

MINUTES
ORLANDO UTILITIES COMMISSION
October 9, 2012
2:00 P.M.

Present:

COMMISSIONERS:

Maylen Dominguez, President
Dan Kirby, First Vice President
Linda Ferrone, Commissioner
Buddy Dyer, Mayor

Kenneth P. Ksionek, General Manager & Chief Executive Officer
Clint Bullock, Roseann Harrington, Byron Knibbs, Denise Stalls, Rob Teegarden,
Vice Presidents
Chip Merriam, Chief Legislative & Regulatory Compliance Officer
Greg Rodeghier, Vice President & Chief Information Officer
John H. Hearn, Vice President & Chief Financial Officer
W. Christopher Browder, Vice President & General Counsel
Nanci Schwartz, Recording Secretary

President Dominguez asked German Romero to give the invocation, followed by the Pledge of Allegiance to the Flag. The Commission Meeting was called to order at 2:05 P.M.

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On a motion by Commissioner Kirby, seconded by Mayor Dyer and unanimously carried, the reading of the minutes of the August 21, 2012 Commission Meeting was waived and the minutes were approved.

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Roseann Harrington gave a presentation regarding the Light Up Nemours event, which was held October 4. She thanked President Dominguez for participating in the event, which recognized the student winners of OUC's and Nemours Children's Hospital's conservation art contest and turned on the hospital's colorful patient room lights for the first time. OUC teamed up with Nemours to promote the art contest, where students were asked to create an illustration about conservation. She recognized Rebecca Sebor, Karlene Ramirez, Gaby Ortigoni, Erika Hodges, and Tim Trudell for their work on the program.

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Ken Ksionek asked Chris Browder and Jan Aspuru to give a presentation on Affirmative Item A-4 regarding the Termination of Long-Term Power Supply Agreement with the City of Vero Beach and Power Supply Agreement with Florida Power & Light. Mr. Browder reported that on April 8, 2008, OUC entered into a Long-Term Power Supply Agreement (Vero Beach PPA) with the City of Vero Beach (Vero Beach) which became effective on January 1, 2010. OUC has successfully met all of the terms and obligations of the Vero Beach PPA and neither party is in breach; however, Vero Beach has elected to pursue the termination of the Vero Beach PPA to facilitate the sale of their electric system to Florida Power & Light (FPL). Discussions over the past several months led to the execution of a Memorandum of Understanding (MOU) between OUC, Vero Beach and FPL on September 19, 2012, in which agreed settlement terms were to be negotiated by the MOU parties in one or more agreements. OUC and Vero Beach have reached agreement on the terms of a termination and settlement agreement and OUC, Vero Beach and FPL have agreed on multiple implementing documents. Mr. Browder explained the various Definitive Agreements.

Mr. Aspuru explained one of settlement conditions was that OUC retained its transportation capacity.

Mr. Ksionek asked Chris Browder to give a presentation on Affirmative Item A-11 regarding the Group Medical, Dental & Prescription Program. Mr. Browder called on Denise Stalls to provide some background information. She reported that OUC's decrease in medical costs in 2012 has allowed for the 2013 medical plan to have no change in employee premium contributions. She noted the well-attended Wellness Expos, financial health and wellness compliance courses and the Know Your Numbers Challenge as reasons for this decrease in cost. Ms. Stalls recognized Janie Wallace and Roseann Harrington for their work on these programs.

Ms. Stalls called upon Janie Wallace to discuss OUC's efforts for Breast Cancer Awareness month. She reported that OUC is emphasizing awareness and education through the Pink Army community initiative as well as participation in the Susan G. Komen Race for the Cure. She distributed Pink Army packets to the Commissioners.

Commissioner Kirby asked Ms. Stalls how the Health Savings Account contribution amount was determined for the high deductible plan. Ms. Stalls replied that this was the value of savings from premiums paid by OUC for the high deductible plan.

Commissioner Kirby noted that prior to the Commission Meeting, he spoke with Mr. Browder about Affirmative Item A-13 regarding the Subordination of Utility Interests to the Florida Department of Transportation. Commissioner Kirby

reported that the OUC facilities in the area being subordinated were minimal and he was comfortable the agreement would not impact OUC's operations.

