



Energy & Utilities Subcommittee

**Tuesday, January 31, 2012
Webster Hall
12:00 PM – 3:00 PM**

ACTION PACKET

**Dean Cannon
Speaker**

**Scott Plakon
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Energy & Utilities Subcommittee

Start Date and Time: Tuesday, January 31, 2012 12:30 pm

End Date and Time: Tuesday, January 31, 2012 03:00 pm

Location: Webster Hall (212 Knott)

Duration: 2.50 hrs

Consideration of the following bill(s):

HB 743 Energy Efficiency by Rehwinkel Vasilinda

CS/HB 809 Communications Services Taxes by Finance & Tax Committee, Grant

PCS for HB 1379 -- Water and Wastewater Utilities

NOTICE FINALIZED on 01/27/2012 16:12 by Sims-Davis.Linda

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

1/31/2012 12:30:00PM

Location: Webster Hall (212 Knott)

Summary:

Energy & Utilities Subcommittee

Tuesday January 31, 2012 12:30 pm

HB 743 Favorable Yeas: 15 Nays: 0

CS/HB 809 Favorable Yeas: 13 Nays: 0

PCS for HB 1379 Favorable With Amendments Yeas: 15 Nays: 0

Amendment PCS for HB 1379 a1 Adopted Without
Objection

Line 46

Amendment PCS for HB 1379 a2 Adopted Without
Objection

Line 106

Committee meeting was reported out: Tuesday, January 31, 2012 2:33:38PM

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

1/31/2012 12:30:00PM

Location: Webster Hall (212 Knott)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Scott Plakon (Chair)	X		
Ben Albritton	X		
Lori Berman	X		
Jeff Clemens	X		
Janet Cruz	X		
Daniel Davis	X		
Shawn Harrison	X		
Clay Ingram	X		
George Moraitis, Jr.	X		
Peter Nehr	X		
Kathleen Passidomo	X		
Elizabeth Porter	X		
Michelle Rehwinkel Vasilinda	X		
W. Gregory Steube	X		
Alan Williams	X		
Totals:	15	0	0

Committee meeting was reported out: Tuesday, January 31, 2012 2:33:38PM

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

1/31/2012 12:30:00PM

Location: Webster Hall (212 Knott)

HB 743 : Energy Efficiency

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Ben Albritton	X				
Lori Berman	X				
Jeff Clemens	X				
Janet Cruz	X				
Daniel Davis	X				
Shawn Harrison	X				
Clay Ingram	X				
George Moraitis, Jr.	X				
Peter Nehr	X				
Kathleen Passidomo	X				
Elizabeth Porter	X				
Michelle Rehwinkel Vasilinda	X				
W. Gregory Steube	X				
Alan Williams	X				
Scott Plakon (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Appearances:

Bill Gallagher (General Public) - Proponent
FL Solar Energy Industries Association
123 Mariner Drive
Ormond Beach Florida 32176
Phone: 386-4412299

Ryan Matthews, (Lobbyist) - Waive In Support
Legislative Advocate, Florida League of Cities
301 S. Bronough St. Suite 300
Tallahassee Florida 32301
Phone: 850-222-9684

Susan Glickman (Lobbyist) - Waive In Support
Southern Alliance for Clean Energy
PO Box 310
Indian Rock Florida 33785
Phone: 727-742-9003

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COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

1/31/2012 12:30:00PM

Location: Webster Hall (212 Knott)

CS/HB 809 : Communications Services Taxes

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Ben Albritton	X				
Lori Berman	X				
Jeff Clemens	X				
Janet Cruz	X				
Daniel Davis	X				
Shawn Harrison	X				
Clay Ingram	X				
George Moraitis, Jr.	X				
Peter Nehr	X				
Kathleen Passidomo	X				
Elizabeth Porter	X				
Michelle Rehwinkel Vasilinda	X				
W. Gregory Steube	X				
Alan Williams				X	
Scott Plakon (Chair)			X		
Total Yeas: 13		Total Nays: 0			

Appearances:

Jim Smith (Lobbyist) - Waive In Support
Centry Link
315 South Calhoun Street
Tallahassee Florida 32301
Phone: 850-599-1779

Frank Meiners (Lobbyist) - Waive In Support
AT&T
150 S Monroe St Ste 400
Tallahassee Florida 32301
Phone: 850-591-0177

Charles Dudley (Lobbyist) - Waive In Support
Florida Cable Telecommunications Association, Inc
246 E 6th Ave
Tallahassee Florida 32303
Phone: 850-681-0024

