

**MINUTES
ORLANDO UTILITIES COMMISSION
JULY 22, 2008
2:50 P.M.**

Present:

COMMISSIONERS:

Katie Porta, President

Tommy Boroughs, First Vice President

Maylen Dominguez Arlen, Second Vice President

Dan Kirby, Commissioner

Mayor Buddy Dyer

Kenneth P. Ksionek, General Manager & Chief Executive Officer

Jan Aspuru, Clint Bullock, Alvin Frazier, Byron Knibbs, Doug Spencer,

Denise Stalls, Thomas Tart, Robert Teegarden, Vice Presidents

John Hearn, Vice President & Chief Financial Officer

Gregory T. Rodeghier, Vice President & Chief Information Officer

W. Christopher Browder, Vice President & General Counsel

Beth Mason, Recording Secretary

President Porta asked Thomas Tart to give the invocation, followed by the Pledge of Allegiance to the Flag. The Commission Meeting was called to order at 2:50 P.M., immediately following the Public Utility Regulatory Policies Act and Budget/Rate Public Workshops that commenced at 2:00 P.M.

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Commissioner Kirby requested to amend the June 17, 2008 Commission Meeting minutes to modify the second sentence of the last paragraph on page 57 to read: "He thanked Mr. Ksionek for assigning the Water Distribution Division to work with Orange County on some backflow preventer aesthetic and placement issues." On motion by Commissioner Kirby, seconded by Commissioner Boroughs, and unanimously carried, the reading of the minutes of the June 17, 2008 Commission Meeting was waived and the minutes were approved as amended.

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Ken Ksionek commented that Affirmative Items #23 and #25 are associated with the City of Orlando and asked Doug Spencer to discuss Affirmative Item #23.

Mr. Spencer reported that OUC Staff has been working with City staff on the Events Center Chilled Water Project for the last three months. The City has agreed to provide some property on Anderson and Division Streets for a new chilled water facility. The facility will have the capacity to chill 4,000 tons daily, with the potential to produce 8,000 tons. Zoning issues still need to be resolved in order for the City to proceed with permits. Mr. Spencer commented that the Chilled Water Program is almost eleven years old. OUC went from zero chilled water to approximately 50,000 tons of chilled water with the completion of Lake Nona. This makes OUC one of the largest chilled water companies in the United States.

Mr. Spencer also commented on the LEED certification for the new Administration Building. OUC was able to get an extra LEED point for the Administration Building because it has 10 percent more efficient use of chilled water.

Clint Bullock provided additional information regarding Affirmative Item #25. In February, the City of Orlando was awarded a Solar Cities Grant through the Department Of Energy. The City of Orlando is required to be the prime recipient of the grant and OUC will be the project lead. OUC will support this effort with staff and some direct funding. The proposed Agreement outlines the cost-share commitment for project related expenses.

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

1. Ratification of fuel procurements to the low bidders in April and May, 2008 in the aggregate amount of \$40,899,457.59 as follows:

NATURAL GAS PURCHASES:

Apr. 2008	BG Energy Merchants, LLC	\$ 847,142.87
Apr. 2008	Chevron Natural Gas	\$2,123,292.88
Apr. 2008	City of Lakeland	\$1,215,781.47
Apr. 2008	ConocoPhillips	\$ 685,446.59
Apr. 2008	Florida Gas Utility	\$ 396,572.18
Apr. 2008	Infinite Energy	\$1,615,982.31
Apr. 2008	LouisDreyfus	\$2,852,491.27
Apr. 2008	Magnus Energy Marketing, Ltd.	\$ 627,761.32
Apr. 2008	Murphy Gas Gathering, Inc.	\$ 163,620.00
Apr. 2008	National Energy & Trade	\$2,779,724.46
Apr. 2008	National Fuel Marketing	\$2,305,635.64
Apr. 2008	People's Gas System	\$ 319,155.42
Apr. 2008	Prior Energy Company	\$2,295,560.74
Apr. 2008	Sequent Energy Management	\$ 399,195.23
Apr. 2008	Virginia Power Energy Marketing, Inc.	\$3,483,866.47
May 2008	BG Energy Merchants, LLC	\$ 151,790.71
May 2008	BP Energy Company	\$ 275,950.42
May 2008	Chevron Natural Gas	\$2,189,742.66
May 2008	City of Lakeland	\$1,077,514.50
May 2008	ConocoPhillips	\$2,166,377.29

