State of Florida

Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: August 2, 2012

TO: Office of Commission Clerk (Cole)

FROM: Division of Accounting and Finance (Cicchetti, Mouring, Trueblood)
Division of Economics (McNulty, Draper, Higgins, Kummer)
Division of Engineering (Black, Moses)
Office of the General Counsel (Brown)

RE: Docket No. 120036-GU – Joint petition for approval of Gas Reliability Infrastructure Program (GRIP) by Florida Public Utilities Company and the Florida Division of Chesapeake Utilities Corporation.

AGENDA: 08/14/12 – Regular Agenda – Tariff Filing - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: Eight month clock expiration date - October 3, 2012

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\AFD\WP\120036.RCM.DOC

Case Background

On February 3, 2012, Florida Public Utilities Company (FPUC) and the Florida Division of Chesapeake Utilities Corporation (Chesapeake), or the Companies, submitted a joint petition seeking approval of proposed programs known as Gas Reliability Infrastructure Programs (GRIPs). The proposed GRIPs would recover the cost of accelerated replacement of qualifying distribution mains and services, including a return on investment. While each company proposed a company-specific program in this filing, the petitioners explain that they are seeking joint approval because the Companies' tariffs and rates are proposed to be changed simultaneously.

The joint petition states that the Companies do not object to the bifurcation of the Commission's consideration of these two programs if that is the Commission's preference.

The Companies' primary goal of accelerating the replacement of bare steel pipeline is to proactively respond to public concerns regarding aging infrastructure's reliability and safety. In their joint petition, the Companies cite the Department of Transportation (DOT) / Pipeline and Hazardous Safety Administration's (PHMSA) recently-amended Federal Pipeline Safety Regulations requiring natural gas distribution pipeline operators to develop and implement Distribution Integrity Management Plans (DIMPs) by August 2, 2011. Recent changes to Natural Gas Pipeline Safety Act requires the Secretary of the Department of Transportation (DOT) to review the DIMPs to evaluate the continuing priority to enhance protections for public safety and to reduce risk in high consequence areas. The Companies specifically reference Section 192.1007(a)(1), Code of Federal Regulation (CFR), which requires operators to "Identify the characteristics of the pipeline's design and operations and the environmental factors that are necessary to assess the applicable threats and risks to its gas distribution pipeline." The Companies assert that an appropriate evaluation in response to this requirement reveals that due to age, leak history, soil conditions, and other pertinent criteria, cast iron and bare steel mains and services rank highest in "threats and risks to its gas distribution pipeline." The Companies provided their DIMPs in support of their joint petition.

In addition, the Companies cite the "Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011," H. Con. Res. 93, which was signed into law on January 3, 2012. This new law requires the DOT Secretary to review DIMPs to evaluate, among other things, "the continuing priority to enhance protections for public safety" and "the continuing importance of reducing risk in high consequence areas." The Companies also cite the April 2011 statements of DOT Secretary Ray LaHood calling upon industry, state leaders, and other key stakeholders to work together to improve the safety and efficiency of the nation's natural gas pipeline infrastructure.

Twenty-four states have established programs for the replacement of unprotected bare steel, and three states have pending programs.[1] States have implemented a variety of cost recovery methods for these programs. New Jersey, Kentucky, and Indiana are currently using traditional ratemaking authority to establish infrastructure replacement pipeline programs. Missouri, Kansas, and Nebraska are using state-specific ratemaking authority using detailed eligibility requirements and cost recovery formulas for replacement surcharges. Ohio provides more flexibility and discretion. Ohio has an alternative plan which requires the company to file an application with the proposed rates, summary of the proposed plan, and comparison of the typical before and after customer bill, and any waiver requests. Texas utilizes an interim rate adjustment method, and Virginia has adopted a separate rider, allowing for the recovery of certain costs associated with eligible infrastructure replacement projects.

FPUC and Chesapeake assert that because the primary driver of the replacement is safety concerns, the additional costs associated with the GRIP accelerated replacements cannot be offset through additional sales revenue. Furthermore, implementing the proposed accelerated

[1] Source: http://www.phmsa.dot.gov/pipeline/state-programs.

replacement program without also implementing the related surcharge could soon require the need for a rate case, which they describe as a much more costly mechanism for customers.

The Companies seek recovery of the revenue requirements of expedited pipeline replacement programs through the implementation of a GRIP surcharge mechanism, which would recover the accelerated replacement of qualifying distribution mains and services, defined as material other than coated steel and plastic (polyethylene), which is primarily bare steel pipeline. Recovery factors would be class-specific. The Companies request an initial two-year surcharge mechanism beginning July 1, 2012. The surcharges would also be reassessed and recalculated at the time of a full base rate proceeding, when the GRIP investments and expenses would be rolled into base rates.

FPUC currently has a bare steel replacement and recovery program approved in its 2004 rate case proceeding (Docket No. 040216-GU) which was modified to include steel tubing in its 2008 rate case proceeding (Docket No. 080366-GU). In the latter proceeding, the program was based on a replacement and related amortization period of 50 years.[2] The proposed GRIP is based on an accelerated replacement period of 10 years and approved depreciation rates.