Gonzalez, Jose (Lobbyist) - Waive In Support
Associated Industries of Florida
PO Box 784
Tallahassee Florida 32302
Phone: 850-224-7173

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COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

1/31/2012 12:30:00PM

Location: Webster Hall (212 Knott)

CS/HB 809 : Communications Services Taxes (continued)

Appearances: (continued)

Woodrow Simmons (Lobbyist) - Waive In Support

Verizon

106 E. College Avenue, Suite 710

Tallahassee Florida 33601

Phone: 850-222-6304

Committee meeting was reported out: Tuesday, January 31, 2012 2:33:38PM

COMMITTEE MEETING REPORT

Energy & Utilities Subcommittee

1/31/2012 12:30:00PM

Location: Webster Hall (212 Knott)

PCS for HB 1379 : Water and Wastewater Utilities

Favorable With Amendments

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Ben Albritton	X				
Lori Berman	X				
Jeff Clemens	X				
Janet Cruz	X				
Daniel Davis	X				
Shawn Harrison	X				
Clay Ingram	X				
George Moraitis, Jr.	X				
Peter Nehr	X				
Kathleen Passidomo	X				
Elizabeth Porter	X				
Michelle Rehwinkel Vasilinda	X				
W. Gregory Steube	X				
Alan Williams	X				
Scott Plakon (Chair)	X				
Total Yeas: 15		Total Nays: 0			

PCS for HB 1379 Amendments

Amendment PCS for HB 1379 a1 - Line 46

Adopted Without Objection

Amendment PCS for HB 1379 a2 - Line 106

Adopted Without Objection

Appearances:

Frank Bernardino (Lobbyist) - Proponent
American Water Works Association (Florida Section)
324 E Virginia Street
Tallahassee Florida 32301
Phone: 561-718-2345

David Bussey (General Public) - Proponent
FLOW Florida (For Locally Owned Water In Florida)
4948 Britni Way
Zephyrhills Florida 33541
Phone: 330-714-5784

Frank Reams (General Public) - Proponent
34445 Yellow Perch Place
Zephyrhills Florida 33541
Phone: 813-779-3664

Committee meeting was reported out: Tuesday, January 31, 2012 2:33:38PM

House Energy & Utilities Subcommittee
HB1379
January 31, 2012

Chairman, Representatives.

My name is David Bussey. I live in Zephyrhills, Florida. I'm an Aqua customer and a volunteer with FLOW Florida.

I come before you today to encourage you to support HB1379.

Let me clarify my position on a couple of things.

There are those here today, who may tell you I'm opposed to all investor owned utilities (IOUs). That is not true. What is true, is that early on, as I began taking an active role in fighting for the rights of Aqua customers, I was under the impression that Aqua was the cause of all the problems the customers were complaining about. I guess what I'm really saying, is that we've been on, and perhaps, still are, a learning curve.

Also, after Aqua was told to do something about some secondary issues in our system, I even made the comment that there has been some improvement. A couple of weeks later, Aqua introduced some additional flushing of our water lines, and some of the problems that I thought were gone, re-appeared.

I have come to believe that any IOU that can provide reasonable Quality of Service, at affordable rates, is playing a positive role, in addressing the ever-growing water issues we have here in Florida.

On the other hand, any IOU that can't compete, needs to be strongly encouraged to do better, and if they can't, so be it. In the case of this particular utility's Quality of Service, the record is quite clear - Aqua needs a healthy dose of encouragement. And that's where we need some help from the Legislature.

In addition, I believe that any "high-cost" water and wastewater system that can be better served by an available, and interested provider, whether private or public, should have the opportunity to do so. Current Florida statutes don't provide that option, because the PSC cannot correct some of the decisions they have been pressured into making.

The only reason Aqua America expanded its business into this state is because Florida is ranked as one of the easiest states for IOUs to operate. For several years, the PSC has been asking for some help from the Florida legislature, to no

avail. This lack of concern has done nothing but added to the unnecessary economic problems we all are having to deal with in this state. The PSC is spending way too much time, energy and tax dollars on rate cases, because of how the current statutes are written.

So the burden to get your attention was left to Aqua's customers. Two years ago, a handful of people in Zephyrhills, decided to take matters into their own hands. We brought one busload of ratepayers to Tallahassee to protest a "pan-caked" rate increase.

Last year we showed up with two busloads, even though many of the customers had already gone north for the summer. On Valentines Day, we're bringing three busloads to watch the Commission give its final order.

It's time for the House and the Senate to take a more responsible role in seeing that water and wastewater customers, regulated by the PSC, and monopolized by IOUs, are provided adequate protection from any and all water-profiteers.

