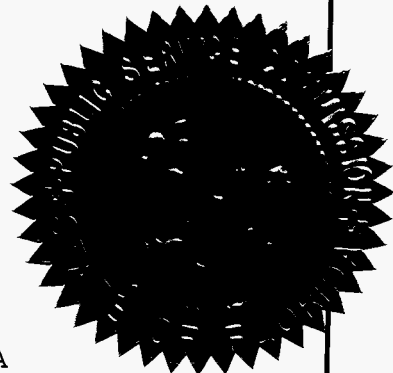


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 100426-WS

In the Matter of:

APPLICATION FOR INCREASE IN  
WATER AND WASTEWATER RATES IN  
LAKE COUNTY BY LAKE UTILITY  
SERVICES, INC.



PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 7

COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER RONALD A. BRISÉ  
COMMISSIONER EDUARDO E. BALBIS  
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, February 22, 2011

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

REPORTED BY: LINDA BOLES, RPR, CRR  
Official FPSC Reporter  
(850) 413-6734

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## P R O C E E D I N G S

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3           **CHAIRMAN GRAHAM:** Item Number 7. Thank  
4 you.

5           **MR. FLETCHER:** Commissioners, I'm Bart  
6 Fletcher with Commission Staff.

7           Item 7 is Staff's recommendation to  
8 suspend Lake Utility Services, Inc.'s, final  
9 proposed rates and to approve an interim rate  
10 increase. Staff has an oral modification which has  
11 been previously provided to the Commissioners and  
12 all parties. Staff is prepared to answer any  
13 questions the Commission may have.

14           **CHAIRMAN GRAHAM:** Thank you, Staff.

15           We'll bring this back to the board. Any  
16 comments? Commissioner Balbis.

17           **COMMISSIONER BALBIS:** Thank you,  
18 Mr. Chair.

19           Again this is one of those items that I  
20 asked the same question with Staff during our  
21 briefings, and that is, you know, what can we do in  
22 this case? And, you know, it's very clear by  
23 statute, you know, the Commission's hands are tied  
24 on if it pass, sorry, passes certain tests, then we  
25 have to approve these interim rates.

1           I have a couple of concerns, and maybe  
2 this is not the best place to raise those, but any  
3 ensuing analysis of their rates, you know, hopefully  
4 they'll be answered. But it's my understanding that  
5 a rate case for this company, for this utility was  
6 completed in 2009; is that correct?

7           **MR. FLETCHER:** That's correct. The order  
8 was issued February 16th of 2009.

9           **COMMISSIONER BALBIS:** And then here we  
10 are, you know, in a relatively short period of time  
11 later approving interim rates for an increase. And,  
12 you know, one of the questions that I have that  
13 hopefully will be answered in the subsequent  
14 investigation is what are the reasons for the rate  
15 increase? What things have changed, what hasn't  
16 changed? And, you know, to really explain this  
17 because, you know, hopefully we will scrutinize any  
18 proposed increases in any rate investigations well.

19           The other concern I have is can you  
20 explain the notice that customers will be given  
21 through this process that we normally give if again  
22 we approve this, which we have to? When will the  
23 interim rates be set? What's the notice that's  
24 given to customers?

25           **MR. FLETCHER:** Yes, Commissioner. As I

1 think it's covered in Issue 3, the utility has to  
2 provide Staff a copy of their proposed notice and  
3 also their tariff sheets consistent with the  
4 Commission's decision. And then also covered in  
5 Issue 4, they have to have the security in place  
6 because the rates will be held subject to refund and  
7 secured, and in this case with the oral modification  
8 through a corporate undertaking.

9           So once the, once Staff has approved the  
10 tariff sheets, the notice and the security is in  
11 place, it can be effective five days after the  
12 utility mails the customer to -- mails the notice to  
13 the customers. And that's when we just work with  
14 the utility whenever they have time to make the  
15 copies and -- because this is a service territory  
16 with several thousand customers, and the time for  
17 them to make the copies. But usually it's five days  
18 after they mail the notice out.

