

Energy, Communications & Cybersecurity Subcommittee

Tuesday, January 24, 2023
1:00 pm - 3:00 pm
Reed Hall (102 HOB)

Meeting Packet

Paul Renner
Speaker

Mike Giallombardo
Chair

The Florida House of Representatives

Commerce Committee

Energy, Communications & Cybersecurity Subcommittee

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Meeting Agenda

Tuesday, January 24, 2023
1:00 PM – 3:00 PM
Reed Hall (102 HOB)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Overview of the Florida Public Service Commission

V. Overview of the Office of Public Counsel

VI. Closing Remarks

VII. Adjournment

Overview of the Florida Public Service Commission

Presentation to the

Florida House Energy, Communications & Cybersecurity Subcommittee

Braulio Baez, Executive Director
Florida Public Service Commission
January 24, 2023

Mission:

To facilitate the efficient provision of safe and reliable utility services

at fair prices

Economic Regulation

- Essential Services
  - Society dependent upon services for quality of life and input to economic activity
  - Demand relatively inflexible

- Natural Monopoly
  - Demand satisfied at lower cost by single provider
  - High capital cost, long-lived assets
  - Duplicative systems wasteful and undesirable

Non-economic Regulation

- Public Policy Goals
  - Health
  - Safety
  - Environmental protection
  - Grid stability
  - Efficient use of resources

Regulatory Compact

- Rate regulation occurs for essential services that are provided by monopoly firms
- Government protects the interests of both the consumer and the supplier
- In return, the supplier has rights AND responsibilities

Regulatory Compact

- Rights of the Utility:
  - Natural monopoly
  - Franchise for defined territories
  - Can charge rates to recover the prudent costs of service
  - Entitled to an opportunity to earn a fair and reasonable return on investments
- Responsibilities of the Utility:
  - Obligation to serve all customers in the defined territory
  - May not unduly discriminate in providing service or charging rates
  - Must provide safe and reliable service
  - May not build unnecessary facilities or incur costs for unnecessary services
  - Must open books to regulators

The “Public Interest”

- Regulators are tasked with making decisions that are in the public interest

- Requires balancing several interests
  - Customers and the utility and its shareholders
  - Reliable service and cost
  - Long-term planning and short-term rate impacts



The FPSC Regulates



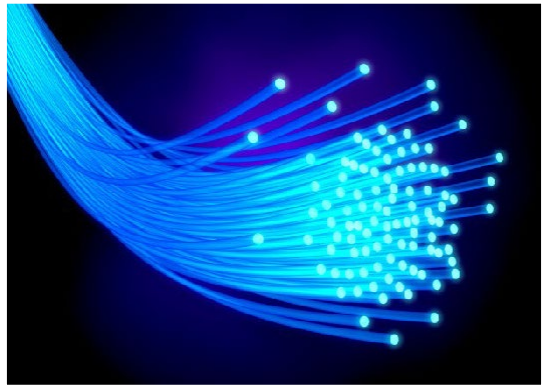
ELECTRIC



NATURAL GAS



WATER & WASTEWATER



TELECOMMUNICATIONS

FPSC Regulatory Overview

- The Florida Public Service Commission is a Legislative agency with authority over the rates and service of the state's investor-owned utilities (IOUs)

- Electricity, Natural Gas, and Water & Wastewater:
  - The FPSC regulates the electric and gas IOUs, and the water & wastewater IOUs in those counties that have given jurisdiction to the PSC
  - The FPSC also has limited jurisdiction over publicly-owned municipal and rural cooperative utilities

- Telecommunications:
  - The FPSC has regulatory authority over the wholesale relationships of the state's various telecommunications companies, and over certain retail programs such as Lifeline and Relay

FPSC Regulatory Jurisdiction

- The FPSC currently regulates the rates and service of:
  - 4 investor-owned electric utilities
  - 8 investor-owned natural gas utilities
  - 149 investor-owned water and wastewater utilities
- The FPSC has limited jurisdiction over:
  - 18 rural electric cooperatives
  - 35 municipal electric utilities
  - 27 municipal natural gas utilities
  - 4 special gas districts
- The FPSC exercises competitive market oversight for:
  - 10 incumbent local exchange telephone companies
  - 249 competitive local exchange telephone companies
  - 27 pay telephone service providers

FPSC Regulatory Authority

- Rate Base/Economic Regulation
  - Analyze requested rate changes
  - Conduct earnings surveillance to ensure that regulated utilities are not exceeding their authorized rates of return
- Consumer Protection, Safety, Reliability, and Service
  - Investigate and respond to consumer questions
  - Disseminate consumer education materials
  - Conduct safety inspections of gas systems and electric facilities
  - Oversight of the planning, development, and maintenance of the grid to assure an adequate and reliable source of energy
- Competitive Market Oversight
  - Facilitate the development of competitive markets, where directed by statute, and address issues associated with those markets

