue to be provided at the time of the actual reduction. PASSED: YES – 13, NO - 0	YES	YES	YES	YES	YES	YES	YES	YES	YES	EXC	YES	YES	YES	YES
Rate Case Expense: Section 367.0816, Florida Statutes – Recovery of Rate Case Expense The amount of rate case expense determined by the commission pursuant to the provisions of this chapter to be recovered through a public utilities rate shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates. <u>Rate case expense shall not be included in a utility's working capital.</u> FAILED: YES – 6, NO - 7	NO	YES	NO	YES	YES	YES	YES	NO	YES	EXC	NO	NO	NO	NO
Annual Customer Meetings: The Committee recommends that the PSC initiate rulemaking to require investor-owned water and wastewater utilities to conduct meetings with its customers at least annually. During this annual meeting the utility should, at a minimum, provide the status of the utility's operations, explain the need for projected improvements, and consider customer comments.	Did not take individual vote on this issue. This recommendation rolled into Issue 12, Option 2.													

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p>Customer Service Standards: The Committee recommends that the PSC investigate and, if appropriate, establish standards and benchmarks for the evaluation of the customer service provided by water and wastewater utilities.</p>	<p>Did not take individual vote on this issue. This recommendation rolled into Issue 12, Option 3.</p>													
<p>Consumer Confidence Report: The Committee recommends that the PSC require all water and wastewater utilities to include a customer response form with the annual consumer confidence report. The utility shall allow 30 days for customer responses, and shall provide copies of all responses received to the DEP and PSC no more than 30 days thereafter.</p>	<p>No vote taken on this issue.</p>													



Study Committee on Investor-Owned Water & Wastewater Utility Systems
MEETING MINUTES
January 31, 2013, via teleconference call

Chairman Julie Brown called the meeting of the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to order at 10:00 a.m. via teleconference call. Chairman Brown announced that Senator Alan Hays had just been appointed by the President of the Senate as the Senate's designee on the Study Committee. A quorum of voting and non-voting members was present. Representative Ray Pilon was excused from the meeting for a prior commitment. The minutes of the January 25, 2013, meeting were deferred until the February 7, 2013 Study Committee meeting.

The purpose of the meeting was to discuss and consider recommendations for Public Service Commission (PSC) Policies and Procedures relating to pass-through rate increases currently detailed in section 367.081(4)(b), Florida Statutes. The discussion document was previously distributed to members and was publicly available on the Study Committee's website. A summary of the Study Committee's recommendations, including voting results, follows this document as Attachment 1.

FUTURE MEETINGS

Chairman Brown announced that the next meeting of the Study Committee is a teleconference call via WebEx technology, on February 7, 2013 beginning at 10:00 a.m. This next meeting will be the Study Committee's final meeting and the sole purpose of the meeting is to discuss and approve the final report.

PUBLIC COMMENT

- None

Chairman Brown adjourned the meeting at 11:25 a.m.

Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Alan Hays	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
Pass-Through Expenses															
<p>Option 6 (modified): Amend Section 367.081(4)(b) to enumerate specific expense items eligible for expedited recovery via a pass-through rate adjustment.</p> <p>Section 367.081(4)(b), Florida Statutes, is amended to read as follows:</p> <p>1. <u>The approved rates of any utility shall be automatically increased or decreased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase or decrease, that its costs for any expense item specified below have changed. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, the specific expense item. The new rates, however, shall not reflect the costs of any specific expense items already included in a utility's rates. The following specified expense items shall be eligible for automatic increase or decrease of a utility's rates:</u></p> <p><u>a. the rates charged by a governmental authority or other water or wastewater utility regulated by the commission which provides utility service to the utility;</u></p> <p><u>b. the rates or fees that the utility is charged for electric power;</u></p> <p><u>c. the amount of ad valorem taxes assessed against the utility's used and useful property;</u></p> <p><u>d. the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program;</u></p> <p><u>e. the regulatory assessment fees imposed upon the utility by the commission;</u></p> <p><u>f. costs incurred for water quality or wastewater quality testing required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>g. the fees charged for wastewater sludge hauling and disposal;</u></p>	<p>No vote taken on this recommendation. Refer to Issue 12, Option 6b</p>														