Commissioner Ferrone asked a question about Affirmative Item A-5 regarding the Evaluation, Inspection and Treatment Services/Joint-Use Pole Attachments Inventory. She asked if OUC has a defined joint-use policy for poles that has been communicated to the community. Mr. Bullock replied that OUC recently went through an audit on the joint-use application. OUC is very engaged with larger organizations such as AT&T and Bell South. OUC bills over 70,000 pole attachments on an annual basis. When requests are received, OUC checks out the poles in the field. The agenda item addressed audit perspectives and issues. Commissioner Ferrone also asked about incurred costs and cost recovery. Mr. Bullock replied that there is an element of cost recovery on a case by case basis, and OUC examines different agreements to determine this.

Commissioner Kirby asked if the scope of work has changed with this contract over time. Mr. Bullock replied that it has remained an inventory and inspection of pole attachments.

Mayor Dyer asked if the Pine Hills pole attachments issue had been resolved. Ms. Harrington replied that it is currently being decided by Orange County. OUC worked hard on this issue and has done everything possible to come to a resolution. Zoila Easterling clarified that OUC requires insurance with anybody who has a pole attachment agreement.

President Dominguez presented the Affirmative Items for approval. On a motion by Mayor Dyer and seconded by Commissioner Kirby, the Affirmative Items were approved as follows:

1. Ratification of the above fuel procurements to the low bidders in June and July 2012 in the aggregate amount \$18,008,129 as follows:

NATURAL GAS PURCHASES:

Jun. 2012	BP Energy Company	\$ 591,264.46
Jun. 2012	ConocoPhillips	\$1,410,202.74
Jun. 2012	EDF Trading (Formerly Eagle Energy)	\$ 318,000.27
Jun. 2012	Enbridge Marketing, LP	\$ 217,917.76
Jun. 2012	Infinite Energy	\$1,833,583.85
Jun. 2012	Macquarie Cook Energy, LLC	\$ 528,835.84
Jun. 2012	National Energy & Trade	\$ 232,872.31
Jun. 2012	Rainbow Energy	\$ 293,286.42
Jun. 2012	Sequent Energy Management	\$ 654,638.40
Jun. 2012	Southwestern Energy	\$ 486,005.44
Jun. 2012	Texla Energy Management, Inc.	\$1,930,497.96
Jul. 2012	BP Energy Company	\$ 420,425.00
Jul. 2012	ConocoPhillips	\$1,648,920.62
Jul. 2012	EDF Trading (Formerly Eagle Energy)	\$ 554,096.58
Jul. 2012	Florida Gas Utility	\$ 146,300.00
Jul. 2012	Infinite Energy	\$2,064,761.14
Jul. 2012	Macquarie Cook Energy, LLC	\$ 276,410.58
Jul. 2012	National Energy & Trade	\$ 148,891.35

Jul. 2012	NJR Energy Services	\$ 353,635.70
Jul. 2012	Sequent Energy Management	\$ 644,495.57
Jul. 2012	Shell Energy	\$ 247,519.66
Jul. 2012	Southwestern Energy	\$ 620,027.35
Jul. 2012	Texla Energy Management, Inc.	\$2,385,540.00

