

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. UNDOCKETED

DISCUSSION OF WAYS TO INCREASE
EFFICIENCIES IN THE WATER AND
WASTEWATER INDUSTRY IN ORDER TO
HOLD AND/OR LOWER RATES.

PROCEEDINGS:

WORKSHOP

COMMISSIONERS
PARTICIPATING:

CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER JULIE I. BROWN

DATE:

Thursday, November 3, 2011

TIME:

Commenced at 1:03 p.m.
Concluded at 2:36 p.m.

PLACE:

Betty Easley Conference Center
Hearing Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY:

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FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

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CHAIRMAN GRAHAM: Good afternoon, everyone. We need to convene the water and wastewater industrial issues workshop. And let the record show it is Thursday, November the 3rd. It's about 1:00 in the afternoon. And if I can get somebody from Staff to read the notice.

MS. BENNETT: By notice duly given, this time and place has been set for a Commission workshop on water and wastewater industry issues.

CHAIRMAN GRAHAM: Thank you. I want to welcome everybody here. I was told that we had some legislators that were coming, but because of a last-minute meeting that was scheduled at 5:00 in Orlando, that some of them are going down there, or most of them are going down there and could not make it. I believe some of their aides may be here or on their way, but this is all going to be recorded, so this is good information that they can still tap into later on.

The main reason why this workshop -- is to see what we can do, some ideas we can come up with to kind of alleviate or ease up some of the financial strains that are on some of our small water and wastewater owners.

There was a lot of strain put on them when the

1 enactment of the Safe Water Act happened. A lot of you
2 know -- everybody hears the catchwords TMDL all the
3 time, and there's a lot of costs associated with that,
4 plus there's just some inefficiencies with some of the
5 smaller water and wastewater systems.

6 One of the things we need to be careful of
7 during this workshop is that we can't talk about
8 specific cases that are pending before the PSC. If
9 we -- if you want to talk about something, we're going
10 to talk about generics, we're not going to specifically
11 talk about one company or another company.

12 If we are going down the wrong path, either
13 our General Counsel, Curt Kiser, to the left or Lisa
14 Bennett over here to the right will let you know that we
15 need to restate the statement or restate the question to
16 make sure that we are not in violation of any
17 quasi-judicial matters.

18 During this workshop we're going to lay out
19 some possibilities of things that may help ease the
20 financial burdens on some of these private owned water
21 and wastewater systems, and we will not be open for any
22 public comment.

23 If you're a member of the public and would
24 like to give some comments, we have comment cards. You
25 can put those comments in on the written form and you

1 can give it to any one of the PSC Staff members, and
2 they'll make sure that it gets in to the Commission
3 Clerk.

4 The regulated utilities that are here, there
5 will be time towards the end that you can comment on
6 things that we've talked about, maybe even give some
7 ideas. Or if you need some clarification, we can get
8 into that as well. There will be time for legislators
9 that, that do show up or any of their aides to speak,
10 and there will be time for the Commissioners to speak.

11 As we go through this, if you have any
12 questions that, that can't wait, if you can just get my
13 attention, we'll address those questions at the time.

14 That all being said, unless I've missed
15 something, I believe our first presentation is with the
16 DEP.

17 **MR. HOLMDEN:** Good afternoon, Mr. Chairman,
18 Commissioners. I'm Bob Holmden. It's nice to be here
19 this afternoon to talk a little bit about the State
20 Revolving Fund Program. I don't know if any of you have
21 ever heard of the program before or had any dealings
22 with it. We think it's a pretty good program.

23 The SRF, basically we refer to it as the State
24 Revolving Fund Program. Basically within that framework
25 there are two distinct and separate programs. One is

1 called the Drinking Water SRF, which is governed by the
2 Safe Drinking Water Act, and then there's the Clean
3 Water SRF, which is governed by the Clean Water Act.

4 What are they? They're programs that
5 basically provide low interest loans for water and
6 wastewater facilities. The funds in the program
7 revolve -- we use state and federal appropriations, loan
8 repayments, investment earnings, and bond proceeds to
9 fund the program.

10 This is kind of a, kind of a sketch of the
11 overall program. Basically this program for the clean
12 water side started in 1989 with a federal capitalization
13 grant there on your lower left. Those funds for both
14 programs are -- have been continuing the capitalization
15 grants every year since that time frame. They're
16 matched by a 20% state match. So basically for every
17 \$5 the feds put in, the state puts in \$1.

18 Those go into the SRF program. And right
19 there in the center where you see those arrows
20 revolving, that's where all the work that we do -- we
21 receive the applications from sponsors, we review the
22 planning documents, get the permits, the plans, and
23 specs and all that kind of stuff, and finally we put
24 them on a priority list for funding.

25 Once they get that, then they -- we work out

1 an agreement where both parties sign the agreement.
2 Once they do that, then they can start construction.
3 And based on their invoice costs, they submit those
4 invoices to us, we make those disbursements, assuming
5 the project is all eligible. Okay?

6 The recipient gets those, gives the cash
7 generally to the contractor or the vendor. We usually
8 have payment within seven to ten days usually.

9 At the end of the construction period, about
10 six months after construction the sponsor begins
11 repayments. So those repayments then come back into the
12 fund and the process starts all over again.

13 Who and what is eligible? Basically the
14 projects and the activities are governed by the
15 different -- the Safe Drinking Water Act and the Clean
16 Water Act themselves. It's pretty open on the drinking
17 water side, but project sponsors owning community water
18 systems, non-profit non-community water systems,
19 non-profit non-transient non-community water systems.

20 It's a little more restrictive on the
21 wastewater side. Only local governments are eligible.
22 And when we say local governments, we're talking about
23 municipalities, counties, districts, authorities, or any
24 agency thereof.

25 Types of projects that are eligible, again,

1 pretty much wide open. The only thing that's not
2 eligible in the drinking water side would be something
3 like a reservoir or dam.

4 Wastewater covers the whole gamut from a
5 treatment facility, you know, reuse, stormwater, and it
6 gets into actually non-point source pollution control,
7 which this is the one exception to a local government.
8 An agricultural system could come in for some non-point
9 source pollution control fixes to fix some of their,
10 their problems, and so those are eligible, and we
11 actually have had two since the program started.
12 Estuary facilities are also eligible for assistance.

13 What are our goals? Pretty much what you
14 might think: Public health, water quality, looking at
15 alternative water supply. Basically we're trying to
16 assist communities that are most in need and those that
17 are, need correcting to non-compliance type issues.

18 Both the acts require that we assure
19 perpetuity of the fund; therefore, the loans have to be
20 repaid. The one drawback.

21 The loans are themselves subsidized. You can
22 see we've had various changes to the rules as we've gone
23 throughout the years. Currently the rate on one of our
24 loans is about 60%, 50 to 60% of the market rate, which
25 is indicated by that, that yellow line there. And the

1 purple line is basically the market rate as we see it
2 today.

3 So you can get -- this is, this is kind of
4 important. Most communities don't think about the loans
5 as being a subsidized loan. They just think of it as a
6 loan and they've got to repay it. But you're going to
7 get about a 15 to 20% break going through the programs.
8 So if you had an \$850,000 project at market rate, you
9 could do the same project, you could build a million
10 dollars at the same cost with our program.

11 Are there grant funds available? Yes, but
12 they're pretty limited. Some of the requirements are
13 that the sponsor has to have a medium household income
14 less than the statewide average, which based on the
15 latest census is about \$47,450. So that's pretty high.
16 Grants are awarded only for those components that have
17 public health issues. So, you know, if you come in for
18 a big project and only a small portion of it is public
19 health, that's the grant portion. The rest is going to
20 be loan.

21 Grants require a local share. These grants
22 are not 100% type grants. Generally they're either
23 65 or 85%, depending on the medium household income.
24 The grants also are dependent on federal funding. No
25 federal funding, no grants available. Basically the

1 reason for that is if we continue to do grants from the
2 program, the program wouldn't be around into perpetuity
3 because we'd continue to draw down the funds every year.

4 The Clean Water, this really doesn't apply to
5 sponsors that the PSC deals with. There is a grant
6 program for, for them as well. Our financing rate on
7 the clean water side is basically split into two parts.
8 We call that the, the grant allocation assessment rate
9 and the interest rate. That grant allocation assessment
10 goes to fund disadvantaged small communities. So the
11 requirement for those right now are less than
12 7,500 population, and a per capita, less than a per
13 capita income for the state.

14 How much money do we have available? Right
15 now on the drinking water side, about a \$100 million a
16 year. And based on the percentage of the cap grant from
17 the feds, about \$3 million in grants are available. So
18 you can see \$3 million doesn't go very far for most of
19 these projects because, you know, it seems like the
20 simplest water project is several million dollars.

21 What's the process for getting dollars? Let
22 me start off first by saying that anybody that has
23 applied to date has not been turned down. There are
24 some requirements that they have to meet. We ask that
25 they submit what we call a request for inclusion. That

1 request for inclusion is basically a form that tells us
2 a little bit about what they want to do, who they are,
3 and what it is they want to do. At that point we say,
4 yeah, it looks like your project is eligible or the
5 sponsor is eligible, and we ask them then to complete
6 the planning, design, and permitting for the project.
7 Once that's done, we actually take the project, we score
8 it, rank it, and put them on the priority list in
9 priority score order.

10 If there's, if there's not enough funds in a
11 given year, basically they're put on a contingency list.
12 At that point they would get funded the following year.
13 We adopt those projects through a hearing process.
14 After the hearing, we write an agreement to execute the
15 loan, and then funds are disbursed based on their
16 construction progress.

17 That's the quick and dirty of the SRF. I
18 don't know if you have specific questions.

19 **CHAIRMAN GRAHAM:** Mr. Holmden, number one, I
20 want to thank you for coming.

21 **MR. HOLMDEN:** Sure.

22 **CHAIRMAN GRAHAM:** And for giving your
23 presentation.

24 I have a couple of questions, just things that
25 popped up to me as you were going through your

1 presentation.

2 The first one was dealing with the program,
3 the loan program with the Clean Water Act. And it says
4 that the wastewater stuff is just for local governments.

5 **MR. HOLMDEN:** Yes.

6 **CHAIRMAN GRAHAM:** Is there any way of getting
7 that changed, or is that something that needs to be
8 changed on the federal level?

9 **MR. HOLMDEN:** Yes. Federal level. If you can
10 get the Clean Water Act changed, they've been -- the
11 Clean Water Act actually ran out of its authorization, I
12 think, in 1994. They've been trying ever since then to
13 reauthorize that with no success.

14 There has been a few instances where they've
15 put forward some, some bills, and there's a lot of
16 language that is taken up from the Safe Drinking Water
17 Act and put into the Clean Water Act. So a lot of those
18 is maybe the ability to fund privates, the ability to do
19 grants, those types of things have been proposed. But,
20 yes, that would be at the federal level.

21 **CHAIRMAN GRAHAM:** Okay. Another question I
22 had, the grants are awarded to projects that are of a
23 public health issue. Do these have to be -- when you
24 say public health issue, do they have to already be
25 under some sort of public health watch by the DEP or

1 some other agency, or can they just say clean water as a
2 whole in my opinion is a public health issue?

3 **MR. HOLMDEN:** Well, they have to show us that
4 they have a problem. They can't just say I have a
5 problem. So, you know, if they've got problems with
6 septic tanks, perhaps that maybe the nitrates and stuff
7 and phosphates are going into a water body. If they've
8 got documentation, lab results that, yes, they, you
9 know, the septic tanks are leaching into this water
10 body, that's sufficient. If they have a consent order
11 or something that's not in compliance, that's also
12 eligible. But, no, they can't just say, you know, I've
13 got a problem. They've got to show us, so.

14 **CHAIRMAN GRAHAM:** Okay. Any other questions?
15 Staff, do you have any questions?

16 **MR. WILLIS:** We might touch on the, on the
17 level of the award. I think the award right now is
18 right at, what, 75?

19 **MS. CHASE:** 75,000.

20 **MR. WILLIS:** 75,000. If -- or could it be
21 less?

22 **MR. HOLMDEN:** Oh, you're talking about the
23 minimum level?

24 **MR. WILLIS:** Yes, the minimum level.

25 **MR. HOLMDEN:** Well, we have that -- you know,

1 certainly we would entertain something lower, but we
2 really don't feel it's advantageous for somebody to come
3 in because they do have to do a planning document, so
4 they would have to hire perhaps an engineer to get them
5 through that process and do plans and specs and permits.

6 And depending on what, what it is they're
7 doing, if they're just simply replacing pumps or
8 rehabbing something, probably better for them to do it
9 on their own.

10 **MR. WILLIS:** One other question, Chairman, if
11 you wouldn't mind.

12 **CHAIRMAN GRAHAM:** Sure.

13 **MR. WILLIS:** A lot of our companies that we
14 regulate are very small companies, and some of those
15 companies have problems even paying the regulatory
16 assessment fee that they have to pay us for us to do our
17 regulation. And I know the fund requires a 2% payment
18 if they're looking at that. Would -- there is a fee
19 they have to pay, I believe.

20 **MR. HOLMDEN:** There's a service fee.

21 **MR. WILLIS:** A certain fee up-front. And they
22 have 12 months to pay that fee in to do it? Is there a
23 way that right now they could be structured to actually
24 put that fee in the loan itself?

25 **MR. HOLMDEN:** That's the way it is actually,

1 yes.

2 MR. WILLIS: Oh, it is in the loan?

3 MR. HOLMDEN: Yes.

4 MR. WILLIS: Okay. Well, that's better than I
5 thought it was. Thank you.

6 MR. HOLMDEN: Sure.

7 CHAIRMAN GRAHAM: One of the other questions I
8 have, we're going to talk about this later on, and I
9 know that you're under time constraints, so I don't know
10 if you're going to be here when we get to that point,
11 but one of the things that we'll talk about is ordering
12 of equipment. I know a lot of the municipalities order
13 a bulk of equipment. They get a bid to deal with that.

14 Is it possible, and I don't know if you can
15 answer this question and get back, because I know DEP or
16 the Water Management Districts order different
17 equipments and may even have a statewide bid. Is it
18 possible for some of these companies to, to join in on
19 that statewide bid as far as ordering pumps and
20 equipment off of whatever quotes that you guys have?

21 MR. HOLMDEN: Sure. Yes. That's possible.

22 CHAIRMAN GRAHAM: How do they, how do they go
23 about doing that?

24 MR. HOLMDEN: They would just -- you know, I
25 don't know exactly the process. But if we have an

1 approved vendor that has gone through the process and
2 that is a state-approved company, then they can order
3 something off that. They would order it, submit the
4 invoice to us, and we'd pay it.

5 **CHAIRMAN GRAHAM:** Now you -- go ahead.

6 **MS. CHASE:** I just have a clarification
7 question on that. Now we are talking about private
8 investor-owned utilities. They would --

9 **MR. HOLMDEN:** For drinking water. For
10 drinking water.

11 **MS. CHASE:** For drinking water.

12 **MR. HOLMDEN:** Right.

13 **MS. CHASE:** And they would be able to join in
14 on your state contract?

15 **MR. HOLMDEN:** I mean, there's, there's -- yes,
16 anybody can join in on the state contract, you know, and
17 take advantage of the pricing that we get.

18 Now there are limitations in terms of privates
19 in terms of eligibility. You have to have a minimum, I
20 think it's 25 connections and a maximum of 1,500
21 connections, things like that.

22 Any type of process, you know, if they want to
23 go through a process, you know. If they're, if they're
24 trying to buy generators, for instance, maybe that would
25 be something that would, they would want.

1 They would still, you know, the planning
2 process would be pretty simple. You know, hey, this is,
3 this is our needs and we don't need a whole lot more
4 than that, and we don't need plans and specs or permits
5 for generators and things like that. But they would
6 still have to go through a process of getting on our
7 list and being priority scored and get the funds that
8 way. We don't just, you know, award the funds based on
9 somebody coming in to us. It has to go through that
10 vetting process and priority list process.

11 But, you know, right now we've had two, two
12 hearings for this fiscal year. Probably planning on
13 another hearing in, maybe around February. So there are
14 opportunities -- generally more than one opportunity a
15 year to, to get funding.

16 **CHAIRMAN GRAHAM:** Okay. Sir, once again,
17 thank you very much for your presentation.

18 **MR. HOLMDEN:** You're welcome. Thank you.

19 **CHAIRMAN GRAHAM:** And next I believe we have
20 Mr. Williams.

21 **MR. WILLIAMS:** First of all, thanks for
22 inviting me. My name is Gary Williams. I'm actually
23 the Executive Director of the Florida Rural Water
24 Association. I don't have a PowerPoint presentation,
25 but there's a couple items in your binder. One of them

1 is actually an article about Florida Rural Water
2 Association that was recently in the DEP magazine. So
3 to get a little bit of information about Florida Rural
4 Water.

5 And then the second one is just information
6 that's captured on our membership brochure that talks a
7 little bit about our services in various groups of
8 services that we provide. So if you look over those and
9 have any questions, you know, I'm sure willing to answer
10 those.

11 You know, I was asked to give a little bit of
12 information on the Florida Rural Water Association: A
13 couple, a couple of things that are happening -- excuse
14 me -- related to regulatory reform nationally, and a
15 couple of other things related to our services.

16 So, anyway, the Florida Rural Water
17 Association is a non-profit trade association for water
18 and wastewater utilities of all sizes in the State of
19 Florida. We have about 1,600 members that would range
20 from small mobile home parks with maybe 15 connections,
21 25 connections, on up to the Jacksonville Electric
22 Authority and Miami-Dade's, the biggest systems. So we
23 have a wide variety of systems.

24 The association does the normal trade
25 association related activities, but the things that

1 you're probably most interested in would be the services
2 that we do provide directly to water and wastewater
3 utilities. We do a lot of on-site consulting,
4 troubleshooting, technical assistance at facilities at
5 no charge. And so we get out to not only our members,
6 but all of the systems in the state and help them with
7 issues they're having. We've got a staff of about 22
8 field people that cover different areas of the state in
9 different disciplines like drinking water, wastewater,
10 groundwater, engineering, that type of thing, and that's
11 kind of summarized in one of those brochures.

12 We also do a lot of training related to water
13 systems, helping keep their operators in compliance with
14 continuing education unit requirements and up to date on
15 things related to water and wastewater.

16 All of our services are available at no charge
17 to our members, and most of our services are at no
18 charge even to the non-members through programs
19 supported by federal and state funding. We get funding
20 from the Department of Environmental Protection, for
21 example, to help systems, you know, attain compliance,
22 stay in compliance with the Safe Drinking Water Act,
23 Clean Water Act. And so we do a lot of compliance
24 improvement, compliance assistance, you know, with
25 systems. If they have a problem, we go out and try to

1 figure out what the problem is and a solution to that
2 problem.

3 So we work, you know, with all of the
4 essentially rules and regulations. You know, if there's
5 things that private for-profit systems that are
6 regulated by the Public Service Commission need and they
7 ask us for help, we're going to help them in any way we
8 can in an effort to help you.

9 So we do do rate reviews for -- and associated
10 financial assistance efforts for cities, counties,
11 non-profits, and special districts. We will assist the
12 private for-profits prepare information, you know, to
13 submit to you for review for Staff-assisted rate
14 reviews, that type of thing. So we don't necessarily do
15 the financial reviews or the rate reviews for the
16 privates, but we do try to help them anticipate what
17 you're going to need for documentation or records and
18 try to help them secure that.

19 But for the, you know, municipalities, cities,
20 that type of thing, we actually do the rate reviews, we
21 actually do the recommendation related to rates. We
22 actually go to their Commission meetings and council
23 meetings, propose that, answer questions, that type of
24 thing. So we do get pretty involved in that type of
25 activity, and I just singled that one out because I know

1 that you're concerned about that related to the smaller,
2 you know, water and wastewater utilities.

3 Regulatory reform, let me cover that just for
4 a second. There's a number of things that are going on
5 nationally that will possibly help some of the small
6 water and wastewater systems. Right now there's an
7 effort to try to reduce the mailing cost for the
8 consumer confidence report. All public water systems
9 have to do a consumer confidence report to their
10 customers and mail it to them annually. And the
11 regulation was set up about ten years ago when mailing
12 was probably the preferred way of getting information to
13 people, but now, you know, there's opportunity to post
14 it on the internet, provide it by email. So there would
15 be ways to save people on the postal and the mailing
16 costs. And Congressman Young from Florida has
17 introduced that bill in the House. Nationally it's got
18 a bunch of co-sponsors, and the Senate also has a
19 companion bill. So we think that'll probably help save
20 some money going forward for some of these utilities.

21 There's similar efforts going on reducing
22 costs related to their public notice requirements. Lead
23 and copper, which is a burden on some of the small
24 wastewater -- small water utilities, there is actually
25 reviewing some of those burdens and trying to decide if

1 they can reduce some of that cost per system.

2 Another effort is right now in the Safe
3 Drinking Water Act, it says that the EPA will establish
4 25 new regulations every twenty -- every three years on
5 contaminants. That's being reviewed. It doesn't make
6 sense to just arbitrarily set a number. Those should be
7 based upon, you know, health needs and that type of
8 thing. So that's going on.

9 Simultaneous compliance, without getting too
10 much down into the details, what we've got happening now
11 for a lot of the smaller systems is that when a new
12 regulation comes along and they have to change
13 treatment, it's getting complicated enough that when
14 they change the treatment, it puts them in a problem
15 with another regulation. So simultaneously complying
16 with multiple regulations is getting very tough, and so
17 there's some discussions about that. How do we set
18 hierarchy so that we protect the most, you know, acute
19 risk without changing the, you know, treatment?

20 Another effort that's been going on has been
21 trying to get tax exempt financing status for all
22 utilities. You know, right now you've got
23 municipalities, counties, special districts, they are
24 able to do tax-exempt financing. The private
25 for-profits, the non-profits have to do taxable

1 financing. At this time with the rates being so low,
2 there's not a big margin, but over time, a lot of times
3 the taxable financing rate has been 2% higher than the
4 tax-exempt rate. And so we really need to probably say
5 water systems, wastewater systems are serving a public
6 purpose and that they should all benefit from that same
7 savings. So that's some legislation that's out there.
8 It almost passed last year; we're hoping it passes this
9 year. It actually got attached to an appropriations
10 bill that didn't go forward. So it had widespread
11 support, just got on the wrong vehicle. So we're hoping
12 that will happen going forward.

13 One of the ones I will mention -- those are
14 all good news things that I think are going to save
15 systems money. You mentioned it, Mr. Chairman, about
16 the TMDL stuff that's in the news, you know, the numeric
17 nutrient criteria stuff that's coming down.

18 Regardless of where -- whether the state has
19 control or the federal government has control, I think
20 we're looking at nutrient reduction for our wastewater
21 facilities, and so that's going to be a cost going
22 forward. We're really trying to get systems up to speed
23 to, you know, take advantage of the facilities they have
24 now, make some changes to do nutrient reduction. In
25 other words, I think it's inevitable. If we can do some

1 things now, we may be able to avoid some of the
2 regulation later. So there will be some cost associated
3 with that.