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Issue	Keith Burge	John Frame	Patrick Flynn	Gary Fries	Scarlet Frisina	Keith Goodman	Donna Gregory	Alan Hays	Bobby Lue	Jack Mariano	Ray Pilon	Michael Smallridge	Ralph Terrero	Tim Thompson	Gary Williams
<p><u>h. a loan service fee or loan origination fee for a loan related to an eligible project associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers;</u></p> <p><u>i. costs incurred for any tank inspections required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>j. operator and distribution system license fees required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>k. water or wastewater operating permit fees charged by the Department of Environmental Protection;</u></p> <p><u>l. consumptive use permit fees charged by a Water Management District;</u></p> <p><u>m. costs associated with odor abatement as required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>n. costs associated with risk management plans required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>o. costs for the installation of automatic flushing valves for dead end water distribution lines required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>p. costs of treatment chemicals required by the federal Safe Drinking Water Act, federal Clean Water Act, or the Department of Environmental Protection;</u></p> <p><u>q. costs of staffing required by the Department of Environmental Protection related to capacity development;</u></p> <p><u>r. costs associated with annual audits, annual reports, annual customer meetings, or other expenses required by commission rule;</u></p>															

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<p><u>s. costs associated with the preparation and delivery of the annual Consumer Confidence Report as required by the Department of Environmental Protection;</u></p> <p><u>t. costs associated with monitoring or laboratory equipment necessary to comply with operating procedures required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>u. costs associated with system mapping as required by the Department of Environmental Protection; or</u></p> <p><u>v. rate case expense pursuant to Section 367.0816, Florida Statutes.</u></p> <p><u>2. A utility may not use this procedure to increase or decrease its rates as a result of any increase or decrease in any specific expense item identified above, which cost increase or decrease took place more than 12 months before the filing by the utility.</u></p> <p><u>3. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).</u></p> <p>The approved rates of any utility which receives all or any portion of its utility service from a governmental authority or from a water or wastewater utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the governmental authority or other utility have changed. The approved rates of any utility which is subject to an increase or decrease in the rates or fees that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the commission shall be</p>															

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<p>increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental authority, or the regulatory assessment fees imposed upon it by the commission have changed. The new rates authorized shall reflect the amount of the change of the ad valorem taxes or rates imposed upon the utility by the governmental authority, other utility, or supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, required water quality or wastewater quality testing performed by laboratories approved by the Department of Environmental Protection for that purpose. The new rates, however, shall not reflect the costs of any required water quality or wastewater quality testing already included in a utility's rates. A utility may not use this procedure to increase its rates as a result of water quality or wastewater quality testing or an increase in the cost of purchased water services, sewer services, or electric power or in assessed ad valorem taxes, which increase was initiated more than 12 months before the filing by the utility. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).</p>															

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<p>Option 7: Amend Section 367.081(4)(b) to delegate authority to the Public Service Commission to establish, by rule, expense items eligible for expedited recovery via a pass-through rate adjustment.</p> <p>Section 367.081(4)(b), Florida Statutes, is amended to read as follows: <u>1. In order to allow timely recovery of expenses beyond the utility's control, the Commission shall establish, by rule, specific expense items for which the approved rates of any utility shall be automatically increased or decreased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase or decrease, that its costs for such specified items have been changed. The new rates authorized shall reflect, on an amortized or annual basis, as appropriate, the cost of, or the amount of change in the cost of, the specific expense item. The new rates, however, shall not reflect the costs of any specific expense items already included in a utility's rates.</u> <u>2. A utility may not use this procedure to increase or decrease its rates as a result of any increase or decrease in specific expense items, which cost increase or decrease took place more than 12 months before the filing by the utility.</u> <u>3. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).</u></p> <p>The approved rates of any utility which receives all or any portion of its utility service from a governmental authority or from a water or wastewater utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the governmental authority or other utility have changed. The approved rates of any utility which is subject to an increase or</p>	Did not vote	NO	YES	YES	NO	YES	NO	NO	YES	NO	EXC	YES	YES	ABS	YES

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<p>decrease in the rates or fees that it is charged for electric power, the amount of ad-valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the commission shall be increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental authority, or the regulatory assessment fees imposed upon it by the commission have changed. The new rates authorized shall reflect the amount of the change of the ad-valorem taxes or rates imposed upon the utility by the governmental authority, other utility, or supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, required water quality or wastewater quality testing performed by laboratories approved by the Department of Environmental Protection for that purpose. The new rates, however, shall not reflect the costs of any required water quality or wastewater quality testing already included in a utility's rates. A utility may not use this procedure to increase its rates as a result of water quality or wastewater quality testing or an increase in the cost of purchased water services, sewer services, or electric power or in assessed ad-valorem taxes, which increase was initiated more than 12 months before the filing by the</p>															