2. Approval of a sole source Purchase Order to Breen Energy Solutions, LLC to provide AbSensor probes, design, and technical and field service support for the Stanton Energy Center dry sorbent injection systems to control sulfur trioxide for mitigation of acid gases in an amount not to exceed \$850,000, subject to final contract negotiations and OUC legal review;
3. Approval of a sole source Purchase Order to Ronan Engineering Company for the purchase and installation of the Stanton Energy Center nuclear density meters in an amount not to exceed \$140,000, subject to final contract negotiations and OUC legal review;
4. Authorization for the General Manager & CEO to execute the various Definitive Agreements with the City of Vero Beach, Florida Power & Light and Florida Municipal Power Agency as applicable for the Termination of Long-Term Power Supply Agreement with the City of Vero Beach and the Power Supply Agreement with Florida Power & Light, subject to final contract negotiations and legal review;
5. Approval of RFP #3305 – Contract award to Utility Pole Technologies, Inc., the lowest, most responsive and responsible vendor, to provide pole evaluation, inspection and treatment services for a four-year period in the amount of \$1,078,400. Approval of RFP #3305 – Contract award to Davey Tree Expert Group, the lowest, most responsive and responsible vendor, for a joint-use pole attachments inventory in the amount of \$433,048;
6. Approval of the Electric Distribution Construction Estimate for the rebuild of the overhead electric distribution system along Semoran Boulevard, between Curry Ford Road and Colonial Drive located in the Orlando service territory, in the amount of \$793,621.10;
7. Approval of a Purchase Order to Orlando Health for reimbursement of construction costs for water distribution system improvements related to the Atlanta Avenue Improvements Project in an amount not to exceed \$148,336.75;
8. Approval of a sole source Purchase Order to Hewlett Packard Company for Unix hardware and software maintenance for the period

November 1, 2012 through October 31, 2013 in the amount of \$257,004.88;

9. Approval of RFP #3295 – Contract award to Xterm Pest Management, Inc. to perform monthly pest control services for a three-year period in the amount of \$117,168;
10. Approval of a sole source Purchase Order to C.E.M. Solutions, Inc. to install improved mercury probes in Units 1 and 2 of the Stanton Energy Center's Mercury Continuous Emissions Measuring System and provide three years of evaluation, maintenance and certification services in the amount of \$199,352.39;
11. Approval of Purchase Orders to Aetna Life Insurance Company in the amount of \$16,250,000 and Express Scripts, Inc. in the amount of \$5,250,000 for a total estimated medical program cost of \$21,500,000, effective January 1, 2013;
12. Approval of a Purchase Order in the amount of \$180,500 to de la Parte & Gilbert, P.A. to provide continued legal services related to OUC's Consumptive Use Permit and future district water policy and regulation during Fiscal Year 2013; and
13. Authorization for the General Manager & CEO to execute the Subordination of Utility Interests between the Florida Department of Transportation and OUC for Parcel 819.2, for property located north of Princeton Street and east of Interstate 4.

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President Dominguez asked if there were any comments for New Business Item 1 regarding the Commissioner nomination. The City of Orlando Nominating Board submitted three candidates for consideration of the position currently held by Commissioner Crag McAllaster, which expires December 31, 2012.

Commissioner Kirby moved to enable Commissioner Craig McAllaster, an OUC customer and qualified elector, to succeed himself as a Commission member, as is allowed by the Charter of the Commission, and that his name be submitted for consideration as the Commission's nominee to the Orlando City Council for election to serve a term of four years, effective January 1, 2013. Commissioner Ferrone seconded the motion and it was approved on a vote of 4-0.

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Commissioner Ferrone reported that the Audit Committee met on August 28, 2012. Internal Audit activities were presented to the Committee, and included a

summary of the recently issued audit reports and a status of open items. The external audit status update included a brief overview of the procedures completed during the interim portion of the 2012 financial statement audit. The interim audit procedures included internal control testing of the key financial processes, as well as the review of supporting narratives and the walkthrough of key procedures. Computer assurance testing was also completed to enable Ernst & Young to confirm their reliance on OUC's general computer controls in conjunction with the annual audit. Year-end audit procedures are scheduled to begin in October 2012.

Financial performance for the ten month period year ending July 31, 2012 was presented with Income before contributions of \$50.0 million or \$2.6 million higher than budget. In addition, financial pro-forma information was presented with Income before contributions projected to be \$2.7 million higher than budget or \$73.1 million.

There were no items requiring action by the Board.

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John Hearn reported that electric retail, wholesale, and water revenue in September was less than budget. He expects to end the fiscal year on budget from a net income perspective. Weather has been a significant factor on revenue, but expenditures have offset this revenue shortfall.