Chesapeake does not have any formalized replacement plan or any recovery amount embedded in base rates. Chesapeake has replaced its bare steel infrastructure as conditions warrant. In its initial surcharge calculation, Chesapeake has utilized the same per unit costs of bare steel replacement for its eligible replacement mains and services (i.e. average investment cost/main mile and average investment cost / service line) as FPUC's 2008 rate case per unit costs .

In May, June, and July 2012, FPUC and Chesapeake provided responses to staff's four sets of data requests, which included certain modifications to their joint petition. In response to staff's first set of data requests, the Companies agreed that the most recent actual weighted average cost of capital would more accurately reflect the GRIP's revenue requirement than the weighted average cost of capital from the Companies' last rate cases. In response to staff's fourth set of data requests, the Companies indicated that they did not oppose a one-year GRIP surcharge filing as opposed to a two year GRIP surcharge filing as appears in their joint petition. In response to staff's fourth set of data requests, the Companies stated they were willing to agree to use either FPUC's 2008 rate case pipeline replacement unit costs or FPUC's 2009-2011 actual pipeline replacement unit costs as the basis for estimating replacement costs and associated rate impacts under the GRIP. Finally, on July 31, 2012, in order to reflect an annual rather than biennial review period and a feasible effective date, the Companies filed revised tariff sheets for their GRIP showing an effective date of January 1, 2013, and extending through December 31, 2013, along with supporting cost and rate development pages, based on FPUC's 2009-2011 actual replacement unit costs.

The Commission issued Order No. PSC-12-0193-PCO-GU in this docket on April 13, 2012, in which it suspended the proposed GRIP tariffs. The eight-month clock expires October 3, 2012.

[2] Order No. PSC-09-0375-PAA-GU, issued May 27, 2009, in Docket No. 080366-GU, In re: Petition for rate increase by Florida Public Utilities Company.

The Commission has jurisdiction over this matter pursuant to Section 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve FPUC's proposed Gas Reliability Infrastructure Program?

Recommendation: Yes. The Commission should approve FPUC's proposed GRIP using an annual surcharge adjustment mechanism to be implemented August 14, 2013, as discussed below. The Company should be directed to file its annual GRIP petitions on September 1 of each year, starting in 2013. Also, the Commission should approve FPUC's proposed revised GRIP tariff filed July 31, 2012, effective January 1, 2013, extending through December 31, 2013.

FPUC should be required to file quarterly reports with the Commission on the progress of its replacement program. The reports should include information such as the location of the replacements, whether the location is in a high consequence area, the mileage and type of pipeline replaced, the type of material used, and the date the replacement pipe was put into service. (McNulty, Black, Brown, Cicchetti, Draper, Higgins, Moses, Mouring, and Trueblood)

Staff Analysis:

Overview of the Proposed Program

FPUC has had a bare steel replacement and recovery program in place since 2005, originally approved in FPUC's 2003 rate proceeding. In FPUC's 2008 rate case, the Commission approved FPUC's request to include steel tubing to the replacement program, but the Commission modified FPUC's requested 60 year replacement period to 50 years. Thus, the total cost of the program in 2008, $37,386,365, was amortized over a 50 year period, yielding an annual expense of $747,727 associated with the program which was included in base rates.

For purposes of this proceeding, FPUC estimated its remaining replacement investment cost to be $31,732,602 based on 2008 rate case replacement cost data. In its joint petition, FPUC proposed to install all of its remaining replacement investment during the period July 2012 through June 2022 and to collect the associated revenue requirements through the proposed GRIP surcharge. According to its joint petition, FPUC's GRIP investment would be transferred to FPUC's base rates via rate case proceedings as they occur.

FPUC's bare steel main pipeline comprises 11.7 percent of its total miles of distribution mains (198 miles of 1,697 total miles of distribution mains). FPUC's bare steel service lines comprise 12.3 percent of its distribution service lines (7,980 of 64,916 total distribution service lines). The replacement investment necessary to replace these remaining lines is $31,732,602, based on 2008 rate case replacement cost data, and includes an estimated $25,236,882 in mains investment and $6,495,720 in service lines investment. FPUC's review of the remaining eligible infrastructure has led the utility to propose replacing 34 percent of the infrastructure during the first two years of the program and 66 percent of the infrastructure in the following 8 years. FPUC's proposed replacement program in the first two years would target large metropolitan areas, including West Palm Beach, which has a high density of pipeline proposed for replacement.

Under FPUC's plan, the annual revenue requirements for replacement of the bare steel pipeline facilities would increase from $747,727 per year currently, to $4,208,094 by Year 10 of the GRIP, based on 2008 rate case replacement cost data. FPUC plans to reduce the amount recovered through the GRIP surcharges to account for the bare steel amortization currently embedded in base rates. FPUC originally proposed to administer the surcharge by filing a petition every two years beginning July 1, 2012 through June 30, 2014. The proposed two year surcharge for the period beginning July 1, 2014, would be based on a March 31, 2014, filing. Each biennial filing would include a historical true-up through the most recently completed calendar year, an actual/estimated true-up period for the remainder of the prior two year period, and projected costs for the next two years.