4 And I've already taken my ten minutes, but let
5 me mention one thing. I think it's great that you're
6 all looking at ways, you know, to help the smaller
7 private systems. They are struggling, of course,
8 because of economies of scale; they're probably
9 struggling more than some of the larger systems. But
10 all of the systems that we work with are having revenue
11 problems. You know, there's a vacancy out there, a
12 vacancy rate in all of the systems that's causing them
13 to have a reduced revenue, which puts a lot of pressure,
14 you know, on them to meet their ongoing expenses. So I
15 think it's great that you're looking at all different
16 options, you know, of how to meet that, and I'd be
17 willing to help in any way I can.

18 **CHAIRMAN GRAHAM:** Mr. Williams, I want to,
19 number one, thank you for coming and for speaking to us.
20 I have heard a lot about your, your company or your
21 non-profit, or however you want to refer to it as,
22 nothing but a lot of great things. And you said that
23 you have 1,600 members. That's impressive.

24 One of the things, just to let the rest of the
25 Commissioners know, if you don't know, if you're a

1 member of this organization, you can actually pay for
2 that membership in rate base. So it's, it's one of
3 those things -- because I think the, the agency has made
4 the determination that the work that you do is so
5 cost-effective that, you know, we want to encourage
6 people to be part of that because you're a very good
7 conduit out there. And the fact that you're also
8 subsidized by DEP also shows from the other side that
9 they think that the job that you're doing is, is very
10 worthwhile.

11 **MR. WILLIAMS:** Thank you.

12 **CHAIRMAN GRAHAM:** So encouraging more and more
13 of the smaller systems to be out there because you can
14 help them get through some of the things, get through
15 some of the bureaucracy that we all throw at them. So I
16 do appreciate you doing that.

17 You mentioned that you do get involved in some
18 rate cases, but most of the stuff that you do is on the,
19 the public side and not necessarily the private side.
20 It would be interesting to see -- Marshall is going down
21 the same line -- when we start getting packed up, maybe
22 getting you guys to do some of that stuff and just
23 bringing you in. And I don't know if we want to
24 privatize it or how you want to do it, but maybe that's
25 some conversations we'll have some other time.

1 Any other questions of Commissioners?

2 Commissioner Brown.

3 **COMMISSIONER BROWN:** Thank you. And thanks
4 for your presentation. Very interesting and I
5 appreciate your work.

6 **MR. WILLIAMS:** Thank you.

7 **COMMISSIONER BROWN:** Excuse me. You said that
8 you get funding from DEP. Is there any other resources
9 that you get funding from?

10 **MR. WILLIAMS:** Yes. We get funding from our
11 National Rural Water Association, who gets some funding
12 from the United States Department of Agriculture. We
13 also have membership funds, of course. Those are
14 probably the three main areas of funding.

15 **COMMISSIONER BROWN:** Okay. Thank you.

16 **CHAIRMAN GRAHAM:** Any other questions?

17 Well, Mr. Williams, I definitely want to thank
18 you for coming.

19 And, Staff, do you have any questions of
20 Mr. Williams?

21 **MR. WILLIS:** No, Chairman. But it did pique
22 my interest though that maybe we could get Florida Rural
23 Water more involved in some of the filings coming into
24 the Commission, especially these staff-assisted rate
25 cases. And Mr. Williams and I might have some

1 conversations on that later on where we might could use
2 their assistance, if they were more than willing.

3 **MR. WILLIAMS:** That would be fine. We want to
4 help you and we want to help the systems as much as
5 possible. And, like I say, what we've been doing is
6 kind of working on a basis when the system asks us for
7 help, we help them. But there might be a way to have
8 the communication directly and you could say, "I think
9 these people might need help. Why don't you go out and
10 ask them if you can help them." And we're sure willing
11 to do that.

12 **CHAIRMAN GRAHAM:** That's the first thing that
13 popped into my head was the staff-assisted rate cases.

14 **MR. WILLIS:** Well, they're the small ones.
15 And I was just thinking there might be a way that we
16 might be able to work out some beneficial information
17 where they could actually go out and help with
18 preparation of these filings and streamline the process
19 with the Commission by being the spearhead out there.
20 But that's some conversations that I can have with Gary
21 Williams later.

22 **CHAIRMAN GRAHAM:** I agree.

23 **MR. WILLIAMS:** Thank you.

24 **CHAIRMAN GRAHAM:** Well, thank you very much.
25 And hopefully you guys can stick with us, but we've got

1 some good stuff coming along. We're going to get into
2 more discussion on some of the opportunities that may be
3 out there.

4 And I want to be clear from my opening
5 comments, the main thing we're looking at right here is
6 we're looking at things that can lower the, lower the
7 rates, for lack of a better term, by helping some of
8 these smaller utilities, these private utilities,
9 helping their efficiencies may in the long-term turn
10 around to actually have some kind of impact on those
11 rates. So that's the key things we're looking for right
12 now.

13 You know, our number one focus is not to see
14 how fast you can get your rates paid and how much money
15 you can collect. Our idea right now is just focus on
16 what we can do to minimize that impact on that end user,
17 and that's what a lot of these things that we're getting
18 ready to get into should address.

19 And that being said, Ms. Chase.

20 **MS. CHASE:** Thank you, Chairman.

21 Hello, Commissioners. I'm JoAnn Chase with
22 Commission Staff, and I will be walking you through most
23 of Item 6.

24 So the first one, I think you heard the
25 presentation on the State Revolving Fund, both on water

1 and wastewater. And when Staff looked at this, and we
2 have, we did have a Staff workshop and we did discuss
3 this somewhat with the utilities that were present, we,
4 we learned that the money is available out there, that
5 our utilities, our small utilities could take advantage
6 of it, but they are not for the most part taking
7 advantage of that. So we started looking at the reasons
8 why not. And what we realized is in a lot of cases they
9 are not aware of the programs that are out there and how
10 they can apply to the DEP for that. So that's certainly
11 an issue.

12 Also, as Mr. Willis mentioned, we, we think
13 that the minimum amount of the loan, which is 75,000, is
14 probably high for a lot of our utilities who, who don't
15 really need that level of help but they do need some
16 assistance. So we're going to get into what solutions
17 are, but that is one of the, of the things that hold our
18 utilities back is that they really just don't, don't
19 need the minimum 75,000.

20 Also, which it has been corrected here, we, we
21 were under the impression that the 2% service fee is not
22 a part of the loan and that the utilities had to pay
23 that up-front. I think we heard today that they do roll
24 it into the loan itself. So that may not be an issue.

25 The other thing we heard from our utilities is

1 that they often need the money for emergency repairs.
2 And they just can't wait -- we learned in talking with
3 some of the DEP folks that it's usually about a
4 six-month process from application to getting the funds,
5 and that that may be just too long for a lot of our
6 utilities in order -- if they have an emergency repair,
7 they've got to correct it now, which means they'll have
8 to invest in the equipment now. And the way the loan
9 works is you have to get the money upfront. You -- they
10 do not reimburse you for something you've already done.
11 It's a loan for work to be done prospectively.

12 And then, of course, as you heard, the
13 wastewater side, our private utilities cannot apply for
14 that. They do not qualify. Whether that's a state
15 issue or a federal issue, it appears that it's a federal
16 issue, but the only way that that can be fixed, of
17 course, is on the federal level. So that's certainly a
18 road block.

19 But as far as the water loan program, some of
20 the solutions that, that we have come up with, and
21 really probably the biggest one is that the PSC Staff
22 needs to find a way to educate our utilities more about
23 the, the loan program being out there and how they can
24 qualify. We also need to -- the idea of the emergency
25 repairs, they're always going to happen, but we do need

1 to stress with our utilities the importance of
2 evaluating their system and planning for repairs rather
3 than waiting for emergencies. And if they do that, then
4 the six-month process is much, is something that maybe
5 they can work into. So that may take away some of the
6 roadblocks.

7 And in doing this, I think we have been
8 hearing from the Florida Rural Water Association and
9 even with the DEP staff that we went over and met with,
10 they are more than willing to talk to our, to any
11 applicant and to kind of work them through the process
12 and work with them and help them. So if they know that
13 and they, they have help in putting it together, we
14 might get more utilities actually responding.

15 We talked about the minimum threshold. We
16 talked about maybe reducing it to 15,000 or something
17 like that. That would require a statute change. And in
18 your packet, we have put in the *Florida Statutes* that
19 relate to both the water and the wastewater funding just
20 for your information. But right now it, by statute, is
21 75,000, so we're pretty much, pretty much stuck with
22 that.

23 On the wastewater loan program, again, we
24 believe this is probably a change in the federal
25 provision. We're not sure that it can be corrected just

1 with a state change. So I don't know if, if you have
2 any questions or any comments about that, but that's
3 kind of our take on the revolving fund.

4 **CHAIRMAN GRAHAM:** Commissioner Brisé.

5 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

6 And this question is not necessarily for
7 Staff, it's more for FRWA. What type of feedback have
8 you gotten from the small water utilities as they
9 interact with the revolving fund? Have you found that
10 if the threshold was not \$75,000, that it would be a lot
11 more useful to them?

12 **CHAIRMAN GRAHAM:** I think it's to you, Mr.
13 Williams.

14 **COMMISSIONER BRISÉ:** I'm asking you because
15 you work with them in a --

16 **MR. WILLIAMS:** Well, I think if it was less
17 than 75,000, more of them would probably consider it.
18 The question would be is, what Bob mentioned, is does it
19 make financial sense to go through the process and the
20 different fees you have to incur to ask for \$15,000?
21 That's probably the analysis that would need to be made
22 on a case-by-case basis.

23 Now I'm not sure, I'm not sure that's a bad
24 analysis, so I'm not sure it shouldn't be done. But, I
25 mean, that would be the thing, is there may be, when

1 they -- when you add on the 2% fee and their, you know,
2 engineering costs and permitting costs and other things,
3 those fees may be higher than 15,000.

4 **COMMISSIONER BRISÉ:** Okay.

5 **MR. WILLIAMS:** So I think it would open up --
6 I think it would probably open up more eyes of more
7 utilities to consider it, but they shouldn't -- they
8 should consider the cost also. Good question.

9 **COMMISSIONER BRISÉ:** A follow-up to that, to
10 that question. If there are, say, some standard things
11 that we would say they need new tanks, they need new
12 whatever other type of equipment that we're thinking of
13 that a company could need in an emergency type situation
14 where they're trying to get some funds that are specific
15 to, to deal with that situation, are there some things
16 that you can look at as being generic so, therefore, as
17 an association you can reduce on the costs that the
18 company is going to incur in preparing for that process
19 within the loan?

20 **MR. WILLIAMS:** Yes. You know, the idea of
21 essentially assessing the condition of your equipment
22 and trying to get it planned before it fails, the
23 problem with that is that's not always 100%. You know,
24 you could have something that would fail and you would
25 have assessed the condition to be good.

1 What we do related to rate reviews that we do
2 for cities and counties and that type of thing, we
3 really recommend that they get some kind of emergency
4 reserve. And we really come at it from a standpoint of
5 if they have a weather-related emergency, you know, they
6 can't wait for FEMA, for example, to provide them with
7 funds to restore service. So we try to tell them they
8 need some kind of reserve fund so they can restore
9 service and ask for reimbursement later. And we --
10 that's the easiest thing for them to understand. But
11 it's the same type of thing; you've assessed your
12 condition to be in good condition, but if you have
13 something major fail, like for a small system, the well,
14 you can't sit without water. So you need to have some
15 monies to repair that immediately and get back in
16 service. So, you know, you might be able to pay the
17 reserves back over time, but you need to have that money
18 available to do that.

19 Does that answer your question? I mean,
20 that's what we see mainly.

21 **COMMISSIONER BRISÉ:** Yeah. And maybe it can't
22 be done. What I'm thinking of is if you have four or
23 five companies that, that need about \$20,000 and they
24 all need the \$20,000 for this particular type of
25 equipment, you know, they're growing a little bit and

1 they need \$20,000, the \$75,000 threshold is, is way
2 above what they would need. What could we do -- when I
3 say we, as a community -- do to streamline the process
4 and tell that small company that cannot necessarily
5 afford that consultant and the engineering and so forth
6 and say, look, this is a cookie cutter approach? You do
7 this, you do step 1. Step 2, you can apply and you have
8 a 90% chance of getting the funds because your situation
9 is similar enough to the other four utilities that will
10 need the same thing. So rather than you going out and
11 spending the \$15,000, which would be equivalent to, to
12 part of that percentage, then we will reduce that cost
13 to maybe \$2,000 because we've done that work already,
14 because we've done it in the past. So, therefore, we
15 can take all that information from all the work that
16 we've done in the past and say, you know, just apply
17 some of the things that we've done in the past and
18 here's, here's a passthrough for that.

19 **MR. HOLMDEN:** Like I kind of alluded to
20 earlier, you know, it's not all projects take six
21 months. It depends really what, what it is. What is it
22 there they need? Like I said, if it's something like an
23 equipment, a generator, you know, we don't need, you
24 know, a 200-page planning document. We don't need plans
25 and specs. We need probably a permit from the district

1 that says, yes, you need to replace that, and
2 procurement can be done under emergency conditions as
3 well.

4 As far as reducing cost, part of the funding
5 that we give Gary is for some engineers. Well, those
6 engineers can and have produced even some of the
7 planning documents for those smaller communities. So
8 there is ways to reduce the cost.

9 We have -- part of the problem is, you know,
10 you're looking for money right away. Well, we generally
11 have one or two hearings and we give out all the money.
12 We don't keep monies in reserve. So, you know, if we
13 give all, all the money in July, well, there's no money
14 until the following year. And basically we've talked
15 about having some kind of an emergency type fund and how
16 we would work that. We could certainly look at that
17 possibility again.

18 She mentioned, JoAnn mentioned some of the
19 things that we're looking at to reduce costs to the
20 smaller utilities and any utility, for that matter, is,
21 is giving them -- you know, if they go out and do an
22 asset management plan, which we feel is critical to the
23 operation of any community, that they manage their
24 assets. Well, if they implement an asset management
25 plan, they get a break on their interest rate. If they

1 implement green technologies into their systems, they
2 get an interest rate break for those components. So we
3 are trying to, you know, steer them down the path of,
4 you know, operating their systems better, making it more
5 manageable, so.

6 **COMMISSIONER BRISÉ:** Thank you.

7 **CHAIRMAN GRAHAM:** Any other questions?

8 **MS. CHASE:** Mr. Chairman, could I ask a
9 question?

10 **CHAIRMAN GRAHAM:** Yes. Sure.

11 **MS. CHASE:** I'd like to ask Mr. Holmden, since
12 he is here, with, with the threshold being 75,000, is it
13 possible for more than one utility, you know, two or
14 more to group their needs together if they didn't have a
15 \$75,000 need and get a loan, you know, one loan, but it
16 would have to be qualified by two or more utilities?

17 **MR. HOLMDEN:** We'd have to take a look at it.
18 Most anything is feasible. We're open to most any kind
19 of ideas. I really wouldn't focus on so much the
20 75,000. I know it says that in the statute, but we
21 would be amenable to, you know, having some kind of a
22 waiver process to where that happened. But we just, you
23 know, we really don't see these -- and maybe it is
24 because of the 75,000, but we don't see a \$100,000
25 project either. We don't see generally anything less

1 than \$500,000. So we're open.

2 **MS. CHASE:** Thank you.

3 **CHAIRMAN GRAHAM:** Thank you.

4 Curt, Mr. Kiser.

5 **MR. KISER:** In playing off of what
6 Commissioner Brisé asked, have either of you thought
7 about setting up an emergency loan program where people,
8 where the different companies could come in before the
9 emergency hits and said we would like to sign up now?
10 What kind of documents would you need, what kind of
11 verification would you need so once we go through all
12 that, we don't go through that type of process when we
13 come in and say we have to have something now? So
14 they'd almost, like, be on a standby list. Kind of like
15 some people use their home equity loans, they get that
16 done ahead of time in case they ever need it, so if you
17 do need it, you're basically already in line for it and
18 it could be tapped into pretty quickly.

19 **MR. HOLMDEN:** We, we have done, and depending
20 on the timing of the hearings, we have actually put
21 people on the list in as little as, you know, a month.
22 So, you know, it's not really a timing issue. It's
23 really a money issue. Do we save the money out for
24 emergency when we have a public health risk that we need
25 to fund? Somebody's call, you know, so.

1 **CHAIRMAN GRAHAM:** Okay.

2 **MR. WILLIAMS:** To answer the question,
3 unfortunately we don't really have funds available for
4 an emergency loan program. But I will tell you that
5 we've developed a relationship with some banks and some
6 funders that we can take projects to them. And most of
7 the time they will fund them if we're able to explain it
8 to them.

9 The problem that local banks have, they really
10 don't understand water and wastewater systems. They
11 don't understand that they're a revenue producer, that
12 they collect rates and can pledge rates to meet a
13 financial obligation, that type of thing.

14 So we work really more on a statewide basis
15 with a group of folks that understand water utilities
16 and we try to take projects to them. Most of those we
17 can get through the process in 45 days. And we started
18 out doing that in support of the SRF and USDA loans and
19 grants, doing interim financing. So that's how we built
20 the credibility. Now we've said, hey, some of these
21 systems may not qualify for these programs, but they're
22 still good projects. You should look at them from a
23 banking standpoint or a financing standpoint. So we
24 have some opportunities to help people. I would never
25 want to make a guarantee based upon those institutions,

1 but typically we can help. Does that answer the
2 question somewhat? Thanks.

3 **CHAIRMAN GRAHAM:** Thank you very much.

4 JoAnn.

5 **MS. CHASE:** Okay. If there are no more
6 questions, we're going to go on to B, which is bulk
7 ordering of equipment, commodities, and services.

8 What we have learned on, in this area is that
9 particularly our small water and wastewater utilities
10 are not able to achieve economies of scale in
11 purchasing. They just don't purchase enough. And as a
12 result, they generally pay more for their purchases than
13 larger utilities that are able to buy in bulk.

14 And also we were hearing from our utilities
15 that the costs that they are paying for the, for their
16 goods and services has increased significantly in the
17 last five years. So that -- so the problem is only
18 getting worse.

19 A possible solution, and we have tried to look
20 at several on it, this is kind of a tough one, but a
21 possible solution is that the utilities could join in on
22 purchasing contracts with neighboring municipalities or
23 county governments. There was one utility at our
24 workshop that mentioned that they had done that on a
25 large piece of equipment and had some significant

1 savings.

2 We don't know how widespread this could be,
3 but it's certainly something that we believe our
4 utilities should be at least exploring, and that would
5 be part of our educational process with our utilities is
6 to kind of encourage this or, or help them do that.

7 Another means of achieving these economies of
8 scale is maybe a contracting or operating company that
9 many of our utilities deals with. If there are certain
10 types of equipment or products that they could buy in
11 bulk and, and for the utilities that they work for, and
12 perhaps they could get some savings that way.

13 We did try to look at the State of Florida
14 contracts, and we could not find anything where they
15 actually buy utility-specific items, so we don't know
16 how, how much of an opportunity this might be. And also
17 we were, in looking at the statutes, we think that
18 probably this would require changes to the *Florida*
19 *Statutes* in order to allow this type of thing to happen.

20 But, again, we're not even sure that they,
21 that they purchase this type of stuff on a regular
22 basis. But -- so it's kinds of a gray area for us right
23 now.

24 **CHAIRMAN GRAHAM:** Questions?

25 Bob.

1 **MR. HOLMDEN:** This question kind of goes back
2 with your previous one a little bit when you asked about
3 could they partner? I think the answer there is really
4 that they could, but somebody would still have to be on
5 the hook for the loan. Now they could have some kind of
6 agreement between themselves, you know, hey, we paid
7 20,000, you pay 30, you paid 25, or whatever, but
8 there's going to be, you know, one person that would be
9 responsible for making that payment. We could certainly
10 work that, that out.

11 **MS. CHASE:** Okay. That's good to know.

12 If we have no more questions, we're going to
13 go on to the interest rate on customer deposits, which
14 is our third one.

15 This one is really in the works of being
16 fixed, but what we learned is that currently we have a
17 rule, every industry has a rule that requires utilities
18 to pay interest on customer deposits, and currently that
19 is 6% per annum. That is being changed to 2%. There is
20 a draft rule which is in your packet, and that has --
21 it's really just been prepared, so it's early on. I
22 don't believe there's been a workshop or anything yet.
23 But, so that does appear to be getting fixed. And we
24 believe that this will help utilities who are not
25 collecting a deposit because they can't afford to pay

1 the 6% interest, or those that are even, it could have
2 an effect of lowering their -- since cost of capital is
3 one aspect -- customer deposit is one aspect of cost of
4 capital, it could lower those costs. But this one seems
5 to be being taken care of.

6 **CHAIRMAN GRAHAM:** I know this is something
7 that we're already looking at doing a rule on. Is it
8 possible to actually tie this to some sort of indicator
9 rather than just being straight 2%? So that way we
10 don't always have to change it whenever the market is
11 changing.

12 **MS. CHASE:** Well, my understanding is the
13 2% was chosen as the average commercial paper rate over
14 the last ten years, so it kind of has been a levelized
15 amount.

16 **CHAIRMAN GRAHAM:** Okay. Any other questions
17 of the interest rate?

18 Okay. Let's move on.

19 **MS. CHASE:** All right. The next are
20 acquisitions of existing systems by larger utilities.
21 In this situation, currently when a utility purchases an
22 existing utility with customers and with rates
23 generally, what we look at there on a Staff review and
24 for the Commission review is do they have, does the
25 purchaser have the financial and technical ability to

1 operate the system and is it otherwise in the public
2 interest? Public interest is a term that's used in the
3 statute regarding transfers of utilities, which is
4 included in your packet.

5 The rates of the system, at the time of
6 transfer, rates are not changed. It is -- we simply
7 look at this. But, of course, when it comes to the next
8 rate case, if the purchasing utility happens to have
9 uniform rates or banded rates of any kind, then the rate
10 issue comes to, comes into the forefront. And this is
11 particularly true if the utility being purchased is in
12 need of improvements and capital expenses.

13 So the issue is that at the time of the
14 transfer, we really don't know the rate impact on either
15 the customers that are being acquired or the customers
16 of the purchasing utility, their existing customers,
17 either group of customers. We're not really analyzing
18 that rate impact.

19 A way of changing this situation is that as
20 part of the public interest review in the transfer case,
21 Staff believes they could analyze this rate impact on
22 the existing customers of the purchasing utility and
23 that of the system being acquired. What that would
24 require at this point is a change in the rule, the
25 filing requirement rule for the transfer case because we

1 would start -- we would have to get additional data from
2 the applicants in order to make that determination.