May 2008	Crosstex Gulf Coast Marketing Ltd.	\$ 294,454.43
May 2008	Florida Gas Utility	\$ 610,004.12
May 2008	Infinite Energy	\$1,302,197.97
May 2008	LouisDreyfus	\$2,249,807.63
May 2008	Magnus Energy Marketing, Ltd.	\$ 511,922.32
May 2008	National Energy & Trade	\$ 160,371.30
May 2008	National Fuel Marketing	\$2,122,971.73
May 2008	Prior Energy Company	\$1,954,146.56
May 2008	Sequent Energy Management	\$ 864,070.29
May 2008	Virginia Power Energy Marketing, Inc.	\$2,856,916.81

2. Ratification of Bid #2352 – Contract award to Hudson Pump, a Division of Tencarva Machinery Company, the most responsive and responsible bidder, to provide general service pumps for the Stanton Energy Center Unit B 300 Mw Combined Cycle Plant Project balance of plant interconnecting facilities in an amount not to exceed \$175,000;
3. Approval of a Capital Expenditure Estimate for the Stanton Energy Center Elemental Coal Analyzer Project in the amount of \$1,300,000. Approval of Bid #2516 - Contract award to EADS Sodern North America, Incorporated, the most responsive and responsible bidder, for the purchase of an elemental coal analyzer in the amount of \$759,970;
4. Approval of a Capital Expenditure Estimate for the Stanton Energy Center Coal Transfer and Crusher Buildings Chute Replacement Project in the amount of \$1,284,294. Approval of Bid #2540 – Contract award to Irwin Industries, Inc., the lowest, most responsive and responsible bidder, to replace the chutes in the coal transfer and crusher buildings in an amount not to exceed \$1,204, 294;
5. Approval of a Change Order No. 2 to Dedicated Transport, LLC to support fuel adjustments and increased quantities of lime to the existing Stanton Energy Center Lime Slurry contract through December 31, 2008 in the amount of \$1,300,000, increasing the total Purchase Order amount to \$7,100,000;
6. Approval of Change Request No. 4 to Brock Specialty Services, Ltd. for the fourth year funding of contract labor services for the Power Resources Business Unit in the amount of \$4,237,907, increasing the total Purchase Order amount to \$15,012,334;
7. Approval of the Lighting Construction Estimate for Millenia Boulevard, located between Oak Ridge Road and Radebaugh Way in the Orlando service territory, in the amount of \$113,505.53; which includes \$30,168.10 for lighting equipment from OUC's stock inventory and \$83,337.43 for the installation of poles, fixtures and conduit by Terry's Electric, Inc., OUC's lighting contractor;

8. Approval of the Electric Distribution Construction Estimates for the underground electric distribution system to serve the OUCooling Lake Nona Central Energy Plant, Phase 1, located at Lake Nona South in the Orlando service territory, in the amounts of \$291,623.60 and \$116,727.25 for the installation of feeder cable and padmounted transformers respectively, for a total of \$408,350.85;
9. Approval of the Electric Distribution Construction Estimate for the installation of an underground electric distribution system to serve the LaVina Marketplace, located at the intersection of Narcoossee Road and Dowden Road in the Orlando service territory, in the amount of \$177,954.93;
10. Approval of the Electric Distribution Construction Estimate for the installation of an underground electric distribution system to serve the East Park Village Center II, located on Moss Park Road in the Orlando service territory, in the amount of \$135,395.26;
11. Approval of the Electric Distribution Construction Estimate for the permanent underground electric distribution system and temporary power overhead facilities to serve the Burnham Institute at Lake Nona, located at Lake Nona South in the Orlando service territory, in the amount of \$103,584.76;
12. Approval of the Electric Distribution Construction Estimate for the installation of an underground feeder cable to serve the Orlando Regional Healthcare System West Central Energy Plant, located at 1401 Atlanta Avenue in the Orlando service territory, in the amount of \$139,561.77;
13. Approval of the Electric Distribution Construction Estimate for the Miller Street Enhancement Project in the amount of \$179,164.26, with customer contributions in the amount of \$179,164.26;
14. Approval of the Electric Distribution Construction Estimate for the installation of the overhead electric distribution system to serve the Muskogee Industrial Park, located west of Forsyth Road in the Orlando service territory, in the amount of \$101,521.29;
15. Approval of the Electric Distribution Construction Estimate for the relocation of overhead electric distribution facilities located in the right-of-way along Narcoossee Road north of State Road 528 in the Orlando service territory, required for the City of Orlando's Narcoossee Road Widening Project, in the amount of \$303,484.44;
16. Approval of the Electric Distribution Construction Estimate for the relocation of overhead electric distribution facilities located in the right-of-way along State Road 50 between Hiawassee Road and Powers

