

The County Commission has been homeless for years, never taking the time or having the pride to build a county meeting place of its own.

**COLUMBIA COUNTY UTILITY COMMITTEE**  
**POST OFFICE BOX 1529 LAKE CITY, FLORIDA 32056-1529**



**CITY OF LAKE CITY COUNCIL CHAMBERS**  
**205 NORTH MARION AVENUE LAKE CITY, FLORIDA 32055**

**AGENDA**

**OCTOBER 26, 2010**

**9:00 A.M.**

**Commissioner Jody DuPree, Utility Committee Chairman:**

**(1) Call to Order**

**(2) David Kraus - Proposed Policies and Rules**

- a) Pass through Increases
- b) Price Index Adjustments
- c) Proposed Board Action
- d) Staff Assisted Rate Case
- e) Staff Assisted Rate Case in Alternative Rate Setting
- f) Provisional Franchise
- g) Fees

These items clearly represent an outlay of thousands, if not tens of thousand of dollars by the county's tax payers that will never be recouped. There is much more to come.

**3) Minute Approval - Utility Committee**

- a) July 20, 2010
- b) September 28, 2010

**4) Rescheduling of November 23, 2010 Utility Committee Meeting to November 9, 2010**

**5) Other Discussion**

**→ [Move over Ellisville - Here they come again!](#) **

The Observer has reprocessed the agenda material to make the file size smaller and more readable. All the annotations on the agenda are the Observers.

## Memorandum

To: Columbia County Utility Committee  
From: David Kraus, Senior Staff Assistant  
Date: October 18, 2010

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### Proposed Policies and Rules Columbia County Utilities Regulatory Ordinance

Every tax payer in the county is taking it on the chin as it is obvious that most of this has been prepared by special council for the county. Those boys don't come cheap and like the county, when they screw up, like they recently have, you pay and pay!

In our effort to simplify and streamline our regulatory program, we researched alternative approaches used by the FPSC and several non-jurisdictional counties. Citrus, Hernando, and Sarasota Counties have established regulatory programs and similar ordinances. Each of these agencies uses several of the attached regulatory approaches. The Board of County Commissioners could adopt any or all of the listed approaches by "rule of the board". Once approved, these rules or resolutions may not be amended or appealed without a public hearing.

#### **Pass Through Increases**

In the County Code of Ordinances, Section 118-225(k)(1) can authorize or require pass through increases by rule. Pass through increases are also covered by Florida Administrative Code 25-30.425. In general, certain expenditures are viewed as beyond the control of a utility and can automatically be passed into the rate charged. This allows the utility's rates to keep current without seeking a full rate adjustment. A utility can *only* pass through:

- 1) Increase/decrease in electricity
- 2) Increase/decrease in ad valorem taxes (on used and useful property)
- 3) Increase/decrease in fees charged by FDEP and/or lab related to NPDES permit (water quality testing)
- 4) Increase/decrease in Regulatory Assessment Fee
- 5) Increase/decrease in purchased utilities (water or wastewater) i.e. if a utility has charges for service from another utility.

Pass Through Increases are automatic and do not require any Board action. However, the Utility must file for increase by submitting a certified copy of the cost increases and an affirmation under oath as the accuracy of the figures and that the increase will not cause the utility to exceed the range of its last authorized rate of return on equity.

#### **Price Index Adjustments**

In the County Code of Ordinances, Section 118-225(k)(2) the Board can establish a price increase or decrease index. Price index adjustments are also covered by Florida Administrative Code 25-30.425. In general, if the Board adopts an index, the utility can use the index to keep its rates tied to inflation. The Index will apply to all operating and maintenance expenses with the exception of:

- 1) items that fall under a pass through increase;
- 2) any amortized rate case expenses; and
- 3) any items disallowed at the utility's last rate proceeding.

Price indexes are not automatic. The Board must adopt an index each year before March 31 set the dates that a utility may apply for the adjustments. Additionally, the utility will still need to file an affirmation under oath as the accuracy of the figures and that the increase will not cause the utility to exceed the range of its last authorized rate of return on equity. I would recommend that the Board adopt the index set annually by the Florida Public Service Commission. Finally, for good cause, the Board can keep a utility from indexing its costs.

Thus the utility's rates would be calculated:

Prior year's O&M Expenses Less pass through items Costs to be indexed

Multiply by Index Indexed costs

Plus pass through items Indexed costs + pass through

Divided by RAF expansion factor Increase in revenues needed

Divided by Prior years O&M costs Percentage increase in rates (%)

## Proposed Board Action

A Proposed Board Action offers one alternative to a full rate proceeding. Under this approach, the utility would still need to assemble the Minimum Filing Requirements (MFR's) before an application would be considered complete. However rather than hold a hearing before a Hearing Officer, the staff would conduct discovery and prepare a recommendation to the board. Additionally, the staff would have to hold a noticed customer meeting prior to making a recommendation.

After receiving the recommendation, the Board would hold a public hearing and take testimony. They then would issue a proposed order to amend, modify or reject the recommendation. This order would become final unless a "substantially affected person" files a protest within 21 days. If the order is protested, a hearing with a hearing officer would be scheduled. The Board could establish interim rates until the hearing process is complete.