3 What the Commission then would do with this
4 information, it would be one factor that you would
5 consider in the public interest. And, of course, you
6 would, you would have to weigh that with the other
7 factors, which are the financial and technical ability.
8 And a very important factor, which is what are the
9 alternatives for the system being purchased that would
10 also play into it? So how much weight you would give
11 that would depend on a case-by-case basis.

12 Another possible solution, if, if we didn't
13 want to go just changing the rule, is the statute itself
14 could be amended. Right now it does specify that before
15 the Commission can approve a transfer of a system, that
16 it must be in the public interest. The statute could be
17 changed to better define public interest or simply add
18 that as part or as one aspect of the determination of
19 public interest, the Commission must consider the rate
20 impact on the customers being acquired and on the
21 existing customers. So that is something we're looking
22 at as well.

23 **CHAIRMAN GRAHAM:** So in laymen's terms, if
24 there is a water and wastewater company out there that
25 operates a system that's pretty profitable and then they

1 want to go out and buy another system that is not
2 profitable, then we get to look at it and to make sure
3 that even though they buy that system that is not
4 profitable, it's not going to adversely affect the
5 profitable system. So then therefore one, one area
6 doesn't have to go back and subsidize the other area.

7 **MS. CHASE:** That's true, Mr. Chairman. I
8 think what you're going to find though is that there
9 will be some level of subsidization. It's how much is
10 going to be okay. And that's the determination you'd be
11 making at the time of transfer. You'd be able to see
12 the magnitude of whatever subsidy.

13 **CHAIRMAN GRAHAM:** We'll be looking at, we'll
14 be looking at that and deciding if it's, if it's a
15 palatable effect.

16 **MS. CHASE:** Exactly. That's correct.

17 **CHAIRMAN GRAHAM:** Okay. Any other questions
18 on that one before we move on?

19 Okay. Thank you.

20 **MS. CHASE:** Okay. And 6E, our reseller
21 utilities. And this situation -- reseller utilities
22 are, first of all, they're those that obtain the water
23 and wastewater service and they resell it to their end
24 users. And many of our, many reseller utilities are
25 exempt from Commission regulation because they collect

1 only the amount of the bill from the provider. If they
2 do collect only that amount and that's all they charge
3 their customers, then they are exempt, which means they
4 are not regulated by the Commission, they don't pay
5 RAFs, they don't have to do anything with us.

6 The separate charge that they do pay is
7 something encouraged by the water management districts
8 because it does encourage conservation and discourages
9 waste. If -- most of the time these are like apartment
10 complexes and condominiums and shopping centers, small
11 shopping centers. If you give them a price signal, they
12 will then better, be better stewards of the scarce
13 resource. So it is something that's encouraged.

14 But what we're finding is with this very
15 narrow provision they can only collect the amount of the
16 bill, they're not able to collect any kind of
17 administrative cost of metering, of reading those
18 meters, and billing and be exempt. If they want to
19 recover those costs, they have to be regulated by the
20 PSC and all of the things that goes along with that,
21 which is paying RAFs and filing annual reports. And we
22 have costs incurred in that too, of course, in
23 regulating them. And that's not really what the
24 Commission is set up to regulate, but that's the way the
25 statute works.

1 So we believe that a possible solution to this
2 is to expand the reseller exemption which is in our
3 statute to allow the recovery of certain types of costs,
4 certain minor costs such as the administration costs and
5 billing and meter reading. We believe that in doing so,
6 more apartments, condominiums, and so forth might elect
7 to separately charge for water because if they could
8 collect those costs and do it, then they, they would
9 have an incentive not to have it as part of their rent
10 or maintenance fee or whatever it is. And also some of
11 our very small utilities that we, that are under this
12 situation and are regulated because they feel like they
13 need to collect those costs could be exempt.

14 The State of Texas does this. They allow 9%
15 of the customer's bill, no more than 9% of the
16 customer's bill can be charged as a service charge for
17 the recovery of those types of costs. There's other
18 ways, of course, of being able to recover this, but
19 that's the only state we could find with something very
20 simple, straightforward.

21 We do want to mention though there's one
22 aspect of exempt resellers that, that you probably
23 should be aware of, and that is we don't regulate them,
24 so we get no information on them. But there are from
25 time to time customer complaints that we will get. They

1 will say, "We think we're being charged too much for
2 this." When we look at those complains, the statute
3 does not say how those costs are to be allocated, how
4 the bill that they get is to be allocated to the
5 customers. So we don't look at their allocation
6 methodology. We simply look at what was their bill and
7 what did they collect? That's really all that, that we
8 do at this point.

9 If we wanted to look at those complaints a
10 little bit more in-depth, that would, of course, require
11 additional Staff time. And the concern with that is
12 that they -- being exempt, they do not pay regulatory
13 assessment fees, so that Staff time is not covered and
14 it sort of becomes an unfunded situation.

15 So we just wanted to bring that to your
16 attention that if it were to go where we want to
17 actually look at the allocation methodology, which they
18 do in Texas, it's a very long statute that's attached,
19 but they actually look at that, that would require us
20 perhaps thinking about whether or not these resellers,
21 exempt resellers should pay some sort of a regulatory
22 assessment fee.

23 **CHAIRMAN GRAHAM:** If you had to guess, and I
24 guess this -- scratch that question. That's way too
25 arbitrary.

1 Texas, you said, is adding a simple flat 9%
2 to it all. And I guess that would encourage people that
3 need more than just the cost of the water to pay for the
4 incidentals and maybe some of the O&M costs. Would you
5 think that would have that much of effect, it'll get
6 people that are the borderline getting away from being
7 regulated, backing away from being regulated by the PSC
8 and just becoming a reseller?

9 **MS. DANIELS:** I really don't have a good
10 perspective on that. I know we probably get at least a
11 half a dozen complaints a year about a customer
12 inquiring about whether their reseller is charging the,
13 charging them the appropriate amount. We typically wind
14 up working with the reseller, helping them to figure out
15 if they are collecting more than they should be, you
16 know, how to get back with them to the ability to be
17 exempt.

18 The number, it'd be very hard to say because
19 all I can gauge it on is based on the complaints that we
20 get. And if you don't get complaints, it's just real
21 hard to tell what apartment complexes and so forth are
22 doing that.

23 **CHAIRMAN GRAHAM:** Okay.

24 **MS. DANIELS:** There are billing companies that
25 we work with on a regular basis when we pursue these

1 exemptions. We could potentially contact them and see
2 if they had any idea of what, what the volume is in the
3 counties that we regulate.

4 **CHAIRMAN GRAHAM:** Any questions on reselling?

5 Okay. Let's continue.

6 **MS. CHASE:** Okay. The next one is the
7 property tax incentive, and I believe Mr. Kiser is going
8 to take that.

9 **MR. KISER:** Thank you, Mr. Chairman.

10 I need to address one issue before I jump into
11 that. The other day Katherine Pennington and I met with
12 Representative Debbie Mayfield to talk about some issues
13 that she had on her mind. And she, too, was unable to
14 make the meeting this afternoon, but she did submit
15 something in writing and asked me to read this into the
16 record for today, and I'd like to do that at this time.
17 And then after that, I will jump into the property tax
18 issue, if that's okay, Mr. Chairman.

19 **CHAIRMAN GRAHAM:** Sure.

20 **MR. KISER:** Here's her statement.

21 "Florida Statute 180.02 allows a municipality,
22 at its own discretion, to extend water/sewer services
23 five miles beyond its corporate borders. The statute
24 provides that a municipality may not extend into the
25 corporate boundaries of another municipality, but does

1 not provide the same for unincorporated portions of a
2 county. This creates a situation where residents of an
3 unincorporated portion of a county are provided services
4 by a local government for which the residents have no
5 representation or recourse. While there may be certain
6 advantages to allowing a municipality to extend these
7 services outside its corporate boundaries, it should not
8 be able to do so unilaterally without the approval of
9 the county governing board that must answer to the
10 affected residents."

11 And I think she's had some experience with
12 that down in her district, and that's the issue that she
13 wanted me to raise and put in the record for today's
14 meeting.

15 **CHAIRMAN GRAHAM:** Okay. Thank you.

16 **MR. KISER:** Thank you. When we look at
17 possible areas that we can help assist these smaller
18 water and wastewater companies to deal with their costs
19 and expenses that, that must then work their way into
20 the rates, property taxes, I think, are one of the
21 factors, and in Florida our constitution is fairly
22 specific in several areas about what we can do with
23 property taxes. And listed there for you in the
24 notebook are three sections, all of it being in Article
25 VII, and in Sections 2, 3, and 4.

1 The first part, which is Section 2, speaks to
2 the constitutional requirement that the taxes must be on
3 a uniform rate. So technically, unless you have some
4 provision in the constitution that allows for a
5 different treatment, it all has to be uniform. And that
6 kind of becomes a stumbling point and that's why there
7 have been some constitutional amendments that have dealt
8 with certain areas where they want to, they want to
9 change that.

10 Section 3 deals with the various tax
11 exemptions, and it lists, in that section, areas where
12 you can have exemptions and treat it differently. They
13 don't all have to be uniform. And so it's very specific
14 as to what those exemptions are. And, likewise, one of
15 those exemptions is that if a county, usually I think
16 they have to pass it by referendum, if they put on
17 referendum and successfully pass it, they can grant a
18 different tax status. And how you handle the property
19 taxes for community economic development projects, you
20 can treat those differently either by giving a less
21 rate, withholding the taxes for a number of years before
22 they come in, or, likewise, blending it in over a period
23 of time until they get back to full taxation.

24 There's also a specific exemption for historic
25 preservation, and, again, this is only after the county

1 passes a referendum. And the theory behind that, of
2 course, is this is a major tax source for local
3 government is the property tax. And since that's their
4 tax base and usually it's the main driver of their
5 revenues is the property tax typically, they want to be
6 sure the counties are ready to, you know, grant that
7 type of special treatment. So those that have granted
8 historic preservation provisions can treat those
9 properties differently.

10 And also you have conservation easements. And
11 this was a recent one that was just passed a couple of
12 years ago where if you want to do conservation
13 easements, you can do that. And that, likewise, will
14 take property that is set aside for conservation, no
15 development, then they can be exempt from the property
16 tax. So those are the ones that the constitution
17 specifically deals with from that angle.

18 Section 4 has to do with the assessments and
19 how you handle the assessments. And again there are
20 some specific ones that have been outlined in the
21 constitution. That's Section 4. Agricultural land that
22 produces high water recharge, this was passed some time
23 ago when we were trying to protect our, our groundwater,
24 protect the aquifer, et cetera, and this was set up that
25 it could be assessed on a different basis if it's a

1 recharge area. Likewise, you have another section
2 dealing with conservation, conservation lands, and then
3 you have one for how you value livestock. That's
4 obviously tailored towards our agricultural community.
5 So there are some sections that specifically deal with
6 that.

7 We've also -- you've got a, a section in there
8 that deals with if you want to make improvements to your
9 home to help take care of a parent or a grandparent,
10 those sort of things, you can basically build a
11 mother-in-law apartment or separate facility and receive
12 different tax treatment for that.

13 Then there are some provisions that have been
14 put in the law that don't have the constitutional
15 protection, and so there's, I guess, some doubt as to
16 whether or not they would stand up to a court challenge.
17 I don't think they've been challenged. But so far under
18 *Florida Statute* 193.621, the assessment on pollution
19 control devices where, where the Legislature has
20 required certain equipment for power companies, various
21 industrial companies, that they must have certain
22 facilities to clean up their, their pollution, those can
23 be assessed at a different value than full value and
24 that's handled that way. And, likewise, under 193.623,
25 you can have a different assessment for renovations for

1 the accessibility of the handicapped.

2 So those are some of the ones that are
3 currently in the statute, and we would suggest that
4 that's an area that we can look at and suggest to the
5 Legislature that they may want to likewise review it.
6 And when improvements are necessary to expand or improve
7 a water or wastewater system, it would be helpful if
8 some different tax treatment so that when an owner of
9 the company wants to make those improvements or feels
10 like it's necessary, they know that automatically their
11 property taxes aren't going to just go up automatically
12 because they've made these improvements that really end
13 up benefiting the customer.

14 We've also got a separate statute that we came
15 across, and that has to do with the non-profit water and
16 sewer companies, that they likewise can be exempted from
17 the property taxes. But that's for non-profits and not
18 for the companies that are for profit.

19 So we think there -- this is an area where the
20 Legislature may very well want to take a look at helping
21 to hold the costs down. And there's any number of ways
22 it can be treated. It can be an outright exemption, you
23 know, forever or it can be an exemption for a certain
24 amount of time, maybe the first five years. Likewise,
25 you could provide that it's at a reduced rate and then

1 over a period of five or ten years you gradually put the
2 exemption back up to full value to where they eventually
3 do come back on the tax roll at full value. That's
4 obviously a legislative prerogative to make those kind
5 of decisions, but at least it's a subject area that I
6 think could help alleviate some of the expenses.

7 Because as we all know, these automatically go in as
8 proper company expenses that then get put in the rate
9 base and they have to be paid for and are used at the
10 time that the rates are set.

11 So that's an area where we suggest that there
12 can be help. And this is not a quick, obviously not a
13 quick fix. Some may be able to be done by statute, but
14 probably the best approach would be a constitutional
15 amendment. And there have been a number of those done,
16 as I've outlined, so it's not out of the realm of
17 possibility and we feel they should be considered.

18 **CHAIRMAN GRAHAM:** Thank you, Mr. Kiser.

19 I think, I actually think that's a good idea.
20 I've seen firsthand how this works with historic
21 preservation where somebody will come into a
22 neighborhood and sometimes it's an older, rundown
23 neighborhood, and they will buy, you know, an
24 undervalued home and put a hundred thousand dollars
25 worth of improvements into that home and not have to pay

1 property taxes on that extra hundred thousand dollars
2 for a period of maybe six years or ten years or whatever
3 the statute says. And, you know, you've seen that. You
4 know, that's real money to a lot of people and that
5 makes a difference, and especially when you're dealing
6 with tipping point things. That little bit, sometimes
7 that little bit helps.

8 Any questions on that? That's something --
9 that's, that's nothing at all that we can do over here.
10 That's something that our friends at the Capitol have to
11 handle.

12 **MR. KISER:** Right.

13 **CHAIRMAN GRAHAM:** Okay.

14 **MR. KISER:** Ready to go on?

15 **CHAIRMAN GRAHAM:** Yes.

16 **MR. KISER:** Okay. The next one, I'm going to
17 comment on it briefly, and then Katherine may have some
18 comments that she wants to make.

19 Whenever you're trying to deal with a problem
20 that's multifaceted like this one I think is what's
21 becoming apparent at what we've heard today so far is
22 that there's no one silver bullet in this whole area of
23 trying to bring some relief to the ratepayers who happen
24 to be customers in these small systems. It's a number
25 of things, each one having a small part to play. And

1 hopefully if enough of them can be put together in a
2 package, it might provide some significant relief.

3 And it's been my experience that one of the
4 best ways to get something done like that when you have
5 that kind of a problem is for a legislative study
6 commission. There have been study commissions by the
7 Legislature, there's been study commissions that the
8 Governor creates. But where you have a group that can,
9 where their mission is well-defined as to what you want
10 them to look at and where it's multifaceted to where
11 it's going to take doing a number of different things,
12 all kind of pointing towards the same goal, and you put
13 people on the commission that have a special expertise
14 or experience in that area and have the appropriate
15 staff to help, you know, give them the information and
16 work up drafts, et cetera, one of these study
17 commissions really works the best.

18 Florida has used these commissions quite a
19 bit. I know during my time I was probably on 12 or 13
20 of them; six or seven of them I chaired. In fact,
21 that's how I met, I really got to work with Katherine
22 the first time was she was an Executive Director of two
23 different study commissions that I chaired. And so
24 we're suggesting that, again, because a number of these
25 problems are all kind of attacking it from different

1 angles, that if we were to have such a commission that
2 were passed by the Legislature and funded, then we would
3 have a chance to have the whole package put together.
4 Now maybe it'll be that one or two of these items can
5 still pass legislatively, even, you know, next session,
6 but over the long-term to get a number of these things
7 done, probably a study commission that would really lay
8 a proper predicate and lay the groundwork. And also it
9 serves the other tool that the legislators that get
10 appointed to serve on this then end up becoming quite
11 immersed in these issues, become semi-experts
12 themselves. So when various questions come up at the
13 legislative committee level, et cetera, they can speak
14 out and say, well, we were on -- I was on the study
15 commission and this issue came up and we heard from
16 these people and this is why we put it in our
17 recommendation this way.

18 And study commissions can go for, you know,
19 one or two years typically and can look at a
20 well-balanced approach, and it certainly answers a lot
21 of the questions. Because, again, it's tough to get all
22 the background and all the information out to
23 legislative committees. They have precious little time
24 in front of a committee to deal with this, whereas a
25 study commission has, you know, a good share of time

1 they can devote to that and then they can present a
2 complete package when it comes time to -- if a bill, if
3 a bill is recommended out of that commission, you have
4 good groundwork and good information already laid out
5 that would help make passage and serious consideration
6 have much better odds of passing.

7 And so Katherine has prepared a, just a
8 generic study commission patterned after many we've had
9 in the past. And I would be the first to tell you that
10 most of this whole thing is just an idea. I mean, how
11 you do the membership, how many, whether it's 13 or 15
12 or 20, all of those are, you know, whatever they decide
13 they want to do. It'll be up to them anyway if they
14 decide they want to have one. And, likewise, how you
15 make it up, the makeup of it will be obviously up to
16 them in the final analysis. But this is just one stab
17 at how you might approach a study commission that would
18 have a chance of addressing a lot of these issues.

19 Katherine.

20 **MS. PENNINGTON:** Thank you. I don't really
21 have any, anything else to add, unless you have any
22 specific questions. The language relating to a study
23 commission bill generally contains information about
24 why, why there is a need for a study commission. In
25 this case, there are many facets to this issue,

1 complexity to this issue. You would, you would discuss
2 the makeup of the commission and who appoints each
3 member of the commission. You would talk about the, the
4 specific issues you want the commission to look at, but
5 you would want to give the commission some flexibility.
6 They might discover other issues along the way, so you
7 wouldn't want to tie their hands upfront. And you would
8 require a report by a certain period of time, and then
9 you would basically have an end date for the commission.
10 You really wouldn't want it to go in perpetuity. So for
11 those reasons this is just a placeholder that, you know,
12 if the Commission wanted to suggest this to the
13 Legislature or if some legislators individually wanted
14 to pick this up, this is really just a starting point.
15 We can answer any questions you might have, if you have
16 any.

17 **CHAIRMAN GRAHAM:** Commissioner Brisé.

18 **COMMISSIONER BRISÉ:** I don't have any
19 questions. I think it's actually a good idea. I found
20 that one of the most effective ways for the Legislature
21 to handle these topics, which are rather complicated,
22 that look at different interests from different parts of
23 the state, it's good to have a lot of stakeholders at
24 the table who can, through a process, think through it
25 as they work with other stakeholders that will be

1 affected by the decisions that, or by the work product
2 of the commission. So I think that the idea of the
3 commission is a very valuable tool that can be used to
4 address the broader issues of, of water and wastewater
5 in the State of Florida.

6 **CHAIRMAN GRAHAM:** Katherine and Curt, thank
7 you very much.

8 Before we get into remarks, just to point out,
9 you'll notice there's a bit of a theme here. Of all the
10 suggestions that we have down here, none of this stuff
11 is, is new money that we're talking about. Most of this
12 stuff is either reconfiguring things that we currently
13 have or readjusting laws that we currently have to try
14 to ease the burden of that utility, that water and
15 wastewater.

16 I know as we sat down, and I'll say this again
17 probably at the end, but Staff did a great job of
18 putting this program together, this package together. I
19 know when we sat down, all the fixes that we all had all
20 cost money. And knowing how tight the economy is right
21 now, how tight everything is, we knew the last thing we
22 wanted to do as we were making suggestions to the
23 Legislature is to not go to them and say you've got to
24 throw a bucket of money at this problem or a bucket of
25 money at this problem. We went to them with solutions

1 that weren't going to cost any money, but basically if
2 you changed this a little bit or if you changed that or
3 if you have this fund sitting aside, if you just allow
4 this group of people to access that fund, you can still
5 achieve the same goal. It's just you need to change
6 the, the qualifications for who has access to it and who
7 doesn't have access to it. And so for the most part
8 that was the theme of this workshop is, you know, these
9 are fixes that we can do now and not be more of a burden
10 on the taxpayer.

11 And that being said, I didn't know if, J. R.,
12 I didn't know if you or Public Counsel had any comments
13 or concerns or questions about the workshop, or if any
14 of the legislators or anybody from over at the big house
15 had any questions or concerns or statements.

16 **MS. PENNINGTON:** Mr. Chairman?

17 **CHAIRMAN GRAHAM:** Yes.

18 **MS. PENNINGTON:** If I could, I would like to
19 introduce our guests. We did have some come in.

20 **CHAIRMAN GRAHAM:** Sure. Please. Please.

21 **MS. PENNINGTON:** Thank you. We had staff from
22 the House Energy and Utilities Subcommittee, our Policy
23 Chief, Lucretia Shaw Collins, and the Staff Attorney,
24 Cochran Keating. Kim Cramer is from the Governor's
25 Office of Policy and Budget, the Environmental

1 Protection Unit. And Luke Givens is Representative
2 Scott, Representative Scott Plakon's legislative aide,
3 and he is the Chairman of the House Energy and Utility
4 Subcommittee. So I hope they've heard some good stuff
5 here today and can take that back.

6 **CHAIRMAN GRAHAM:** I do thank you all for
7 coming and for sitting through this process. Like I
8 said, this is -- I thought this was a good package that
9 the Staff put together, and it's a good starting point
10 for a lot of things. And it's good that -- Curt's idea
11 of the legislative study, the last time we brought it
12 up, because this kind of helps that study get started if
13 you guys choose to go down that path. But it's also --
14 there's some low-hanging fruit in there if you want to
15 kind of pick and choose some of the things to address.

16 Also, I didn't know if there was any of the
17 regulated utilities out there that wanted to come to the
18 podium, have any questions or statements or concerns.
19 The podium is over here to the right, my right.

20 **MR. WILLIAMS:** Good afternoon, Commissioners.
21 My name is John Williams. I am Director of Governmental
22 Affairs for Utilities, Inc. We own several regulated
23 investor-owned companies that are regulated by the
24 Florida PSC in some of the counties.

25 I just wanted to say that we appreciate you

1 and your Staff taking these issues up. They are very
2 important to us, and we do appreciate the time and the
3 quality of work your Staff is doing.

4 I just wanted to say briefly that we support a
5 infrastructure type surcharge such as a DISK in other
6 states, it's been effective in other states, and I know
7 that this would require legislation, but it ought to be
8 on your radar screen.

