

MINUTES FROM A REGULAR MEETING OF THE UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA, HELD AT 5:00 P.M. ON MARCH 26, 2008 AT THE WILLIAM ARNOLD SERVICE BUILDING LOCATED AT 1001 JAMES STREET, KEY WEST, FLORIDA

The above referenced meeting of the Utility Board of the City of Key West, Florida, convened at 5:00 P.M., on the above date and location and was called to order by Chairman Hernandez. Present and answering to the roll call were Utility Board members: Peter Batty, Charles Bradford, Mona Clark, Ty Symroski and Chairman Hernandez. Also present at the meeting: Lynne Tejeda, General Manager & CEO; Jack Wetzler, Assistant General Manager & CFO; Erin Nevius, Attorney; Alex Tejeda, Director of Customer Services, Suzanne Greager, Director of Management Services, David Price, Director of T&D; Dale Finigan, Director of Engineering/Control; Edward Garcia, Director of Generation; and Stan Rzad, Compliance Administrator.

AGENDA ITEM # 4 – INFORMATIONAL ITEMS

Power Supply Report

Mr. Finigan informed the Board that since the last Utility Board meeting there has been one feeder reclosure, one distribution outage and no transmission outages. He stated that the distribution feeder outage lasted 42 minutes 352 customers were affected. The cause was a bad connector.

Generation Report

Mr. Garcia reported that the painting of CT #1, 2 & 3 is completed. CT #3 is back in service. The radiators for CT #1 are expected to arrive the week of April 14th. CT#2 is expected to be back in service by Friday the 28th. He continued to report that a cracked head was found on MSD #1 this past Monday and is being repaired. It should be back in service by tomorrow afternoon.

Mr. Garcia stated that the fin fan coolers are delayed and expected to be on site by May 12th and the expected completion date for the project is now June 19th. With the exception of CT #1 & 2 and MSD #1 all units are available and there are 71 MW's currently available.

Mr. Batty asked a question regarding the cracked head on MSD #1. He asked what happens when the cost of maintaining a piece of equipment exceeds the reality of continuing to repair with FMPA.

Mrs. Tejeda stated that staff would explore the cost versus the benefit. The biggest issue is that if the unit is retired and it is not supported, the 60% level will still be there so another unit will not be added for additional generation. It would be a loss of 9 megawatts which is a concern. The MSD's are the most economical units to run and are cost efficient.

Mr. Batty asked if it is a benefit to FMPA.

Mrs. Tejeda responded that it is a benefit to them.

Chairman Hernandez suggested that staff consider Mr. Batty's question during their strategy planning.

Mrs. Tejeda stated that FMPA is having discussion with Kissimmee Utilities (KUA) regarding True ARP which is a concept to turn over all generation to FMPA eliminating capacity credits and having them pay for everything. It has been discussed for several years but it appears that with the current interest from KUA it may become a reality. With True ARP these decisions would be made by FMPA.

Earth Hour

Mrs. Tejeda informed the Board that Earth Hour is scheduled this Saturday, March 29th between the hours of 8:00 p.m. and 9:00 p.m. It is a global event created to symbolize that each individual can make a change to global warming. This was piloted last year in Sydney, Australia. This year there are many cities participating in this event. Everyone is encouraged to turn off any unessential lighting during this hour. It has also been suggested that standard light bulbs be changed out at this time to energy efficient compact fluorescent bulbs.

Mrs. Tejeda stated that the KEYS sign in front of the service building will be turned off as well as all the lighting around the building. She stated that the Control Center will be tracking the load to see if there is a significant difference.

Strategic Planning Workshop

Mrs. Tejeda informed the Board that the Strategic Planning Workshop will be held on April 7th and 8th at the Grand Key. The workshop will focus on the strategies for the next two years.

PCA Update

Mrs. Tejeda stated that recently FMPA informed KEYS that they will be imposing an 8% energy rate increase which will unfortunately negatively impact the PCA charge to KEYS customers. For fiscal year 2008 FMPA budgeted \$58.65

per megawatt hour. Due to staff's experience with FMPA, Mr. Wetzler has included an amount of \$60.00 per megawatt hour in the budget so there is some cushion. The 8% increase will take the energy rate to \$63.34 per megawatt hour and was effective March 1st.