Drive in the Orlando service territory, required for the Florida Department of Transportation's State Road 50 Road Widening Project, Phase I, in the amount of \$305,196.32;

17. Approval of Bid #2529 –Contract award to ABB Power T&D Co. Inc., the most responsive and responsible bidder, to provide fifteen 245kV power circuit breakers, installation field services and spare parts for the Stanton Energy Center Substation Breaker Upgrade Project in the amount of \$2,050,000;
18. Approval of Bid #2530 – Contract award to Valmont-Newmark, Inc., the sole responsive bidder, for steel transmission poles and anchor bolts required for the Taft to Cane Island Segment of the Taft to Lakeland McIntosh Transmission Line Reconductor Project in the amount of \$400,000;
19. Approval of SOQ #2439 - Contract award to Power Engineers, Inc., evaluated to be the best qualified firm, to provide engineering and construction services for the Pershing Substation to Goldenrod Road Segment of the Pershing to Indian River 115kV Transmission Lines A & B Upgrade Project in an amount not to exceed \$275,000;
20. Approval of SOQ #2504 - Contract award to EMA, Inc., evaluated to be the best qualified firm, to provide engineering support services related to the Supervisory Control & Data Acquisition network for a three-year period in the amount of \$300,000;
21. Approval of Change Request No. 2 to Software House International for the annual software maintenance and for the purchase of new software licenses through July 31, 2009 in the amount of \$290,804, increasing the total Purchase Order amount to \$980,538;
22. Ratification of a Purchase Order to Energy Task Force, LLC for the direct purchase of ductile iron piping required for the construction of the Peabody Hotel chilled water project in the amount of \$200,000;
23. Ratification of the Events Center Capital Expenditure Estimate for the installation of the chilled water service pipe on Hughey Avenue north of South Street to the Events Center service point in the amount of \$815,000. Ratification of a sole source Purchase Order to S.I. Goldman Company, Inc. to Design/Build the chilled water service pipe segment on Hughey Avenue north of South Street to the Events Center service point in the amount of \$785,000;
24. Ratification of a Purchase Order to Creative Concepts of Orlando, Inc. in the amount of \$307,827 for millwork materials for the new OUC Administration Building;