9 I believe also that the passthrough mechanisms
10 that exist in current statutes for water and wastewater
11 could be expanded. Again, this would probably take
12 legislation, but some areas of that expansion came up at
13 the previous workshop and we would support that.

14 And one, one of the things I just wanted to
15 say is Florida does have most of the regulatory best
16 practices that help in regulation. In other words, if
17 you compare Florida's approach to other states, almost
18 everything that's on NARUC's best practices list is in
19 place in Florida, with the exception of the DISK. So
20 most of the real good mechanisms are here. They're
21 already in place in Florida.

22 One of the things is you also have a limited
23 proceeding rate adjustment, but there is no time limit
24 on that. And we've taken advantage of it, but we don't
25 like the thought that it could, you could file one and

1 it could be here in the House for a year or more before
2 having any action taken on it.

3 So, again, thank you very much for taking this
4 up. We really do appreciate it.

5 **CHAIRMAN GRAHAM:** Thank you, sir.

6 **MR. RENDELL:** Good afternoon, Commissioners.
7 My name is Troy Rendell. I'm the Rates Manager, Aqua
8 Utilities Florida.

9 Aqua Utilities Florida is very appreciative of
10 the efforts the Commission has made in creating an open
11 dialogue on the issues facing the water and wastewater
12 industry throughout the state. We believe that
13 conversation, coordination, and full understanding of
14 all the issues from an environmental compliance
15 perspective, the customers' perspective, and the
16 company's perspective is vitally important to tackling
17 the issues confronting all of us dedicated to providing
18 safe and efficient service.

19 Due to the pending rate case before the
20 Commission, the company will refrain from making any
21 specific presentations or formal comments at this time.
22 We are hopeful that this dialogue will continue and is a
23 step in the right direction. For now I'll simply note
24 that we intend to submit post-workshop filings of
25 several informational documents that have been published

1 by various groups and government agencies throughout the
2 United States. I do have a handout listing those
3 publications which I'll leave with Staff. And I thank
4 you for your consideration.

5 **CHAIRMAN GRAHAM:** Thank you. I appreciate it.

6 Ms. Merchant, you looked like you perked up.
7 No? I thought maybe you changed your mind, you wanted
8 to speak.

9 Okay. Commissioners, any parting comments?
10 Anything you want to say? Okay. Oh, Commissioner
11 Edgar, sorry.

12 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
13 Just briefly I'd like to echo the comments that you made
14 earlier, and thank our two first presenters.

15 In my previous professional lifetime working
16 on environmental policy issues and OPB and at the
17 Department of Environmental Protection, I can say that
18 for years and years the work that the Florida Rural
19 Water Association has done, what we used to call the
20 circuit riders, to help primarily the smaller utilities
21 but all of the water delivery utilities in the state is
22 really excellent and is well-respected, a quality
23 service that gives a great bang for the buck for the
24 cost that is put into it.

25 And also at my second favorite state agency,

1 the Department of Environmental Protection, the SRF fund
2 as well is a program that has worked very, very well for
3 the people of the State of Florida for many, many years.
4 And I can say, as you heard today, but I can personally
5 attest to the quality work of the staff over there
6 trying to make the process easy and accessible for those
7 entities that can benefit from it.

8 Commissioner Brisé may remember this as well,
9 but some years back when the economy was a little
10 different and this state was putting a lot of money into
11 water projects across the state, one of the things that
12 we learned is that the rate of completion of a project
13 was actually far superior for those that received the
14 low interest loans than for those that received the
15 grants. So just kind of an interesting policy finding
16 that we had back at that time.

17 Mr. Chairman, thank you to you for working
18 with our Staff to kind of spearhead this effort to bring
19 these ideas together. I know that my goal, and I
20 believe our goal as an agency, is to do all that we can
21 so that all of the utilities in Florida operate
22 efficiently and effectively to deliver an excellent
23 product at a fair and affordable price. And anything
24 that we can do to bring people together to help talk
25 about mitigating rate impact is a really positive thing.

1 So thank you for your work.

2 **CHAIRMAN GRAHAM:** Thank you.

3 Well, once again, Gary and Bob, I want to
4 thank you guys for coming. I do appreciate you giving
5 up your time in your day to be here. Staff, both
6 Marshall's staff and Curt's staff, you guys have worked
7 long and hard on this project and I do appreciate it,
8 and for dragging it all together and for presenting it
9 so well. I think even the people that weren't here that
10 look back over the stuff can see the things we're
11 talking about and have a good starting point if they
12 want to leap off and try to attack this, this project or
13 this problem that we have -- this opportunity that we
14 have. Sorry.

15 Commissioners, I want to thank you. I know --
16 and the reason why we call these workshops, because
17 legally we can't sit down with, you know, some of the
18 stakeholders and have these conversations, so we have to
19 do it in the fashion of a workshop and bring everybody
20 to the table. But I do thank you for giving of your
21 time. I know there's a lot of other things that we need
22 to be doing right now, but this, I think, is also very
23 important and I'm glad that you guys were here as well.

24 And from over at the big house in the Capitol,
25 once again I want to thank you guys for being here and

1 for being able to bring this message back over. And
2 when these questions and concerns come up, you have,
3 like I said, a launching pad to get things started with.

4 And that all being said, if there's nothing
5 else to be added. If there's anybody out there that I
6 didn't call that wants to come to the mike and speak for
7 about three to five minutes, I will allow it. Anybody?
8 Seeing none, we're adjourned.

9 (Proceeding adjourned at approximately 2:36
10 p.m.)

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STATE OF FLORIDA)
): CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 10th day of November, 2011.



LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734

COMMISSION WORKSHOP*
Water and Wastewater Industry Issues

Betty Easley Conference Center – Room 148
Thursday, November 3, 2011
1:00 – 3:00 P.M.

1. Convene the Workshop
2. Staff to Read the Notice
3. Chairman's Remarks
4. Presentation by Department of Environmental Protection (DEP) on the State Revolving Fund (SRF) Program
5. Presentation by Gary Williams, Executive Director, Florida Rural Water Association
6. Discussion of Challenges and Solutions to Increase Efficiencies in the Industry in Order to Maintain or Lower Rates or Mitigate Rate Increases
 - (a) State Revolving Fund (Water and Wastewater)
 - (b) Bulk Ordering of Equipment, Commodities and Services
 - (c) Interest Rate Paid on Customer Deposits
 - (d) Acquisition of Existing System by Larger Utility
 - (e) Reseller Utilities
 - (f) Property Tax Incentive
 - (g) Legislative Study Commission
7. Remarks by Office of Public Counsel and/or Representatives of Regulated Utilities on Discussion Items
8. Concluding Remarks of Commissioners
9. Adjourn the Workshop

* This workshop is limited to a discussion of the listed agenda items only. Because of time constraints, and the limitations on discussion of pending docketed items, public comment will not be permitted but written comments will be accepted at the Clerk's office in Docket No. 110000-OT.

Parties/Staff
event date 11/3/11 Handout
Docket No. Undocketed

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

NOTICE OF COMMISSION WORKSHOP

TO

ALL WATER AND WASTEWATER UTILITIES

AND

ALL OTHER INTERESTED PERSONS

UNDOCKETED – COMMISSION WORKSHOP ON WATER
AND WASTEWATER INDUSTRY ISSUES

ISSUED: October 11, 2011

NOTICE is hereby given that the Florida Public Service Commission will conduct a workshop on the above-referenced docket at the following time and place:

Thursday, November 3, 2011, at 1:00 p.m.
Room 148, Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida

PURPOSE AND PROCEDURE

The purpose of this workshop is to discuss ways to increase efficiencies in the water and wastewater industry in order to hold and/or lower rates.

If you wish to comment but cannot attend the workshop, please file your comments with the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, on or before October 28, 2011, specifically referencing Undocketed – Staff Workshop on Water and Wastewater Industry Issues.

An agenda for this workshop will be sent by separate mailing. Additional copies may be obtained by writing to the Office of Commission Clerk, Gerald L. Gunter Building, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

DOCUMENT NUMBER-DATE

07437 OCT 11 =

FPSC-COMMISSION CLERK

NOTICE OF STAFF WORKSHOP
UNDOCKETED – 110000-OT
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In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate at this proceeding should contact the Office of Commission Clerk no later than five days prior to the conference at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, via 1-800-955-8770 (Voice) or 1-800-955-8771 (TDD), Florida Relay Service.

One or more of the Commissioners of the Florida Public Service Commission may attend and participate in the workshop.

VISUAL AIDS

Workshop participants who plan to use visual aids during the course of their presentation, such as PowerPoint, must provide an electronic copy and 21 hard copies of the presentation, at least three days prior to the workshop, to JoAnn Chase, who may be contacted at (850) 413-6978 or jchase@psc.state.fl.us.

JURISDICTION

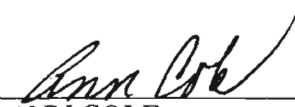
Jurisdiction is vested in this Commission pursuant to Chapter 367, Florida Statutes. The workshop will be governed by the provisions of that Chapter and Chapters 25-30, 25-22 and 28-106, Florida Administrative Code.

EMERGENCY CANCELLATION OF WORKSHOP

If a named storm or other disaster requires cancellation of the workshop, Commission staff will attempt to give timely direct notice to the parties. Notice of cancellation of the hearing will also be provided on the Commission's website (<http://www.psc.state.fl.us/>) under the Hot Topics link found on the home page. Cancellation can also be confirmed by calling the Office of the General Counsel at 850-413-6199.

NOTICE OF STAFF WORKSHOP
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By DIRECTION of the Florida Public Service Commission this 11th day of October,
2011.



ANN COLE
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399
(850) 413-6770
www.floridapsc.com

LCB

State Revolving Fund Program

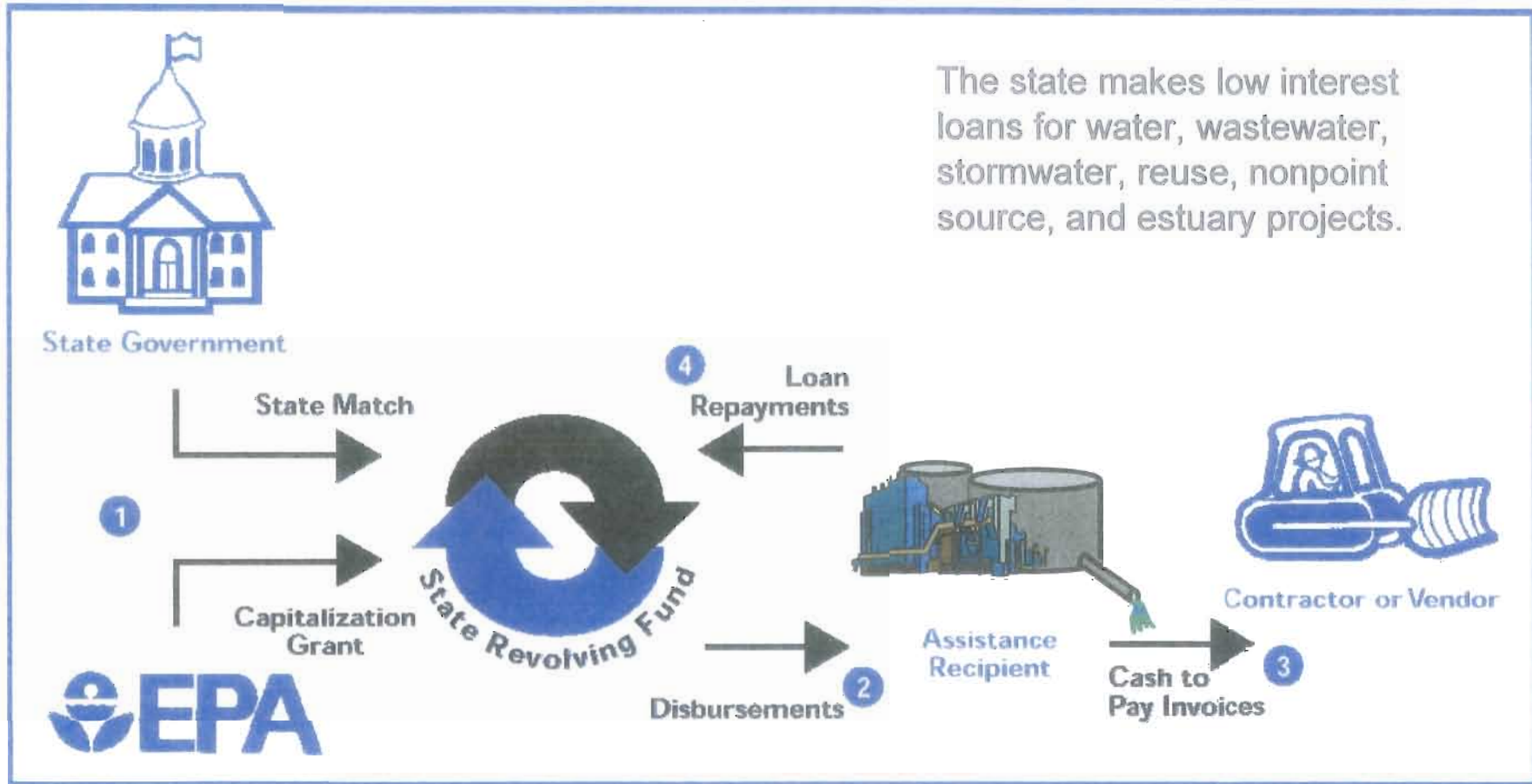


Bob Holmden, P.E., Bureau Chief
Bureau of Water Facilities Funding
Department of Environmental Protection

What are the State Revolving Fund Programs?

- Two programs
 - Drinking Water SRF
 - Clean Water SRF
- They are programs that:
 - Provides low interest loans for water and wastewater facilities.
 - Revolves using state and federal appropriations, loan repayments, investment earnings, and bond proceeds.

The SRF Functions As An Infrastructure Bank



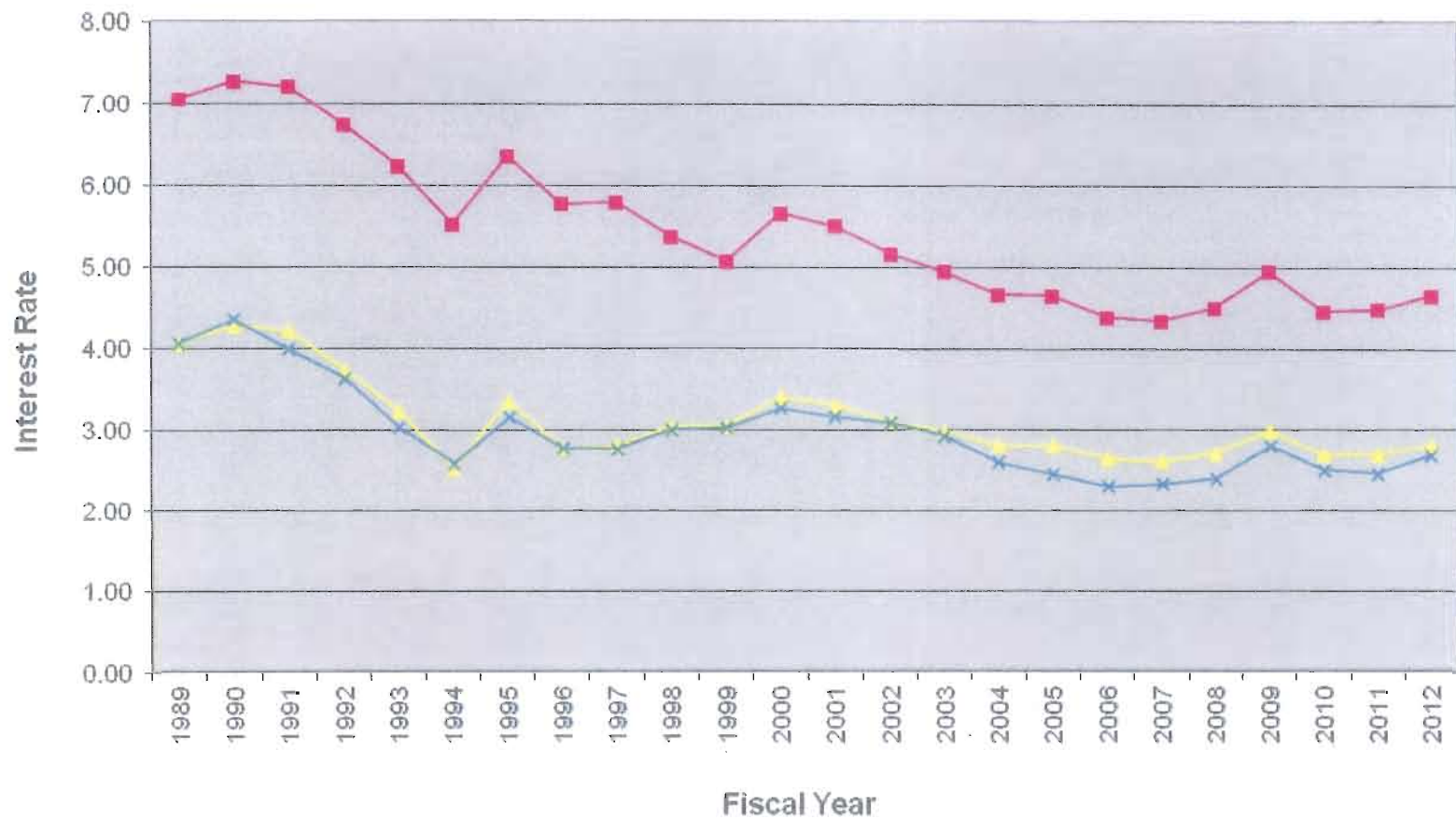
Who and What is eligible?

- Only those projects and activities that are authorized IAW the Safe Drinking Water Act and the Clean Water Act.
 - Who is eligible?
 - DW - Only project sponsors owning community water systems, non-profit non-community water systems, and non-profit non-transient non-community water systems.
 - WW – Local governments
 - What type of projects are eligible?
 - Drinking Water Facilities
 - Wastewater, Reuse, Stormwater, Non-point Source Pollution Control, and Estuary Facilities

Program Goals

- Protect public health, water quality, and promote alternative water supply.
- Assist local communities in correcting non-compliance.
- Facilitate small community projects that might not otherwise be built.
- Assure perpetuity of the funds.

Comparison of Market Rate versus SRF Rate



—■— Avg Bond Rate —◆— Avg Loan Rate —×— Avg Actual Rate

Are there Grant Funds Available?

Yes, but they are limited!

- DW
 - MHI less than the State MHI
 - Grants are awarded only for projects which have a public health issue and only apply to that component.
 - Grants require a local share and ability to repay.
 - Dependent on Federal Funding. No Federal Funding, no grants.
- CW
 - Doesn't apply to sponsors the PSC deals with.

How Much Money is Available?

- DWSRF
 - \$100 million
 - \$3 million in grant (only if there is a Federal Capitalization Grant)

What is Process for Getting the \$?

- Project sponsor submits a Request for Inclusion.
- Sponsor completes planning, design and permitting requirements.
- Projects are scored and ranked on a priority list.
- DEP has hearing to adopt the priority list.
- DEP/sponsor agreement is executed.
- Funds are disbursed based on invoiced costs.

Questions?

Contact Information

Robert Holmden, P.E., Bureau Chief
Bureau of Water Facilities Funding, MS3505
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Phone: (850) 245-8358

Fax: (850) 245-8410

Email: robert.holmden@dep.state.fl.us

Bureau Website:

SRF Program Funding

(millions \$)

	<u>CWSRF</u>	<u>DWSRF</u>
◦ Funds invested in program		
– Federal Grants	\$1,159	\$446
– State Match	\$208	\$75
• Other Funds		
– Bond Proceeds	\$609	N/A
– Loan Repayments	\$1,399	\$169
– Investment Earnings	<u>\$144</u>	<u>\$12</u>
Total Funds	\$3,519	\$702



2970 Wellington Circle W.
Tallahassee, FL 32309
Phone: 850-668-2746
Fax: 850-893-4581
Website: www.frwa.net

Spotlight

Florida Rural Water Association

About Florida Rural Water Association

Florida Rural Water Association (FRWA) is a service organization dedicated to assisting water and wastewater systems provide Floridians with an ample affordable supply of high quality water, while protecting natural systems. FRWA is a non-profit, non-regulatory association of water and wastewater systems. Its primary purpose is to support systems with every phase of water and wastewater operations.



Gary Williams, C.A.E.
Executive Director

FRWA was formed in 1979 for the benefit of smaller water and wastewater systems throughout Florida and *now serves systems of all sizes*. FRWA is the only organization of its kind in Florida. The association's 1,300 active members include public water and wastewater systems, such as municipalities, counties, associations, districts, mobile home parks, schools, industry, etc. The FRWA board of directors is elected by the membership at the annual summer conference.

FRWA Membership Information: Water and wastewater systems can become members by paying dues, typically *around \$125 per year*. Those providing services to water / wastewater systems can become associate members. We also have categories for individual and agricultural members.

FRWA membership represents over 3.6 million water and wastewater connections and 9.0 million population served!

Membership Services: Being a FRWA member has many advantages and benefits, these include:

- 💧 On-site technical assistance at no charge
- 💧 Operator training
- 💧 CEU training discounts
- 💧 Training sessions & manuals
- 💧 Operator certification materials and review sessions
- 💧 Distribution operator certification training
- 💧 Wellhead protection plans & development
- 💧 Rate studies & impact fees
- 💧 Regulatory updates & assistance (Focus-On-Change)
- 💧 Utility board & management training
- 💧 Emergency response & planning (FlaWARN)
- 💧 Engineering support, permitting & assistance
- 💧 Promotion of funding for projects (loans & grants)
- 💧 FRWA annual conference
- 💧 Voting privileges at annual membership meeting
- 💧 Resource library
- 💧 800 telephone number
- 💧 Member of the National Rural Water Association
- 💧 NRWA magazine
- 💧 Quarterly newsletter
- 💧 Insurance information
- 💧 Access to FRWA equipment



Sterling Carroll



Lauren Walker-Coleman



Justin Strickland



Robert McVay



Ben Lewis

Technical Assistance Contacts: On site, face-to-face technical assistance is provided annually to over 7,750 contacts representing more than 10,000 technical hours and 618,000 miles driven. More than 1,700 systems are assisted annually and the average time spent per contact is 1.31 hours. On site technical assistance is the bedrock upon which the association was built and reason for its continuing success. Competent, talented, dedicated and experienced field staff provides daily on site assistance to utilities. Over the years, the water and wastewater industry has come to expect and depend on FRWA's support in all areas of utility operation - technical, managerial, and financial capacity. The association promotes, encourages, and enables quality assistance through hiring retaining, and empowering its staff to focus on system needs. The Board of Directors shows their support of quality technical assistance through work force development, technical education, and purchase of technical assistance equipment (operational, testing and diagnostic tools) - a huge investment exceeding \$1.5 million.

