

**MINUTES  
ORLANDO UTILITIES COMMISSION  
MAY 12, 2009  
2:00 P.M.**

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**Present:**

**COMMISSIONERS:**

Katie Porta, President  
Maylen Dominguez Arlen, First Vice President  
Dan Kirby, Second Vice President  
Craig McAllaster, Commissioner  
Mayor Buddy Dyer

Kenneth P. Ksionek, General Manager & Chief Executive Officer  
Jan Aspuru, Clint Bullock, Alvin Frazier, Roseann Harrington, Byron Knibbs,  
Denise Stalls, 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 John Hearn to give the invocation, followed by the Pledge of Allegiance to the Flag. The Commission Meeting was called to order at 2:00 P.M.

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On motion by Commissioner Dominguez Arlen, seconded by Commissioner Kirby, and unanimously carried, the reading of the minutes of the April 14, 2009 Commission Meeting was waived and the minutes were approved as amended.

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Roseann Harrington reported that Mayor Dyer led the Corporate Run 5K through downtown Orlando on April 16. Approximately 11,000 runners participated and OUC was represented by 48 employees and family members. OUC employees also participated in the Junior Achievement Bowl-A-Thon on April 25, with 61 bowlers raising approximately \$4,000. Habitat for Humanity broke ground several months ago on Staghorn Villas, a complex of 58 town homes. OUC contributed to the energy efficiency features and upgrades. Twenty OUC employees participated in a volunteer day on May 2 to work on the project.

Additional work days for the project are scheduled for June 27 and July 11. Ms. Harrington also commented several Reliable Plaza building tours have taken place over the last several months.

Ken Ksionek asked Roseann Harrington to discuss Affirmative Item A-11 regarding the Education Outreach Program with the Orlando Science Center. Ms. Harrington commented that if school children are educated on sustainable habits, it will provide a greater impact on our future. The primary objective is to implement the program in OUC's entire service territory, including Orange and Osceola counties, and will address both energy and water conservation. This program will focus on 5<sup>th</sup> grade students in public schools because this is when students take their first science FCAT. The program will also include a hands-on 90-minute classroom experiment that will involve the students. There will be specific requirements that the schools will need to meet to participate in the program. Ms. Harrington stated that this program will educate more than 5,500 students a year.

Commissioner Dominguez Arlen asked if there is any way to tie this program in with the painted rain barrels project. Ms. Harrington confirmed that the rain barrels will be tied into the program. Commissioner Kirby asked if the program will take place at the Orlando Science Center or at the schools. Ms. Harrington stated that the program will take place during the science class at each school.

President Porta commented that it would be nice gesture for the participating students and families to receive a pass to the Orlando Science Center as an incentive to participate in conservation.

Commissioner Kirby asked staff to address Affirmative Item A-6 regarding the construction estimate for Wetherbee Road, Phase 3, specifically the procurement strategy and estimated cost savings.

Byron Knibbs explained that when there is a joint roadway construction project by multiple parties, there is typically a road contractor on site who is also placing infrastructure in the ground. OUC typically obtains a competitive bid for installation of its ductline systems. Usually, the road contractor costs are lower than OUC's ductline contractor because they are already mobilized. This also eliminates OUC's coordination costs because the road contractor is already managing all activities on the site.

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

1. Ratification of fuel procurements to the low bidders in February 2009 in the aggregate amount of \$3,874,628.84 as follows:

**NATURAL GAS PURCHASES:**

Feb. 2009	Chevron Natural Gas	\$ 290,806.23
Feb. 2009	City of Lakeland	\$ 295,088.29
Feb. 2009	ConocoPhillips	\$ 252,817.33
Feb. 2009	Eagle Energy	\$ 359,812.44
Feb. 2009	Louis Dreyfus Energy	\$1,337,190.10
Feb. 2009	National Fuel Marketing	\$ 202,084.28
Feb. 2009	Virginia Power Energy Marketing, Inc.	\$ 1,136,830.17

