

**OFFICE OF THE CITY COUNCIL**

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**Special Committee on the Future of JEA Meeting Minutes**

**May 24, 2018**

**2:00 p.m.**

**Topic:** Future of JEA

**Location:** City Council Chamber, 1st floor, City Hall – St. James Building, 117 West Duval Street

**In attendance:** Council Members John Crescimbeni (Chair), Greg Anderson, Danny Becton, Aaron Bowman, Lori Boyer, Anna Lopez Brosche, Katrina Brown (arr. 2:47), Garrett Dennis, Reginald Gaffney (arr. 2:48), Tommy Hazouri, Jim Love, Joyce Morgan, Scott Wilson

**Excused:** Council Members Sam Newby, Al Ferraro, Doyle Carter, Matt Schellenberg, Reggie Brown, Bill Gulliford

**Also**: Peggy Sidman and Paige Johnston - Office of General Counsel; Kyle Billy, Phillip Peterson and Jeff Rodda - Council Auditor’s Office; Staci Lewis and Althea Henry – Legislative Services Division; Jeff Clements – Council Research Division; Nancy Kilgo – JEA; Braulio Baez, Mark Futrell, Keith Hetrick and Adam Potts - Florida Public Service Commission; Dr. Sherry Magill – Jessie Ball duPont Fund; Dr. Ted Kury- University of Florida Public Utility Research Center

**Meeting Convened**: 2:03 p.m.

Council Member Crescimbeni called the meeting to order and the attendees introduced themselves for the record.

**Florida Public Service Commission presentation**

Braulio Baez, Executive Director of the Florida PSC, made a presentation on the PSC’s mission, organization and processes. The commission is legislative organization with regulatory authority over private, investor-owned utilities and limited jurisdiction over co-ops and municipal utilities for certain fundamental services such as the integrity of the electrical grid. The PSC has three broad areas of regulatory authority: 1) rate base/economic regulation; 2) consumer protection, safety, reliability and service; and 3) competitive market oversight. The regulatory compact is a balancing act between utilities having monopoly power over defined territories and the right to the opportunity for a fair rate of return versus the PSC having oversight over those utilities for purposes of consumer protection and fairness. The PSC is charged with making decisions in the public interest which consists of balancing economic efficiency with “sympathetic gradualism” (gradual rate increases, not sudden shocks) and political accountability. The PSC balances numerous competing interests: customer desires vs. utility desires; service reliability vs. cost; long-term impacts vs. short-term impacts.

Consumer rates are set via three mechanisms: 1) annual cost recovery clauses; 2) base rate proceedings; and 3) surcharges for storm damage restoration. Mr. Braulio described the numerous factors that make up each of those mechanisms. The rate-setting process is codified in state law and is a litigated process with sworn testimony, witnesses and experts testifying on both sides. Mr. Baez said that the PSC’s consumer complaint system handles more than 60,000 calls per year.

In response to a question from Chairman Crescimbeni, Mr. Baez stated that the three factors governing consumer rates are set via three different independent hearing processes. He clarified that customer rates are the same for all customers in a utility’s contiguous service area and that storm damage surcharges apply to all of an IOU’s customers in the state. In response to a question about how the public is represented in a rate case, Mr. Baez said that the Office of Public Counsel, another legislative agency, represents customer interests and may intervene in any rate case at its own discretion (they don’t need to be asked by a consumer to intervene). In response to a question from Mr. Crescimbeni about whether a city or county could impose minimum service standards on private utilities separate from the PSC’s regulations, Mr. Baez said that they do not have that power. Regarding rate of return, Mr. Baez said that the average rate of return is 10.5% on the cost of the investment in service infrastructure (generating and transmission facilities). He said that the PSC would consider the cost of undergrounding of utility assets as a factor in setting rates and that it allows differential (higher) tariffs for customers that have underground service (more expensive). If a city or county wants to adopt an undergrounding requirement, private utility estimates the cost, presents that information to the PSC, and the PSC could approve different cost recovery mechanisms (i.e. paid on the consumer’s bill or paid by the local government imposing the requirement).