25. Authorization for the General Manager & CEO to execute the appropriate documents between OUC and the City of Orlando for participation in the Solar Cities Grant, pending OUC legal review, which includes a cash cost-share commitment in the amount of \$102,000 for project related expenses as specified in the project's scope of work;
26. Approval of a Purchase Order to Florida Mitigation Bank, LLC for the purchase of 3.7 mitigation credits to offset impacts to the wetlands affected by the Taft to Cane Island Segment of the Lakeland McIntosh Transmission Line Reconductor Project at a total cost of \$312,600;
27. Approval of Change Order No. 1 for heavy equipment and crane rentals from the following vendors: Bell Rental & Sales, Inc., Briggs Construction Equipment, Inc., Hertz Equipment Rental Corp., Linder Industrial Machinery, Neff Rental, Ring Power Corp., RSC Equipment Rental, Sunbelt Rentals, Inc., U-Brothers Rent, LTD, United Rentals, All Sunshine Crane Rental, Corp., Florida Rigging & Crane, Fred's Excavating & Crane Service, Maxim Crane Works, Sims Crane & Equipment and Sunbelt Cranes in the amount of \$1,000,000, increasing the total Purchase Order amount to \$1,675,000;
28. Approval of a Capital Expenditure Estimate for the construction of three storage structures at the Pershing facility in the amount of \$607,987.54;
29. Approval of Change Order No. 1 to the Information Technology (IT) Department's Business & Technology Staffing Support Purchase Order to include the following vendors to provide multi-disciplined temporary staffing support services for a four-year period: Accounting Principals, Inc., Adecco Technical, Aerotek, Inc., AppleOne Employment Services, A-RYEN Unlimited Staffing Solutions, Corestaff Services, LLP, Employment Resources, Inc., Horizon Staffing Services, Link Staffing Services, Reliaquest LLC and Tews Company in the aggregate amount of \$1,500,000 increasing the total Purchase Order amount to \$2,500,000. Approval to amend IT vendor contracts to include additional services related to Change Order No.1 for: Asyst Consulting, Spherion Corporation and Tech USA;
30. Authorization for the General Manager & CEO to execute the Release of Utility Easement, for an easement located west of South Orange Avenue and south of Columbia Street, for Orlando Regional Healthcare Systems, Inc.;
31. Authorization for the General Manager & CEO to execute the Subordination of Encumbrances to Property Rights to Orange County

along Holden Avenue, for easements located north of Holden Avenue and west of South Orange Blossom Trail;

32. Authorization for the General Manager & CEO to execute the Partial Release of Utility Easement for Habitat for Humanity, for easements located east of Le Havre Boulevard and south of Silver Star Road; and
33. Approval and authorization of the Resolution of Necessity for acquisitions of additional property in Polk County to replace certain existing OUC transmission rights-of-way and easements required for the Florida Department of Transportation's District One (Bartow) expansion of Interstate 4 in Polk County and request that the City of Orlando adopt the Resolution of Necessity.

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John Hearn reported that revenues continue to trail budget by approximately \$12 million. Staff has done a preliminary projection, which will be finalized and presented to the Audit Committee for review by the Board at the August 26, 2008 Commission Meeting. The budget shortfall is approaching \$17 million. Efforts to mitigate this shortfall have been instituted, including a hiring freeze and limiting overtime and travel.

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Chris Browder reported on the TECO Coal litigation. OUC is waiting for the Judge to provide a ruling to OUC's Motion to Dismiss. In addition, Jan Aspuru and his staff have been working with Century Coal to come up with a resolution. Basically, OUC is suing for breach of contract and asking the court to force Century Coal to deliver coal. There is a hearing on the injunction scheduled for July 28, 2008 and OUC is hopeful that the court will require Century Coal to deliver all of the coal or some portion of it

Discussion ensued regarding Century Coal's financial position and the possibility of it filing bankruptcy. Although bankruptcy is a concern, there are indications that Century Coal is shipping coal out of the country.

Further, Mr. Browder commented that OUC is required to investigate Alternative Water Supplies (AWS) in the form of surface water from the St. Johns River as part of OUC's Consumptive Use Permit (CUP) requirements. OUC has intervened in an administrative hearing where the Putnam County Environmental Council is challenging the use of surface water from the St. Johns River and other locations as a valid AWS. Part of OUC's settlement agreement with the South Florida Water Management District (SFWMD) and Orange County (Settlement Agreement) includes the obligation to develop five million gallons of AWS per day. This lawsuit challenges OUC's ability to do that. Basically, it is a request for an Administrative Hearing under Chapter 120,

Florida Statutes, in which Putnam County Environmental Council has requested an Administrative Judge to declare that the use of surface water as a form of AWS is not valid under the statute. By attacking surface water as a valid AWS, the challenge undermines OUC's current AWS plan for compliance under the Settlement Agreement.

Discussion ensued regarding the AWS provisions. Commissioner Kirby asked if OUC's AWS provisions are source specific, or if OUC is just required to come up with a supply. Mr. Browder replied that it is not source specific, but the St. Johns River/Taylor Creek Reservoir is the source OUC is pursuing and is the most cost effective at this point. Commissioner Kirby questioned whether they are trying to negate the use of surface water? Mr. Browder responded that the challenge seeks to limit the use of surface water from the St. Johns River totally, or in the alternative, limit use to only those times of the year when there is high water levels due to rain.