19           **COMMISSIONER BALBIS:** And I'm glad you  
20 pointed out that any additional revenues are subject  
21 to refund. And, again, I'm always glad to see that  
22 the customers will be protected.

23           I'm wondering if there's something that we  
24 can do, an additional notice, if we know that these  
25 interim rates will likely be approved. In fact,

1 maybe even have, we have to approve them if, when we  
2 receive the information. You know, I always feel  
3 that, you know, as much advanced notice as possible  
4 to the customer is better. And that if we wait  
5 until, you know, this Commission moves and approves  
6 and then, you know, the notice is given and then  
7 five days later or whatever the date may be the  
8 rates are in effect, if when we receive these  
9 applications and they, you know, pass the initial  
10 test, if there's something we can do as, as an  
11 agency or request that the company, you know, maybe  
12 immediately send out, send out notice to the  
13 customers, maybe give them an extra 30, 45 days just  
14 to prepare for it. Are there any options we have  
15 with that?

16 **MR. FLETCHER:** I'd defer to legal as far  
17 as additional options. I mean, we could definitely  
18 talk to the utility and, as far as sending out  
19 another notice. But within the rules I don't think  
20 that that's prohibited from sending out another  
21 notice. And it would be up for the utility.

22 **MS. HELTON:** I'm sorry, Commissioner. I  
23 was asking Ms. Crawford a question about a different  
24 issue and I did not hear your question.

25 **COMMISSIONER BALBIS:** Yeah. Let me

1 restate it hopefully clearer.

2 Currently the notice requirements are  
3 after the Commission acts; is that correct?

4 **MR. FLETCHER:** That's correct.

5 **COMMISSIONER BALBIS:** Okay. So, and if we  
6 know that by statute we're pretty much required to  
7 approve interim rates if they pass an initial test.  
8 So I'm wondering when we get the original  
9 application if that can trigger a noticing  
10 requirement for the utility so at least there is  
11 some more advanced notice given to these customers  
12 knowing that the rates will increase or change,  
13 let's put it that way, in the next 60 days or, you  
14 know, 45 days, whatever the time period is after the  
15 Commission receives the information, votes on the,  
16 the item, et cetera, if there's any flexibility we  
17 have in requiring the utility to issue notice more  
18 in advance or just, maybe just a courtesy request.

19 **MS. HELTON:** I'm more comfortable I think  
20 asking the company to do it as a courtesy request.  
21 One thing to keep in mind, it's my understanding  
22 that noticing can get expensive, especially if you  
23 are requiring it outside of the billing cycle  
24 because then that requires a separate mailing with  
25 separate postage.

1           My recollection is that our rule requires  
2           noticing at very specific times. I think there's a  
3           notice required with the interim rates and there's  
4           also a notice required with the final rates that are  
5           sent out. Pardon? And at, and at the customer  
6           meeting that is, that is held for the, for the  
7           customers.

8           That being said, case law requires  
9           noticing being done within a certain time frame, and  
10          that's 30 days before the rates are changed. And so  
11          you have to mesh all of those things together. If  
12          we were going to make a change in our policy with  
13          respect to adding an additional layer of notice for  
14          all utilities, I'm not comfortable doing that  
15          outside of the rulemaking process. And there we  
16          would look at -- I think one of the things that we  
17          would look at is the cost to the company and the  
18          benefits that the company would receive and the  
19          customers would receive from, from that additional  
20          notice.

21                   **COMMISSIONER BALBIS:** Okay. I have no  
22          further questions.

23                   **CHAIRMAN GRAHAM:** I was going to say  
24          actually that's not a bad idea, something we can  
25          talk about in Internal Affairs and see if there's

1 something else we can do. And maybe, maybe part of  
2 the process, and I don't know if you already  
3 currently do this, is you send out a schedule and  
4 let everybody know everything that's to come. I  
5 mean, so that way even if they happen to miss one of  
6 the notices, they don't ever feel like they're  
7 blindsided. They know the interim rate is coming,  
8 then they know the final rate is coming. So, you  
9 know, and that way you're getting it all done at one  
10 time. And I don't know, I don't know if that's  
11 currently done right now or not, but maybe this is  
12 something we should put on an Internal Affairs  
13 docket and just kind of talk about it a little bit  
14 at the time.