FPUC expects that the Commission will be able to verify actual costs associated with its petition by reviewing capital records kept in accordance with Rule 25-7.014, F.A.C., by providing quarterly reports pertaining to pipeline replacement information, by providing prescribed GRIP filings every other year, and by making available GRIP records at the time of a general rate proceeding, because each of these allows the opportunity for a Commission audit.

In addition to meeting safety concerns, FPUC also states that a by-product of the proposed GRIP will be an economic development boost in its service territory. FPUC expects that the pipeline replacement program will require the subcontractors hired to do the bare steel replacement to hire additional workers, thus spurring employment in the construction labor segment. The labor segment continues to trend downward, which leads FPUC to believe that the cost of installation will be lower than it would be in a robust construction market. This economic condition is expected to reduce the resultant surcharge factors for ratepayers over the life of the program.

Safety Concerns

Safety concerns regarding Unprotected Bare Steel

Unprotected bare steel is subject to corrosion. Corrosion causes pitting in the steel pipeline, which reduces the structural integrity of the pipeline. Corrosion left undetected or uncorrected can lead to structural failure and release of gas.

PHMSA recognized the threat of corrosion on bare unprotected steel pipeline and amended Part 192.455, Code of Federal Regulations (CFR), to prohibit the installation of unprotected bare steel pipeline after July 31, 1971, unless the operator could demonstrate by tests, investigation, or experience in the area using, at a minimum, soil resistivity measurements and tests for corrosion accelerating bacteria, that a corrosive environment does not exist.

Steel pipeline installed after August 1, 1971 has protective coatings developed to help insulate the pipeline from the corrosive environment. Where there are nicks or "holidays" in the coating, cathodic protection is required under the amended Part 192.455, CFR, to reduce corrosion. Cathodic protection consists of an electric current applied to the pipeline in such a manner as to cause metals to be deposited on the pipeline instead of being eroded from it.

Method of Determining the Order of Pipeline Replacement

FPUC will determine the priority of qualifying facilities replacement utilizing the DIMP and the various elements of the program to rank risk. These elements include leakage history, location of facilities (i.e. class location, population density, location of public buildings, in relation to pipe segments, etc.), age, operating pressure, and input from subject matter experts. FPUC will coordinate with roadway improvement projects, if practicable, where qualifying facilities are located to reduce replacement costs.

Determination of GRIP Revenue Requirement

FPUC asserts that the proposed programs and methodology used to calculate the GRIP surcharges are the same as those used in FPUC's last rate case.[3] Through the GRIP, FPUC seeks to recover notification expenses, depreciation expense, return on investment, and ad valorem taxes grossed up for federal and state income taxes. FPUC states that it is not seeking to recover costs associated with the removal of existing eligible distribution mains and services through the GRIP, and FPUC does not anticipate removing such facilities unless required by applicable permitting agencies.

Major portions of the GRIP revenue requirement, including depreciation expense, return on investment, and ad valorem taxes, are all dependent upon the level of investment cost. Staff identified a significant difference in the average installation cost per mile used in determining replacement costs in the 2008 rate case and FPUC's 2009-2011 actual replacement costs identified in FPUC's Annual Replacement Reports.[4] Per the FPUC rate case, the average installation cost was $127,459 per mile, which is the cost FPUC used to develop its GRIP surcharge. The actual average replacement costs for 2009 through 2011 per FPUC's Annual Replacement Reports was $174,258 per mile.

FPUC defended its use of the 2008 rate case replacement cost data, stating such costs are reasonable estimates to use for the proposed GRIP surcharge. It also stated that the actual costs incurred in 2009-2011 are reflective of costs incurred to replace isolated segments of bare steel mains and services, whereas the GRIP program will replace facilities located in adjacent areas, which may result in better pricing from contractors. However, FPUC stated it is willing to use either cost basis for estimating replacement costs under the GRIP program, and it provided the associated revenue requirement and rate impact data in response to Staff's 4th Data Request, Question No. 6. The surcharge will be adjusted periodically based on actual costs incurred. To the extent actual costs vary from projected, the difference will be addressed in the true-up procedure.

[3] Order No. PSC-09-0373-PAA,-GU, issued May 27, 2009, in Docket No. 080366-GU, In re: Petition for rate increase by Florida Public Utilities Company.
[4] FPUC's Annual Replacement Reports were required per Order No. PSC-09-0375-PAA-GU, Page 5. The Order required information to be supplied in the annual reports pertaining to "the dollar amount and feet of plastic mains, services, and tubing installed during the previous year to replace bare steel pipe and tubing retired that year."