Rob Teegarden commented that OUC needs to be cautious in distinguishing its CUP goals and priorities from its requirement to develop AWS in the Settlement Agreement. Alternative water supplies must be implemented by OUC and it is an important element of the future water supplies for OUC's service area.

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Ken Ksionek thanked the Board members for their participation in the Commission Workshop on July 15, 2008 focusing on the Electric Integrated Resource Plan (EIRP). Mr. Ksionek requested that Rob Teegarden discuss OUC's water resources plan, since time did not allow for this discussion at the Workshop.

Mr. Teegarden provided a presentation outlining OUC's long-term strategy, the plan to develop a Water Integrated Resources Plan (WIRP) and CUP related matters. Mr. Teegarden discussed OUC's CUP and the five-year compliance process that OUC is now engaged in, as well as Project RENEW, Alternative Water Supply (AWS) and future water strategies going forward. The next step will be to bring forth a request to initiate a full WIRP, similar to the EIRP, which will include conservation, secure groundwater supply allocation in the CUP, and solidify reclaimed water positions with the City and County.

Mr. Teegarden commented that the Century Commission and the Governor's Water Summit is scheduled for September 25-26, 2008 and he is currently serving on the Florida Section of the American Water Works Association Steering Committee. The St. Johns River Water Management District (SJRWMD) is also having a technical symposium on September 17-18, 2008 regarding the development of surface water supplies on the St. Johns River.

In response to Commissioner Boroughs question on how this Water Summit came about, Mr. Teegarden responded that it came about as a recommendation

from the Century Commission, through the water districts, the Florida Department of Environmental Protection and a political process. The 125 invited delegates will hold workshops and discuss water issues and possible solutions.

Commissioner Porta asked about Apopka's use of reclaimed water. Mr. Teegarden responded that Apopka needs it for irrigation and has a large reclaimed water demand of approximately 30 mgd. The City of Apopka also takes a unique approach and installs all potable water, reclaimed water and sewer lines. The City of Apopka is not developing on septic tanks and, therefore, it generates a large reclaimed water volume on its own. However, it still generates insufficient reclaimed water supply to meet its own needs. Mayor Dyer commented that in the southeast section of Orlando near Lake Nona, reclaimed water actually forced conservation because a valve can be turned on and off to restrict reclaimed water use, whereas a regular system does not have that capability.

Commissioner Dominguez Arlen commented that perhaps even if OUC acts with good planning intentions, it may elicit challenges. She expressed concerns that we may not know whether an action will be challenged or not. Mr. Teegarden responded that OUC's CUP has a strong legal standing and the five-year compliance will address the risk and uncertainty going forward.

Commissioner Kirby commented that OUC will have to continue to protect its CUP due to the unforeseeable future over water resources because of where we live and what is being done in the surrounding areas. He asked how much longer we expect the compliance review to continue. Mr. Teegarden responded that it is difficult to estimate, but that OUC will be submitting its first response to questions in approximately one month and he is optimistic that the process will be finalized in six to seven months. There are a lot of politics, science and clash of community values involved that tend to confuse the issues. OUC is focused on completing the CUP compliance process.

Mr. Ksionek commented that staff has been bringing capital projects to the Board for approval which are required under the Clean Air Interstate Rule (CAIR). The U.S. Court of Appeals for the DC Circuit has thrown out the Environmental Protection Agency (EPA) enacted CAIR. Mr. Ksionek asked Denise Stalls to discuss the legal challenges and the anticipated next steps and for Jan Aspuru to discuss the projects that may be placed on hold.