In response to a question from Council Member Love, Mr. Baez said that a major difference in regulation between public and private utilities is that the PSC deals with direct consumer complaints in the case of IOUs but not for municipal utilities. The PSC has authority over municipal utilities in areas of basic safety and reliability and over pricing only to the extent that it regulates fairness among classes of ratepayers (to ensure that one class of customers does not subsidize another class). Mr. Baez said that the PSC does not regulate the salaries of the managers of IOUs except indirectly as a part of the cost of a utility’s overhead. In response to a question from Council President Brosche about comparability between utilities and making “apples to apples” comparisons, Mr. Baez said that the PSC makes its best efforts to determine fairness and comparability among utilities of the same general size and operating profile. It is a difficult process and requires considerable judgement to be used as one factor among many in setting rates.

In response to a question from President Brosche about whether IOU rate requests are ever denied, Mr. Baez said that the rates finally approved by the PSC are often different from what the company initially requests as various factors are considered. In response to a question from Council Member Dennis, Mr. Baez said that not all IOUs applied for storm surcharges after the hurricanes of recent years because not all suffered substantial damage or had sufficient reserve funds to make a recovery surcharge unnecessary. Mark Futrell of the PSC staff gave details about which companies made requests after which storms. Mr. Baez described how the PSC staff monitors the financial records of the IOUs, which takes considerable time, resources and staff expertise. In response to a question about the definition of “fair rate of return”, Mr. Baez said that fairness is in the eye of the beholder and is one of the challenges faced by the PSC, which applies a mix of art and mathematics to arrive at a “fair” return based on consideration of numerous factors.

In response to a question from Council Member Hazouri, Mr. Baez described how the Public Counsel is appointed and how the PSC board is appointed. He said that the PSC does not have any authority to review a potential sale of the JEA to a private utility, but would rule on post-acquisition filings made by the IOU regarding rates, which must be uniform across all customers. Mr. Hazouri suggested that the committee keep an eye on the pending acquisition of the Vero Beach municipal utility by Florida Power and Light as a useful test case. In response to a question from Council Member Becton about the PSC’s policy with regard to who pays for expansion of a utility and whether current customers of that utility can be made to pay for the cost of the expansion, Mr. Baez said that the PSC would approve expansions if the costs could be borne by the utility within its approved rate of return. He could not provide a more definitive answer to Mr. Becton’s example without having more specific details about the case.

In response to a question from Council Member Boyer about the 10 year site plans filed by utilities statewide, Mr. Baez said that 1% to 1.5% anticipated growth is typical rate being seen recently. He said that the 10 year plans are planning documents and do not bind utilities to any specific growth rate or facility construction. He believes the utilities are estimating very close to the actual expected growth rate and not over-estimating growth for some other purpose, but did acknowledge that there is a buffer built into the projections to be conservative for safety’s sake. In response to a question from Council Member Anderson, Mr. Baez said that the rate of return calculation is a separate calculation from the cost of new infrastructure capacity. In response to another question about state involvement in solar generating capacity, Mr. Baez said that solar facilities generating 75MW or more require PSC approval because of their size. In response to another question from Mr. Anderson, Mr. Baez said that the PSC takes into consideration all of a utility’s generating resources (including purchased power from out-of-state), but does not delve into the details of purchased power agreements. In response to a question from Council President Brosche about whether a local government could impose a rate freeze, Keith Hetrick, the General Counsel of the PSC, said that local governments did not have that power, which would probably constitute a “taking”. Utilities have the right to request rate increases of the PSC.

**The committee was in recess from 3:58 to 4:07**

Council Member Becton asked Mr. Baez to address how the PSC would address expansion of the JEA into a natural gas utility. He responded that the way natural gas is regulated differs from electric utility regulation because there is no mandate to serve with natural gas as there is with electricity – it is a grey area and the question has not been settled. He said that the PSC would not control municipal connection policies or consumer rates for natural gas.