In evaluating any new cost recovery mechanism proposal, staff believes it is essential to consider the most recent cost data available as an important input in accurately assessing the most probable future costs. In this instance, accurately identifying costs allows for a better understanding of the probable rate impacts of the proposed program not just for the first recovery period but throughout the proposed 10 year recovery period. Accurately identifying costs promotes rate stability and satisfies the regulatory principle of matching the timing of costs and rates. While FPUC speculates that there may a cost advantage of adjacent replacements versus isolated replacements, staff is unconvinced that such conditions, to the extent present, would yield a 27 percent decrease in costs (($174,258 per mile - $127,459 per mile)/$174,258 per mile). Staff believes the more probable replacement cost estimate is the average 2009-2011 actual replacement costs incurred by FPUC, and future replacement costs may well be higher than the historical costs of 2009-2011. This changes the total investment cost of the GRIP from $31,732,604 to $46,919,964.[5]

Return

In response to staff's first data request, FPUC modified its petition and agreed to use FPUC's most recent actual weighted cost of capital reflected in FPUC's 4th Quarter 2011 Earnings Surveillance Report. In its petition, FPUC had originally proposed to use the overall cost of capital from the last rate case. Staff believes that relying on a more current actual weighted cost of capital more accurately aligns current costs with current cost recovery and sends a more precise price signal.

Also in response to Staff's First Data Request, FPUC provided an updated net operating income multiplier to be applied to the revenue requirement associated with the equity component of the GRIP. As previously discussed, FPUC has agreed to using the more current capital structures reflected in FPUC's 4th Quarter 2011 Earning Surveillance Report. The differences between the original amounts and the updated amounts are shown in Table 1-1 below.

[5] In FPUC's response to Staff's Fourth Data Requests, Question No. 6, FPUC provided a revised breakdown of the investment dollars for the 10-year period of July 1, 2012 through June 30, 2022 based on 2009-2011 average replacement costs. The breakdown addressed the effects of applicable ad valorem taxes, notification expenses, mains and services, and the associated return on investment (ROI).

Table 1-1 FPUC Cost Rates		
	Cost Rate	
	As Filed	Updated
Equity Cost Rate	10.85%	10.85%
Weighted Equity Cost Rate	4.58%	5.37%
Revenue Expansion Factor	1.6197	1.6197
Expanded Wtd. Equity Cost Rate	7.418%	8.698%
Weighted Debt Cost Rate	3.59%	2.30%
Overall Weighted Cost Rate	8.17%	7.67%

Ad Valorem Taxes

As a result of the GRIP, FPUC will incur additional ad valorem taxes due to the increased value of the replacement lines. A revised Schedule B that reflects the estimated taxes was submitted in May and July 2012 in response to Staff's 2nd and 4th Data Requests. Staff has reviewed the ad valorem tax amounts listed in the revised Schedule B submitted in response to Staff's 4th Data Request and believes they are reasonable.

Depreciation

The revenue requirements, including depreciation expense, associated with the infrastructure that replaces the bare steel and cast iron pipe will be recovered through the surcharge mechanism. Staff notes that the costs incurred to remove from service the existing distribution mains and services will be recovered through existing depreciation rates. Staff should review FPUC's projection and true-up filings on an annual basis to ensure the appropriate depreciation rates are applied. The applicable depreciation rates for FPUC are presented below.[6]

[6] Order No. PSC-09-0229-PAA-GU, issued May 6, 2009, in Docket No. 080548-GU, In re: 2008 depreciation study by Florida Public Utilities Company.

Table 1-2

Authorized Depreciation Rates Used in FPUC Filing

Account No.	Investment	Remaining Life Depreciation Rate
376.1	Mains Plastic	2.5%
376.2	Mains Steel	2.8%
380.1	Services Plastic	3.4%
Source: PSC Order No. PSC-08-0364-PAA-GU, issued June 2, 2008, in Docket No. 070322-GU, In re: 2007 depreciation study by Florida Division of Chesapeake Utilities Corporation..		

Notification Expense

FPUC has included notification expenses in the amount of $340,000. Staff recognizes that customers and the general public must be notified regarding its pipeline replacement program, and staff believes the expenses are reasonable and FPUC should be allowed to recover them through the GRIP surcharge.

Operations and Maintenance Expense

FPUC expects lower operations and maintenance expenses (O&M) associated with the new facilities when compared to bare steel mains and services. The O&M required for bare steel mains and services are more frequent and costly than the O&M requirements for the replacement materials. FPUC states that it is unable to quantify the cost differences. FPUC explains it has not recognized expected O&M expense reductions as an offset to replacement costs within the GRIP, but the expected differences would be projected in future rate cases.[7]

GRIP Rate Impact

FPUC submitted, as part of its joint petition, proposed tariff sheets with GRIP surcharge factors for the period July 2012 through June 2014 based on 2008 rate case replacement costs. Net of its existing bare steel replacement program, FPUC's GRIP would have an initial monthly bill impact of $0.04 per bill for a typical residential customer using 20 therms annually, increasing to an estimated monthly bill impact of $1.49 by July 1, 2020.[8]