15 Commissioner Brisé.

16 **COMMISSIONER BRISÉ:** Thank you, Mr.  
17 Chairman. To Staff, what is the possibility, excuse  
18 me, that these interim rates will become permanent  
19 rates?

20 **MR. FLETCHER:** Well, that's difficult to  
21 say with any certainty because the audit is not, is  
22 not due back until March 21st. And, but based on  
23 the company's filing with the additional pro forma  
24 that they have requested, it's definitely greater  
25 than the interim by a wide margin. So with that



1 said, there's, I can't really say with any great  
2 degree that that will be different from the interim.

3 **COMMISSIONER BRISÉ:** Thank you. I have a  
4 follow-up. If I understand properly, for this  
5 particular case we have -- the rates that we  
6 initially set were based upon certain projections,  
7 and I think moving forward we're sort of going to go  
8 off an historic test year rather than projections  
9 moving forward with this particular case. Would I  
10 be accurate in my understanding there?

11 **MR. FLETCHER:** That is accurate. In the  
12 last case there was a projected test year with  
13 projected billing determinants. Those obviously did  
14 not materialize the growth. And in this case we are  
15 having, using an historical test year of June 30th,  
16 2010.

17 **COMMISSIONER BRISÉ:** Thank you.

18 **CHAIRMAN GRAHAM:** Commissioner Edgar.

19 **COMMISSIONER EDGAR:** Thank you, Mr.  
20 Chairman.

21 I wanted to thank Commissioner Balbis for  
22 highlighting this issue. The, the way the statute  
23 addresses interim rates and what our authority and  
24 discretion is and is not as a Commission is to me  
25 somewhat perhaps counterintuitive, but it is a

1 statute that has been tested and implemented many,  
2 many, many times and in most instances appears to  
3 have worked to hit that balance between the revenue  
4 that a utility, water utility needs to continue to  
5 provide good quality service with, of course, as you  
6 pointed out, the protection to the customers of a  
7 revenue after the fact, if indeed the amount the  
8 Commission deems to be appropriate is lesser later.

9 It is, although, as I said, somewhat  
10 counterintuitive to go ahead and approve a requested  
11 amount prior to having all of the information and  
12 the data and the rationales before us. But as  
13 you've pointed out, that is what the statute  
14 requires, and I'm sure there are good policy reasons  
15 that has, that have brought us to that point.

16 As you've said, Mr. Chairman, that is a  
17 statute that has been in place for quite a while.  
18 And for us to take another look at what we can do  
19 perhaps through our rules and practices so that we  
20 are as comfortable as we can be that we are  
21 achieving that right balance of notice and  
22 transparency, I welcome the opportunity to take a  
23 look at that within the confines of the statute.

24 **CHAIRMAN GRAHAM:** How about a motion?

25 **COMMISSIONER EDGAR:** I would move Staff

1 recommendation on all items, recognizing the  
2 modification that was given to us by Staff.

3 **COMMISSIONER BROWN:** Second.

4 **CHAIRMAN GRAHAM:** It's been moved and  
5 seconded Staff recommendation on Item Number 7. Any  
6 further discussion? Seeing none, all in favor, say  
7 aye.

8 (Vote taken.)

9 Those opposed? By your action you've  
10 approved Staff recommendation on Item Number 7.

11 (Agenda item concluded.)

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

3  
4 I, LINDA BOLES, RPR, CRR, Official Commission  
5 Reporter, do hereby certify that the foregoing  
6 proceeding was heard at the time and place herein  
7 stated.

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

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

18 DATED THIS 24<sup>th</sup> day of February, 2011.

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