2. Approval of a sole source Purchase Order to Energy Ventures Analysis, Inc. for a Strategic Coal Supply Plan in the amount of \$140,000;
3. Approval of a Purchase Order to Okonite Company for underground electric cable in the amount of \$400,000. Approval of Bid #2489 – Contract award to McCartney & Company, Inc., the most responsive and responsible bidder, to provide general construction services for the project in an amount not to exceed \$1,600,000, required for the Stanton Energy Center Auxiliary Electric System Upgrade Project;
4. Approval of the Electric Distribution Construction Estimate for the installation of an underground electric distribution system to serve the Wal-Mart Supercenter, located at the intersection of North John Young Parkway and West Princeton Street in the Orlando service territory, in the amounts of \$448,301.00 and \$136,579.49 for the installation of the manhole and ductline infrastructure and the electric distribution system, respectively, for a total amount of \$584,880.49;
5. Approval of the Electric Distribution Construction Estimate for the installation of an underground electric distribution system to serve the Orlando Events Center, located at the intersection of Church Street and Division Avenue in the Orlando service territory, in the amount of \$692,091.31;
6. Approval of the Electric Distribution Construction Estimate for the installation of a manhole and ductline system along Wetherbee Road, west of Boggy Creek Road, located in the Orlando service territory, in the amount of \$677,266.50 including a sole source Purchase Order to Jr. Davis Construction Company, Inc. to perform the installation work in the amount of \$583,812.45;
7. Approval of a sole source Purchase Order to KEMCO Industries, LLC to provide switchboard panels required for the Stanton to Bithlo 230kV Transmission Line Project in an amount not to exceed \$104,966;
8. Approval of Change Order No. 2 to Southeast Power Corporation to provide labor and equipment to reconductor the Osceola to Cane Island Segment of the Taft to Lakeland McIntosh Transmission Line

Reconductor Project in the amount of \$1,627,501, increasing the total Purchase Order amount to \$13,574,834;

9. Approval of Capital Expenditure Estimate for the Pine Hills Water Treatment Plant Variable Frequency Drive (VFD) Installation Project in an amount not to exceed \$211,277.28 which includes a Purchase Order to Rexel, Inc. for the purchase of the new VFD in the amount of \$165,255.00;
10. Approval of Bid #2596 – Contract award to Xerox Corporation, the most responsive bidder, to lease a Xerox DocuColor 800AP Digital Color Press for a three-year period in the amount of \$490,824;
11. Approval of Purchase Order to the Orlando Science Center to develop and conduct an education outreach program for all fifth grade public school students in the Orange and Osceola County service territory for a one-year period in the amount of \$223,500, which includes a one-time development charge of \$30,000;
12. Approval of a Purchase Order to Altec Industries, Inc. to lease two aerial tower trucks and one pressure digger derrick for a 96-month term for a total amount of \$1,542,795;
13. Approval of Change Order No. 2 to Protective Systems, Inc. for inert gas fire suppression equipment, preaction system testing and maintenance services in the amount of \$45,226.50, increasing the total Purchase Order amount to \$126,176.50;
14. Approval of Bid #2495 – Contract award to Riverside Manufacturing Company, the most responsive and responsible bidder, to provide flame resistant clothing for a five-year period in an amount not to exceed \$475,000;
15. Approval of a sole source Purchase Order to Siemens Building Technologies, Inc. for a chilled water plant controls service contract for a three-year period commencing May 1, 2009 in the amount of \$880,533;
16. Approval of Purchase Order to the Trane Company, the lowest, most responsive and responsible bidder to provide a three-year mechanical maintenance agreement commencing on June 1, 2009 for the Lake Nona Chilled Water Plant in an amount not to exceed \$126,162;
17. Approval of Change Order No. 1 to Thomas P. Callan, P.A. to provide continued property and eminent domain legal services through September 30, 2009 in the amount of \$100,000, increasing the total Purchase Order amount to \$150,000;

18. Approval of Change Order No. 2 to Seminole Electric Cooperative, Inc. to cover OUC's proportional share for continued legal services related to the Levy Nuclear Project through September 30, 2009 in the amount of \$100,000, increasing the total Purchase Order amount to \$195,000; and
19. Approval of Change Order No. 2 to Duncan, Weinberg, Genzer & Pembroke, P.C. to provide continued legal services through September 30, 2009 in the amount of \$100,000, increasing the total Purchase Order amount to \$195,000.

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President Porta reported that a Special Finance Committee was held on May 11, 2009. President Porta asked John Hearn to report on the meeting.

Mr. Hearn stated that the special meeting was held to consider refunding the variable rate Series 2002B Bonds due to the downgrade of SunTrust Bank's credit rating. SunTrust is the liquidity provider for these bonds and the impact to OUC is that the short-term interest rates were raised. After reviewing several options to mitigate the possible \$150,000 to \$250,000 per month cost increase, the Finance Committee recommends refunding the Series 2002B Bonds. A Supplemental Resolution increasing the amount of the Series 2009B Bonds from \$225 million to \$325 million is being recommended for approval.

Commissioner Dominguez Arlen stated that this action will provide a significant cost savings since OUC is able to refund these bonds.

Commissioner McAllaster moved to approve the Supplemental Resolution as recommended by the Finance Committee. Commissioner Dominguez Arlen seconded the motion and it was unanimously approved as follows:

PRES-1a Adoption of a Resolution of the Orlando Utilities Commission supplementing the Resolution of OUC adopted on April 14, 2009 authorizing the issuance of \$225,000,000 Utility System Revenue Refunding Bonds, Series 2009B to increase the authorized aggregate principal amount of Utility System Revenue Refunding Bonds, Series 2009B to \$325,000,000 and to authorize the proceeds of said Series 2009B Bonds to be used to refund OUC's Utility System Revenue Refunding Bonds, Series 2002B; providing definitions; and providing an effective date.