FRWA Personnel: FRWA currently employs more than 30 personnel to serve Florida's water and wastewater systems. The map below shows employee locations throughout Florida. To contact any of these individuals please see <http://www.frwa.net/staff/EMPLOYEE%20LINKS.htm>.

Board of Directors. FRWA's seven Board of Directors set FRWA's mission and strategy. The board consists of: Michael McKinney (Perry), Robert Munro (Orlando), William G. Grubbs (Quincy), Paul Brayton (Harbour Heights), Scott Kelly (Jacksonville), Bruce Morrison (Destin), and Darrell Polk (Boca Grande).

Executive Director. Gary Williams, C.A.E., FRWA's Executive Director for 22-years, provides day-to-day direction, leadership, and management for serving Florida's water and wastewater systems, and furthering FRWA's mission.

Administrative and Financial Personnel. Supporting FRWA's mission are essential staff:

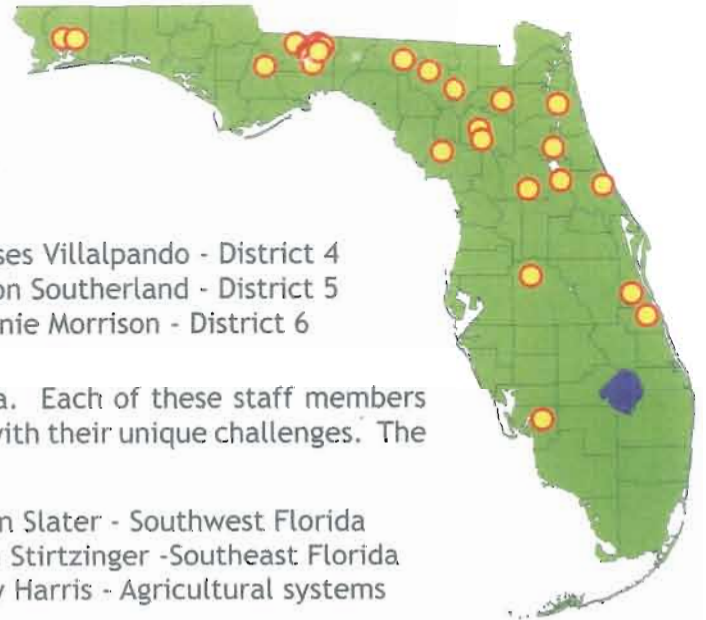
- 💧 Becky Cutshaw - Administrative Director
- 💧 Tiffany Ellison - Administrative Assistant
- 💧 Amy Fowler - Administrative Support
- 💧 Jennifer Poole - Financial Assistant
- 💧 Janie Ross - Financial Director

Six Drinking Water Circuit Riders work each of the six FDEP Districts. These experienced water operations professionals live and travel their district and serve local water systems. The drinking water circuit riders are:

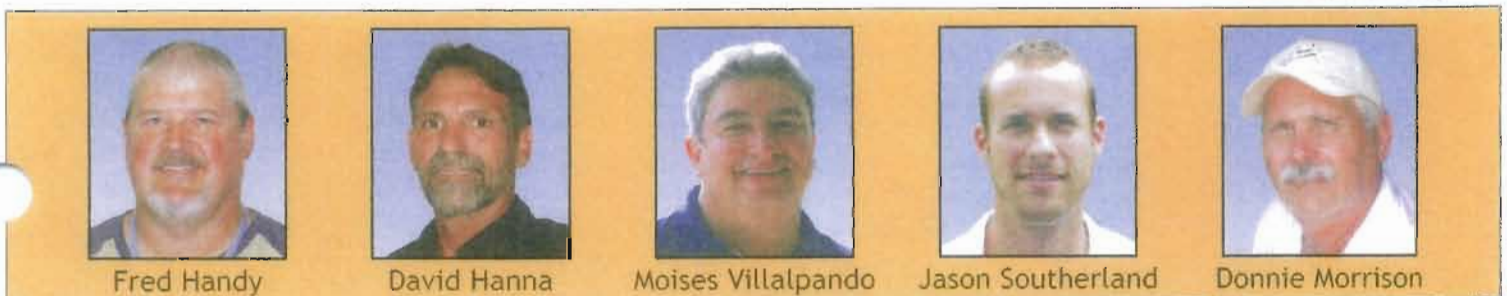
- 💧 Ben Lewis - District 1
- 💧 Fred Handy - District 2
- 💧 David Hanna - District 3
- 💧 Moises Villalpando - District 4
- 💧 Jason Southerland - District 5
- 💧 Donnie Morrison - District 6

Seven Wastewater Circuit Riders cover the state of Florida. Each of these staff members are qualified plant operators and assist wastewater systems with their unique challenges. The wastewater circuit riders are:

- 💧 Troy Hamberger - Training (Statewide)
- 💧 Tim Johnson - Statewide & training
- 💧 John Radtke - North Florida
- 💧 Ron Thomas - Central Florida
- 💧 Allen Slater - Southwest Florida
- 💧 Tom Stirtzinger - Southeast Florida
- 💧 Clay Harris - Agricultural systems



Continued on Page 14



Fred Handy

David Hanna

Moises Villalpando

Jason Southerland

Donnie Morrison

Classifications

Active

Voting Membership

This is Florida Rural Water Associations' only voting membership. This category is designed for water and wastewater systems throughout the state. Membership benefits include: CEU discounts for System Employees, Daimler Chrysler Fleet Program Discounts, regulatory representation, monitor legislation at state and federal level, promotion of funding for water and wastewater projects, FRWA Annual Conference, voting privilege at the Annual Membership Meeting, member of the National Rural Water Association, on-site assistance to your personnel at no charge, water and wastewater rate structure development, training sessions and manuals, operator certification materials and review sessions, wellhead protection plan development, access to FRWA's resource library, 800 telephone number, quarterly magazines, insurance information and access to FRWA equipment.

Associate

Non-Voting Membership

This membership category is designed for vendors and service oriented companies. Benefits include advertising in our quarterly magazine, your company and link to your website posted on our website, discounts on exhibition space at our conferences, and your company listed in the FRWA Membership Directory.

Agricultural

Non-Voting Membership

This membership category is designed for commercial farms and agricultural operations.

Individual

Non-Voting Membership

This category of membership is primarily for those wishing to be on the Association's mailing list for magazines, training session notices in their local areas, other upcoming events, and Association activities. This category includes DEP, DOH, Water Management, and other interested individuals (whose system is an Active Member). This does not include water systems, water system operators, managers, directors, or vendors. Equipment usage, laboratory discounts, and other benefits are not part of Individual Member benefits.

Florida Rural Water Association
 Making the most of our most precious resource.

2970 Wellington Circle
 Tallahassee FL 32309
 850.668.2746
 www.frwa.net

MEMBERSHIP APPLICATION

Name of System or Firm		
Contact Person	Title	
Mailing Address		
System Address (if different from above)		
City	State	Zip
Phone	Fax	Email
DEP Public Water System Number (PWSID)		DEP Wastewater Number (GMSID)

Active Membership

BASE RATE	\$110.00
This is the base rate for both Water, Wastewater and Water/Wastewater Active Membership	
NUMBER OF WATER CONNECTIONS x \$.30	+
Multiply the number of water connections (total number of buildings served) by \$.30	
NUMBER OF WASTEWATER CONNECTIONS x \$.30	+
Multiply the number of wastewater connections (total number of buildings served) by \$.30	
TOTAL AMOUNT OF DUES	
The maximum amount of annual dues in each category (regardless of the number of connections) are:	
WATER ONLY (\$395.00)	\$
WASTEWATER ONLY (\$325.00)	
WATER/WASTEWATER (\$545.00)	

Associate Membership - \$160.00

Agricultural Membership - \$125.00

Individual Membership - \$60.00

Dues are subject to renewal annually. For your convenience a notice will be sent prior to your renewal date. Please make your checks payable to the Florida Rural Water Association and mail to the address on the front of the brochure. You may also fax a credit card payment to 850.893.4581. If we can be of any further assistance, please contact us at 850.668.2746.

CREDIT CARD NUMBER												EXPIRATION DATE			

What is the Florida Rural Water Association...

The Florida Rural Water Association (FRWA) was originally formed for the benefit of small water and wastewater systems throughout Florida. We now serve all systems, large and small. We are a nonprofit, non-regulatory professional association. We are not a government agency. Our primary purpose is to assist water and wastewater systems with every phase of the water and wastewater operations. Our Active members consist of public water and wastewater systems, such as counties, municipalities, associations, districts, mobile home parks, schools, authorities, etc. Our seven board of directors are elected from the membership at our Annual Business Meeting.

Drinking Water Section Services...

FRWA has ten professional field personnel, called "Circuit Riders", who assist water systems in every phase of operations, maintenance, and management. These professionals, located throughout the state, are available to assist your system, onsite, with water treatment, water distribution, water quality, and compliance concerns at no charge. Equipment is available to members on loan or through use by our "Circuit Riders" at no charge. In fact, membership money is used to purchase Association equipment for member use. Your membership dues are put to work for you! FRWA has hundreds of thousands of dollars of water-related technical assistance equipment available to you. Examples of some of the equipment are computerized and sonic leak detectors, plastic and metal line locators (ground penetrating radar), ultrasonic meter testers, generators, water treatment and distribution system testing equipment, etc.

Wastewater Section Services...

The Association has five wastewater professionals in the field to provide technical assistance services to your wastewater system. These technicians can assist with troubleshooting, consulting, and correcting wastewater treatment, collections, and disposal concerns. FRWA maintains an extensive inventory of wastewater diagnostics, testing, and troubleshooting equipment which is available to our members either by loan or use by FRWA Wastewater Professionals at your system, such as video camera inspection system for collection lines, smoke blowers, flow and meter testing devices, lab and testing equipment, computers, and computer diagnostic software, etc. The Association's Wastewater Section personnel and equipment can save your system thousands of dollars.

Groundwater Protection Services/Source Water Protection...

This section employs five professionals with expertise in areas to assist your system, protect your water supplies, troubleshoot and correct well-related problems, and generally improve Florida's water resource outlook and future. FRWA's groundwater/source water specialists can design and assist you in adopting an adequate groundwater protection plan, solve well-related bacteriological problems, or improve source water efficiencies and withdrawals. Wellhead protection plans developed by other consultants and other service providers can cost over \$10,000, but are available at no charge to FRWA members.

Engineering Services...

FRWA employs a full time Professional Engineer with over 25 years of experience in the water and wastewater utility business. He is on staff to assist you with the comparison and evaluation of possible courses of conduct, followed by the actions, decisions, or recommendations once the various possibilities have been considered. He can provide assistance related to management policies or general business operations of rural and small water systems, including all areas of operation, maintenance, management, compliance, potential compliance, health, and environmental issues.

Agricultural Section Services...

In order to meet the growing needs of the agricultural community in the state of Florida, the Florida Rural Water Association is now offering Agricultural Membership. FRWA's Agriculture Program, started in 1999, provides a FRWA Circuit Rider to assist systems in complying with the Environmental Protection Agency, Florida Department of Environmental Protection, and local regulations.

Training Services...

The Florida Rural Water Association is among six providers of Continuing Education Units (CEUs) for the Water and Wastewater Operators in Florida. Offering training seminars at locations throughout the state, FRWA not only provides you with interesting and informative programs, but we also keep you up to date on new information within the industry. At these sessions and at the Annual Technical Conferences, you will benefit from meeting and discussing system concerns with other Florida system operators. FRWA also offers on-line training for those who are unable to attend our on-site training. FRWA employs four Instructors, including a State Drinking Water Trainer that specializes in classes for new operators that wish to become certified. For the latest information on what classes FRWA is currently offering, go to our website at www.frwa.net and click on training. We also provide extensive reference and training manuals for operation, maintenance and management personnel. As a member you will receive a quarterly magazine and updates on important developments. FRWA provides access to an extensive resource library of publications relating to every phase of water or wastewater system construction, maintenance, operation, and management, along with an array of slide presentations and videos.

National and State Representation...

The Florida Rural Water Association is your voice in Tallahassee and Washington. The Association works to make small water and wastewater system concerns and needs known to State Legislators and Representatives of Florida. FRWA maintains constant liaison with DEP, WMD, DOH, EPA, USDA-RD, DBPR, PSC, DCA, and others on behalf of our members. Smaller water and wastewater systems are represented at meetings, workshops, and other events to express your positions, concerns, and needs.

Interim Construction Loan Program...

FRWA provides interim financing to projects approved for permanent financing from either USDA-RD or DEP-SRF's. This program has assisted utilities construct their projects at an effective interest rate as low as 0%.

For more information, please contact FRWA at 850.668.2746.

STATE REVOLVING FUND (SRF)

CURRENT SITUATION:

While there is a program at DEP that avails low-interest loans to small privately owned water utilities, it does not appear that these utilities are taking advantage of the program. The lack of participation can be attributed to a number of reasons, including:

- Lack of awareness of the program by the small utilities;
- Too high of a minimum amount of a loan, which is set at \$75,000 pursuant to statute. Many small utilities do not need \$75,000 for the needed repair or improvement;
- The 2% service fee is not part of the loan and many small utilities would have difficulty paying the fee;
- Small utilities often need the money for emergency repairs and cannot wait six months for the money in order to repair its system. Six months is the typical time frame for processing a SRF loan application.

In addition, while there is a similar loan program for wastewater utilities, it is not open to privately owned utilities.

POSSIBLE SOLUTIONS:

There are several ways to increase participation in the Water SRF loan program, including:

- The PSC staff could explore ways to educate regulated utilities of the existence of the program and the process for obtaining a loan through DEP, including partnering with DEP and the FRWA;
- As part of this educational program, the PSC staff could stress the importance of evaluating the future needs of the small systems, and, wherever possible, plan for upgrades and replacements so as to be able to work within the DEP time frames for loan processing;
- The minimum threshold for a loan to small utilities could be reduced from \$75,000 to \$15,000 so that more utilities could take advantage of the loan program. This would require a change to Section 403.8532(8), F.S.; and

- The 2% service fee that must be paid within one year of the loan could be included as a qualifying pass-through item pursuant to Section 367.081(4)(b), F.S. The pass-through would be removed from rates after one year since it is a one-time fee.

The Wastewater loan program could be opened to small privately owned utilities similar to the SRF water programs. This would require changes to Section 403.1835, F.S., to include language similar to that found in the water SRF statute (Section 403.8532, F.S.). Section 403.8532(2)(e), F.S., contains a provision that public water systems may be “publicly owned, privately owned, investor-owned, or cooperatively held.” A similar provision defining public wastewater systems could be added to Section 403.1835, F.S., regarding the water pollution control financial assistance.

Select Year: 2011

The 2011 Florida Statutes

[Title XXIX](#)
PUBLIC HEALTH

[Chapter 403](#)
ENVIRONMENTAL CONTROL

[View Entire Chapter](#)

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

(1) The purpose of this section is to assist in implementing the legislative declarations of public policy contained in ss. [403.021](#) and [403.851](#) by establishing infrastructure financing, technical assistance, and source water protection programs to assist public drinking water systems in achieving and maintaining compliance with the Florida Safe Drinking Water Act and the federal Safe Drinking Water Act, as amended, and to conserve and protect the quality of waters of the state.

(2) For purposes of this section, the term:

(a) “Bonds” means bonds, certificates, or other obligations of indebtedness issued by the corporation under this section and s. [403.1837](#).

(b) “Corporation” means the Florida Water Pollution Control Financing Corporation created pursuant to s. [403.1837](#).

(c) “Financially disadvantaged community” means the service area of a project to be served by a public water system that meets criteria established by department rule and in accordance with federal guidance.

(d) “Local governmental agency” means any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing acting jointly in connection with a project, having jurisdiction over a public water system.

(e) “Public water system” means all facilities, including land, necessary for the treatment and distribution of water for human consumption and includes public water systems as defined in s. [403.852](#) and as otherwise defined in the federal Safe Drinking Water Act, as amended. Such systems may be publicly owned, privately owned, investor-owned, or cooperatively held.

(f) “Small public water system” means a public water system that regularly serves fewer than 10,000 people.

(3) The department may make, or request that the corporation make, loans, grants, and deposits to community water 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.

(a) The department shall administer loans so that amounts credited to the Drinking Water Revolving Loan Trust Fund in any fiscal year are reserved for the following purposes:

1. At least 15 percent for qualifying small public water systems.
2. Up to 15 percent for qualifying financially disadvantaged communities.

(b) If an insufficient number of the projects for which funds are reserved under this subsection have been submitted to the department at the time the funding priority list authorized under this section is adopted, the reservation of these funds no longer applies. The department may award the unreserved funds as otherwise provided in this section.

(4) The department is authorized, subject to legislative appropriation authority and authorization of positions, to use funds from the annual capitalization grant for activities authorized under the federal Safe Drinking Water Act, as amended, such as:

- (a) Program administration.
- (b) Technical assistance.
- (c) Source water protection program development and implementation, including wellhead and aquifer protection programs, programs to alleviate water quality and water supply problems associated with saltwater intrusion, programs to identify, monitor, and assess source waters, and contaminant source inventories.
- (d) Capacity development and financial assessment program development and administration.
- (e) The costs of establishing and administering an operator certification program for drinking water treatment plant operators, to the extent such costs cannot be paid for from fees.

This subsection does not limit the department's ability to apply for and receive other funds made available for specific purposes under the federal Safe Drinking Water Act, as amended.

(5) The term of loans made pursuant to this section shall not exceed 30 years. The interest rate on such loans shall be no greater than that paid on the last bonds sold pursuant to s. 14, Art. VII of the State Constitution.

(6)(a) The department may provide financial assistance to financially disadvantaged communities for the purpose of planning, designing, and constructing public water systems. Such assistance may include the forgiveness of loan principal.

(b) The department shall establish by rule the criteria for determining whether a public water system serves a financially disadvantaged community. Such criteria shall be based on the median household income of the service population or other reliably documented measures of disadvantaged status.

(7) To the extent not allowed by federal law, the department shall not provide financial assistance for projects primarily intended to serve future growth.

(8) In order to ensure that public moneys are managed in an equitable, prudent, and cost-effective manner, the total amount of money loaned to any public water system during a fiscal year shall be no more than 25 percent of the total funds available for making loans during that year. The minimum amount of a loan shall be \$75,000.

(9) The department may adopt rules regarding the procedural and contractual relationship between the department and the corporation under s. 403.1837 and to carry out the purposes of this section and the federal Safe Drinking Water Act, as amended. Such rules shall:

(a) Set forth a priority system for loans based on public health considerations, compliance with state and federal requirements relating to public drinking water systems, and affordability. The priority system shall give special consideration to:

1. Projects that provide for the development of alternative drinking water supply projects and management techniques in areas where existing source waters are limited or threatened by saltwater intrusion, excessive drawdowns, contamination, or other problems;

2. Projects that provide for a dependable, sustainable supply of drinking water and that are not otherwise financially feasible; and

3. Projects that contribute to the sustainability of regional water sources.

(b) Establish the requirements for the award and repayment of financial assistance.

(c) Require evidence of credit worthiness and adequate security, including an identification of revenues to be pledged, and documentation of their sufficiency for loan repayment and pledged revenue coverage, to ensure that each loan recipient can meet its loan repayment requirements.

(d) Require each project receiving financial assistance to be cost-effective, environmentally sound, implementable, and self-supporting.

(e) Implement other provisions of the federal Safe Drinking Water Act, as amended.

(10) The department shall prepare a report at the end of each fiscal year, detailing the financial assistance provided under this section, service fees collected, interest earned, and loans outstanding.

(11) Prior to approval of a loan, the local government or public water system shall, at a minimum:

(a) Provide a repayment schedule.

(b) Submit evidence of the permissibility or implementability of the project proposed for financial assistance.

(c) Submit plans and specifications, biddable contract documents, or other documentation of appropriate procurement of goods and services.

(d) Provide assurance that records will be kept using generally accepted accounting principles and that the department or its agents and the Auditor General will have access to all records pertaining to the loan.

(e) Provide assurance that the public water system will be properly operated and maintained in order to achieve or maintain compliance with the requirements of the Florida Safe Drinking Water Act and the federal Safe Drinking Water Act, as amended.

(f) Document that the public water system will be self-supporting.

(12) The department may conduct an audit of the loan project upon completion, or may require that a separate project audit, prepared by an independent certified public accountant, be submitted.

(13) The department may require reasonable service fees on loans made to public water systems to ensure that the Drinking Water Revolving Loan Trust Fund will be operated in perpetuity and to implement the purposes authorized under this section. Service fees shall not be less than 2 percent nor greater than 4 percent of the loan amount exclusive of the service fee. Service fee revenues shall be deposited into the department's Grants and Donations Trust Fund. The fee revenues, and interest earnings thereon, shall be used exclusively to carry out the purposes of this section.

(14) The Drinking Water Revolving Loan Trust Fund established under s. [403.8533](#) shall be used exclusively to carry out the purposes of this section. Any funds that are not needed on an immediate basis for financial assistance shall be invested pursuant to s. [215.49](#). State revolving fund capitalization grants awarded by the Federal Government, state matching funds, and investment earnings thereon shall be deposited into the fund. The principal and interest of all loans repaid and investment earnings thereon shall be deposited into the fund.

(15)(a) If a local governmental agency defaults under the terms of its loan agreement, the department shall so certify to the Chief Financial Officer, who shall forward the amount delinquent to the department from any unobligated funds due to the local governmental agency under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan, including accelerating loan repayments, eliminating all or part of the interest rate subsidy on the loan, and court appointment of a receiver to manage the public water system.

(b) If a public water system owned by a person other than a local governmental agency defaults under the terms of its loan agreement, the department may take all actions available under law to remedy the default.

(c) The department may impose a penalty for delinquent loan payments in the amount of 6 percent of the amount due, in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.

(16) The department is authorized to terminate or rescind a financial assistance agreement when the recipient fails to comply with the terms and conditions of the agreement.

History.—s. 5, ch. 94-243; s. 1, ch. 97-236; s. 112, ch. 2001-266; s. 3, ch. 2001-270; s. 431, ch. 2003-261; s. 42, ch. 2010-205.

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[Title XXIX](#)
PUBLIC HEALTH

[Chapter 403](#)
ENVIRONMENTAL CONTROL

[View Entire Chapter](#)

403.1835 Water pollution control financial assistance.—

(1) The purpose of this section is to assist in implementing the legislative declaration of public policy as contained in s. [403.021](#) by establishing a self-perpetuating program to accelerate the implementation of water pollution control projects. Projects and activities that may be funded are those eligible under s. 603 of the Federal Water Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as amended; including, but not limited to, planning, design, construction, and implementation of wastewater management systems, stormwater management systems, nonpoint source pollution management systems, and estuary conservation and management.

(2) As used in this section and s. [403.1837](#), the term:

(a) “Bonds” means bonds, certificates, or other obligations of indebtedness issued by the corporation under this section and s. [403.1837](#).