HB1379 addresses the major problems we are confronted with. *Insert overview,* I realize the House has a "full plate" to deal with this session, and that a substitute bill will probably be discussed here today.

That being said, I strongly encourage you to put your stamp of approval on this legislation, and move it along to the next committee. This will be an important step in beginning to address some major water and wastewater issues that are heading our way.

I have included some background information you might find helpful between now and the next time I come before you.

Thank you for your time, and I'll try to answer any questions you might have.

David Bussey
4948 Britni Way
Zephyrhills, Fl 33541
813-713-9796

attach # 1

**TO THE FLORIDA PUBLIC SERVICE COMMISSIONERS AND
THEIR STAFF:**

RE: 100330-WS

I would direct your attention to the following testimony, provided by the FPSC General Counsel (2009):

02861-09 4/1/2009 TRANSCRIPT - Vol 1, pages 1-139 of 3/25/09 agenda, Item 1, special agenda.

Specifically, page 21, line 1, where General Counsel Imhoff tells the Commissioners of the "great discretion" they (you) have at your disposal.

He then cites a court case, Northern Florida vs. Bevis, and states that, "no utility shall be denied a reasonable rate of return, but in this manner does not compel the Commission to grant a rate increase where the applicant's existing service is shown to be inefficient".

On page 21, line 18, the General Counsel for the FPSC continues, "The court indicated the Commission in this particular case, in the North Florida Water case, found that the quality of service issue was to be predominant and supported by, a denial of rate case by competent, substantial evidence.

Finally, on page 26, line 22, he states that in the North Florida vs. Bevis case, the Commission denied a rate increase based on quality of service that was upheld.

I can only wonder why the Staff with-held such important information from the Commissioners. This "don't ask - don't tell" mindset of the Staff, makes it very clear that protecting the customers is not even on their list of duties.

David L. Bussey
4948 Britni Way
Zephyrhills, Fl 33541

January 24th, 2009

DLB:dlb

cc: all Florida Legislators, Governor Scott, Attorney General Bondi

Attach # 2

FYI,

January 16th, 2012

Subject: FPSC General Imhoff clarifies the Commission's ability to deny a rate case, based on a utility's poor quality of service.

FPSC Docket 080121-WS

Transcript, Vol 1

<http://www.psc.state.fl.us/library/FILINGS/09/02861-09/02861-09.pdf>

- page 21, line 1: General Counsel Imhoff states that the Commission is' vested with great discretion. And he makes reference to a court case, North Florida vs. Bevis. ".....no utility shall be denied a reasonable rate of return, but in this manner does not compel the Commission to grant a rate increase where the applicant's existing service is shown to be inefficient."
- page 21, line 18: "The court indicated the Commission in this particular case, in the North Florida Water case, found that the quality of service issue was to be predominant and supported by, a denial of rate case by competent, substantial evidence."
- page 26, line 22: North Florida vs. Bevis case - the Commission denied a rate increase based on quality of service that was upheld.

Attach #3

Florida PSC Sliding Down The Slope

January 17th, 2012

Re: 100330-WS

The Florida Public Service Commission, in the past, has been negligent in protecting Aqua Utilities customers. It was made very clear that the number one priority of the Commission was to satisfy the “revenue requirements” of the utility company.

You would've thought that the Commission, knowing these Aqua customers were being “monopolized”, would have made it their number one priority to **protect** these customers. After-all, if the Commission wouldn't protect them, who would?

But when you make “revenue requirements” your first priority, you take the first step down a very steep slippery slope. Look where we are today. Unending poor quality of service, ridiculously high rates, unnecessary rate cases, customer revolution and now, legislation being introduced. And all because the wrong priority was chosen.

It didn't matter that Aqua provided bad customer service, undrinkable water, and had an economy of scale (cost of doing business) that was double the size of their nearest competitor. As long as Aqua was in compliance with the law, it was the mindset of the Commission to give Aqua much more than they really deserved.

Customer affordability certainly was never an issue with the Commission. They called it “fall-out”. Coming up with a rate structure that was described by its author, as the best of several bad ideas, just increased the speed of the slide down the slope.

Now included in the above mentioned “fall-out”, was the cost to the customer (affordability). The Commission's position on affordability was very simple: the customers would pay “whatever the cost”, in order to keep Aqua in business. More appealing language was used to say this, but there was no denying the fact that “whatever the cost” was the plan of operation.

Aqua Utilities was able to get away with ravaging their customers, for two reasons. First, Florida water and wastewater statutes are some of the weakest in the United States, making it easy for customers to be taken advantage of by

companies only interested in quick profits. Hopefully, Senate Bill 1244 (Hays) and House Bill 1379 (Brodeur), if passed, will cause Aqua to reconsider its plans to continue operations in Florida.