In response to staff discovery, FPUC provided GRIP rate impacts based on its average 2009-2011 replacement costs, which staff believes reflect the more reasonable estimates of program costs compared to 2008 rate case replacement costs.[9] Net of its existing bare steel

[7] See response to Staff's 4th Set of Data Requests, Question No. 10.
[8] Rate impacts for years 3 through 10 (2016-2022) were provided in response to Staff's Data Request No. 1, Question No. 35.
[9] See response to Staff Data Request No. 4, Revised Attachment G, Question 6, Schedule C.

replacement program, FPUC would have an initial monthly bill impact of $0.23 for a typical residential customer using 20 therms per month, increasing to an estimated monthly bill impact of $2.53 by July 1, 2020.[10] Monthly bill impacts for residential customers appear in Table 1-3. Again, FPUC states that it does not oppose the use of the 2009-2011 replacement cost data in this proceeding.

FPUC filed revised tariff pages on July 31, 2012, to reflect the 2013 calendar year ratesetting period, based on FPUC's actual 2009-2011 replacement costs, to accommodate certain timing and implementation concerns raised by staff (see next section, "Procedure for Setting the Surcharge"). FPUC's proposed 2013 rate is set to recover not only its projected 2013 GRIP revenue requirement but also its GRIP revenue requirement of July 1, 2012, through December 31, 2012. The first year bill impact for residential customers with typical usage is $0.12 per month ($0.00581/therm times 20 therms).

[10] Rate impacts for years 3 through 10 (2016-2022) were provided in response to Staff's Data Request No. 1, Question No. 35.

Table 1-3

GRIP Residential Bill Impacts

Recovery Period	Monthly Bill Impacts Using 2008 Rate Case Costs (typical bill is $34.11 including gas at 20 therms)		Monthly Bill Impacts Using Actual 2009-2011 Costs (typical bill is $34.11 including gas at 20 therms)	
	Residential Bill Increase	Residential Bill Percentage Increase	Residential Bill Increase	Residential Bill Percentage Increase
2012-2014	$0.04	0.0%	$0.23	0.7%
2014-2016	$0.58	1.7%	$1.08	3.2%
2016-2018	$0.89	2.8%	$1.59	4.7%
2018-2020	$1.20	3.5%	$2.07	6.1%
2020-2022	$1.49	4.4%	$2.53	7.4%

Source: FPUC's responses to Staff First Data Request, No. 35, Attachment D, Schedule C and Staff's 4th Data Request, No. 6, Attachment G, Schedule C and FPSC Comparative Rate Statistics, 12/31/2011, Page B-1.

Note: Bill impact data shown here is stated in real terms. Inflation has not been included.

Procedure for Setting the Surcharge

Staff is recommending certain timing and implementation changes regarding FPUC's GRIP petition as originally filed. First, FPUC's original request to implement the surcharge on July 1, 2012, is now moot which also changes the review and true-up calculations as well. Second, the Company's request for approval of its proposed GRIP program based on adjusting rates biennially beginning on July 1, but staff believes that a calendar year adjustment is more appropriate for purposes of rate stability. This circumstance was effectively resolved on July 31, 2012, when the Company submitted replacement GRIP tariff sheets with an effective date of January 1, 2013, extending through December 31, 2013.

Staff believes it would be appropriate for FPUC to file an annual GRIP petition requesting Commission approval of GRIP surcharges to be effective the following calendar year. Staff recommends that the annual filing be made September 1 of each year for surcharges implemented on January 1 of the subsequent year. The annual filings should include the following three components:

1. A final true-up showing the actual replacement costs, actual surcharge revenues, and over- or under recovery amount for the 12-month historical period from January 1 through December 31 of the year prior to FPUC's annual GRIP petition.

2. An actual/estimated true-up showing seven months of actual and five months of projected replacement costs, surcharge revenues, and over- or under-recovery amount.

3. A revenue requirement projection showing 12 months of projected GRIP revenue requirement for the period beginning January 1 following FPUC's annual GRIP petition filing.

Staff has reviewed the rate calculations underlying its 2013 calendar year revised tariff filing of July 31, 2012, and believes the calculations were performed correctly with one relatively minor exception; FPUC included GRIP recovery of costs for the period July 1, 2012 through August 13, 2012. Consistent with the timing of the Commission's vote on this matter, staff believes, FPUC should exclude from its September 1, 2013, final true-up calculation all pipeline replacement installation costs incurred from July 1, 2012, to August 13, 2012, the period prior to the Commission vote on FPUC's proposed GRIP.

Staff notes that the Commission will have the opportunity to thoroughly review FPUC's replacement expenditures during the annual approval process of the surcharges and request additional information if necessary. Staff also intends to conduct financial audits of the actual revenues and expenses of FPUC's GRIP program each period. Staff believes that the prevailing commercial paper rate of interest should be applied to all over- and under-recoveries.