(b) “Corporation” means the Florida Water Pollution Control Financing Corporation created under s. [403.1837](#).

(c) “Local governmental agencies” refers to any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing, acting jointly in connection with a project having jurisdiction over collection, transmission, treatment, or disposal of sewage, industrial wastes, stormwater, or other wastes and includes a district or authority whose principal responsibility is to provide airport, industrial or research park, or port facilities to the public.

(3) The department may provide financial assistance through any program authorized under 33 U.S.C. s. 1383, as amended, including, but not limited to, making grants and loans, providing loan guarantees, purchasing loan insurance or other credit enhancements, and buying or refinancing local debt. This financial assistance must be administered in accordance with this section and applicable federal authorities.

(a) The department may make or request the corporation to make loans to local government agencies, which may pledge any revenue available to them to repay any funds borrowed.

(b) The department may make or request the corporation to make loans, grants, and deposits to other entities eligible to participate in the financial assistance programs authorized under the Federal Water Pollution Control Act, or as a result of other federal action, which may pledge any revenue available to them to repay any funds borrowed. Notwithstanding s. [17.57](#), the department may make deposits to financial institutions that earn less than the prevailing rate for United States Treasury securities that have corresponding maturities for the purpose of enabling such financial institutions to make below-market interest rate loans to entities qualified to receive loans under this section and the rules of the department.

(c) The department shall administer financial assistance so that at least 15 percent of the funding made available each year under this section is reserved for use by small communities during the year it is reserved.

(d) The department may make grants to financially disadvantaged small communities, as defined in s. 403.1838, using funds made available from grant allocations on loans authorized under subsection (4). The grants must be administered in accordance with s. 403.1838.

(4) The department may assess grant allocations on the loans made under this section for the purpose of making grants to financially disadvantaged small communities.

(5) The department shall prepare an annual report detailing the amount of grants, amount loaned, interest earned, grant allocations, and loans outstanding at the end of each fiscal year.

(6) Prior to approval of financial assistance, the applicant shall:

(a) Submit evidence of credit worthiness, loan security, and a loan repayment schedule in support of a request for a loan.

(b) Submit plans and specifications and evidence of permissibility in support of a request for funding of construction or other activities requiring a permit from the department.

(c) Provide assurance that records will be kept using generally accepted accounting principles and that the department, the Auditor General, or their agents will have access to all records pertaining to the financial assistance provided.

(d) Provide assurance that the subject facilities, systems, or activities will be properly operated and maintained.

(e) Identify the revenues to be pledged and document their sufficiency for loan repayment and pledged revenue coverage in support of a request for a loan.

(f) Provide assurance that financial information will be provided as required by the department.

(g) Provide assurance that a project audit prepared by an independent certified public accountant upon project completion will be submitted to the department in support of a request for a grant.

(h) Submit project planning documentation demonstrating a cost comparison of alternative methods, environmental soundness, public participation, and financial feasibility for any proposed project or activity.

(7) Eligible projects must be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities. The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Eliminate public health hazards;

(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(9) regarding domestic wastewater ocean outfalls;

(c) Assist in the implementation of total maximum daily loads adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

(f) Promote reclaimed water reuse;

(g) Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or

(h) Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

(8)(a) If a local governmental agency becomes delinquent on its loan, the department shall so certify to the Chief Financial Officer, who shall forward the amount delinquent to the department from any unobligated funds due to the local governmental agency under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan. The department may impose a penalty for delinquent loan payments in an amount not to exceed an interest rate of 18 percent per annum on the amount due in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.

(b) If a loan recipient, other than a local government agency, defaults under the terms of a loan, the department may pursue any remedy available to it at law or in equity. The department may impose a penalty in an amount not to exceed an interest rate of 18 percent per annum on any amount due in addition to charging the cost to handle and process the debt. Penalty interest accrues on any amount due and payable beginning on the 30th day following the date upon which the amount is due.

(9) Funds for the loans and grants authorized under this section must be managed as follows:

(a) A nonlapsing trust fund with revolving loan provisions to be known as the "Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund" is established in the State Treasury to be used as a revolving fund by the department to carry out the purpose of this section. Any funds therein which are not needed on an immediate basis for grants or loans may be invested pursuant to s. 215.49. The cost of administering the program shall be paid from federal funds, from reasonable service fees that may be imposed upon loans, and from proceeds from the sale of loans as permitted by federal law so as to enhance program perpetuity. Grants awarded by the Federal Government, state matching funds, and investment earnings thereon shall be deposited into the trust fund. Proceeds from the sale of loans must be deposited into the trust fund. All moneys available in the trust fund, including investment earnings, are hereby designated to carry out the purpose of this section. The principal and interest payments of all loans held by the trust fund shall be deposited into this trust fund.

1. The department may obligate moneys available in the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund for payment of amounts payable under any service contract entered into by the department under s. 403.1837, subject to annual appropriation by the Legislature. Amounts on deposit in the trust fund in each fiscal year shall first be applied or allocated for the payment of amounts payable by the department under this subparagraph and appropriated each year by the Legislature before making or providing for other disbursement from the trust fund.

2. Under the provisions of s. 19(f)(3), Art. III of the State Constitution, the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund is exempt from the termination provisions of s. 19(f)(2), Art. III of the State Constitution.

(b) Revenues from the loan grant allocations authorized under subsection (4), federal appropriations used for the purpose of administering this section, and service fees, and all earnings thereon, shall be deposited into the department's Federal Grants Trust Fund. Service fees and all earnings thereon must be used solely for program administration and other water quality activities specifically authorized pursuant to the Federal Water Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as amended, and set forth in 40 C.F.R. part 35, Guidance on Fees Charged by States to Recipients of Clean Water State Revolving Fund Program Assistance. The loan grant allocation revenues and earnings thereon must be used solely for the purpose of making grants to financially disadvantaged small communities. Federal

appropriations and state matching funds for grants authorized by federal statute or other federal action, and earnings thereon, must be used solely for the purposes authorized. All deposits into the department's Federal Grants Trust Fund under this section, and earnings thereon, must be accounted for separately from all other moneys deposited into the fund.

(10) The department may adopt rules regarding program administration; project eligibilities and priorities, including the development and management of project priority lists; financial assistance application requirements associated with planning, design, construction, and implementation activities, including environmental and engineering requirements; financial assistance agreement conditions; disbursement and repayment provisions; auditing provisions; program exceptions; the procedural and contractual relationship between the department and the corporation under s. [403.1837](#); and other provisions consistent with the purposes of this section.

(11) Any projects for reclaimed water reuse in Monroe County funded from the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund must take into account water balances and nutrient balances in order to prevent the runoff of pollutants into surface waters.

History.—s. 1, ch. 72-723; s. 79, ch. 79-65; s. 20, ch. 86-186; s. 37, ch. 89-279; s. 34, ch. 91-305; s. 304, ch. 92-279; s. 55, ch. 92-326; s. 12, ch. 93-51; s. 375, ch. 94-356; s. 26, ch. 97-236; s. 101, ch. 98-200; s. 1, ch. 98-316; s. 23, ch. 99-205; s. 2, ch. 99-372; s. 1, ch. 2000-271; s. 15, ch. 2001-270; s. 427, ch. 2003-261; s. 11, ch. 2003-265; s. 16, ch. 2004-381; s. 9, ch. 2008-232; s. 40, ch. 2010-205; s. 1, ch. 2011-58.

BULK PURCHASES OF EQUIPMENT, COMMODITIES AND SERVICES

CURRENT SITUATION:

Due to their size, small water and wastewater utilities are generally not able to achieve economies of scale in purchasing of equipment, materials or services. As a result, these utilities generally pay more for most purchases than larger utilities that are able to buy in bulk. Our small utilities advise us that the cost of goods has increased significantly in the last five years, emphasizing the need for achieving some economies of scale in purchasing in order to keep costs down.

POSSIBLE SOLUTIONS:

Small utilities could gain some economies of scale if they could take piggy-back on purchases made by other larger utilities, such as those owned by neighboring municipalities or county governments. We are aware of at least one small utility that was able to purchase needed equipment through a municipal utility at a significant savings. The purchases made through the governmentally owned utilities could be for equipment or materials and supplies.

Another means of achieving economies of scale could be for small utilities to purchase supplies from a contracting or operating company, which could buy in bulk and pass along at least some of that savings to its customers. This was suggested at the staff workshop held in September.

It does not appear that the State of Florida has contracts related to utility-specific items, but it may be feasible for utilities to piggy-back on state contracts for other commonly-used equipment or commodities, such as tires, office equipment and construction equipment. This may require changes to statutes relating to the State purchases.

INTEREST RATE PAID ON CUSTOMER DEPOSITS

CURRENT SITUATION:

Rule 25-30.311, F.A.C., requires water and wastewater utilities to pay an interest rate of 6 percent per annum on customer deposits. As a result, many small utilities do not collect customer deposits stating that they cannot afford to pay that level of interest. This has the impact of potentially increasing bad debt expense if customers leave owing a balance.

POTENTIAL SOLUTION:

This rule is in the process of being revised to lower the interest rate to be more in line with the current financial climate. Under the proposed rule revision, the interest rate for customer deposits for all utility industries would be 2 percent per annum. The effect of the proposed rule change is to lower uncollectibles and bad debt expense for utilities that are not collecting customer deposits. For those that are, it could have the effect of lowering the cost of capital, since customer deposits are an item in the utility's capital structure.

- 1 25-30.311 Customer Deposits.
- 2 (1) Deposit required; establishment of credit. Each company's tariff shall contain their specific
- 3 criteria for determining the amount of initial deposit. Each utility may require an applicant for
- 4 service to satisfactorily establish credit, but such establishment of credit shall not relieve the
- 5 customer from complying with the utilities' rules for prompt payment of bills. Credit will be
- 6 deemed so established if:
- 7 (a) The applicant for service furnishes a satisfactory guarantor to secure payment of bills for
- 8 the service requested. A satisfactory guarantor shall, at a minimum, be a customer of the
- 9 utility with a satisfactory payment record. A guarantor's liability shall be terminated when a
- 10 residential customer whose payment of bills is secured by the guarantor meets the
- 11 requirements of subsection (5) of this rule. Guarantors providing security for payment of
- 12 residential customers' bills shall only be liable for bills contracted at the service address
- 13 contained in the contract of guaranty.
- 14 (b) The applicant pays a cash deposit.
- 15 (c) The applicant for service furnishes an irrevocable letter of credit from a bank or a surety
- 16 bond.
- 17 (2) Receipt for deposit. A non-transferrable certificate of deposit shall be issued to each
- 18 customer and means provided so that the customer may claim the deposit if the certificate is
- 19 lost.
- 20 (3) Record of deposits. Each utility having on hand deposits from customers shall keep records
- 21 to show:
- 22 (a) The name of each customer making the deposit;
- 23 (b) The premises occupied by the customer when the deposit was made;
- 24 (c) The date and amount of deposit; and
- 25 (d) A record of each transaction concerning such deposit.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 (4) Interest on deposit.

2 (a) Each public utility which requires deposits to be made by its customers shall pay a
3 minimum interest on such deposits of ~~6~~ 2 percent per annum. The utility shall pay an interest
4 rate of ~~7~~ 3 percent per annum on deposits of nonresidential customers qualifying under
5 subsection (5) below when the utility elects not to refund such a deposit after 23 months.

6 (b) The deposit interest shall be simple interest in all cases and settlement shall be made
7 annually, either in cash or by credit on the current bill. This does not prohibit any public utility
8 paying a higher rate of interest than required by this rule. No customer depositor shall be
9 entitled to receive interest on his deposit until and unless a customer relationship and the
10 deposit have been in existence for a continuous period of six months, then he shall be entitled
11 to receive interest from the day of the commencement of the customer relationship and the
12 placement of deposit.

13 (5) Refund of deposits. After a customer has established a satisfactory payment record and has
14 had continuous service for a period of 23 months, the utility shall refund the residential
15 customer's deposits and shall, at its option, either refund or pay the higher rate of interest
16 specified above for nonresidential deposits, providing the customer has not, in the preceding
17 12 months, (a) made more than one late payment of a bill (after the expiration of 20 days from
18 the date of mailing or delivery by the utility), (b) paid with check refused by a bank, (c) been
19 disconnected for nonpayment, or at any time, (d) tampered with the meter, or (e) used service
20 in a fraudulent or unauthorized manner. Nothing in this rule shall prohibit the company from
21 refunding at any time a deposit with any accrued interest.

22 (6) Refund of deposit when service is discontinued. Upon termination of service, the deposit
23 and accrued interest may be credited against the final account and the balance, if any, shall be
24 returned promptly to the customer but in no event later than fifteen (15) days after service is
25 discontinued.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 (7) New or additional deposits. A utility may require, upon reasonable written notice of not
2 less than 30 days, such request or notice being separate and apart from any bill for service, a
3 new deposit, where previously waived or returned, or an additional deposit, in order to secure
4 payment of current bills; provided, however, that the total amount of the required deposit
5 should not exceed an amount equal to the average actual charge for water and/or wastewater
6 service for two billing periods for the 12-month period immediately prior to the date of notice.
7 In the event the customer has had service less than 12 months, then the utility shall base its
8 new or additional deposit upon the average monthly billing available.

9 *Specific Authority 367.121, 350.127(2) FS. Law Implemented 367.081, 367.111, 367.121 FS. History—Amended 6-1-63, 4-1-
10 69, 9-12-74, 6-10-80, 1-31-84, Formerly 25-10.72, 25-10.072, Amended 10-13-88, 4-25-94.*

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CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

ANALYSIS OF ACQUISITIONS BY EXISTING UTILITY (CERTIFICATION)

CURRENT SITUATION:

Currently, in reviewing an application by a utility to acquire an existing system, the purchasing utility must demonstrate that it has the financial and technical ability to operate the system and that the purchase is otherwise in the public interest. If improvements or repairs to the system being purchased are needed, the purchasing utility must provide a list of these improvements and the approximate cost to make them. The rates of the system being purchased are not changed in a transfer application case. However, of course rates are revised in the purchasing utility's next rate case. If the purchasing utility has a form of uniform or banded rate structure, combining the system being acquired with the purchasing utility's existing systems for ratemaking purposes will impact the resulting rates, especially if improvements to the acquired system are necessary. Thus, the rate impact of the purchase of a system with existing rates by a utility with a uniform or banded rate structure is not known until the purchasing utility's next rate case.

POSSIBLE SOLUTIONS:

As one aspect of the public interest review in the transfer case, staff could analyze the rate impact of the acquisition on the existing customers of the purchasing utility and that of the system being acquired. The Commission would then factor the rate analysis into its decision of whether the acquisition is in the public interest along with other factors being considered, such as the financial and technical ability of the buyer, and the reasonable alternatives to the transfer of the system being acquired.

To accomplish this, Rule 25-30.037, F.A.C. (the rule governing filing requirements for transfer cases), would have to be revised to require data necessary to conduct the rate analysis.

Another possible solution would be to amend Section 367.071, F.S., to specify that a rate analysis be considered before approving a transfer of a system with existing customers and rates to another utility. Currently, Section 367.071(1), F.S., requires, in part, that a proposed transfer must be "in the public interest." A provision could be added to this statute which provides that, as one aspect of the determination of public interest, the commission must consider the rate impact of the transfer on customers – both of the purchasing utility and that of the system being purchased.

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[Title XXVII](#)
RAILROADS AND OTHER REGULATED
UTILITIES

[Chapter 367](#)
WATER AND WASTEWATER
SYSTEMS

[View Entire
Chapter](#)

367.071 Sale, assignment, or transfer of certificate of authorization, facilities, or control.—

(1) No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility. However, a sale, assignment, or transfer of its certificate of authorization, facilities or any portion thereof, or majority organizational control may occur prior to commission approval if the contract for sale, assignment, or transfer is made contingent upon commission approval.

(2) The commission may impose a penalty pursuant to s. [367.161](#) when a transfer occurs prior to approval by the commission. The transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility.

(3) An application for proposed sale, assignment, or transfer shall be accompanied by a fee as provided by s. [367.145](#). No fee is required to be paid by a governmental authority that is the buyer, assignee, or transferee.

(4) An application shall be disposed of as provided in s. [367.045](#), except that:

(a) The sale of facilities, in whole or part, to a governmental authority shall be approved as a matter of right; however, the governmental authority shall, prior to taking any official action, obtain from the utility or commission with respect to the facilities to be sold the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions -in-aid-of-construction. Any request for rate relief pending before the commission at the time of sale is deemed to have been withdrawn. Interim rates, if previously approved by the commission, must be discontinued, and any money collected pursuant to interim rate relief must be refunded to the customers of the utility with interest.

(b) When paragraph (a) does not apply, the commission shall amend the certificate of authorization as necessary to reflect the change resulting from the sale, assignment, or transfer.

(5) The commission by order may establish the rate base for a utility or its facilities or property when the commission approves a sale, assignment, or transfer thereof, except for any sale, assignment, or transfer to a governmental authority.

(6) Any person, company, or organization that obtains ownership or control over any system, or part thereof, through foreclosure of a mortgage or other encumbrance, shall continue service without interruption and may not remove or dismantle any portion of the system previously dedicated to public use which would impair the ability to provide service, without the express approval of the commission. This provision may be enforced by an injunction issued by a court of competent jurisdiction.

25-30.037 Application for Authority to Transfer.

(1) This rule applies to any application for the transfer of an existing water or wastewater system, regardless of whether service is currently being provided. This rule does not apply where the transfer is of an exempt or non-jurisdictional system and will result in the system continuing to be exempt from or not subject to Commission jurisdiction. The application for transfer may result in the transfer of the seller's existing certificate, amendment of the buyer's certificate or granting an initial certificate to the buyer.

(2) Each application for transfer of certificate of authorization, facilities or any portion thereof, to a non-governmental entity shall include the following information:

- (a) The complete name and address of the seller;
- (b) The complete name and address of the buyer;
- (c) The nature of the buyer's business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, or association;
- (d) The name(s) and address(es) of all of the buyer's corporate officers, directors, partners or any other person(s) who will own an interest in the utility;
- (e) The date and state of incorporation or organization of the buyer;
- (f) The names and locations of any other water or wastewater utilities owned by the buyer;
- (g) A copy of the contract for sale and all auxiliary or supplemental agreements, which shall include, if applicable:
 1. Purchase price and terms of payment;
 2. A list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those of nonregulated operations or entities; and
 3. A description of all consideration between the parties, for example, promised salaries, retainer fees, stock, stock options, assumption of obligations.
- (h) The contract for sale shall also provide for the disposition, where applicable, of the following:
 1. Customer deposits and interest thereon;
 2. Any guaranteed revenue contracts;
 3. Developer agreements;
 4. Customer advances;
 5. Debt of the utility;
 6. Leases;
- (i) A statement describing the financing of the purchase;
- (j) A statement indicating how the transfer is in the public interest, including a summary of the buyer's experience in water or wastewater utility operations, a showing of the buyer's financial ability to provide service, and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters;
- (k) A list of all entities upon which the applicant is relying to provide funding to the buyer, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility;
- (l) The proposed net book value of the system as of the date of the proposed transfer. If rate base has been established by this Commission, state the order number and date issued and identify all adjustments made to update this rate base to the date of transfer;
- (m) A statement setting out the reasons for the inclusion of an acquisition adjustment, if one is requested;
- (n) If the books and records of the seller are not available for inspection by the Commission or are not adequate for purposes of establishing the net book value of the system, a statement by the buyer that a good faith, extensive effort has been made to obtain such books and records for inspection by the Commission and detailing the steps taken to obtain the books and records;
- (o) A statement from the buyer that it has obtained or will obtain copies of all of the federal income tax returns of the seller from the date the utility was first established, or rate base was last established by the Commission or, if the tax returns have not been obtained, a statement from the buyer detailing the steps taken to obtain the returns;
- (p) A statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the Department of Environmental Protection (DEP) or, if the system is in need of repair or improvement, has any outstanding Notice of Violation of any standard set by the DEP or any outstanding consent orders with the DEP, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them, a list of the action taken by the utility with regard to the violation, a copy of the Notice of Violation(s), a copy of the

consent order and a list of the improvements and repairs consented to and the approximate cost to make them;

(q) Evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative;

(r) A statement regarding the disposition of any outstanding regulatory assessment fees, fines, or refunds owed;

(s) The original and two copies of sample tariff sheets reflecting the change in ownership; and

(t) The utility's current certificate(s), or if not available, provide an explanation of the steps the applicant took to obtain the certificate(s).

(3) In case of a change in majority organizational control, the application shall include the following information:

(a) The complete name and address of the seller;

(b) The complete name and address of the buyer;

(c) The name(s) and address(es) of all of the buyer's corporate officers, directors, partners and any other person(s) who will own an interest in the utility;

(d) The names and locations of any other water or wastewater utilities owned by the buyer;

(e) A statement describing the financing of the purchase;

(f) A statement describing how the transfer is in the public interest, including a summary of the buyer's experience in water or wastewater utility operations, a showing of the buyer's financial ability to provide service, and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters;

(g) A list of all entities, including affiliates, that have provided, or will provide, funding to the buyer, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility;

(h) A statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the DEP or, if the system is in need of repair or improvement, has any outstanding Notice of Violation(s) of any standard(s) set by the DEP or any outstanding consent orders with the DEP, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them, a list of the action taken by the utility with regard to the violations, a copy of the Notice of Violation(s), a copy of the consent order and a list of the improvements and repairs consented to and the approximate cost;

(i) Evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost effective alternative;

(j) The original and two copies of sample tariff sheets reflecting the change in ownership; and

(k) The utility's current certificate(s), or if not available, the applicant shall provide an explanation of the steps the applicant took to obtain the certificate(s).

(4) Each application for transfer of certificate of authorization, facilities, or any portion thereof, or majority organizational control to a governmental authority shall contain the following information:

(a) The name and address of the utility and its authorized representative;

(b) The name of the governmental authority and the name and address of its authorized representative;

(c) A copy of the contract or other document transferring the utility system to the governmental authority;

(d) A list of any utility assets not transferred to the governmental authority if such remaining assets constitute a system providing or proposing to provide water or wastewater service to the public for compensation;

(e) A statement that the governmental authority obtained, from the utility or Commission, the most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction;

(f) The date on which the governmental authority proposes to take official action to acquire the utility;

(g) A statement describing the disposition of customer deposits and interest thereon; and

(h) A statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.

(5) If a utility is transferring a portion of its facilities to a governmental agency, it must provide the following additional information:

(a) A description of the remaining territory using township, range, and section references;

(b) One copy of the official county tax assessment map, or other map, showing township, range, and section with a scale such as

1" = 200' or 1" = 400', with the remaining territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning; and

(c) The original and two copies of sample tariff sheets reflecting the remaining territory.