Second, the Commission's mindset was misdirected. Apparently, the idea that customers might be taken advantage, especially in a "monopolized" environment, was never taken seriously.

As an example, when Aqua came to the FPSC, with its over-sized bag of "high-cost" systems, the Commission could have given them operating certificates, for only those "high-cost" systems that could not be better served by a municipality. The Commission had the ultimate authority to do this, but chose not to.

At the same time, it was stated that the Commission would prefer to not have "high-cost" systems, as this would make it possible for standardized rates, instead of the tiered-rate system. Well, if you really wanted to implement standardized rates, why did you give Aqua certificates for all those "high-cost" systems? Again, the answer is simple: a failed mindset!

Isn't it time for the Commission to get off the slippery slope? Isn't it time to start putting the customers first? Isn't it time to start doing the right things?

Legislation will certainly help get us back on the right track. But it is also necessary for the Commission to start exercising better judgment, and begin applying its already powerful authority. Authority that is given for the purpose of protecting those under its control.

David L. Bussey
4948 Britni Way
Zephyrhills, FL 33541
dbussey@hotmail.com

Attach #4

Bills Level Playing Field for Aqua Utilities Customers

SB 1244 and HB 1379 will go a long way in bringing some much needed relief to Aqua customers.

Normally, charging higher rates to encourage less usage is a good idea, however, in this case, the tier-rate structure is being used, solely, for the purpose of subsidizing 30% of Aqua Utilities Florida customers by the other 60%, which is, by the way, morally, unfairly discriminatory. In addition, transferring revenues from waster-water to water has been implemented, even though the courts have never been asked to decide on the legality of such a practice.

The Florida Public Service Commission uses the tiered-rate structure, because Aqua has so many "high-cost" systems, and so few "profitable" systems, which translates into extremely high customer bills. We're talking \$300 - \$500 a month! With the tiered-rate structure, those customers only have to pay \$75 to \$200 a month, and for minimal usage. What a deal! How would you like to be paying more for water and waste-water than electric?

Also, these bills will address shared rate case expense, penalties for sub-par quality of service, revocation of certificates and create a Study Committee that will be looking at the various water problems in our State.

What caused this mess, anyway? Aqua originally purchased 82 "high-cost" systems, in 2004. These systems were "leftovers" - nobody wanted them - extremely unprofitable. The previous owners of these systems had a 'balanced portfolio', which included many others that were profitable, so they could provide reasonable rates to all their customers. However, Aqua did not have a well-balanced portfolio - just a bunch of entities that should've been leveled.

Because Florida has weak water and wastewater statutes, it's easy for the wolves to gain access, and keep control of the hen house. In addition, the current mindset at the PSC, is to pay the utility company "whatever it takes" to keep them in business, regardless of the cost.

Dave Bussey
Zephyrhills, FL

I recently attended 7 of the 10 customer service hearing held around the state regarding customer service and water quality. In every hearing there were many complaints of cloudy, smelly water, and many customers brought with them jars or containers of water which after setting for a period of time showed large amounts of sediment in the bottom of the container. These customers have lived with this issue for at least 5 years. This product meets minimum standards as set by the Florida EPA and the customers continue to purchase water to drink and cook with. **Florida rules lack definitive boundaries**

State of New Jersey will not permit delivery of the product referred to above.

(a) Each water utility shall furnish water that is free of excess impurities and sedimentation and shall make every effort to assure that its product is potable and uncolored, in accordance with the requirements in the New Jersey Safe Drinking Water Regulations, N.J.A.C. 7:10. Noncompliance with this requirement shall constitute failure to provide safe, adequate and proper service.

(b) If a water utility provides water that does not comply with all applicable Federal and State laws, rules, standards, and guidelines, the water utility shall so notify the Board within 48 hours.

The New York Public Service Commission with the last rate increase granted in February of 2010 put a "stay out clause" in the order.

NEW YORK STAY OUT PROVISION

- The company will receive a 20 basis point return on equity, stay out premium in return for the company's commitment not to file for a base rate increase prior to February 6, 2013. Should the company file for rate relief to become effective prior to February 6, 2013. The company will establish a deferred credit for the benefit of the ratepayers equal to the revenue requirement effect of the stay out premium for the period February 6, up to the date new rates next take effect, if before February 6, 2013.