Mrs. Tejeda proceeded to say that the PCA has seen a steady increase since August. In August, it went up about 5% making the bill \$132.84 per 1,000 kilowatt hours and in November, it went up 5% making the bill \$140.34. A 5% increase was anticipated in February and May based on projections. In February, it was eased back to 2.5% and staff anticipated that the May increase would also be 2.5%.

Mrs. Tejeda stated that staff is not going to wait until May to implement the 2.5% increase; it will, instead, be increased in April, and it will be roughly 5% which will put the PCA amount at \$22.00 per thousand kilowatt hours making the total bill \$151.34. It is high, FMPA has an Executive Committee meeting tomorrow and like KEYS there will most likely be many cities who will want further explanation from FMPA and plan for mitigation.

Mr. Batty asked if \$151.34 is the highest amount that has been billed by KEYS.

Mrs. Tejeda stated that it is.

Mr. Batty asked if the 8% increase by FMPA is strictly for a fuel cost adjustment charge or does it include operating and overhead.

Mrs. Tejeda responded that they attribute it to units being out and the cost of natural gas.

Mr. Batty asked if KEYS audits them.

Mrs. Tejeda stated that KEYS participates in the budget process.

Mr. Wetzler informed that FMPA's auditors meet with the Financial Advisory Committee prior to the start of their audit and ask if there is anything specific that the committee would like for them to look at. The committee has asked that the energy rate be reviewed.

Mrs. Tejeda stated that the FMPA Executive Committee has given permission to FMPA staff to implement up to a 10% increase without their approval. The 8% is within the jurisdiction.

Mr. Batty asked if it is on an annual basis, 10% per year without the approval of the FMPA Executive Committee.

Mrs. Tejeda responded yes.

Mr. Batty expressed that he is not comfortable with that and feels approval by the FMPA Executive Committee should be required for a rate increase.

Mrs. Tejeda stated that before that policy was put into place they had to wait two months for the next meeting and they would get very under collected making the increase more significant.

Mr. Batty stated that perhaps they would have the ability to put it into effect for two months to give the FMPA Executive Committee an opportunity to react and then approve or disapprove. He stated that giving them the authority without any oversight to raise the cost by up to 10% is not good fiscal management on our part.

Mrs. Clark asked how long that policy has been in effect.

Mrs. Tejeda responded, at least three years.

Mr. Symroski stated that he liked Mr. Batty's suggestion to wait two months before FMPA Executive Committee ratification.

Mr. Bradford expressed that if they feel they need to go up 10% and a meeting is called then they obviously need the 10% and whether you have a say so in it or not isn't going to change the need.

Mr. Batty stated that his concern is that they are saying the increase is due to natural gas prices plus equipment that's down. That can hide a multitude of things. There needs to be a better control so this Board has a better understanding of what is going on.

Mr. Batty asked Mrs. Tejeda what her feeling is on the matter.

Mrs. Tejeda responded by saying that in the end the energy rate is what it needs to be. It is a reflection of the actual costs FMPA is receiving; they have to cover those costs. The only way to do that is to get it from the members and in the end the price will be the same.

Chairman Hernandez asked if Mr. Batty's suggestion to wait two months to ratify the rate increase is ample time.

Mrs. Tejeda responded yes.

Mr. Batty stated that the Utility Board may have to rely on the information given to Mrs. Tejeda and Mr. Wetzler for justification and KEYS can conduct their own audit to make sure it is just a pass through of their expenses.

Mr. Batty asked if the increase will be advertised.

Mrs. Tejeda informed that typically all of the customer service representatives are given talking points that are updated by Mr. Barroso with the latest information and it is handled on a case by case basis. Staff also receives help from FMPA on the talking points.

Financial Statements

Mrs. Tejeda stated that Mr. Batty has requested a brief overview of the financial statements for the period ending February 2008.

Mr. Wetzler proceeded to point out the following highlights:

The financial statements for the five months ended February 2008 include:

- ✓ Change in net assets is an increase of \$3.7 million compared to \$3.9 million last year. As compared to the same time last year:
 - Operating Revenues of \$41.7 million are \$4.6 million higher
 - Purchased Power expense of \$24.4 million is \$4.5 million higher
 - Interest Income of \$378,300 is \$867,800 lower
 - Interest of Debt of \$1.7 million is \$690,300 lower
 - Debt Service Coverage of 1.61 is higher than the required minimum of 1.25

Electric Revenues

Electric Revenues of \$40 million is over budget by \$1.2 million. Sales for the end of February (KWH) were approximately 5% higher over the budget and over last year. Staff believes that it will be over budget 6% by the end of March and 6%.