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<p>utility. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2). PASSED: YES – 7, NO – 5</p>															
<p>Option 8 (staff proposal): Amend Section 367.081(4)(b) to enumerate specific expense items eligible for expedited recovery via a pass-through rate adjustment, as well as delegate authority to the Public Service Commission to conduct rulemaking to add additional expense items eligible for pass-through rate adjustments.</p> <p>Section 367.081(4)(b), Florida Statutes, is amended to read as follows: 1. <u>The approved rates of any utility shall be automatically increased or decreased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase or decrease, that its costs for any specified expense item have changed. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, the specific expense item. The new rates, however, shall not reflect the costs of any specific expense items already included in a utility's rates. Specified expense items eligible for automatic increase or decrease of a utility's rates shall include, but are not limited to:</u> <u>a. the rates charged by a governmental authority or other water or wastewater utility regulated by the commission which provides utility service to the utility;</u> <u>b. the rates or fees that the utility is charged for electric power;</u> <u>c. the amount of ad valorem taxes assessed against the utility's used and useful property;</u> <u>d. the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program.</u></p>	YES	NO	YES	YES	NO	Did not vote	NO	NO	NO	NO	EXC	YES	YES	ABS	YES

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<p><u>e. the regulatory assessment fees imposed upon the utility by the commission;</u></p> <p><u>f. costs incurred for water quality or wastewater quality testing required by the Department of Environmental Protection;</u></p> <p><u>g. the fees charged for wastewater sludge disposal;</u></p> <p><u>h. a loan service fee or loan origination fee associated with a loan related to an eligible project associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers;</u></p> <p><u>i. costs incurred for any tank inspections required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>j. operator and distribution license fees required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>k. water or wastewater operating permit fees charged by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>l. consumptive or water use permit fees charged by a Water Management District;</u></p> <p><u>2. The commission may establish, by rule, additional specific expense items in addition to those identified above. To be eligible, any such additional expense items must be imposed upon the utility by a local, state, or federal law, rule, order or notice, and must be outside of the control of the utility.</u></p> <p><u>3. A utility may not use this procedure to increase or decrease its rates as a result of any increase or decrease in any specific expense item, which cost increase or decrease took place more than 12 months before the filing by the utility.</u></p> <p><u>4. The provisions of this subsection do not</u></p>															

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<p>prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).</p> <p>The approved rates of any utility which receives all or any portion of its utility service from a governmental authority or from a water or wastewater utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the governmental authority or other utility have changed. The approved rates of any utility which is subject to an increase or decrease in the rates or fees that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the commission shall be increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental authority, or the regulatory assessment fees imposed upon it by the commission have changed. The new rates authorized shall reflect the amount of the change of the ad valorem taxes or rates imposed upon the utility by the governmental authority, other utility, or supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection. The new rates</p>															

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<p>authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, required water quality or wastewater quality testing performed by laboratories approved by the Department of Environmental Protection for that purpose. The new rates, however, shall not reflect the costs of any required water quality or wastewater quality testing already included in a utility's rates. A utility may not use this procedure to increase its rates as a result of water quality or wastewater quality testing or an increase in the cost of purchased water services, sewer services, or electric power or in assessed ad valorem taxes, which increase was initiated more than 12 months before the filing by the utility. The provisions of this subsection do not prevent a utility from seeking a change in rates pursuant to the provisions of subsection (2).</p> <p>FAILED: YES – 6, NO – 6</p>															
<p><u>Option 8a: (recommendation during meeting – modified Option 8):</u> Section 367.081(4)(b), Florida Statutes, is amended to read as follows: 1. The approved rates of any utility shall be automatically increased or decreased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase or decrease, that its costs for any specified expense item have changed. The new rates authorized shall reflect, on an amortized basis, the cost of, or the amount of change in the cost of, the specific expense item. The new rates, however, shall not reflect the costs of any specific expense items already included in a utility's rates. Specified expense items eligible for automatic increase or decrease of a utility's rates shall include, but are not limited to: <u>a. the rates charged by a governmental authority or other water or wastewater utility regulated by the commission which provides utility service to the utility;</u> <u>b. the rates or fees that the utility is charged for electric power;</u> <u>c. the amount of ad valorem taxes</u></p>	Did not vote	NO	YES	YES	NO	YES	YES	EXC	NO	YES	EXC	YES	YES	Did not vote	YES

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<p><u>assessed against the utility's used and useful property:</u></p> <p><u>d. the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program;</u></p> <p><u>e. the regulatory assessment fees imposed upon the utility by the commission;</u></p> <p><u>f. costs incurred for water quality or wastewater quality testing required by the Department of Environmental Protection;</u></p> <p><u>g. the fees charged for wastewater sludge disposal;</u></p> <p><u>h. a loan service fee or loan origination fee associated with a loan related to an eligible project associated with new infrastructure or improvements of existing infrastructure needed to achieve or maintain compliance with federal, state, and local governmental rules and regulations relating to the provision of water or wastewater service for existing customers;</u></p> <p><u>i. costs incurred for any tank inspections required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>j. operator and distribution license fees required by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>k. water or wastewater operating permit fees charged by the Department of Environmental Protection or a local governmental authority;</u></p> <p><u>l. consumptive or water use permit fees charged by a Water Management District;</u></p> <p>PASSED: YES – 8, NO - 3</p>															