Methods for Changing Electric Rates

- The Annual Cost Recovery Clauses
- General Base Rate Proceedings

Cost Recovery Clauses

- Base rate cases can typically take up to a year to complete.
- The FPSC has authority to allow certain electric utility expenses that can vary year-to-year and capital investments to be recovered through annual adjustment clauses.
- Formal hearings held annually to determine reasonableness or prudence of requested costs.
- These include:
    - Fuel costs, including purchased power
    - Energy conservation program costs
    - Environmental compliance costs
    - Nuclear pre-construction costs
    - Storm protection plan costs

Base Rate Proceedings

- Rate Base = the net investment in facilities, equipment, and other property necessary to provide utility service minus accrued depreciation
- Rate of Return = (r) the % return earned, or allowed to be earned, on the utility's rate base including a return on equity and recovery of debt expense
- Utility systems are capital intensive industries with long lived assets of 40-60 years. Once costs are deemed prudent, cost recovery is permitted
- During a rate case, "base rates" are changed and are fixed until the next rate case

Key Supreme Court Cases

- In 1923, in Bluefield Water Works v. Public Service Commission of West Virginia, the Supreme Court ruled that:
  - A public utility is entitled to rates that allow it to earn a return on the value of the plant and equipment it owns
  - While the public utility has no right to profits from speculative ventures
- In 1944, in FPC v. Hope Natural Gas, the Supreme Court ruled that:
  - From the investor or company perspective, prices are set such that there be enough revenue for operating expenses and to cover the costs of capital and debt expenses
  - Additionally, the return to equity owners should be commensurate with returns on firms with similar risks and to allow the utility to maintain its ability to attract capital

Recent Legislation

- 2019 - Storm Protection Plans and Cost Recovery (SB 796)
- 2021 - Utility and Communications Poles (SB 1944)

2019 – Storm Protection Plan Legislation (SB 796)

- Created Section 366.96, F.S, established the Storm Protection Plan Cost Recovery Clause.
  - Requires IOUs to file ten-year Storm Protection Plans for FPSC approval, every 3 years.
  - The Commission conducts annual proceedings to allow recovery of prudently incurred implementation costs.

- Key implementation Dates:
  - Rulemaking completed - 2019
  - Approved the IOU's first Storm Protection Plans and petitions for cost recovery - January 2021
  - Cost recovery began – January 2021
  - Initial annual report on storm protection activities and costs published December 1, 2021

2021 – Utility and Communications Pole Attachment Legislation (SB 1944)

- Requires the Commission to regulate rates, charges, terms, and conditions of pole attachments.
- The Commission must regulate safety, vegetation management, maintenance, and storm restoration for poles owned by communications services providers.
- Commission has adopted rules to:
  - Implement legislation relating to pole attachment complaints,
  - Regulate pole safety, inspection, maintenance, and vegetation management.

Questions?



FLORIDA OFFICE
OF
PUBLIC COUNSEL

OVERVIEW OF THE OPC

CHARLES REHWINKEL
DEPUTY PUBLIC COUNSEL

OVERVIEW OF OPC

WHO ARE WE?

- CREATED IN 1974 TO REPRESENT CONSUMERS IN UTILITY MATTERS PRIMARILY BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
- GOVERNED BY §§ 350.061-350.0614, FLA. STAT.
- APPOINTMENT & OVERSIGHT PROVIDED BY JOINT COMMITTEE ON PUBLIC COUNSEL OVERSIGHT § 350.061, FLA. STAT.

OVERVIEW OF OPC (cont.)

- PROVIDE LEGAL REPRESENTATION FOR FLORIDA CITIZENS ON ISSUES (INTERVENTION BY STATUTORY RIGHT):
  - BEFORE THE PSC
  - BEFORE COUNTIES THAT OPT OUT OF PSC JURISDICTION ON WATER/WASTEWATER CASES
- REPRESENT RATEPAYERS COLLECTIVELY, NOT INDIVIDUALLY

TYPES OF CASES

RATE CASES:

- ELECTRIC
- GAS
- WATER/WASTEWATER

COST RECOVERY CLAUSES:

- FUEL
- STORM PROTECTION PLAN
- ENVIRONMENTAL
- ENERGY CONSERVATION
- NUCLEAR (DORMANT)

TYPES OF CASES (cont.)

