



Energy & Utilities Subcommittee

**Wednesday, February 12, 2013
9:30 AM
Webster Hall (212 Knott)**



The Florida House of Representatives

Regulatory Affairs Committee

Energy & Utilities Subcommittee

Will Weatherford
Speaker

Clay Ford
Chair

AGENDA

February 12, 2013

9:30 a.m. – 11:30 a.m.

212 Knott Building (Webster Hall)

Opening Remarks by Vice Chair Diaz

Presentation from the Study Committee on Investor-Owned Water and Wastewater Utility Systems

- Commissioner Julie Imanuel Brown, Chair
Public Service Commission

Closing Remarks by Vice Chair Diaz

Adjournment



Study Committee on Investor-Owned Water & Wastewater Utility Systems

*Established pursuant to Chapter 2012-187, Laws of Florida,
enacted July 1, 2012*

*Julie Brown, Study Committee Chair
February 12, 2013*



Overview

Ch. 2012-187, L.O.F.

- 18 Members, 15 voting, 3 nonvoting – range of stakeholder groups
- Members from the PSC, OPC, & DEP are nonvoting
- PSC Commissioner member designated as Chairman
- PSC provided staff, information, assistance, & funding
- Required to meet a minimum of four times (at least two public meetings must be held in areas centrally located to utility customers recently affected by a significant increase in rates).
- Committee met 12 times through combination of in-person meetings, teleconferences, and public meetings.

Committee Report

- Report due February 15, 2013 to Governor, President, & Speaker.
- Study Committee met February 7th and unanimously approved the final report.
- Must detail findings and make specific legislative recommendations, including proposed legislation.
- If an issue can be handled through agency rulemaking, the report must identify the proposed rules.

Observations

- Presentations by staff/representatives of:
 - Attorney General’s Office
 - PSC Staff (technical and substantive)
 - Office of Public Counsel
 - Department of Environmental Protection
 - St. Johns and Southwest Florida Water Management Districts
 - Florida Governmental Utility Authority
- Oral Testimony from 28 customers of water or wastewater utilities; written input from 18 customers and 3 non-customers.
- Petition with 522 signatures of customers

Observations/Transparency *(con't)*

- Independent website continuously updated with meeting notices, materials, public comments received, etc. (*floridawaterstudy.com*)
- Utilized WebEx technology for meetings – all open to the public.
- Expenses will exceed \$25,000 (does not include hundreds of hours of PSC staff time).
- Assistance from 12-15 PSC staff.

Mandated Issues

- Ability of a small utility to achieve economies of scale when purchasing equipment, commodities, or services.
- Availability of low interest loans to a small, privately owned utility.
- Tax incentives or exemptions, temporary or permanent, available to a small utility.
- Impact on customer rates if a utility purchases an existing system.
- Impact on customer rates of utility providing service through use of a reseller.
- Other issues that the committee identifies.

Mandated Issue: Economies of Scale

- Issue:
 - *Inability of small utilities to take advantage of quantity discounts for equipment and materials.*
- Recommendations:
 - That the Legislature direct DMS to authorize investor-owned utilities as eligible users under state purchasing contracts. (12-0)
 - That the Florida Rural Water Association develop an online exchange for new and/or used equipment, materials, and supplies. (12-0)

Mandated Issue: Low Interest Loans

- Issue:
 - *Inability of small utilities to attract capital at reasonable cost to fund aging infrastructure replacements and to comply with water quality standards.*
- Recommendations:
 - That the Legislature open the availability of the State Revolving Fund (SRF) to all investor-owned water utilities; requires legislative change. (12-0)
 - Recommends that DEP investigate possibility of streamlining its process for the SRF. (12-0)

Mandated Issue: Low Interest Loans (con't)

- Recommendations (con't):
 - That the Legislature amend section 367.081(4)(b), F.S., and the PSC amend its rules to allow pass-through of loan service fees related to loans for infrastructure needs for existing customers. *(12-0)*
 - That the Legislature send a Memorial to Congress encouraging action to relax restrictions on tax-exempt private activity bonds (PAB) for water and wastewater infrastructure projects, and to allow investor-owned wastewater utilities access to wastewater loan programs. *(12-0)*
 - Increase the allocation of PABs in Florida to increase allocation of water and wastewater projects. *(12-0)*.

Mandated Issue: Tax Incentives or Exemptions

- Issue:
 - *Small investor-owned water and wastewater utilities do not have tax exemptions or incentives that government-owned or non-profit utilities currently enjoy.*
- Recommendations:
 - Extend ad valorem and property tax exemptions to investor-owned water and wastewater utilities. (10-3)
 - Extend sales tax exemptions to investor-owned water and wastewater utilities. (10-3)

Mandated Issue: Purchase of Existing Systems

- **Issue:**
 - *Impact on customer rates when utility purchases an existing water or wastewater utility system. Rates do not change at the time of transfer, but can increase at the next rate proceeding.*
- **Discussion:**
 - Committee considered seven proposals for changes to the current process, including the right of first refusal for purchase by a local government.
- **Recommendation:**
 - After extensive discussion regarding rate impact, acquisition adjustment, customer notification of needed improvements, and preference to local governments, the Committee voted to recommend no change to current law. (7-5)