Conclusion

It is staff's opinion that the Commission clearly has authority under the broad ratemaking powers found in Sections 366.04, 366.05, and 366.06, F.S., to establish this type of surcharge to recover a discreet set of costs incurred in response to unusual, urgent circumstances. For example, in Action Group v. Deason, 615 So. 2d 683 (Fla. 1993), the Florida Supreme Court upheld the Commission's approval of a 15-year rate rider charged to customers in a specific service area to retire the existing debt of a bankrupt system that Florida Power Corporation (now Progress Energy Florida, Inc.) had purchased. The Court stated that the Commission had the authority under Section 366.04(1), F.S., to fix "just, reasonable, and compensatory rates, charges, fares, tolls, or rentals", and the authority under Section 366.05(1), F.S., to prescribe "fair and reasonable rates and charges [and] classifications," which authority, the Court stated, was to be construed liberally. See also Section 366.041(2), F.S., which provides that the "power and authority herein conferred upon the commission shall . . . be construed liberally to further the legislative intent that adequate service be rendered by public utilities." In Docket No. 041291-EI, In re: Petition for authority to recover prudently incurred storm restoration costs related to

2004 storm season that exceed storm reserve balance, by Florida Power & Light Co.,[11] the Commission approved a surcharge to cover FPL's unanticipated storm restoration costs for a period of three years. Likewise, in Docket No. 041272-EI, In re: Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, the Commission approved a two-year temporary surcharge to recover Progress's storm costs.

Staff recommends approval of FPUC's proposed GRIP. Staff believes the replacement of these types of pipelines is in the public interest to improve the safety of Florida's natural gas infrastructure, thereby reducing the risk to life and property. Given the length of time these types of pipelines have been installed and the leak history due to corrosion, staff believes it is appropriate to approve the proposed replacement program. Without the surcharge, it is reasonable to expect that FPUC will have to file for more frequent base rate proceedings to recover the expenses of an accelerated replacement program. The annual filings will provide the Commission with the oversight to ensure that projected expenses are trued-up and only actual costs are recovered. FPUC's GRIP and its associated surcharges will terminate when all replacements have been made and the revenue requirement has been rolled into rate base.

Staff recommends the Commission approve FPUC's proposed GRIP based on 2009-2011 actual replacement cost data as discussed above. Staff recommends the Commission require FPUC to structure GRIP as an annual surcharge adjustment mechanism, implemented August 14, 2012. The Company should be directed to file its annual GRIP petitions on September 1 of each year, starting in 2013, wherein such petitions contain a final true-up, actual-estimated true-up, and projected year revenue requirements.

FPUC's proposed GRIP tariff, filed July 31, 2012, and effective January 1, 2013, extending through December 31, 2013, should be approved. In its September 1, 2013, petition for GRIP cost recovery, FPUC should include a final true-up for the period August 14, 2012, (i.e. date of the Commission's vote) through December 31, 2012. The final true-up should exclude all pipeline replacement installation costs incurred from July 1, 2012, to August 13, 2012, the period prior to the Commission's vote on FPUC's proposed GRIP.

Staff further recommends that FPUC be required to file quarterly reports with the Commission on the progress of its replacement program. The reports should include information such as the location of the replacements, whether the location is in a high consequence area, the mileage and type of pipeline replaced, the type of material used, and the date the replacement pipe was put into service.

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[11] Order No. PSC-05-0937-FOF-EI, issued September 21, 2005.

Issue 2: Should the Commission approve Chesapeake's proposed Gas Reliability Infrastructure Program?

Recommendation: Yes. The Commission should approve Chesapeake's proposed GRIP based on an annual surcharge adjustment mechanism to be implemented August 14, 2012, as discussed below. Chesapeake should be directed to file its annual GRIP petitions on September 1 of each year, starting in 2013. Also, the Commission should approve Chesapeake's proposed revised GRIP tariff filed July 31, 2012, effective January 1, 2013, extending through December 31, 2013.

Chesapeake should be required to file quarterly reports with the Commission on the progress of its replacement program. The reports should include information such as the location of the replacements, whether the location is in a high consequence area, the mileage and type of pipeline replaced, the type of material used, and the date the replacement pipe was put into service. (McNulty, Black, Brown, Cicchetti, Draper, Higgins, Moses, Mouring, and Trueblood)

Staff Analysis:

Overview of the Proposed Program

Chesapeake does not have any formalized bare steel replacement plan, nor does Chesapeake have any recovery amount embedded in its base rates. In the past, Chesapeake has replaced its bare steel infrastructure as conditions warranted (based on leak history and results of its bare steel surveys). For purposes of this proceeding, Chesapeake's estimated its remaining replacement investment of $19,373,768 based on FPUC's 2008 rate case replacement unit cost data (investment dollars per mile). Chesapeake assumed the same unit costs as FPUC's unit costs because the Companies will utilize many of the same vendors and suppliers for the replacement of qualified facilities. In its joint petition, Chesapeake proposed to install all of its remaining replacement investment during the period of July 2012 through June 2022 and to collect the associated revenue requirements through the proposed GRIP surcharge. According to its joint petition, the Company's GRIP investment would be transferred to Chesapeake's base rates via rate case proceedings as they occur. The new GRIP surcharge would be based on expected effective date of the new base rates.