Energy Revenue

Energy Revenue is \$1.6 million over budget and \$1.5 million higher than FY07 which is mainly due to residential customers which is \$1.3 million of the \$1.5 million.

Other Operating Revenues

Other Operating Revenues of \$1.7 million are over budget \$509,700 and that is primarily due to line extension revenues.

Miscellaneous Non Operating Revenue

Miscellaneous Non Operating Revenue is \$163,000 higher than FY 07 primarily due to higher FMPA reimbursements.

Capital

\$4.1 million placed into service

- \$1,500,000 Purchase Transformers
- \$1,000,000 Overhaul MSD #1
- \$620,000 SC Transformer
- \$527,800 Engineering Reports
- \$254,500 Replace Company Vehicles

This concluded Mr. Wetzler's report and he encouraged the Board to let staff know if they had any suggestions on ways to improve the report.

Letter from Mr. David Paul Horan

Mrs. Tejeda referred the Board to a letter from Mr. Horan regarding DCA's review of the County's Working Waterfront Amendment and specifically the development at Safe Harbor and the provisions that allow for construction of a public lodging facility. She stated that she had followed up with Mr. Horan this morning and he indicated that the DCA seems to have difficulty with the amendment that the County put forward, specifically the idea that first responders like KEYS' employees, police and fire personnel needing a safe location during storms.

Mrs. Tejeda stated that Mr. Horan has asked that KEYS provide a phone call and a letter to DCA reiterating what was said back in September. In September, Mr. Horan addressed the Board and sought support for the amendment that was going before the Board of County Commissioners. As a result of his comments and Utility Board direction, a letter was sent to Mayor DeGennario supporting the policy change regarding public lodging facilities that could serve as storm shelters and recovery centers for emergency personnel. Several reasons were cited for KEYS support.

Mrs. Tejeda stated that she wants to have some discussion with the Utility Board prior to taking any further action to see if they want to continue to support the project at DCA level.

Mr. Symroski stated that he would like to recuse himself since he is working with Mr. Horan on this project.

Chairman Hernandez expressed some concerns that it has become a political issue and he is hesitant to get the Board involved in political issues that are not the Board's making. He stated that he will go along with the rest of the Board but he is concerned.

Mr. Bradford expressed that it was a good idea back in September and feels the support that they are asking for is just an endorsement to DCA. He stated that he is in favor of doing that.

Mrs. Clark stated that if the project is the same as introduced in September she has no problems with it.

Mrs. Tejeda stated that the letter that was sent to Mayor DeGennario can be updated and sent to DCA reiterating the Utility Board's decision made in September.

Mr. Batty stated that the letter sent to DCA should be worded very carefully and the direction to write that letter needs to come from the Board. His recommendation is to let staff write the letter and bring it back to the Board. He stated that he does not feel this should fall on Mrs. Tejeda's shoulders especially with it being a political issue.

Mr. Bradford commented that he thought there is a timing issue.

Mr. Charlie Renier who was in the audience requested to address the Board at this time. Mr. Renier informed the Board that there is a timing issue and the letter has to be submitted by Friday of this week to DCA. It goes in front of DCA on Monday.

Mr. Batty suggested placing the item to write the letter to DCA on the agenda for Utility Board approval so it will be a Board decision and it will not fall on the General Manager.

Motion was made by Ms. Clark to place on the agenda the writing of a letter to the DCA regarding the County's Working Waterfront Amendment seconded by Mr. Batty. The roll was called and the following vote was recorded:

Mr. Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Recused himself
Chairman Hernandez	Yes

Motion was made by Mr. Batty and seconded by Ms. Clark to send a letter of support to the DCA for the project specifically directing the Board's support to the fact that it will be a safe haven for KEYS employees. There being no further discussion the motion carried, Mr. Symroski recused himself.

Mr. Bradford, for clarification, asked if the motion includes approval for Mrs. Tejada to make a phone call to DCA. The Board agreed that the motion includes making the phone call.