I would recommend adding a step to the process where staff presents its recommendations to the Utility Committee. They would also take testimony before issuing a recommendation to the full Board of County Commissioners.

This is very cool. The board will appoint its own hearing officer. Most recently, that has been their Utility Attorney, Brian Armstrong, who left out vital parts of the utility ordinance. Do you really think the affected person stands ~~half~~ any chance?

## Staff Assisted Rate Case

This is the same county staff that not only forgot about the ordinance, but didn't know half of it was missing.

We have faced a problem associated with small utilities. Small utilities often do not have the staff to prepare the MFR's and hiring the professional expertise to assemble the MFR's becomes cost prohibitive. Under a Staff Assisted Rate Case, the utility would have to waive the right to propose a new rate and any adjustments would be based upon staff recommendations.

With a Staff Assisted Rate Case, after the County determined the utility's eligibility, County staff would audit the utilities books and prepare any information needed. The staff

The staff is going to audit the books. Hmm. Will those be the same folks that audited the books in the Sheriff's Office?

would have to hold a noticed customer meeting to accept testimony and gather information on service quality. After gathering information, auditing the books and taking customer testimony, Staff would prepare a recommendation for the Board to consider.

After receiving the recommendation, the Board would hold a public hearing and take testimony. They then would issue a proposed order to amend, modify or reject the recommendation. This order would become final unless a "substantially affected person" files a protest within 21 days. If the order is protested, a hearing with a hearing officer would be scheduled. The Board could establish interim rates until the hearing process is complete.

I would recommend adding a step to the process where staff presents its recommendations to the Utility Committee. They would also take testimony before issuing a recommendation to the full Board of County Commissioners.

### **Staff Assisted Rate Case in Alternative Rate Setting**

This procedure is similar to a Staff Assisted Rate Case (SARC) except that staff would use an alternative method for calculating the rate. Section 367.0814(9) of the Florida Statutes allows for rates adjustments different from the standard reasonable rate of return if established by rule. Section 25-30.456 of the Florida Administrative Code addresses Staff assistance in alternative rate setting. The FPSC has recommended the Operating Ratio Methodology for small built out utilities where the Operations and Maintenance costs can exceed the rate base. In these situations the rate of return on capital would not yield enough revenue to cover the cost of running the utility. Both the FPSC and Citrus County have used this approach with ratios ranging from 8% to 10%.

### **Provisional Franchise**

In the County Code of Ordinances, Section 118-223. the Board of County Commissioners has the power to grant, amend deny, modify, revoke, suspend, transfer, or otherwise act related to a franchise of a utility. Under this authority, the Board could create a provisional franchise to address all of the privately owned, regulated utilities currently providing services without a valid franchise. Specifically, the provisional franchise could be granted to all such utilities in Columbia County allowing them to legally operate while they apply for a full franchise. They could be issued for six months with a chance to renew if they make progress toward a full franchise. As with a regular franchise, the utilities would need to comply with all reporting requirements and keep all fees current.

### **Fees**

The Columbia County Utilities Regulatory Ordinance establishes the Regulatory Assessment Fee at 4.5% of gross revenues. The Ordinance also allows for other fees. Under section 118-227 (g) the Board "may establish or amend application fees, or adopt such fees as set forth in the FPSC rules". Additionally the Ordinance lists miscellaneous fees. We have set the fees at the FPSC rates by default by taking no action to set rates. The Utility Committee should recommend that the Board of County Commissioners adopt the FPSC rates.

We have asked Kirby D Morgan for an application fee before their official date of filing can be set and used the FPSC rate schedule. If Espenship Investments, LLC or Consolidated Water Works wish to continue with their rate adjustment requests, they will need to pay an application fee.

You can see it coming. The county is bankrupting the taxpayers with taxes and fees, now they have the opportunity to go after the private utilities and their rate payers. Does anybody think that the Utility Owners are not going to pass on the fees to their customers?

These two pages of fees are directly from the State Administrative Code. If the private utility's were regulated by the PSC, the county wouldn't be involved with this. It is doubtful from looking at the fees that the county will be able to recoup their financial outlays based on this schedule, especially considering how much of your money they must already have invested.

## **25-30.020 Fees Required to be Paid by Water and Wastewater Utilities.** [Link](#)

(1) When a utility files any application for a certificate of authorization pursuant to Sections 367.045, 367.071 and 367.171, F.S., or files any request for a rate change pursuant to Sections 367.081, 367.0814 and 367.0822, F.S. (except an index or pass-through), or files for authorization to collect or change service availability charges pursuant to Section 367.101, F.S., the utility shall remit a fee to the Commission's Division of Administrative Services. A separate fee shall apply for water service and wastewater service. A separate fee shall also apply for each section listed above. For purposes of this rule, capacity is determined by combining the capacities of all systems included in the application. For purposes of this rule, an equivalent residential connection (ERC) is 350 gallons per day (gpd) for water service and 280 gallons per day (gpd) for wastewater service.