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Chris Browder reported on two legal issues. On December 9, 2011, OUC entered into a Letter of Intent (LOI) with North Carolina Municipal Power Agency No. 1 for potential participation in the Catawba nuclear power facility (Catawba Unit 2). In conjunction with the Catawba LOI, OUC entered into a firm point-to-point transmission service agreement with Florida Power & Light (FPL) on February 29, 2012. The Catawba LOI has expired since the parties could not reach terms of a full participation agreement or PPA.

As a result, OUC requested termination of the point-to-point service from FPL under their Open Access Transmission Tariff (OATT). On September 29, 2012, OUC and FPL entered into a termination agreement, which has been submitted to FERC for approval. OUC has intervened in the resulting FERC docket in support of approval. Currently, no upgrade or other costs to OUC are anticipated as a result of the termination.

Mr. Browder stated that in August 2010, Tampa Electric Company (TECO) filed a rate case with FERC to increase its wholesale electric rates by as much as 80 to 90 percent. An interim rate was established in that docket and became effective, subject to a potential refund. OUC became subject to those rates by virtue of a power supply contract assumed by OUC from the City of St. Cloud as part of its

interlocal service agreement with St. Cloud, which expires on December 31, 2012.

On August 9, 2010, OUC intervened in this docket to protest the rate increase and protect its interests. OUC hired outside counsel and some rate experts to assist in the case. The parties in the docket reached a settlement, which became effective on August 21, 2012. Because the settled wholesale rates were less than requested by TECO, OUC became entitled to a refund for the period during which the interim rates were in effect. On September 10, 2012, OUC received a refund in the amount of \$788,358.47.

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Mr. Ksionek stated the Washington, D.C. circuit court vacated the Cross-State Air Pollution Rule (CSAPR). Mr. Ksionek invited Chip Merriam to give a presentation on CSAPR and Jan Aspuru to give an update on OUC's EPA compliance projects, including sulfur dioxide and nitrous oxide improvements.

Mr. Merriam stated that part of the difficulty of working with the EPA and the large clean-air permits is that there is no certainty in the process, as there are many lawsuits and challenges going forward. Mr. Merriam explained that the Clean Air Interstate Rule (CAIR) was first introduced in 2005 and OUC presented an action plan to the Commission in 2007. In 2007, the courts determined that CAIR was flawed. CSAPR was promulgated on July 7, 2011, with compliance requirements and a timeline that would affect OUC.

Mr. Merriam described the two phase approach taken by the EPA in regards to CSAPR. The first step was to determine whether a state emits amounts that will contribute significantly to a downwind state's nonattainment or maintenance. In the second step, the EPA abandoned the air quality thresholds and used a cost-based standard. The EPA determined how much pollution each upwind state's power plants could eliminate, if the plants applied all of the available controls.

Mr. Merriam stated that on August 21, 2012, the U.S. Court of Appeals for the District of Columbia Circuit filed an order vacating CSAPR for two reasons. First, it exceeded Congressional authority granted, and it did not allow states to file a state implementation plan (SIP). In short, the EPA has transgressed statutory boundaries. OUC needs to proceed in a manner to be in the best situation possible and comply with other rules, such as CAIR.

Mr. Aspuru explained that CAIR targeted two types of emission: sulfur dioxide and nitrogen oxide. The Sulfur Dioxide Reduction Project was approved in 2006. Phase 1, for the external scrubber modifications, was completed in 2008 at a cost of \$11.5 million. Phase 2, the internal scrubber modifications, is nearly complete at a cost of \$16.9 million.

Mr. Aspuru stated that Phase 1 of the Nitrogen Oxide Reduction Project was approved in 2006 at a cost of \$29 million and completed in 2008. Phase 2 was

approved in 2007 at a cost of \$105 million with an expected completion date of 2011.

In 2008, CAIR was remanded by the courts. Because OUC already had a SCR on SEC Unit 2, OUC was in a unique position of to postpone work until the EPA offered more clarity on what the replacement for CAIR would look like. In 2011, CSAPR was finalized with an aggressive implementation scheduled for January 2012. As such, design and engineering was restarted on the Unit 1 SCR.