**University of Florida Public Utility Research Center presentation**

Dr. Sherry Magill, President of the Jessie Ball duPont Fund, explained the Fund’s offer to commission an independent study of the value and potential process for selling the JEA and that the Fund had hired the Public Utility Research Center at the University of Florida to undertake that study. She introduced Dr. Ted Kury, the Director of Energy Studies for the Center who explained why the Center is interested in studying the JEA privatization issue. Privatization of municipal utilities is a relatively rare occurrence and the Center is interested in exploring the question of “value” in the context of the overlap of utility owners and users (the citizens of Jacksonville) and how they consider making such a decision. He anticipates that study would be completed by the end of 2018. Mr. Kury described the project team (4 academics at the University of Florida, 2 in the Public Utility Research Center, 2 in other departments, and a law student to research legal issues). He said that he can find no similar research on this question of value to municipal utility owners/customers, so is excited by the prospect.

In response to a question from President Brosche, Dr. Magill said that she and Dr. Kury had met earlier in the day with Interim CEO Aaron Zahn and Chief Operating Officer Melissa Dykes of the JEA and they were complimentary of the scope of the study and expressed their willingness to cooperate with the study. Dr. Kury said his policy is to rely primarily on publicly available data sources, but he does plan to make one data request to the JEA. In response to a question from Council Member Anderson about various ways of evaluating “value”, Dr. Kury mentioned quality of service, the fact that JEA operates water and sewer and chilled water services, access to service, and the annual JEA contribution to the City General Fund as alternative indicators of value. Council Member Dennis asked about how a private IOU would value JEA for potential purpose; Dr. Kury said that his Center does not take positions or advocate for particular views, and so could not answer that question. Their study will not be analyzing the monetary value of the JEA to a potential investor. He said that generally speaking the value of a utility to a private owner is a combination of asset value and the prospects of the utility as “going concern” as defined under state law. Some utilities carry goodwill as an intangible asset on their books, but how that is treated in a rate setting process is unclear because there is no fixed regulatory rule on the subject.

In response to a question from Council Member Love about the most interesting aspect of the study, Dr. Kury said he is anxious to explore the quality of service aspect – what do customers really value? He is also interested in the value of the district energy operation, which is not as common in the U.S. as it is in other countries.

**JEA Board action of May 15, 2018**

Council President Brosche referenced an email received by all council members this week from the JEA stating that absent any future board action, no further action would be taken on potential privatization of JEA. Ms. Brosche asked whether that implied that the JEA would not be providing information or otherwise cooperating with the Special Committee or other on-going studies of the JEA. Nancy Kilgo of the JEA said that she will convey that question to the board but understands that the JEA will continue to be cooperative with the ongoing studies.

Council Member Dennis requested information from the JEA on how the JEA board established the compensation for Aaron Zahn and Melissa Dykes, the Interim CEO and COO.

**Public comment**

David Bruderly said that he retired from a 50-year career in the utility industry and as a utility consultant and has for years recommended renewable and electric energy sources as replacements for fossil fuels. He believes the City can require the JEA to transition away from 19th century centralized electric generating capacity to new technologies. JEA can be an economic development engine if it gets into renewables.

Chad Gray said that he has been researching the costs of converting homes to complete self-generated solar power and battery storage systems and will share that information with the Council. In response to a question from Council Member Becton, Mr. Gray said that he used the Google Project Sunroof software program to produce his report and believes that home solar installations would produce insufficient power to meet typical residential needs. Even the Brandy Branch solar plant produces power sporadically.

Chairman Crescimbeni said that the Special Committee was not included on President-Designate Bowman’s list of special committees to be carried over the next Council year, so it will sunset at the end of June. If some members want to continue the discussion, it can be done in the form of noticed council member meetings. Mr. Crescimbeni asked Jeff Clements to begin drafting a committee report using the special committee’s minutes and voluminous handouts for the committee’s consideration. Council Member Dennis urged the committee to submit some draft legislation before the end of June in addition to producing a report. He believes some formal legislative action should be taken with regard to the committee’s findings.

Next meeting – June 7th at 3:30 p.m.

**Meeting Adjourned**: 4:59 p.m.

Jeff Clements, Council Research Division

5.31.18 Posted 9:30 a.m.