(6) Upon its receipt of items required in paragraphs (4)(a), (b), (c), (d), (e) and (f), the Commission will issue an order acknowledging that the facilities or any portion thereof have been acquired by the governmental authority.

(7) Upon receipt of the items required in paragraphs (4)(g) and (h) and, if applicable, paragraphs (5)(a), (b), and (c), and upon the completion of all pending proceedings before the Commission, the utility's certificate will be amended or cancelled. Amendment or cancellation of the certificate shall not affect the utility's obligation pursuant to Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

Specific Authority 367.121, 367.1213, 350.127(2) FS. Law Implemented 367.071, 367.1213 FS. History--New 1-27-91, Amended 11-30-93.

RESELLER UTILITIES

CURRENT SITUATION:

Reseller utilities are those that obtain the water and/or wastewater service from another utility and resell the service to its end users. Some resellers 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. In those cases, reseller utilities develop a separate charge for the water and wastewater service rather than include these costs in the rent or maintenance fees. A separate charge for water service sends an appropriate price signal and is a means of discouraging waste of a scarce natural resource. Resellers that collect from its end users only the cost of the service from the provider are exempt from PSC regulation. Section 367.022(8), F.S., provides an exemption if service is provided at a rate or charge that does not exceed the cost of the service from the provider. However, under this narrow provision, resellers are not allowed to recover the cost of metering, meter reading, billing or any other expense related to the provision of water and wastewater service. Therefore, if a reseller wants to recover any of those type of costs, it must be regulated by the PSC and incur the cost of regulation. As a result, regulation by the PSC has the unintended effect of discouraging conservation since the owner of the apartment complex or other like facility will avoid regulation by choosing not to separately charge for water or wastewater service, and, thus, not incur those added costs.

POSSIBLE SOLUTIONS:

The reseller exemption could be expanded to allow recovery of certain types of costs associated with the resale of water and wastewater service, such as meter reading, billing and other administrative costs. If this were done, more apartment and condominium complexes and small master-metered shopping centers might be encouraged to establish a separate charge for water and wastewater service, which would promote water conservation, while avoiding the additional cost of inefficient regulation.

The State of Texas has a statute which allows exempt resellers to recover a certain amount above the bill from the provider of the water and wastewater service in order to recover the administrative costs associated with metering and billing. Pursuant to this Texas statute, the service charge cannot exceed 9% of the customer's bill. The reseller exemption statute in Florida could be amended to provide for such a service charge.

One aspect of exempt resellers that should be mentioned is that from time to time customers complain about the unfairness of how they are being charged for service. These complaints come to the PSC for systems that are located within counties regulated by the PSC. The current statute provides no guidance as to an appropriate billing method for exempt reseller utilities; therefore, staff simply analyzes whether the reseller collects only the amount of the bill from the provider. Staff does not analyze how the bill is collected from the customers. If the statute were changed to address appropriate billing methods, it could have the effect of increasing the amount of staff time needed to process these reseller complaints. Since resellers are exempt from regulation, they pay no regulatory assessment fees, therefore, there is no funding source for the

additional staff time needed to complete the analysis. Perhaps consideration should be given to charging a regulatory assessment fee to exempt resellers to cover the cost of processing customer complaints.

SUBCHAPTER H: UTILITY SUBMETERING AND ALLOCATION

**§§291.121 - 291.127
Effective January 6, 2011**

§291.121. General Rules and Definitions.

(a) Purpose and scope. The provisions of this subchapter are intended to establish a comprehensive regulatory system to assure that the practices involving submetered and allocated billing of dwelling units and multiple use facilities for water and sewer utility service are just and reasonable and include appropriate safeguards for tenants.

(b) Application. The provisions of this subchapter apply to apartment houses, condominiums, multiple use facilities, and manufactured home rental communities billing for water and wastewater utility service on a submetered or allocated basis.

(c) Definitions. The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) **Allocated utility service** - Water or wastewater utility service that is master metered to an owner by a retail public utility and allocated to tenants by the owner.

(2) **Apartment house** - A building or buildings containing five or more dwelling units that are occupied primarily for nontransient use, including a residential condominium whether rented or owner occupied, and if a dwelling unit is rented, having rental paid at intervals of one month or longer.

(3) **Customer service charge** - A customer service charge is a rate that is not dependent on the amount of water used through the master meter.

(4) **Dwelling unit** - One or more rooms in an apartment house or condominium, suitable for occupancy as a residence, and containing kitchen and bathroom facilities; a unit in a multiple use facility; or a manufactured home in a manufactured home rental community.

(5) **Dwelling unit base charge** - A flat rate or fee charged by a retail public utility for each dwelling unit recorded by the retail public utility.

(6) **Master meter** - A meter used to measure, for billing purposes, all water usage of an apartment house, condominium, multiple use facility, or manufactured home rental community, including common areas, common facilities, and dwelling units.

(7) **Manufactured home rental community** - A property on which spaces are rented for the occupancy of manufactured homes for nontransient residential use and for which rental is paid at intervals of one month or longer.

(8) **Multiple use facility** - A commercial or industrial park, office complex, or marina with five or more units that are occupied primarily for nontransient use and are rented at intervals of one month or longer.

(9) **Occupant** - A tenant or other person authorized under a written agreement to occupy a dwelling.

(10) **Owner** - The legal titleholder of an apartment house, a manufactured home rental community, or a multiple use facility; a condominium association; or any individual, firm, or corporation that purports to be the landlord of tenants in an apartment house, manufactured home rental community, or multiple use facility.

(11) **Point-of-use submeter** - A device located in a plumbing system to measure the amount of water used at a specific point of use, fixture, or appliance, including a sink, toilet, bathtub, or clothes washer.

(12) **Submetered utility service** - Water utility service that is master metered for the owner by the retail public utility and individually metered by the owner at each dwelling unit; wastewater utility service based on submetered water utility service; water utility service measured by point-of-use submeters when all of the water used in a dwelling unit is measured and totaled; or wastewater utility service based on total water use as measured by point-of-use submeters.

(13) **Tenant** - A person who owns or is entitled to occupy a dwelling unit or multiple use facility unit to the exclusion of others and, if rent is paid, who is obligated to pay for the occupancy under a written or oral rental agreement.

(14) **Utility service** - For purposes of this subchapter, utility service includes only drinking water and wastewater.

Adopted April 13, 2005

Effective May 5, 2005

§291.122. Owner Registration and Records.

(a) Registration. An owner who intends to bill tenants for submetered or allocated utility service or who changes the method used to bill tenants for utility service shall register with the executive director in a form prescribed by the executive director.

(b) Water quantity measurement. Except as provided by subsections (c) and (d) of this section, a manager of a condominium or the owner of an apartment house, manufactured home rental community, or multiple use facility, on which construction began after January 1, 2003, shall provide for the measurement of the quantity of water, if any, consumed by the occupants of each unit through the installation of:

(1) submeters, owned by the property owner or manager, for each dwelling unit or rental unit; or

(2) individual meters, owned by the retail public utility, for each dwelling unit or rental unit.

(c) Plumbing system requirement. An owner of an apartment house on which construction began after January 1, 2003, and that provides government assisted or subsidized rental housing to low or very low income residents shall install a plumbing system in the apartment house that is compatible with the installation of submeters for the measurement of the quantity of water, if any, consumed by the occupants of each unit.

(d) Installation of individual meters. On the request by the property owner or manager, a retail public utility shall install individual meters owned by the utility in an apartment house, manufactured home rental community, multiple use facility, or condominium on which construction began after January 1, 2003, unless the retail public utility determines that installation of meters is not feasible. If the retail public utility determines that installation of meters is not feasible, the property owner or manager shall install a plumbing system that is compatible with the installation of submeters or individual meters. A retail public utility may charge reasonable costs to install individual meters.

(e) Records. The owner shall make the following records available for inspection by the tenant or the executive director at the on-site manager's office during normal business hours in accordance with subsection (g) of this section. The owner may require that the request by the tenant be in writing and include:

(1) a current and complete copy of Texas Water Code, Chapter 13, Subchapter M;

(2) a current and complete copy of this subchapter;

(3) a current copy of the retail public utility's rate structure applicable to the owner's bill;

(4) information or tips on how tenants can reduce water usage;

(5) the bills from the retail public utility to the owner;

(6) for allocated billing:

(A) the formula, occupancy factors, if any, and percentages used to calculate tenant bills;

(B) the total number of occupants or equivalent occupants if an equivalency factor is used under §291.124(e)(2) of this title (relating to Charges and Calculations); and

(C) the square footage of the tenant's dwelling unit or rental space and the total square footage of the apartment house, manufactured home rental community, or multiple use facility used for billing if dwelling unit size or rental space is used;

(7) for submetered billing:

(A) the calculation of the average cost per gallon, liter, or cubic foot;

(B) if the unit of measure of the submeters or point-of-use submeters differs from the unit of measure of the master meter, a chart for converting the tenant's submeter measurement to that used by the retail public utility;

(C) all submeter readings; and

(D) all submeter test results;

(8) the total amount billed to all tenants each month;

(9) total revenues collected from the tenants each month to pay for water and wastewater service; and

(10) any other information necessary for a tenant to calculate and verify a water and wastewater bill.

(f) Records retention. Each of the records required under subsection (e) of this section shall be maintained for the current year and the previous calendar year, except that all submeter test results shall be maintained until the submeter is permanently removed from service.

(g) Availability of records.

(1) If the records required under subsection (e) of this section are maintained at the on-site manager's office, the owner shall make the records available for inspection at the on-site manager's office within three days after receiving a written request.

(2) If the records required under subsection (e) of this section are not routinely maintained at the on-site manager's office, the owner shall provide copies of the records to the on-site manager within 15 days of receiving a written request from a tenant or the executive director.

(3) If there is no on-site manager, the owner shall make copies of the records available at the tenant's dwelling unit at a time agreed upon by the tenant within 30 days of the owner receiving a written request from the tenant.

(4) Copies of the records may be provided by mail if postmarked by midnight of the last day specified in paragraph (1), (2), or (3) of this subsection.

Adopted April 13, 2005

Effective May 5, 2005

§291.123. Rental Agreement.

(a) Rental agreement content. The rental agreement between the owner and tenant shall clearly state in writing:

(1) the tenant will be billed by the owner for submetered or allocated utility services, whichever is applicable;

(2) which utility services will be included in the bill issued by the owner;

(3) any disputes relating to the computation of the tenant's bill or the accuracy of any submetering device will be between the tenant and the owner;

(4) the average monthly bill for all dwelling units in the previous calendar year and the highest and lowest month's bills for that period;

(5) if not submetered, a clear description of the formula used to allocate utility services;

(6) information regarding billing such as meter reading dates, billing dates, and due dates;

(7) the period of time by which owner will repair leaks in the tenant's unit and in common areas, if common areas are not submetered;

(8) the tenant has the right to receive information from the owner to verify the utility bill; and

(9) for manufactured home rental communities, the service charge percentage that will be billed to tenants.

(b) Requirement to provide rules or summary. At the time a rental agreement is discussed, the owner shall provide a copy of this subchapter or a copy of the executive director's summary of the rules to the tenant to inform the tenant of his rights and the owner's responsibilities under this subchapter.

(c) Tenant agreement to billing method changes. An owner shall not change the method by which a tenant is billed unless the tenant has agreed to the change by signing a lease or other written agreement. The owner shall provide notice of the proposed change at least 35 days prior to implementing the new method.

(d) Change from submetered to allocated billing. An owner shall not change from submetered billing to allocated billing, except after receiving written approval from the executive director after a demonstration of good cause and if the rental agreement requirements under subsections (a), (b), and (c) of this section have been met. Good cause may include:

(1) equipment failures; or

(2) meter reading or billing problems that could not feasibly be corrected.

(e) Waiver of tenant rights prohibited. A rental agreement provision that purports to waive a tenant's rights or an owner's responsibilities under this subchapter is void.

Adopted August 23, 2000

Effective September 27, 2000

§291.124. Charges and Calculations.

(a) Prohibited charges. Charges billed to tenants for submetered or allocated utility service may only include bills for water or wastewater from the retail public utility and must not include any fees billed to the owner by the retail public utility for any deposit, disconnect, reconnect, late payment, or other similar fees.

(b) Dwelling unit base charge. If the retail public utility's rate structure includes a dwelling unit base charge, the owner shall bill each dwelling unit for the base charge applicable to that unit. The owner may not bill tenants for any dwelling unit base charges applicable to unoccupied dwelling units.

(c) Customer service charge. If the retail public utility's rate structure includes a customer service charge, the owner shall bill each dwelling unit the amount of the customer service charge divided by the total number of dwelling units, including vacant units, that can receive service through the master meter serving the tenants.

(d) Calculations for submetered utility service. The tenant's submetered 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:

(1) water utility service: the retail public utility's total monthly charges for water service (less dwelling unit base charges or customer service charges, if applicable), divided by the total monthly water consumption measured by the retail public utility to obtain an average water cost per gallon, liter, or cubic foot, multiplied by the tenant's monthly consumption or the volumetric rate charged by the retail public utility to the owner multiplied by the tenant's monthly water consumption;

(2) wastewater utility service: the retail public utility's total monthly charges for wastewater service (less dwelling unit base charges or customer service charges, if applicable), divided by the total monthly water consumption measured by the retail public utility, multiplied by the tenant's monthly consumption or the volumetric wastewater rate charged by the retail public utility to the owner multiplied by the tenant's monthly water consumption;

(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% of the tenant's charge for submetered water and wastewater service, except when;

(A) the resident resides in a unit of an apartment house that has received an allocation of low income housing tax credits under Texas Government Code, Chapter 2306, Subchapter DD; or

(B) the apartment resident receives tenant-based voucher assistance under United States Housing Act of 1937 Section 8, (42 United States Code, §1437f); and

(4) final bill on move-out for submetered service: if a tenant moves out during a billing period, the owner may calculate a final bill for the tenant before the owner receives the bill for that period from the retail public utility. If the owner is billing using the average water or wastewater cost per gallon, liter, or cubic foot as described in paragraph (1) of this subsection, the owner may calculate the tenant's bill by calculating the tenant's average volumetric rate for the last three months and multiplying that average volumetric rate by the tenant's consumption for the billing period.

(e) Calculations for allocated utility service.

(1) Before an owner may allocate the retail public utility's master meter bill for water and sewer service to the tenants, the owner shall first deduct:

(A) dwelling unit base charges or customer service charge, if applicable; and

(B) common area usage such as installed landscape irrigation systems, pools, and laundry rooms, if any, as follows:

(i) if all common areas are separately metered or submetered, deduct the actual common area usage;

(ii) if common areas that are served through the master meter that provides water to the dwelling units are not separately metered or submetered and there is an installed landscape irrigation system, deduct at least 25% of the retail public utility's master meter bill;

(iii) if all water used for an installed landscape irrigation system is metered or submetered and there are other common areas such as pools or laundry rooms that are not metered or submetered, deduct at least 5% of the retail public utility's master meter bill; or

(iv) if common areas that are served through the master meter that provides water to the dwelling units are not separately metered or submetered and there is no installed landscape irrigation system, deduct at least 5% of the retail public utility's master meter bill.

(2) To calculate a tenant's bill:

(A) for an apartment house, the owner shall multiply the amount established in paragraph (1) of this subsection by:

(i) the number of occupants in the tenant's dwelling unit divided by the total number of occupants in all dwelling units at the beginning of the month for which bills are being rendered; or

(ii) the number of occupants in the tenant's dwelling unit using a ratio occupancy formula divided by the total number of occupants in all dwelling units at the beginning of the retail public utility's billing period using the same ratio occupancy formula to determine the total. The ratio occupancy formula will reflect what the owner believes more accurately represents the water use in units that are occupied by multiple tenants. The ratio occupancy formula that is used must assign a fractional portion per tenant of no less than that on the following scale:

(I) dwelling unit with one occupant = 1;

(II) dwelling unit with two occupants = 1.6;

(III) dwelling unit with three occupants = 2.2; or

(IV) dwelling unit with more than three occupants = $2.2 + 0.4$ per each additional occupant over three; or

(iii) the average number of occupants per bedroom, which shall be determined by the following occupancy formula. The formula must calculate the average number of occupants in all dwelling units based on the number of bedrooms in the dwelling unit according to the scale below, notwithstanding the actual number of occupants in each of the dwelling unit's bedrooms or all dwelling units:

(I) dwelling unit with an efficiency = 1;

(II) dwelling unit with one bedroom = 1.6;

(III) dwelling unit with two bedrooms = 2.8;

(IV) dwelling unit with three bedrooms = $4 + 1.2$ for each additional bedroom; or

(iv) a factor using a combination of square footage and occupancy in which no more than 50% is based on square footage. The square footage portion must be based on the total square footage living area of the dwelling unit as a percentage of the total square footage living area of all dwelling units of the apartment house; or

(v) the individually submetered hot or cold water usage of the tenant's dwelling unit divided by all submetered hot or cold water usage in all dwelling units;

(B) a condominium manager shall multiply the amount established in paragraph (1) of this subsection by any of the factors under subparagraph (A) of this paragraph or may follow the methods outlined in the condominium contract;

(C) for a manufactured home rental community, the owner shall multiply the amount established in paragraph (1) of this subsection by:

(i) any of the factors developed under subparagraph (A) of this paragraph; or

(ii) the area of the individual rental space divided by the total area of all rental spaces; and

(D) for a multiple use facility, the owner shall multiply the amount established in paragraph (1) of this subsection by:

(i) any of the factors developed under subparagraph (A) of this paragraph; or

(ii) the square footage of the rental space divided by the total square footage of all rental spaces.

(3) If a tenant moves in or out during a billing period, the owner may calculate a bill for the tenant. If the tenant moves in during a billing period, the owner shall prorate the bill by calculating a bill as if the tenant were there for the whole month and then charging the tenant for only the number of days the tenant lived in the unit divided by the number of days in the month multiplied by the calculated bill. If a tenant moves out during a billing period before the owner receives the bill for that period from the retail public utility, the owner may calculate a final bill. The owner may calculate the tenant's bill by calculating the tenant's average bill for the last three months and multiplying that average bill by the number of days the tenant was in the unit divided by the number of days in that month.

(f) Conversion to approved allocation method. An owner using an allocation formula other than those approved in subsection (e) of this section shall immediately provide notice as required under §291.123(c) of this title (relating to Rental Agreement) and either:

(1) adopt one of the methods in subsection (e) of this section; or

- (2) install submeters and begin billing on a submetered basis; or
- (3) discontinue billing for utility services.

Adopted June 2, 2010

Effective June 24, 2010

§291.125. Billing.

(a) Monthly billing of total charges. The owner shall bill the tenant each month for the total charges calculated under §291.124 of this title (relating to Charges and Calculations). If it is permitted in the rental agreement, an occupant or occupants who are not residing in the rental unit for a period longer than 30 days may be excluded from the occupancy calculation and from paying a water and sewer bill for that period.

(b) Rendering bill.

(1) Allocated bills shall be rendered as promptly as possible after the owner receives the retail public utility bill.

(2) Submeter bills shall be rendered as promptly as possible after the owner receives the retail public utility bill or according to the time schedule in the rental agreement if the owner is billing using the retail public utility's rate.

(c) Submeter reading schedule. Submeters or point-of-use submeters shall be read within three days of the scheduled reading date of the retail public utility's master meter or according to the schedule in the rental agreement if the owner is billing using the retail public utility's rate.

(d) Billing period.

(1) Allocated bills shall be rendered for the same billing period as that of the retail public utility, generally monthly, unless service is provided for less than that period.

(2) Submeter bills shall be rendered for the same billing period as that of the retail public utility, generally monthly, unless service is provided for less than that period. If the owner uses the retail public utility's actual rate, the billing period may be an alternate billing period specified in the rental agreement.

(e) Multi-item bill. If issued on a multi-item bill, charges for submetered or allocated utility service must be separate and distinct from any other charges on the bill.

(f) Information on bill. The bill must clearly state that the utility service is submetered or allocated, as applicable, and must include all of the following:

- (1) total amount due for submetered or allocated water;
- (2) total amount due for submetered or allocated wastewater;
- (3) total amount due for dwelling unit base charge(s) or customer service charge(s) or both, if applicable;
- (4) total amount due for water or wastewater usage, if applicable;
- (5) the name of the retail public utility and a statement that the bill is not from the retail public utility;
- (6) name and address of the tenant to whom the bill is applicable;
- (7) name of the firm rendering the bill and the name or title, address, and telephone number of the firm or person to be contacted in case of a billing dispute; and
- (8) name, address, and telephone number of the party to whom payment is to be made.

(g) Information on submetered service. In addition to the information required in subsection (f) of this section, a bill for submetered service must include all of the following:

- (1) the total number of gallons, liters, or cubic feet submetered or measured by point-of-use submeters;
- (2) the cost per gallon, liter, or cubic foot for each service provided; and
- (3) total amount due for a service charge charged by an owner of a manufactured home rental community, if applicable.

(h) Due date. The due date on the bill may not be less than 16 days after it is mailed or hand delivered to the tenant, unless the due date falls on a federal holiday or weekend, in which case the following work day will be the due date. The owner shall record the date the bill is mailed or hand delivered. A payment is delinquent if not received by the due date.

(i) Estimated bill. An estimated bill may be rendered if a master meter, submeter, or point-of-use submeter has been tampered with, cannot be read, or is out of

order; and in such case, the bill must be distinctly marked as an estimate and the subsequent bill must reflect an adjustment for actual charges.

(j) Payment by tenant. Unless utility bills are paid to a third-party billing company on behalf of the owner, or unless clearly designated by the tenant, payment must be applied first to rent and then to utilities.

(k) Overbilling and underbilling. If a bill is issued and subsequently found to be in error, the owner shall calculate a billing adjustment. If the tenant is due a refund, an adjustment must be calculated for all of that tenant's bills that included overcharges. If the overbilling or underbilling affects all tenants, an adjustment must be calculated for all of the tenants' bills. If the tenant was undercharged, and the cause was not due to submeter or point-of-use submeter error, the owner may calculate an adjustment for bills issued in the previous six months. If the total undercharge is \$25 or more, the owner shall offer the tenant a deferred payment plan option, for the same length of time as that of the underbilling. Adjustments for usage by a previous tenant may not be back billed to a current tenant.

(l) Disputed bills. In the event of a dispute between a tenant and an owner regarding any bill, the owner shall investigate the matter and report the results of the investigation to the tenant in writing. The investigation and report must be completed within 30 days from the date the tenant gives written notification of the dispute to the owner.

(m) Late fee. A one-time penalty not to exceed 5% may be applied to delinquent accounts. If such a penalty is applied, the bill must indicate the amount due if the late penalty is incurred. No late penalty may be applied unless agreed to by the tenant in a written lease that states the percentage amount of such late penalty.

Adopted April 13, 2005

Effective May 5, 2005

§291.127. Submeters or Point-of-Use Submeters and Plumbing Fixtures.

(a) Submeters or point-of-use submeters.