In August, CSAPR was vacated by the courts, and staff looked at other rules to determine a plan of action. It was decided to once again delay the Unit 1 SCR installation by one year, to maintain viable options during the continued period of uncertainty and to maintain that flexibility through the trade of emission allowances. Mr. Aspuru explained the cost impacts of the delay and a cost summary. The Sulfur Trioxide Mitigation Project will be completed by 2013/2014, and there will be a delay/cancellation of all remaining work.

Commissioner Ferrone asked if there would be any additional work required by all the delays in the project. Mr. Aspuru replied that the procurement packages are 75 percent complete. There may be some additional work required if it is necessary to change the design of the SCR due to future regulatory requirements.

Commissioner Ferrone asked if there was an estimated or firm date of when the EPA would receive a response from the courts. Mr. Merriam replied that there is 45 days before the court has to decide whether to grant a hearing. Then, presuming that the hearing is granted, briefs will be submitted and the process proceeds from there. Mr. Merriam clarified that assuming the EPA prevails, OUC will be forced back on the same timeline so it is necessary to stay agile during this process.

Commissioner Kirby asked if the project was stopped at a milestone point, so the cost to restart is minimized. Mr. Aspuru replied affirmatively, and clarified that most of the contracts had not come before the Board for approval. Of the four contracts that were suspended, there are some delay cost impacts. However, this allows OUC to revisit the structure of the agreements and start where the project was suspended.

Commissioner Dominguez asked for clarification regarding CAIR. Mr. Merriam replied that it was returned back to the EPA's rulemaking authority. A portion of CAIR is still in play at this point in time, but it is not a complete rule.

Commissioner Ferrone asked if there was any risk of OUC not being in compliance if a decision is made on this ruling during the one year suspension. Mr. Merriam stated that, with OUC not operating coal plants at full baseload capacity, this gives OUC additional options. It is also necessary to ensure that OUC remains compliant and moves forward with other rules currently in place. The risk exists but is minimized.

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Mr. Ksionek asked Mr. Merriam to provide a legislative update. Mr. Merriam discussed events in Central Florida and predictions for Congress. He explained reasons for the altered playing field, including demographic shifts, campaign finance laws, campaign ads, redistricting, media habits of voters and the cynical mood of the electorate. He also explained the reasons for Florida's political clout, including demographics, key political geographies, rural/urban/suburban, diverse age composition, partisan composition, campaign contributors and size and number of media markets. Mr. Merriam also discussed the trust in different levels of government and how that affects the electorate. Mr. Merriam gave an overview of the 112th Congress, including the lack of a balanced budget and gridlock, and what must be accomplished by the end of session.

Mayor Dyer commented on the upcoming election and the confidence of the American people in national and local politics. Based on the results of the 2008 Presidential election, he believes that Florida will be very significant in the 2012 election.

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Commissioner Ferrone thanked her fellow Commissioners and OUC staff for wearing pink in honor of Breast Cancer Awareness month. She stated that sustainability has been a recent issue of concern, as she recently participated in the Efficiency Delivered Program at her home and visited Stanton Energy Center. She is proud to be a part of OUC.

Commissioner Kirby stated that OUC is headed in the right direction in regards to regulatory compliance. He remarked on the consistent theme of health throughout the meeting, and that it was touching and important for everyone to wear pink in support of Breast Cancer Awareness month. He attended the Mayor's State of Downtown Address where the next phase of the Greenworks project was launched, and stated that it will position Orlando as a leader in sustainability. He also attended the Light Up Nemours event and stated that the hospital positions Orlando as a global leader. He accompanied Al Frazier to the Cornerstone Awards, where Mr. Frazier and OUC were recognized for their work with the Juvenile Diabetes Research Foundation.

Mayor Dyer thanked everyone for their support at his State of Downtown address. He emphasized OUC and City partnerships and various projects. His goal is for Orlando to be the most sustainable city in the Southeast. He also encouraged people to support the Star Wars exhibit at the Orlando Science Center.

President Dominguez stated that it was exciting to participate in the Light Up Nemours event. The children will remember being a part of such an important event, and will continue to be concerned with sustainability throughout their lives. She commended OUC's wellness program and partnerships going forward.

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President Dominguez adjourned the meeting at 3:33 P.M.

President

Secretary