Joint proposal Sept 9, pages 9 & 10

In addition fines for exceeding a certain number of commission complaints this was a 3 step process

Worst case being \$96,000.00 see details next page these reports are based on a formula of x number of complaints per 10,000 or higher, and complaints must meet commission criteria.

**NEW YORK PSC ORDER
EFFECTIVE 1-29-2010
CUSTOMER SERVICE
INCENTIVE MECHANISM (CSIM)**

- PSC ANNUAL COMPLAINT RATE
- <3.7
- >3.8
- >4.5
- >5.3
- PROPOSED AMOUNT
- NONE
- \$64,000.00
- \$80,000.00
- \$96,000.00

Joint Proposal Sept. 9, 2009 page 12

Ohio has pending legislation to rein in pancaking of rate increases filing for rate increase before the customer base has fully amortized the preceding rate case in Florida that is four years, as the chart indicate these companies have filed for 6 rate increases each in a 10 year period.

Company	Year	Rate case expense	50% of the expenses
Ohio American Water	1999	\$400,000	\$200,000
Aqua Ohio	2000	\$50,000	\$25,000
Aqua Ohio	2001	\$100,000	\$50,000
Ohio American	2001	\$246,000	\$123,000
Aqua Ohio	2003	\$100,000	\$50,000
Ohio American	2003	\$292,000	\$146,000
Ohio American	2006	\$399,960	\$199,980
Aqua Ohio	2007	\$75,000	\$37,500
Ohio American	2007	\$400,001	\$200,001
Ohio American	2009	\$523,417	\$261,709
Aqua Ohio	2009	\$96,000	\$48,000
Aqua Ohio	2009	\$172,000	\$86,000
Total		\$2,854,378	\$1,427,190

Office of Ohio CC

Office of Ohio Consumer Counsel

The chart below demonstrates the lack of rules within the Florida PSC regarding the number of Commission Complaints before some type of penalty or fine should take place to encourage the company to make improvements in their methods and procedures and delivery of acceptable customer service

It should be obvious to the company that poor service equals high operational costs, and this also drives up costs for the State of Florida as well that and the end result being a highly upset customer base as

well as the customers losing faith in the ability of the company to ever provide good service at a reasonable and fair cost. Over 200 customers in the past 3 years have drilled their own wells for irrigation. While the PSC has a memorandum of understanding with five water management districts in Florida to set rates that will force customers to be more conservative with water use, it appears this action simply has the opposite effect much like squeezing a balloon and this has added costs to each of the ratepayers for inefficiencies of the company, and the high cost to the State of Florida on personal time spent.

Year	Total Rpts		Percent of Total Rpts	Co.'s with Com. Rpt.	Co.'s Regulated by Florida PSC	Percent of Co,s	# of Co.'s No report
	All Co's	Aqua					
2011	242	97	40%	61	158	39%	97
2010	350	142	41%	51	158	32%	107
2009	377	176	47%	64	160	40%	96
2008	384	166	43%	55	160	34%	105
2007	351	176	50%	49	170	29%	121
Totals	1704	757	44%	280			

Source Florida PSC

The chart below is the total customers regulated by the Florida Public Service Commission and the number of customers served by Aqua.

	Total Regulated Customers	Aqua Customers	
Water	124,619	17099	
Waste water	80,860	6425	
Total	205,479	23524	11%

Source Florida PSC

Our grass roots group with over 20 homeowners associations plus numerous individuals fully support a study group being formed to examine water issues and rules that will level the playing field for water customers. In closing Commissioner Agenziano's comments and dissent from the 2009 rate case for this company:

COMMISSIONER ARGENZIANO, dissenting with opinion as follows:

While I had a number of differences with the majority on the revenue requirements portion of this docket (e.g., test year, rate of return on equity, proper adjustment for poor quality of service, etc.), I feel the need to write to clarify my vote on the rate structure portion of this docket only.

I fundamentally disagree with the decision of the majority to create a "cap-band" rate structure, in which the ratepayers of some systems subsidize other, higher cost systems. The decision of the majority is akin to putting a bandage on a suppurating wound. It is time that policy makers address the fundamental problems with the State's patchwork system of public, quasi-public and private providers of essential water and wastewater services, such that the possibility of \$400 per month or higher rates being mandated is eliminated.

By allowing subsidies from some systems to offset truly unconscionable revenue requirements, this decision prevents a true assessment of the scope of the problem, and delays the fundamental statutory and policy changes necessary to ensure that one of life's fundamental necessities is available at a price any person in the state can afford. Such a system of subsidies created by the majority today **masks the desperate need for fundamental reform**. I cannot in good conscience vote for such a system and sheepishly accept "the lesser of the evils" presented to me.

Thank you