In addition, Mr. Hearn reported that the Series 2009A Bonds were successfully marketed on April 29. Additionally, OUC's long-term credit ratings were affirmed by all three rating agencies. However, Standard & Poor's downgraded the short-term rating on the Series 2002B Bonds due to the SunTrust downgrade.

Mr. Hearn also stated that there are adequate protections for OUC's funds held with SunTrust acting as OUC's depository bank.

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Mr. Hearn reported that electric revenues are on target with the amended 2009 budget, even with the downturn in the economy. Water revenues are trailing the budget by approximately 3 percent. Overall operating revenues are on budget and operating expenses are under budget. Mr. Hearn reported that Project Care will exceed its budget. Ms. Harrington will present a justification to request additional funds for Project Care. The projected 2010 revenue requirements must be reduced about \$36 million to prevent a rate increase. Cost saving measures are being analyzed. To date, there have been about 80 positions and 50 contractor related positions removed from the budget. In addition, there will be no merit increases this fall for employees and capital projects are under review.

Mayor Dyer asked how many positions are filled. Mr. Hearn reported that 80 OUC positions that were removed from the budget are vacant and the 50 contractor employees were terminated. Mr. Hearn reported that there has been a hiring freeze since the Spring of 2008 and as positions became vacant, they were not filled.

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Chris Browder reported on the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). This group administers the Equal Employment Opportunity laws mandated by the federal government for certain companies and federal contractors. In June of 2007, the OFCCP notified OUC that it was going to conduct an audit of its hiring practices. Since that time, OUC has maintained the position that it is exempt under the federal regulations. The OFCCP disagrees and has indicated that it intends to conduct the audit. If the OFCCP shows it has jurisdiction over OUC, then OUC may be obligated to provide information to the OFCCP about race and gender of job applicants and employees. If the OFCCP determines there is a significant disparity in hiring or compensation practices, it could order OUC to provide back-pay to some former job applicants or require OUC to offer employment to some rejected job applicants.

President Porta asked if the OFCCP has audited any other utilities. Mr. Browder stated that OUC asked FMEA to conduct an informal survey. So far, there has been no evidence of any other public utilities being audited for providing utility services.

Commissioner Dominguez Arlen asked what prompted the audit. Mr. Browder stated that more audits are being conducted by federal agencies and that the cost of electric and water services OUC provides to federal facilities is high

enough to trigger internal government audit activity. Additionally, Commissioner Dominguez Arlen asked if OUC did not contest this audit, would the OFCCP then withdraw its request to audit OUC hiring practices for prior years. Mr. Browder stated that the OFCCP will still audit hiring practices for previous years and that there is no downside from that perspective to contest the audit.

Ken Ksionek reported on the 2009 Florida Legislative session. Senate Bill 1154 - The Clean Portfolio Standard passed the Senate but never received a hearing in the House, therefore, it will not become law. Senate Bill 1380 - Florida Energy and Climate Commission to extend the appointment of the members of the Florida Energy and Climate Commission for passed the Senate, but was not hear in the House and will not become law and Commissioners were not confirmed.

Mr. Ksionek attended the Large Public Power Council (LPPC) meeting in Washington, DC last week. It was reported President Obama has been asked to attend an International Conference in Copenhagen, Denmark in December this year. The Secretary General of the United Nations is pressing the U.S. and other industrial powers to agree to major reductions in emission of greenhouse gases.

President Obama met with key democratic leaders and directed them to deliver legislative action that engages the U.S. in global climate control. That action could include a Bill out of Representative Henry Waxman's House Energy and Commerce Committee or an approved House Bill.

President Obama advised that he wants to engage in national health care discussions after Memorial Day. Therefore, there appears to be an imposed deadline of marking up a House Bill before the Memorial Day break.

There are credible reports that there is an agreement with Congressman Waxman and Congressman Rick Boucher, who chairs the Energy and Air Quality Subcommittee, on a combined renewable electricity standard (RES) and a cap-and-trade. Discussions are ongoing on allowances, timetables and targets. No legislative language has been released.

In the Senate, it appears that they are waiting on the House Bill and do not plan to address RES and climate legislation until the fall of the year. However, they have drafted legislation addressing electric transmission planning, siting and cost allocation. The RES, climate and transmission legislative issues are extremely complex. A combined bill is unlikely, but the draft legislation changes from day to day.

The LPPC has reached a consensus on various issues. The RES should not exceed 15 percent of retail sales by 2020 and energy efficiency should be used to meet up to 50 percent of RES obligation.

