

Utilities Commission Meeting - 26 April 2021

Participants Chair Jack Holcomb, Vice Chair Buddy Davenport, Secretary-Treasurer Lillian Conrad, Assistant Secretary-Treasurer Richard Hawes, Commissioner Jim Smith, General Counsel Thomas Cloud, General Manager Joe Bunch, and Guests Commissioner Kolody and Past UC Chair Mr. Biederbach

Safety Presentation Lineman's High Voltage Gloves.

The UC Safety Director gave an overview of rubber gloves worn by crew members when working on high voltage equipment. The gloves allow touching high voltage wires and have a carefully monitored life span.

Consent Items All unanimously approved including these select items.

- Developers Agreement – Copper Creek Subdivision
- Developers Agreement – Old Mission Cove Phase 1 and 2
- Developers Agreement – Donatti Boat Storage
- Barracuda Bridge Project Infrastructure Cost Share Agreement
- 5th Street Bridge Replacement Project – Cost Sharing Agreement

Discussion on consent items included the announcement of an early May meeting with FDOT regarding the construction of the new 5th street bridge. All utility conduits will be removed from the current bridge and will be placed underground using directional drilling of the canal span.

General Manager's Report

New Milestone NSB Utilities Commission is now serving 30,006 electric customers.

March FYTD reflects a \$1.3M loss driven by lower contributed capital, increased debt expenses, and vegetation management per mile trimming. **KPIs were all green except** for gross water loss due to the timing of billing. February is a short month with billing lagging into March. This coupled with high consumption from Bike Week and start of Spring Break led a high "paper" loss. **Year-over-Year Customer** growth and usage continues to grow due to development in the City.

Counsel's Report Florida House Bill 1239 and Senate Bill 1692 Pole Attachment Fee have been revised to be less onerous to utilities and are in the process of being reconciled between the House and Senate. What follows is the text of the summary provided to the Commission by Counsel:

FLORIDA BROADBAND BILL Summary

In late February, companion bills were filed in the House and Senate of the Florida Legislature that would impact pole attachment fees in Florida. These two bills— House Bill 1239 and Senate Bill 1692—proposed major changes in how Florida's municipal utilities would set pole attachment fees.

The two bills were sponsored by the Florida Internet & Television Association, whose members include cable companies providing internet, television, and home security services to millions of residential and business customers throughout Florida, including Atlantic Broadband, Comcast, Charter Communications, Cox Communications and Mediacom.

In December of 2020, Charter reached out to the rural electric cooperatives to strike an arrangement with them. The cooperatives failed to advise the municipal electric utilities of the “deal.” In return for the deal, the cooperatives agreed to stay out of the issue in the legislative session. Municipal electric utilities were neither notified about the bill or given an opportunity to provide input.

The original bills provided:

- *Grant broad and sweeping tax exemptions for providers of communications and internet access services*
- *Provide legislative findings that, just, reasonable and nondiscriminatory rates, terms, and conditions for the access of use of municipal electric utility poles by broadband service providers is essential to deploy, upgrade, and maintain broadband services to rural residents of the state.*
- *Discuss the need for rural broadband access with no mention in the legislation of rural electric cooperatives (or IOUs) being forced to comply with the bill’s egregious mandates*
- *Provide access to all municipal electric utility poles and rights-of-way to private attachers at a capped rate*
- *Subject municipal electric utility poles to the Federal Pole Attachment Act*
- *Significantly expand pole replacement cost to be borne almost entirely by the municipal electric utility*
- *Expand the definition of attachment to include utility poles, structures, ducts, conduits, and rights of way*

The original bill was based on the notion that rural areas in Florida needed 5G service, but the bill only applied to urban electric utilities. The original bill opened public property to communication companies without charge, applying stringent FCC standards to cities that Congress chose to exempt cities from in 1978. The bill would have made the Florida Public Service Commission the arbiter of disputes over pole attachments.

Charter decided to attack the Utilities Commission, City of New Smyrna Beach, as a “poster child” of “runaway pole attachment fees.” Significantly, none of the members of the legislative committees initially reviewing the legislation had local government experience. The Utilities Commission staff began to receive intelligence from various sources that we were under attack in the Legislature. The Session was about to start. As a matter of prudence, the Utilities Commission retained the services of a lobbyist in Tallahassee with experience in representing cities, Dean Cannon. The Utilities Commission also became active with the Florida Municipal Electric Association (“FMEA”) in opposing the bills.

Through these efforts and those of the FMEA, its members (including the Utilities Commission), several lobbyists representing FMEA and its members, and other individuals, including the Utilities Commission Chairman and CEO, the bill has been much improved. The bills now provide:

- *Applicability to municipal electric utilities – not rural electric cooperatives;*
- *Applicability only to wireline attachments – NOT 5G/small cell;*
- *Removal of FCC rules, rates and regulations over municipal electric pole attachments;*
- *Preservation of existing contracts;*
- *Offers a promotional rate of \$1/attachment/pole/year for 3-years to provide broadband to un- or underserved areas;*
- *If broadband provider takes advantage of that rate, they must provide us with a route map to serve these areas;*
- *Establishes deployment reporting process to Office of Broadband;*
- *Preserves local safety requirements;*
- *Provides for equitable pole replacement language;*
- *Prohibits a municipal electric utility from raising attachment fees to broadband providers under existing contracts for one-year.*

I recognize there are some provisions in this that aren't completely favorable; however, when compared with the potential for FCC regulations and renegotiating all our existing contracts, these provisions are not only more favorable, but have a limited "shelf life."

The lead up to the amended bill involved significant activity with both legislative members and other industry groups. In the House, there was no question or debate, and one member with a public power utility in her district, Rep. Nixon from Jacksonville, member thanked bill sponsor Rep. Tomkow for working with stakeholders to address concerns. Ryan Matthews, FMEA legislative counsel, stood in support of the amendment, and the amended bill was supported by Associated Industries of Florida, Foundation for Excellence in Education, Florida PTA, and FMEA. The initial proponents of the legislation remained quiet. Senate Appropriations Chairman Bean from Jacksonville asked Sen. Burgess if the amendment would alleviate concerns he was hearing from the municipal electric utilities in his area. The sponsor indicated the amendment was developed with all stakeholders, including FMEA representing those utilities. AIF stood in support of the bill.

Both bills passed each of their respective committees on Friday, and both have had some floor action. Because the bills need to be identical before final passage, one of them will need to be amended. We are continuing to monitor the process closely to make sure no unfavorable amendments are added in. Session does not end until April 30 – so lots could still happen.

Included with this report are the bills, the staff committee reports, and fact sheets prepared by the UCNSB during Session to help support the favorable changes. If you have questions, please let me know.

Old Business an Infrastructure Fee Final Reconciliation, Reimbursement, Credit and Release Agreement between GEOSAM and UCNSB was unanimously approved.

New Business the Board unanimously approved a Feeder Reliability Improvement Plan consisting of six projects which will reduce the number of outages making the electrical system more resilient to the impacts of storms and hurricanes. View the presentation for detail [HERE](#).