Chesapeake's bare steel main pipeline comprises 19.4 percent of its total distribution system mains (152 of 782 total miles of distribution mains). Chesapeake's bare steel service lines comprise 4.2 percent of its total service lines (762 out of 18,035 distribution service lines). The replacement investment costs associated with the remaining eligible lines is $19,994,036, based on FPUC's 2008 rate case replacement unit cost data, and includes an estimated $19,373,768 in mains investment and $620,268 in service lines investment. Chesapeake's review of the remaining eligible infrastructure has led the utility to propose replacing 20 percent of the infrastructure during the first two years of the program and 80 percent of the infrastructure in the following 8 years.

Under Chesapeake's plan, the annual revenue requirements for replacement of the bare steel pipeline facilities would increase from $0.00 per year currently (i.e. not in base rates) to $3,686,533 by Year 10 of the GRIP, based on FPUC's 2008 rate case replacement unit cost data.

Chesapeake originally proposed to administer the surcharge by filing a petition every two years beginning July 1, 2012 through June 30, 2014. The proposed two year surcharge for the period beginning July 1, 2014, would be based on a March 31, 2014 filing. Each biennial filing would include a historical true-up through the most recently completed calendar year, an actual/estimated true-up period for the remainder of the prior two year period, and projected costs for the next two years.

Chesapeake expects that the Commission will be able to verify actual costs associated with its petition by reviewing capital records kept in accordance with Rule 25-7.014, F.A.C., by providing quarterly reports pertaining to pipeline replacement information, by providing prescribed GRIP filings every other year, and by making available GRIP records at the time of a general rate proceeding, because each of these allows the opportunity for Commission audit.

In addition to meeting safety concerns, Chesapeake also states that a by-product of the proposed GRIP will be an economic development boost in its service territory. Chesapeake expects that the pipeline replacement program will require the subcontractors hired to do the bare steel replacement to hire additional workers, thus spurring employment in the construction labor segment. The labor segment continues to trend downward, which leads Chesapeake to believe that the cost of installation will be lower than it would be in a robust construction market. This economic condition is expected to reduce the resultant surcharge factors for ratepayers over the life of the program.

Safety Concerns

Safety concerns regarding Unprotected Bare Steel

Unprotected bare steel is subject to corrosion. Corrosion causes pitting in the steel pipeline, which reduces the structural integrity of the pipeline. Corrosion left undetected or uncorrected can lead to structural failure and release of gas.

PHMSA recognized the threat of corrosion on bare unprotected steel pipeline and amended Part 192.455, CFR, to prohibit the installation of unprotected bare steel pipeline after July 31, 1971, unless the operator could demonstrate by tests, investigation, or experience in the area using, at a minimum, soil resistivity measurements and tests for corrosion accelerating bacteria, that a corrosive environment does not exist.

Steel pipeline installed after August 1, 1971, uses protective coatings developed to help insulate the pipeline from the corrosive environment. Where there are nicks or "holidays" in the coating, cathodic protection is required under the amended Part 192.455, CFR, to reduce corrosion. Cathodic protection consists of an electric current applied to the pipeline in such a manner as to cause metals to be deposited on the pipeline instead of being eroded from it.

Method of Determining the Order of Pipeline Replacement

Chesapeake will determine the priority of qualifying facilities replacement utilizing the DIMP and the various elements of the program to rank risk. These elements include leakage history, location of facilities (i.e. class location, population density, location of public buildings, in relation to pipe segments, etc.), age, operating pressure, and input from subject matter experts. Chesapeake will coordinate with roadway improvement projects, if practicable, where qualifying facilities are located to reduce replacement costs.

Determination of GRIP Revenue Requirement

Through the GRIP, Chesapeake seeks to recover notification expenses, depreciation expense, return on investment, and ad valorem taxes grossed up for federal and state income taxes. Chesapeake states that it is not seeking to recover costs associated with the removal of existing eligible distribution mains and services through the GRIP, and Chesapeake does not anticipate removing such facilities unless required by applicable permitting agencies.

Major portions of the GRIP revenue requirement, including depreciation expense, return on investment, and ad valorem taxes, are all dependent upon the level of investment cost. As stated above, Chesapeake has equated its investment cost ($ per mile) with that of FPUC's. Chesapeake assumed the same unit costs as FPUC's because the Companies will utilize many of the same vendors and suppliers for the replacement of qualified facilities.

Staff identified a significant difference in the average installation cost per mile used in determining replacement costs in FPUC's 2008 rate case and FPUC's 2009-2011 actual replacement costs identified in FPUC's Annual Replacement Reports.[12] Per the FPUC rate case, the average installation cost was $127,459 per mile, which is the cost FPUC used to develop its GRIP surcharge. The actual average replacement costs for 2009 through 2011 per FPUC's Annual Replacement Reports was $174,258 per mile.