Legislative Update

Mrs. Tejada informed the Board that she attended the FMEA Legislative Rally in Tallahassee earlier this week. There was an introduction of an amendment to the Energy Bill that could have been somewhat hurtful to the municipal utilities. The representative from Vero Beach who is also the Chair of the House Environment and Natural Resources Council introduced an amendment to the House Energy Bill. In the bill he included language that required any municipal electric utility with more than 33% of their customers outside of the city limits to be subject to PSC jurisdiction. He did have language that exempted municipal utilities that have a separate utility authority or utility board. KEYS would not have fallen in the category but a number of municipals would not have. Representative Mayfield is from Vero Beach and this was in response to some significant problems in Vero Beach including lack of response after the hurricanes and disparaging rates between the City and the County customers. They do have 60% of their customers outside the city limits.

Mrs. Tejada continued to say that Representative Mayfield was attempting to fix a local problem with an exhaustive amendment to the Energy Bill. FMEA has many representatives who are on that council and they were able to talk to their representatives and even had a meeting with Representative Mayfield to explain their position. He decided to amend his amendment and strike all language other than specifically for Vero Beach seeking a referendum to determine if the voters want to have a utility authority for the City of Vero Beach. That will be a part of the Energy bill this year. The Energy Bill is still in council meetings and is not ready to go to the House floor. There is currently a provision for renewal portfolio standards. Last week, municipals were not included and this week they were included. FMEA will closely monitor the issues regarding this and net metering provisions. Representative Saunders is not on the committee working on these issues as soon as it comes out of committee, there will be discussions with him pointing out the pros and the cons of the bill.

AGENDA ITEM # 5 CONSENT AGENDA

- a) Approve Minutes: Regular Meeting - March 12, 2008
- b) Approve Disbursements Report and Approve Budget Amendments #08-18 Upgrade Security to Transportation Workers Identification Certificate and #08-19 Re-allocation of Land Use Budget

Motion was made by Mr. Batty and seconded by Ms. Clark to approve the Consent Agenda. Mrs. Tejada pointed out that there is a correction under the

Disbursements Report, Budget Amendment #08-18. It says that a fund transfer was not required, that is incorrect it should say yes that a fund transfer was required.

There being no further discussion the motion passed unanimously.

AGENDA ITEM #6 – ACTION ITEMS

Agenda Item #6a – Approve Unit Price Contracts for Upgraded Automated Data Processing (ADP) Payroll Services

Mrs. Tejada stated that in 1998, the Utility Board approved using Automatic Data Process (ADP) to handle the payroll process, E-time and HR Perspective. The decision was recommended by KEYS staff and Price Waterhouse Coopers who was serving as our software consultants at the time. ADP has come forward with an upgrade to the system we currently use. The upgrade will do a variety of things but most notably it will permit web based services and better linkage between the personnel and payroll software. Staff took the opportunity to review other payroll services and to compare the functionality and costs of the other payroll systems to those of ADP. Staff believes that remaining with ADP is the best solution. The upgrade is a one-time fee of \$15,000. Some of the current unit pricing will change slightly from what is under contract at the present time. The new contract will provide a slight savings of \$1,296.80 per year.

Mrs. Tejada told the Board that staff is recommending the approval of the upgrade for a one-time fee of \$15,000 and the ongoing unit price contract with an annual estimated value of \$66,100.

Motion was made by Mr. Batty to approve the Unit Price Contracts for Upgraded Automated Data Processing (ADP) Payroll Services for discussion, seconded by Mr. Symroski.

Mr. Batty asked if it will be a significant time savings.

Mrs. Tejada responded that it is a huge time saver to KEYS, various staff members will have access to the system where instead they had to call finance or human resources to get the information.

Mr. Symroski if KEYS is the first to acquire this upgrade.

Mrs. Tejada responded that the upgrade has been available for a number of years; there are various companies who already have the upgrade.

There being no further discussion the motion passed unanimously.

Agenda Item #6b – Declare Parcel-A (BAMA leased) property, RE Number: 00123580-000000 and a Portion of 00123550-000000 as “Excess to the Needs of the Utility” and Approve Sale of the Property, Bid #21-08

Mrs. Tejeda introduced Mr. Eric Dickstein, Mr. Thomas DiDato and Mr. Charles Reiner who are representing Fishbusterz. She proceeded to say that the Land Use Committee has been reviewing KEYS property and considering various options for KEYS operations. As part of the due diligence in reviewing the options and assuring that the inputs to the economic model were accurate, staff issued Bid #21-08 for the sale of Stock Island properties. The bid offered Parcel A which is the current BAMA Lease, Parcel B which is from the BAMA property to the discharge canal and Parcel C which is inclusive of A and B. Two bids were received, one for Parcel A and one for Parcel B both submitted by Fishbusterz, LLC. The Land Use Committee reviewed the bids and how the bids impacted the economic model and determined that it would not be advantageous to sell Parcel B but it would be to sell Parcel A. Tonight, there are several recommendations to the Board for the sale of Parcel A.