MISCELLANEOUS – RULEMAKING, PROCEDURAL MATTERS, ETC.:

- ACCOUNTING ISSUES
- CERTIFICATE
- HURRICANE COSTS
- WORKSHOPS
- RULES
- SPECIALIZED RATE PETITIONS

CASE STATISTICS

FLORIDA PUBLIC SERVICE COMMISSION:

- **INTERVENTIONS:** **42 DOCKETS**
- **MONITORING:** **37 DOCKETS**

COUNTY RATE PROCEEDINGS:

- **MONITORING IN CITRUS COUNTY:** **1 DOCKET**

FLORIDA SUPREME COURT CASES:

- PENDING WITH OPC AS APPELLANT – 6
- 2015 – 2020 FINAL ORDER – 6 (3 AS APPELLANT & 3 AS APPELLEE) & TWO 1ST DCA CASES

CONVENTIONAL RATE CASES

OPC ROLE

- THE OPC ADVOCATES FOR FAIR & REASONABLE RATES
- A UTILITY IS ALLOWED PRUDENT AND REASONABLE COSTS & FAIR, REASONABLE RETURN ON ITS INVESTMENTS – IN RETURN FOR PROVIDING SAFE, ADEQUATE AND RELIABLE SERVICE
- THE UTILITY MUST SUPPORT ITS REQUEST WITH COMPETENT SUBSTANTIAL EVIDENCE
- OPC WILL CONTEST THOSE AREAS WHERE WE ASSERT THE COSTS ARE NOT PROVEN TO BE REASONABLE AND PRUDENT

CONVENTIONAL RATE CASES (cont.)

CASE FILED: PETITION AND SUPPORT

OPC INTERVENES BY STATUTORY RIGHT

OPC ENGAGES NATIONALLY RENOWNED EXPERTS

- ACCOUNTING
- COST OF CAPITAL
- DEPRECIATION
- ENGINEERING

CONVENTIONAL RATE CASES (cont.)

- CUSTOMER HEARINGS HELD
  - CONSUMERS PROVIDE INPUT ON QUALITY OF SERVICE
- DISCOVERY CONDUCTED
- TESTIMONY OF OPC EXPERT WITNESSES FILED
- UTILITY FILES REBUTTAL TESTIMONY; DISCOVERY CONTINUES
- ISSUES IDENTIFIED AND FINALIZED; PREHEARING ORDER ISSUED SETTING SCOPE OF HEARING

CONVENTIONAL RATE CASES (cont.)

- HEARING HELD
  - PRESENTATION OF EVIDENCE AND WITNESSES; CROSS-EXAMINATION; ETC.
- POST-HEARING BRIEFS & STAFF RECOMMENDATION FILED
- FINAL DECISION BY PUBLIC SERVICE COMMISSION
- 8-MONTH PROCESS IN TOTAL
- APPEAL, IF ANY, AFTER ORDER IS ISSUED

WATER/WASTEWATER RATE CASES

W/W CASES ARE A LITTLE DIFFERENT THAN ELECTRIC & GAS CASES

3 TYPES:

- CONVENTIONAL RATE CASE (FOR LARGEST UTILITIES)
- STAFF ASSISTED RATE CASE OR SARC (FOR SMALL COMPANIES)
- COMPANY-FILED PROPOSED AGENCY ACTIONS (PAA)

SETTLEMENTS

OPC'S PRIMARY GOAL DECIDING ON SETTLEMENT:

- THE BEST DEAL WE CAN GET FOR CONSUMERS MEASURING THE STRENGTHS AND WEAKNESSES OF OUR CASE AGAINST THE EXPECTED OUTCOME IN LITIGATION.

SETTLEMENTS (cont.)

OTHER ADVANTAGES OF SETTLEMENTS

- AVOIDS MUCH OF UNCERTAINTY OF REGULATORY BODY DECISION
- TAKES SOME OF RISK OUT OF THE EQUATION
- ALLOWS CREATIVE SOLUTIONS THAT PSC COULD NOT OTHERWISE CONSIDER (E.G., RATE FREEZES; REVENUE SHARING; ASSET DEFERRALS; SOLAR & EV INVESTMENTS, ETC.)
- CAN AVOID EXPENSE OF HEARING, ATTORNEYS' FEES, ETC.







FLORIDA OFFICE
OF PUBLIC COUNSEL

QUESTIONS

CHARLES REHWINKEL
DEPUTY PUBLIC COUNSEL
OFFICE OF PUBLIC COUNSEL
(850) 488-9330
REHWINKEL.CHARLES@LEG.STATE.FL.US