(2) The amount of the fee to be filed pursuant to subsection (1) of this rule shall be as follows:

(a) For an original certificate application filed pursuant to Section 367.045, F.S., the amount of the fee shall be as follows:

1. For utilities with the existing or proposed capacity to serve up to 500 ERCs, \$750;
2. For utilities with the existing or proposed capacity to serve from 501 to 2,000 ERCs, \$1,500;
3. For utilities with the existing or proposed capacity to serve from 2,001 to 4,000 ERCs, \$2,250;
4. For utilities with the existing or proposed capacity to serve more than 4,000 ERCs, \$3,000.

(b) For an application for extension or deletion of territory filed pursuant to Section 367.045, F.S., the amount of the fee shall be as follows:

1. For applications in which the area to be extended or deleted has the proposed capacity to serve up to 100 ERCs, \$100;
2. For applications in which the area to be extended or deleted has the proposed capacity to serve from 101 to 200 ERCs, \$200;
3. For applications in which the area to be extended or deleted has the proposed capacity to serve from 201 to 500 ERCs, \$500;
4. For applications in which the area to be extended or deleted has the proposed capacity to serve from 501 to 2,000 ERCs, \$1,000;
5. For applications in which the area to be extended or deleted has the proposed capacity to serve from 2,001 to 4,000 ERCs, \$1,750;
6. For applications in which the area to be extended or deleted has the proposed capacity to serve more than 4,000 ERCs, \$2,250.

(c) For an application for transfer or change in majority organizational control filed pursuant to Section 367.071, F.S., the amount of the fee shall be as follows:

1. For applications in which the utility to be transferred has the capacity to serve up to 500 ERCs, \$750;
2. For applications in which the utility to be transferred has the capacity to serve from 501 to 2,000 ERCs, \$1500;
3. For applications in which the utility to be transferred has the capacity to serve from 2,001 to 4,000 ERCs, \$2,250;
4. For applications in which the utility to be transferred has the capacity to serve more than 4,000 ERCs, \$3,000.

(d) For an application for a grandfather certificate filed pursuant to Section 367.171, F.S., the amount of the fee shall be as follows:

1. For applications in which the utility has the capacity to serve up to 100 ERCs, \$100;
2. For applications in which the utility has the capacity to serve from 101 to 200 ERCs, \$200;
3. For applications in which the utility has the capacity to serve from 201 to 500 ERCs, \$500;
4. For applications in which the utility has the capacity to serve from 501 to 2,000 ERCs, \$1,000;
5. For applications in which the utility has the capacity to serve from 2,001 to 4,000 ERCs, \$1,750;
6. For applications in which the utility has the capacity to serve more than 4,000 ERCs, \$2,250.

(e) For file and suspend rate cases filed pursuant to Section 367.081, F.S., the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 500 ERCs, \$1,000;
2. For utilities with the existing capacity to serve from 501 to 2,000 ERCs, \$2,000;
3. For utilities with the existing capacity to serve from 2,001 to 4,000 ERCs, \$3,500;
4. For utilities with the existing capacity to serve more than 4,000 ERCs, \$4,500.

(f) For staff-assisted rate cases filed pursuant to Section 367.0814, F.S., the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 100 ERCs, \$200;
2. For utilities with the existing capacity to serve from 101 to 200 ERCs, \$500;
3. For utilities with the existing capacity to serve more than 200 ERCs, \$1,000.

(g) For an application for a limited proceeding pursuant to Section 367.0822, F.S., the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 100 ERCs, \$100;
2. For utilities with the existing capacity to serve from 101 to 200 ERCs, \$200;
3. For utilities with the existing capacity to serve from 201 to 500 ERCs, \$500;
4. For utilities with the existing capacity to serve from 501 to 2,000 ERCs, \$1,000;
5. For utilities with the existing capacity to serve from 2,001 to 4,000 ERCs, \$1,750;
6. For utilities with the existing capacity to serve more than 4,000 ERCs, \$2,250.

(h) For an application for approval of charges or conditions for service availability filed pursuant to Section 367.101, F.S., the amount of the fee shall be as follows:

1. For utilities with existing and proposed capacity to serve up to 100 ERCs, \$100;
2. For utilities with existing and proposed capacity to serve from 101 to 200 ERCs, \$200;
3. For utilities with existing and proposed capacity to serve from 201 to 500 ERCs, \$500;
4. For utilities with existing and proposed capacity to serve from 501 to 2,000 ERCs, \$1,000;
5. For utilities with existing and proposed capacity to serve from 2,001 to 4,000 ERCs, \$1,750;
6. For utilities with existing and proposed capacity to serve more than 4,000 ERCs, \$2,250.

Specific Authority 350.127(2), 367.121(1) FS. Law Implemented 367.045(1)(d), (2)(e), 367.071(3), 367.081(5), 367.0814(2), 367.0822(2), 367.101(2), 367.145, 367.171(2)(b) FS. History—New 10-29-80, Formerly 25-10.11, 25-10.011, Amended 11-10-86, 11-30-93.