Regarding cap-and-trade issues, the LPPC supports maximizing free allocation of allowances in lieu of auction, however, there is no agreed upon allocation formula within the membership. Non-emitters which include hydro, wind and solar, also want to receive allowances which creates a great divide within the large public power sector.

Mr. Ksionek stated that the electric industry would be better served by a fully debated Congressional Bill rather than onerous EPA regulations on control of greenhouse gas reductions. He stated that we are awaiting the outcome of the current legislative session and will stay engaged, but will continue to move our Electric Integrated Resource Plan forward.

Jennifer Szaro provided a presentation on the 5 Mw Hybrid Solar/Biomass Power Plant project located in Harmony's Florida Sustainable Energy Research Park. A newly formed Harmony subsidiary will build, own and operate the project. Florida State University's Energy and Sustainability Center will conduct research at the plant and provide an educational component. The project will generate steam from solar troughs and syngas produced from biomass gasifiers, which will turn a turbine and produce renewable energy that OUC will purchase after executing a Purchase Power Agreement. OUC will receive renewable energy and environmental attributes. The hybrid solar/biomass power from this project increase the capacity of use to 80 percent versus 20 percent used by a typical solar system.

Commissioner Dominguez Arlen asked if there is a model that is being used. Ms. Szaro stated that there are existing models and that everything is off-the-shelf technology. There is a patent pending for the solar troughs.

Commissioner Kirby stated that it is great that OUC continues to pursue expanded use of renewable energy. He noted that it will be interesting to be able to track the cost effectiveness of the Purchase Power Agreement versus the cost of conservation efforts. He also mentioned the positive publicity that Gainesville Regional Utilities received from their feed-in tariff program.

Mr. Ksionek reported that Progress Energy Florida (PEF) has delayed the projected construction start date of the Levy Nuclear Plant by at least 20 months. On April 28, PEF made the decision based on their inability to get approval of a limited work authorization for some early site work under their application for the combined operating license with the Nuclear Regulatory Commission (NRC). The NRC accepted their Combined Operating License Application (COLA), but the NRC would not grant a limited work authorization which would have allowed construction work at the Levy site prior to the issuance of the combined operating license. The NRC needed to examine the geotechnical conditions of the site even before issuing a limited work authorization.

The partial suspension of work will require PEF to develop revised schedules, project cost estimates and cash flows which they hope to accomplish in the next six months. They also want to complete all negotiations on all agreements while they establish the new project schedule and cost estimate. PEF's proposed path going forward on the joint ownership is to achieve a one step contract execution and closing by the end of 2009. This will allow OUC to continue its due diligence on the Levy Nuclear Project, as well as examine other projects that are in the works, both domestically and internationally.

Mr. Ksionek commented on the Turkey Point Project. On April 27, 2009, Jan Aspuru and Chris Browder attended a meeting between Florida Power & Light (FPL) and potential participants on the Turkey Point Nuclear Project. FPL reports that the Turkey Point Project effort is still on track, but the COLA review process at the NRC may slow down the schedule for the start of the construction. FPL is evaluating various forms of joint participation, such as true ownership of assets or Purchase Power Agreements. With the participants, FPL wants to wait until they obtain their COLA to continue discussions about joint participation in the project and how each participant may participate. This is a viable large project. Many of the same participants that are involved with the Levy Project are also considering participation in this project. Mr. Ksionek stated that he will keep the Commission updated as to the progress of this project.

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Commissioner McAllaster commented that the financial results for the year show that the OUC management team is doing a very good job of controlling costs. He stated that the renewable team is also doing an excellent job on the alternative energy resources. Commissioner McAllaster expressed his thanks to Mayor Dyer on his fight for SunRail.

Commissioner Dominguez Arlen stated that the Mayor needs to persevere on the SunRail project. She also expressed her appreciation and satisfaction with the new electronic boardbooks system and congratulated the solar/biomass team for all their efforts. She appreciates that a private company, a public utility and a university can combine their efforts within a project. She also complimented OUC on the Orlando Science Center education project.

Commissioner Kirby stated he is very pleased to see that OUC is approaching sustainability on many fronts. All the projects discussed today indicates things are moving forward. We are complemented with the efforts of the City of Orlando and its commitment to sustainability. He also applauded Mayor Dyer on his leadership efforts for SunRail. He believes that SunRail is a sustainability effort.

Mayor Dyer stated that he will continue his efforts to promote SunRail.

President Porta thanked the efforts of the Mayor for his work on SunRail and stated she was also appreciative of the results of the Special Finance Committee Meeting.

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Commissioner McAllaster moved to adjourn the meeting and Commissioner Dominguez Arlen adjourned the meeting at 3:20 P.M.

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President

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Secretary