Denise Stalls reported that the EPA instituted CAIR in March 2005. The goal of CAIR was to prevent air pollution from moving across state boundaries. There were numerous State and industry challenges to CAIR, which were consolidated into one lawsuit, called North Carolina vs. EPA. Earlier this year, oral arguments were given in the DC Court on the various components of all of these challenges. The DC Court issued an opinion on the case on July 11, 2008. Ms. Stalls paraphrased the opinion, specifically noting the Court's opinion supporting Florida's inclusion in CAIR. The ruling indicated that the Court did not support

the EPA's regional cap and trade approach for the CAIR program. Their opinion concluded that CAIR should have been a state-by-state program to address an individual state's contribution to downwind states' air pollution.

The Court's opinion doesn't go into effect until the Court issues a mandate. The EPA can request a rehearing or appeal to the US Supreme Court. The deadline to request a rehearing is August 24, 2008.

Jan Aspuru reported that there are many uncertainties regarding the financial impact of the imposed ruling. Mr. Aspuru provided an overview of the items the Board has approved since CAIR was passed. A total of \$163 million in projects have been approved to deal with two main factors - NOx reduction project and SO2 emissions reduction project. The projects for the SO2 emissions reduction were implemented in two phases. Phase 1 was approved by the Commission on March 21, 2006 for \$11.5 million and was comprised of external scrubber upgrades for Units 1 and 2. For the most part, those projects have been completed. Phase 2 was approved by the Commission on October 10, 2006 in the amount of \$16.9 million. This phase included the internal upgrades to the scrubbers, which are partially completed. The NOx reduction was also broken down into two phases. Phase 1 was also approved on October 10, 2006 for \$29 million for the installation of low NOx burners and over-fire systems for both Units 1 and 2. Unit 2 has been completed and materials for Unit 1 have been purchased. This project is scheduled for completion during the upcoming 2008 Fall outage. Phase 2 of the NOx reduction project is the most prominent project, which is the installation of a selective catalytic reduction (SCR) system for Unit 1. The SCR project is estimated to cost \$105 million and is not scheduled to be done until 2009 or 2010. In light of the recent court decision, staff will re-evaluate the implementation schedules of CAIR projects that have not started as of this date.

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Commissioner Kirby commented that as the upcoming Olympic games convene in Beijing, it reminds us of a several things. Specifically, the extreme measures China has gone through to clean up the air quality in preparation for the games. OUC has made a commitment to utilize technology that enables the use of coal in as clean a way as possible. There is also competition for resources and the Olympics are a prime example of convening the best in the world. Since the last Commission meeting, he visited various OUC facilities and thanked various staff members for taking the time to accommodate this. He commented that OUC's employees are one of its greatest assets and the employees are up to meeting the challenges of OUC's commitment to being an environmental steward, while providing affordable and reliable services. He believes OUC has the best linemen training program and is pleased about the addition of a Case Manager to the 211 program. It is important that OUC continues to address and review policies with regard to the 211 program, especially during difficult economically

troubling times. OUC should continue to keep focused on how it can continue to help its customers.

Commissioner Boroughs commented that one of the most difficult issues to deal with as a Commissioner is how to provide affordable electricity for low income customers. The presentations given today were excellent and he thanked the City of Orlando for providing the property for the Events Center Chilled Water Project.

Commissioner Dominguez Arlen commented that although it is difficult to deal with constant rule and regulatory changes, it is important to keep a good sense that OUC is doing things in the correct manner. During these times, we have to be nimble, diverse and prudent.

Mayor Dyer reiterated comments regarding CAIR regulations and the 211 Case Manager. This makes funds more accessible, which is reflected in the water and electric rates. It is prudent in terms of assisting low income people in the community. The community has come together in many different ways, including the Solar City Agreement and the Events Center Chilled Water Project.

President Porta commented that last week's Workshop was informational and educational. In addition, OUC has great customer service staff with excellent training and the 211 Case Manager is an added benefit.

President Porta commented that Thomas Tart was recognized as the Florida Municipal Electric Association (FMEA) Member of the Year at the recent FMEA-FMPA Annual Conference. Thomas Tart thanked President Porta and stated he is honored to receive such recognition.

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Carl Melcher, OUC customer, spoke regarding possible cost saving measures OUC should consider and the proposed rate increases.

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Commissioner Boroughs moved to adjourn the meeting. Commissioner Dominguez Arlen seconded the motion and President Porta adjourned the meeting at 4:15 P.M.

President

Secretary