(1) Same type submeters or point-of-use submeters required. All submeters or point-of-use submeters throughout a property must use the same unit of measurement, such as gallon, liter, or cubic foot.

(2) Installation by owner. The owner shall be responsible for providing, installing, and maintaining all submeters or point-of-use submeters necessary for the measurement of water to tenants and to common areas, if applicable.

(3) Submeter or point-of-use submeter tests prior to installation. No submeter or point-of-use submeter may be placed in service unless its accuracy has been established. If any submeter or point-of-use submeter is removed from service, it must be properly tested and calibrated before being placed in service again.

(4) Accuracy requirements for submeters and point-of-use submeters. Submeters must be calibrated as close as possible to the condition of zero error and within the accuracy standards established by the American Water Works Association (AWWA) for water meters. Point-of-use submeters must be calibrated as closely as possible to the condition of zero error and within the accuracy standards established by the American Society of Mechanical Engineers (ASME) for point-of-use and branch-water submetering systems.

(5) Location of submeters and point-of-use submeters. Submeters and point-of-use submeters must be installed in accordance with applicable plumbing codes and AWWA standards for water meters or ASME standards for point-of-use submeters, and must be readily accessible to the tenant and to the owner for testing and inspection where such activities will cause minimum interference and inconvenience to the tenant.

(6) Submeter and point-of-use submeter records. The owner shall maintain a record on each submeter or point-of-use submeter which includes:

- (A) an identifying number;
- (B) the installation date (and removal date, if applicable);
- (C) date(s) the submeter or point-of-use submeter was calibrated or tested;
- (D) copies of all tests; and
- (E) the current location of the submeter or point-of-use submeter.

(7) Submeter or point-of-use submeter test on request of tenant. Upon receiving a written request from the tenant, the owner shall either:

- (A) provide evidence, at no charge to the tenant, that the submeter or point-of-use submeter was calibrated or tested within the preceding 24 months and determined to be within the accuracy standards established by the AWWA for water meters or ASME standards for point-of-use submeters; or
- (B) have the submeter or point-of-use submeter removed and tested and promptly advise the tenant of the test results.

(8) Billing for submeter or point-of-use submeter test.

(A) The owner may not bill the tenant for testing costs if the submeter fails to meet AWWA accuracy standards for water meters or ASME standards for point-of-use submeters.

(B) The owner may not bill the tenant for testing costs if there is no evidence that the submeter or point-of-use submeter was calibrated or tested within the preceding 24 months.

(C) The owner may bill the tenant for actual testing costs (not to exceed \$25) if the submeter meets AWWA accuracy standards or the point-of-use submeter meets ASME accuracy standards and evidence as described in paragraph (7)(A) of this subsection was provided to the tenant.

(9) Bill adjustment due to submeter or point-of-use submeter error. If a submeter does not meet AWWA accuracy standards or a point-of-use submeter does not meet ASME accuracy standards and the tenant was overbilled, an adjusted bill must be rendered in accordance with §291.125(k) of this title (relating to Billing). The owner may not charge the tenant for any underbilling that occurred because the submeter or point-of-use submeter was in error.

(10) Submeter or point-of-use submeter testing facilities and equipment. For submeters, an owner shall comply with the AWWA's meter testing requirements. For point-of-use meters, an owner shall comply with ASME's meter testing requirements.

(b) Plumbing fixtures. After January 1, 2003, before an owner of an apartment house, manufactured home rental community, or multiple use facility or a manager of a condominium may implement a program to bill tenants for submetered or allocated water service, the owner or manager shall adhere to the following standards:

(1) Texas Health and Safety Code, §372.002, for sink or lavatory faucets, faucet aerators, and showerheads;

(2) perform a water leak audit of each dwelling unit or rental unit and each common area and repair any leaks found; and

(3) not later than the first anniversary of the date an owner of an apartment house, manufactured home rental community, or multiple use facility or a manager of a condominium begins to bill for submetered or allocated water service, the owner or manager shall:

(A) remove any toilets that exceed a maximum flow of 3.5 gallons per flush; and

(B) install toilets that meet the standards prescribed by Texas Health and Safety Code, §372.002.

(c) Plumbing fixture not applicable. Subsection (b) of this section does not apply to a manufactured home rental community owner who does not own the manufactured homes located on the property of the manufactured home rental community.

Adopted March 30, 2010

Effective April 26, 2010

Investor-Owned Water and Wastewater Utility Study Commission

WHEREAS, many of Florida's investor-owned water and wastewater utility systems, especially smaller systems that serve a small population, are expensive to operate and maintain, and

WHEREAS, without necessary infrastructure improvements to these small water and wastewater utility systems, systems have difficulty maintaining quality of service and compliance with environmental regulations, and

WHEREAS, when infrastructure improvements are made to these systems, it often results in very high rate increases, and

WHEREAS, based upon these findings, the Legislature finds it necessary and appropriate to create a study commission to further address these findings, NOW, THEREFORE,

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

Section 1. Study Commission on Investor-Owned Water and Wastewater Utility Systems.-

(1) There is created the Study Commission on Water and Wastewater Utility Systems, which shall be composed of 15 members designated and to be appointed as follows:

(a) Two Senators appointed by the President of the Senate, one of who shall be appointed as Chairman by the President of the Senate.

(b) Two Representatives appointed by the Speaker of the House of Representatives.

(c) The secretary of the Department of Environmental Protection or his designee, who shall be a nonvoting member of the commission.

(d) The chairman of the Public Service Commission or his designee, who shall be a nonvoting member of the commission.

(e) A representative of a water management district appointed by the Governor.

(f) A representative of a water or wastewater system owned or operated by a municipal government appointed by the Governor.

(g) A representative of a water or wastewater system owned or operated by a county government appointed by the Governor.

(h) The Chairman of a County Commission which regulates an investor-owned water or wastewater utility system, who shall be a nonvoting member of the commission.

(i) A representative of a county health department appointed by the Governor, who shall be a nonvoting member of the commission.

(j) A representative of the Florida Rural Water Association appointed by the Governor.

(k) A representative of a small investor-owned water or wastewater utility appointed by the Governor.

(l) A representative of a large investor-owned water or wastewater utility appointed by the Governor.

(m) The Public Counsel or his designee.

(n) A customer of a Class C water or wastewater utility, who shall be appointed by the Governor.

(o) A representative of a government authority pursuant to s. 367.021, Florida Statutes, who shall be appointed by the Governor.

(2) Members shall serve until the work of the commission is completed and the commission is terminated, except that persons shall cease membership if they no longer serve in the position indicated and shall be replaced by the person replacing them in such position.

(3) Members of the commission shall serve without compensation but shall be reimbursed for all necessary expenses in the performance of their duties, including travel expenses, in accordance with s. 112.061, Florida Statutes.

(4) The 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 commission.

(5) The staff of the Public Service Commission shall act as staff to the commission and shall supply such information, assistance, and facilities as are deemed necessary for the commission to carry out its duties under this act. Funding for the commission shall be paid from the Regulatory Trust Fund (?)

(6) The commission shall identify issues and research solutions to the many concerns facing investor-owned water and wastewater utility systems, specially small systems, in this state. The commission shall recommend legislation needed to implement identified solutions. (needs development)

(a) Ability of small investor-owned water and wastewater utilities to achieve economies of scale when purchasing equipment, commodities or services.

(b) Consider the rate impacts to customers when a utility purchases a water or wastewater utility system from another utility.

(c) Availability of low interest loans to small privately owned water utilities.

(d) The impact of reseller utilities on customer rates.

(e) Tax incentives or exemptions, temporary or permanent, available to small water or wastewater utilities.

(f) Other issues that the commission may identify during its work.

(7) The commission shall meet at the times and locations as the chair shall determine, except that the commission shall meet a minimum of four times. At least two meetings must be held in areas centrally located to utility customers most impacted by recent water and wastewater utility rate increases and must include provision for public comments.

(8) By December 31, 2012, the commission shall prepare and submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report detailing its findings and making specific legislative recommendations.

(9) This section shall expire and the commission shall terminate on June 30, 2013.

Section 2. This act shall take effect upon becoming a law.

Property Tax Exemption

I. Florida State Constitution

- A. ARTICLE VII SECTION 2. Taxes; rate
- B. ARTICLE VII SECTION 3. Taxes; exemptions
- C. ARTICLE VII SECTION 4. Taxation; assessments
 - (a) Agricultural land
 - (b) Conservation land
 - (c) Tangible personal property and livestock
 - (d) Historic property

II. Florida Statutes

- A. F.S. 193.621, Assessments of pollution control devices
- B. F.S. 193.623, Assessments of building renovation for accessibility to the physically handicapped
- C. F.S. 193.703, Reduction in assessment for living quarters of parents or grandparents
- D. F.S. 196.2001, Not-for-profit sewer and water company property exemption

FLORIDA STATE CONSTITUTION

SECTION 2. Taxes; rate.—

All ad valorem taxation shall be at a uniform rate within each taxing unit, except the taxes on intangible personal property may be at different rates but shall never exceed two mills on the dollar of assessed value; provided, as to any obligations secured by mortgage, deed of trust, or other lien on real estate wherever located, an intangible tax of not more than two mills on the dollar may be levied by law to be in lieu of all other intangible assessments on such obligations.

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified by general law. The period of time for which this exemption may be granted to a property owner shall be determined by general law.

(e) By general law and subject to conditions specified therein, twenty-five thousand dollars of the assessed value of property subject to tangible personal property tax shall be exempt from ad valorem taxation.

1 (f) There shall be granted an ad valorem tax exemption for real property dedicated in perpetuity for conservation purposes, including real property encumbered by perpetual conservation easements or by other perpetual conservation protections, as defined by general law.

(g) By general law and subject to the conditions specified therein, each person who receives a homestead exemption as provided in section 6 of this article; who was a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard; and who was deployed during the preceding calendar year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the legislature shall receive an additional exemption equal to a percentage of the taxable value of his or her homestead property. The applicable percentage shall be calculated as the number of days during the preceding calendar year the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the legislature divided by the number of days in that year.

History.—Am. S.J.R.'s 9-E, 15-E, 1980; adopted 1980; Am. C.S. for S.J.R.'s 318, 356, 1988; adopted 1988; Am. S.J.R. 152, 1992; adopted 1992; Am. H.J.R. 969, 1997; adopted 1998; Am. C.S. for S.J.R. 2-D, 2007; adopted 2008; Ams. proposed by Taxation and Budget Reform Commission, Revision Nos. 3 and 4, 2008, filed with the Secretary of State April 28, 2008; adopted 2008; Am. H.J.R. 833, 2009; adopted 2010.

1Note.—This subsection, originally designated (g) by Revision No. 4 of the Taxation and Budget Reform Commission, 2008, was redesignated (f) by the editors to conform to the redesignation of subsections by Revision No. 3 of the Taxation and Budget Reform Commission, 2008.

SECTION 4. Taxation; assessments.—

By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided in this subsection.

(5) Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(7) The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this amendment.

(8)a. A person who establishes a new homestead as of January 1, 2009, or January 1 of any subsequent year and who has received a homestead exemption pursuant to Section 6 of this Article as of January 1 of either of the two years immediately preceding the establishment of the new homestead is entitled to have the new homestead assessed at less than just value. If this revision is approved in January of 2008, a person who establishes a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007. The assessed value of the newly established homestead shall be determined as follows:

1. If the just value of the new homestead is greater than or equal to the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be the just value of the new homestead minus an amount equal to the lesser of \$500,000 or the difference between the just value and the assessed value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned. Thereafter, the homestead shall be assessed as provided in this subsection.

2. If the just value of the new homestead is less than the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be equal to the just value of the new homestead divided by the just value of the prior homestead and multiplied by the assessed value of the prior homestead. However, if the difference between the just value of the new homestead and the assessed value of the new homestead calculated pursuant to this sub-subparagraph is greater than \$500,000, the assessed value of the new homestead shall be increased so that the difference between the just value and the assessed value equals \$500,000. Thereafter, the homestead shall be assessed as provided in this subsection.

b. By general law and subject to conditions specified therein, the Legislature shall provide for application of this paragraph to property owned by more than one person.

(e) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The requirements for eligible properties must be specified by general law.

(f) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

(1) The increase in assessed value resulting from construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

(g) For all levies other than school district levies, assessments of residential real property, as defined by general law, which contains nine units or fewer and which is not subject to the assessment limitations set forth in subsections (a) through (d) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) After a change of ownership or control, as defined by general law, including any change of ownership of a legal entity that owns the property, such property shall be assessed at just value as of the next assessment date. Thereafter, such property shall be assessed as provided in this subsection.

(4) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(h) For all levies other than school district levies, assessments of real property that is not subject to the assessment limitations set forth in subsections (a) through (d) and (g) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3)The legislature must provide that such property shall be assessed at just value as of the next assessment date after a qualifying improvement, as defined by general law, is made to such property. Thereafter, such property shall be assessed as provided in this subsection.

(4)The legislature may provide that such property shall be assessed at just value as of the next assessment date after a change of ownership or control, as defined by general law, including any change of ownership of the legal entity that owns the property. Thereafter, such property shall be assessed as provided in this subsection.

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193.621 Assessment of pollution control devices.—

(1) If it becomes necessary for any person, firm or corporation owning or operating a manufacturing or industrial plant or installation to construct or install a facility, as is hereinafter defined, in order to eliminate or reduce industrial air or water pollution, any such facility or facilities shall be deemed to have value for purposes of assessment for ad valorem property taxes no greater than its market value as salvage. Any facility as herein defined heretofore constructed shall be assessed in accordance with this section.

(2) If the owner of any manufacturing or industrial plant or installation shall find it necessary in the control of industrial contaminants to demolish and reconstruct that plant or installation in whole or part and the property appraiser determines that such demolition or reconstruction does not substantially increase the capacity or efficiency of such plant or installation or decrease the unit cost of production, then in that event, such demolition or reconstruction shall not be deemed to increase the value of such plant or installation for ad valorem tax assessment purposes.

(3) The terms “facility” or “facilities” as used in this section shall be deemed to include any device, fixture, equipment, or machinery used primarily for the control or abatement of pollution or contaminants from manufacturing or industrial plants or installations, but shall not include any public or private domestic sewerage system or treatment works.

(4) Any taxpayer claiming the right of assessments for ad valorem taxes under the provisions of this law shall so state in a return filed as provided by law giving a brief description of the facility. The property appraiser may require the taxpayer to produce such additional evidence as may be necessary to establish taxpayer’s right to have such properties classified hereunder for assessments.

(5) If a property appraiser is in doubt whether a taxpayer is entitled, in whole or in part, to an assessment under this section, he or she may refer the matter to the Department of Environmental Protection for a recommendation. If the property appraiser so refers the matter, he or she shall notify the taxpayer of such action. The Department of Environmental Protection shall immediately consider whether or not such taxpayer is so entitled and certify its recommendation to the property appraiser.

(6) The Department of Environmental Protection shall promulgate rules and regulations regarding the application of the tax assessment provisions of this section for the consideration of the several county property appraisers of this state. Such rules and regulations shall be distributed to the several county property appraisers of this state.

History.—s. 25, ch. 67-436; ss. 1, 2, ch. 69-55; ss. 21, 26, 35, ch. 69-106; s. 13, ch. 69-216; s. 2, ch. 71-137; s. 33, ch. 71-355; s. 1, ch. 77-102; s. 47, ch. 77-104; s. 4, ch. 79-65; s. 44, ch. 94-356; s. 1469, ch. 95-147; s. 20, ch. 2000-158; s. 1, ch. 2000-210.

Note.—Former s. 403.241.

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193.623 Assessment of building renovations for accessibility to the physically handicapped.— Any taxpayer who renovates an existing building or facility owned by such taxpayer in order to permit physically handicapped persons to enter and leave such building or facility or to have effective use of the accommodations and facilities therein shall, for the purpose of assessment for ad valorem tax purposes, be deemed not to have increased the value of such building more than the market value of the materials used in such renovation, valued as salvage materials. “Building or facility” shall mean only a building or facility, or such part thereof, as is intended to be used, and is used, by the general public. The renovation required in order to entitle a taxpayer to the benefits of this section must include one or more of the following: the provision of ground level or ramped entrances and washroom and toilet facilities accessible to, and usable by, physically handicapped persons.

History.—s. 1, ch. 76-144.

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193.703 Reduction in assessment for living quarters of parents or grandparents.—

(1) In accordance with s. 4(f), Art. VII of the State Constitution, a county may provide for a reduction in the assessed value of homestead property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive parents or grandparents of the owner of the property or of the owner's spouse if at least one of the parents or grandparents for whom the living quarters are provided is at least 62 years of age.

(2) A reduction may be granted under subsection (1) only to the owner of homestead property where the construction or reconstruction is consistent with local land development regulations.

(3) A reduction in assessment which is granted under this section applies only to construction or reconstruction that occurred after the effective date of this section to an existing homestead and applies only during taxable years during which at least one such parent or grandparent maintains his or her primary place of residence in such living quarters within the homestead property of the owner.

(4) Such a reduction in assessment may be granted only upon an application filed annually with the county property appraiser. The application must be made before March 1 of the year for which the reduction is to be granted. If the property appraiser is satisfied that the property is entitled to a reduction in assessment under this section, the property appraiser shall approve the application, and the value of such residential improvements shall be excluded from the value of the property for purposes of ad valorem taxation. The value excluded may not exceed the lesser of the following:

- (a) The increase in assessed value resulting from construction or reconstruction of the property; or
- (b) Twenty percent of the total assessed value of the property as improved.

(5) If the owner of homestead property for which such a reduction in assessed value has been granted is found to have made any willfully false statement in the application for the reduction, the reduction shall be revoked, the owner is subject to a civil penalty of not more than \$1,000, and the owner shall be disqualified from receiving any such reduction for a period of 5 years.

(6) When the property owner no longer qualifies for the reduction in assessed value for living quarters of parents or grandparents, the previously excluded just value of such improvements as of the first January 1 after the improvements were substantially completed shall be added back to the assessed value of the property.

History.—s. 1, ch. 2002-226; s. 24, ch. 2010-5.

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Title XIV
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EXEMPTION

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196.2001 Not-for-profit sewer and water company property exemption.—

(1) Property of any sewer and water company owned or operated by a Florida corporation not for profit, the income from which has been exempt, as of January 1 of the year for which the exemption from ad valorem property taxes is requested, from federal income taxation by having qualified under s. 115(a) of the Internal Revenue Code of 1954 or of a corresponding section of a subsequently enacted federal revenue act, shall be exempt from ad valorem taxation, provided the following criteria for exemption are met by the not-for-profit sewer and water company:

- (a) Net income derived by the company does not inure to any private shareholder or individual.
- (b) Gross receipts do not constitute gross income for federal income tax purposes.
- (c) Members of the company's governing board serve without compensation.
- (d) Rates for services rendered by the company are established by the governing board of the county or counties within which the company provides service; by the Public Service Commission, in those counties in which rates are regulated by the commission; or by the Farmers Home Administration.
- (e) Ownership of the company reverts to the county in which the company conducts its business upon retirement of all outstanding indebtedness of the company.

Notwithstanding anything above, no exemption shall be granted until the property appraiser has considered the proposed exemption and has made a specific finding that the water and sewer company in question performs a public purpose in the absence of which the expenditure of public funds would be required.

(2)(a) No exemption authorized pursuant to this section shall be granted unless the company applies to the property appraiser on or before March 1 of each year for such exemption. In its annual application for exemption, the company shall provide the property appraiser with the following information:

1. Financial statements for the immediately preceding fiscal year, certified by an independent certified public accountant, showing the financial condition and records of operation of the company for that fiscal year.
2. Any other records or information as may be requested by the property appraiser for the purposes of determining whether the requirements of subsection (1) have been met.

(b) The exemption from ad valorem taxation shall not be granted to a not-for-profit sewer and water company unless the company meets the criteria set forth in subsection (1). In determining whether the company is operated as a profitmaking venture, the property appraiser shall consider the following:

1. Any advances or payments directly or indirectly by way of salary, fee, loan, gift, bonus, gratuity, drawing account, commission, or otherwise (except for reimbursement of advances for reasonable out-of-pocket expenses incurred on behalf of the applicant) to any person, company, or other entity directly

or indirectly controlled by such persons, or which pays any compensation to its officers, directors, trustees, members, or stockholders for services rendered to or on behalf of the corporation;

2. Any contractual arrangement by the corporation with any officer, director, trustee, member, or stockholder of the corporation regarding rendition of services, the provision of goods or supplies, the management of applicant, the construction or renovation of the property of the corporation, the procurement of the real, personal, or intangible property of the corporation, or other similar financial interest in the affairs of the corporation;

3. The reasonableness of payments made for salaries for the operations of the corporation or for services, supplies, and materials used by the corporation, reserves for repair, replacement, and depreciation of the property of the corporation, payment of mortgages, liens, and encumbrances upon the property of the corporation, or other purposes.

History.—s. 11, ch. 76-234; s. 2, ch. 77-459.

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Publications to be Submitted as Post-Workshop Filing

The Small Water Company Dilemma: Action Steps toward Effective Regulation; National Regulatory Research Institute; Phillip S. Teumim and Frank W. Radigan

Recommendations of the National Drinking Water Advisory Council to U.S. EPA on Its National Small Systems Affordability Criteria; July 2003

A Nationwide Look at the Affordability of Water Service; Scott J. Rubin; Public Utility Consulting

White Paper for National Rural Water Association Consolidation Potential for Small Water Systems — Differences between Urban and Rural Systems; Tom Ottem, Russell Jones, and Robert Raucher, PhD; Stratus Consulting Inc.; May 15, 2003

Census Data Shed Light on US Water and Wastewater Costs; Scott Rubin; America Water Works Association Journal ; April 2005

Review of U.S. Environmental Protection Agency Notice Concerning Revision of National-Level Affordability Methodology; Scott J. Rubin; April 2006

Small Drinking Water Systems Variances—Revision of Existing National-Level Affordability Methodology and Methodology To Identify Variance Technologies That Are Protective of Public Health Small Drinking Water Systems Variances; United States Environmental Protection Agency

SAB Advisory on the National-Level Affordability Criteria and Technologies for Small Systems Under the 1996 Amendments to the Safe Drinking Water Act; United States Environmental Protection Agency

Affordability Criteria For Small Drinking Water Systems: An EPA Science Advisory Board Report: A Report By The Environmental Economics Advisory Committee Of The EPA Science Advisory Board (SAB); United States Environmental Protection Agency

National Association of Regulatory Utility Commissioners (NARUC); 2005 Resolution Supporting Consideration of Regulatory Policies Deemed as "Best Practices"

System Improvement Charges Distribution and Collection; Pennsylvania Public Utility Commission (PUC)

Scott Rubin Raucher Paper

Adva/Rendell ✓
Parties/Staff
event date 11/3/11 ✓
Docket No. Undocketed.