Mandated Issue: Resellers

- Issue:
 - *Since many resellers are exempt from regulation and cannot recover the cost of meter reading or billing, they are often reluctant to install meters to measure service.*
- Recommendation:
 - Recommends that PSC-exempt resellers be allowed to charge up to 9 percent to recover meter reader and billing costs, and still retain exempt status. (9-3)

Member Proposed Issue: Reserve Fund

- Issue:
 - *Availability of affordable and accessible financing is an ongoing issue for small systems*
- Recommendation:
 - Statutory authorization for PSC rulemaking to create infrastructure repair and replacement reserve account. PSC would establish criteria for a reserve fund account. (9-0)
- No Action:
 - Creation of a statewide fund through the collection of a monthly fee from all water and wastewater utilities, including government-owned and member-owned nonprofit systems. (*withdrawn*)
 - Create a loan fund from sales tax revenues paid by investor-owned water or wastewater utilities. (*withdrawn*)

Member Proposed Issue: Interim Rates

- Issue:
 - *Time delay between a utility's filing for a rate increase and completion of its minimum filing requirements (MFRs). Ability of utility to implement interim rate increases before the filing is "complete".*
 - *The Committee considered a proposal to allow interim rates only after a rate case application is deemed complete.*
- Recommendation:
 - The Committee recommends no change to current law. (6-7)

Member Proposed Issue: Rate Case Expense

- Issue:
 - *Rate case expenses, amortized over a four-year term begin to “pancake” when a utility files more than one rate case in a four-year period.*
 - *All prudently incurred rate case expense is recoverable by the utility, offering no incentive to control expenses.*
- Recommendations:
 - That the PSC prohibit recovery of rate case expense in Staff Assisted Rate Cases (SARCs) prior to preliminary staff report. (7-6)
 - Prohibit recovery of rate case expense for more than one case at a time. (7-6)

Member Proposed Issue: Rate Case Expense (con't)

- Recommendations (con't):
 - Prohibit recovery of rate case expense in excess of approved increase minus rate case expense. (7-6)
 - Recommends the PSC revise its rate case noticing requirements to inform customers of the four-year rate case expense reduction and provide the rate comparison that appears in the final rate case order. (13-0)
- Not Approved:
 - Require a 50/50 sharing of rate cases expense between utilities and customers. (4-9)
 - Require at least a 25/75 sharing of rate case expense. (5-8)
 - Recommendation that rate case expense not be included in a utility's working capital. (6-7)

Member Proposed Issues

Quality of Service

- Issue:
 - *Violations, sometimes repeated, of secondary water quality standards and wastewater treatment standards established by DEP.*
 - *Some utilities' failure to adequately address quality of service concerns.*
- Recommendations:
 - Recommends 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. (7-6)
 - Update the existing memorandum of understanding (MOU) between DEP and PSC to define a procedure for sharing customer complaints regarding federal, state, and local secondary water quality standards and wastewater treatment standards. (9-4)

Member Proposed Issue: PSC Used & Useful Rules

- Issue:
 - *Opportunity or need to revise PSC's Used & Useful Rules.*
- No Action Taken:
 - The Committee makes no recommendation regarding PSC's used and useful rule. The Committee determined it did not have sufficient information to determine that there is a problem with the existing rule. (*Consensus voice vote*)

Member Proposed Issue: Use of Technology

- Issue:
 - *Improvements are needed in regulatory efficiency.*
 - *Although annual reports collect relevant and useful data, they are not fully interactive. Online filing and process review not available for utilities.*
- Recommendation:
 - Recommends that the PSC investigate implementation of a fully electronic and interactive filing and review processes and identify efficiencies for water and wastewater regulatory activities. (13-0)

Member Proposed Issues

PSC Policies & Procedures

- Issue:
 - *Opportunities to increase regulatory efficiencies and communication between the PSC and investor-owned utilities.*
- Recommendations:
 - Recommends increasing communication between the PSC and IOUs and between IOUs and customers, and to develop metrics for customer service. Recommends the PSC require utilities to develop long-range plans. Evaluate annual report requirements for Class "C" utilities to determine opportunities for increased efficiencies. (13-0)
 - Recommends the PSC initiate rulemaking to require water and wastewater utilities conduct meetings with customers at least annually. (13-0)
 - Recommends that the PSC develop metrics to evaluate utility operations, and that the PSC consider changes to the minimum filing requirements for rate cases. (13-0)

Member Proposed Issues PSC Policies & Procedures (con't)

- Recommendations (con't):
 - Recommends the Legislature delegate rulemaking authority to the PSC to approve additional expenses for pass-through treatment. This recommendation can be combined with a recommendation to enumerate a limited list of specific expenses for pass-through treatment. (7-5)
 - Recommends statutory amendment to enumerate a limited list of specific expense items for pass-through treatment. This recommendation can be combined with a recommendation to grant PSC rulemaking authority to add additional pass-through items. (8-3)

Other Member Issues

- Keep customers informed of a utility's environmental compliance record.
- Streamline the Water Management Districts' Consumptive Use Permit process.
- Require performance bonds for certification of new utilities.
- Use metrics or benchmarks in the rate setting process.
- Examine ways to improve the abandonment process currently authorized in section 367.165, F.S.
- Review PSC's depreciation rule (Chapter 25-30.140, Florida Administrative Code)
- Periodic financial and environmental evaluations of investor-owned water and wastewater utility systems.

For additional information, please visit:
www.floridawaterstudy.com

Questions