Mrs. Tejeda proceeded to say that the first recommendation is to declare Parcel A in Excess of the Needs of the Utility which comes under the Enabling Act. The property is a combination of RE 00123580-000000 and a portion of 00123550-000000. Staff is working on the final legal description and it is subject to a final survey. Staff is seeking the Utility Board's approval to excess that property as described by the surveyor. Furthermore, staff is requesting that the Board approve the sale of the property to Fishbusterz LLC. In the amount of their bid for \$5,500,100. Finally, staff seeks the Utility Board's approval to authorize the Utility Board Chairman to execute the necessary closing documents as recommended by our land attorney, Mr. Dan Decubellis. Some of the documents will be: Quit Claim Deed without Warranty of Title, Title Commitment and Title Policy Documents regarding the transfer of the current lease with Fishbusterz for the BAMA property, Estoppel Certificate from the tenant and various other documents in order to make the closing happen. The closing of the bid must occur within 60 days of Utility Board action.

Motion was made by Mr. Batty to approve the declaration of Parcel-A (BAMA leased) property, RE Number: 00123580-000000 and a Portion of 00123550-000000 as “Excess to the Needs of the Utility” and Approve Sale of the Property, Bid #21-08 for discussion, motion seconded by Mr. Bradford.

Mr. Bradford had a question on the warranty deed versus a quit claim deed. He inquired why a quit claim deed is stated rather than a warranty deed.

Mrs. Nevius commented that she also had a concern with it.

Mrs. Tejeda stated that Mr. DeCubellis is working through the documents that will be required. He just threw these out as possible examples of required documents.

Mr. Batty stated that no one will insure with a quit claim deed. Mrs. Nevius agreed.

Mr. Bradford stated that the State of Florida will not give a warranty deed.

Mrs. Nevius stated that the only way to acquire title insurance is with a warranty deed.

Mr. Batty asked if KEYS is exempt from stamps on the deed and if not who will pay for the stamps and the title insurance.

Mr. Symroski informed the Board that he has worked with the gentlemen from Fishbusterz on other properties and needs to recuse himself from voting on this matter upon general advice from the attorney.

Mr. Batty stated that the Land Use Committee has really weighed the sale of the property and they cannot see any future value for the utility.

At this time, Mr. DiDato representing FishBusterz told the Board that the contract states that the document stamps and title insurance will be split between them.

Chairman Hernandez requested that the Land Use Committee members be identified.

Mrs. Tejeda proceeded to name the committee members; Stan Rzad, Chairman; Dale Finigan; Randy Roberts; Jack Wetzler; Ty Symroski; Peter Batty; Lynne Tejeda and Grisel Owens is the staff assistant assigned to take the minutes of the meeting.

Mr. Batty stated that a vote was taken by the Land Use Committee to sell the property and it was a unanimous decision.

Mrs. Nevius pointed out that the contract does state a quit claim deed.

Mr. Batty expressed a concern regarding noise levels and asked if a clause can be structured in the contract to address that concern.

Mrs. Tejeda stated that she could ask Mr. DeCubellis to consider it.

At this time Mr. Tom Milone addressed the Board regarding the preservation of waterfront in the County. He requested that the Board instruct counsel to prepare the necessary restrictive covenant to run with the land which will ensure that it remains a working waterfront and does not have lodging or residences on it. The property should stay as a working waterfront.

There being no further discussion the roll was called and the following vote was recorded:

Mr. Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Recused himself
Chairman Hernandez	Yes

OTHER BUSINESS

There being no further business to come before the Board motion was made by Mr. Symroski to adjourn the Regular Utility Board meeting of March 26, 2008 at 6:03 p.m.

APPROVED:

Lou Hernandez, Chairman

ATTEST:

Lynne E. Tejeda, General Manager & CEO/Secretary

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