Chesapeake defended its use of the FPUC 2008 rate case replacement cost data, stating such costs are reasonable estimates to use for Chesapeake's proposed GRIP surcharge. Chesapeake also stated that FPUC's actual unit costs incurred in 2009-2011 are reflective of unit costs incurred to replace isolated segments of bare steel mains and services, whereas the Chesapeake's GRIP program will replace facilities located in adjacent areas, which may result in better pricing from contractors. However, Chesapeake stated it is willing to use either cost basis for estimating replacement costs under the GRIP program, and it provided the associated revenue requirement and rate impact data in response to Staff's 4th Data Request, Question No. 6. The surcharge will be adjusted periodically based on actual costs incurred. To the extent actual costs vary from projected, the difference will be addressed in the true-up procedure.

In initiating any new cost recovery mechanism, staff believes it is essential to consider the most recent cost data available as an important input in accurately assessing the most probable future costs. In this instance, accurately identifying costs allows for a better understanding of the probable rate impacts of the proposed program not just for the first recovery period but throughout the proposed 10 year recovery period. Accurately identifying costs promotes rate stability and satisfies the regulatory principle of matching the timing of costs and

[12] FPUC's Annual Replacement Reports were required per Order No. PSC-09-0375-PAA-GU, Page 5. The Order required information to be supplied in the annual reports pertaining to "the dollar amount and feet of plastic mains, services, and tubing installed during the previous year to replace bare steel pipe and tubing retired that year."

rates. While Chesapeake speculates that there may a cost advantage of adjacent replacements versus isolated replacements, staff is unconvinced that such conditions, to the extent present, would yield a 27 percent decrease in costs (($174,258 per mile - $127,459 per mile)/$174,258 per mile). Staff believes the more probable replacement cost estimate is the average 2009-2011 actual unit replacement costs incurred by FPUC, and Chesapeake's future replacement unit costs may well be higher than the FPUC's historical unit costs of 2009-2011. Using FPUC's 2009-2011 actual unit replacement costs rather than the FPUC 2008 rate case unit replacement costs changes Chesapeake's total investment cost of the GRIP from $19,994,040 to $27,672,888.[13]

Return

In response to staff's first data request, Chesapeake modified its petition and agreed to use FPUC's most recent actual weighted cost of capital reflected in Chesapeake's 4th Quarter 2011 Earnings Surveillance Report. In its petition, Chesapeake had originally proposed to use the overall cost of capital from its last rate case. Staff believes that relying on a more current actual weighted cost of capital more accurately aligns current costs with current cost recovery and sends a more precise price signal.

Also in response to Staff's First Data Request, the Company provided an updated net operating income multiplier to be applied to the revenue requirement associated with the equity component of the GRIP. As previously discussed, Chesapeake has agreed to using the more current capital structures reflected in Chesapeake's 4th Quarter 2011 Earning Surveillance Report. The differences between the original amounts and the updated amounts are shown in Table 2-1 below.

Table 2-1

Chesapeake's Cost Rates

	Cost Rate	
	As Filed	Updated
Equity Cost Rate	10.75%	10.80%
Weighted Equity Cost Rate	4.68%	5.43%
Revenue Expansion Factor	1.6114	1.6114
Expanded Wtd. Equity Cost Rate	7.541%	8.750%
Weighted Debt Cost Rate	2.15%	2.00%
Overall Weighted Cost Rate	6.83%	7.43%

[13] In Chesapeake's response to Staff's Fourth Data Requests, Question No. 6, Chesapeake provided a revised breakdown of the investment dollars for the 10-year period of July 1, 2012 through June 30, 2022 based on 2009-2011 average replacement costs. The breakdown addressed the effects of applicable ad valorem taxes, notification expenses, mains and services, and the associated return on investment (ROI).

Ad Valorem Taxes

As a result of the GRIP, Chesapeake will incur additional ad valorem taxes due to the increased value of the replacement lines. A revised Schedule B that reflects the estimated taxes was submitted in May and July 2012 in response to Staff's 2nd and 4th Data Requests. Staff has reviewed the ad valorem tax amounts listed in the revised Schedule B submitted in response to Staff's 4th Data Request and believes they are reasonable.

Depreciation

The revenue requirements, including depreciation expense, associated with the infrastructure that replaces the bare steel will be recovered through the surcharge mechanism. Staff notes that the costs incurred to remove from service the existing distribution mains and services will be recovered through existing depreciation rates. Staff will review Chesapeake's projection and true-up filings on an annual basis to ensure the appropriate depreciation rates are applied. The applicable depreciation rates for Chesapeake are presented below.[14]

Table 2-2

Authorized Depreciation Rates Used in Chesapeake Filing

Account No.	Investment	Remaining Life Depreciation Rate
376.1	Mains Plastic	3.3%
376.2	Mains Steel	3.3%
380.2	Services Plastic	3.6%
Source: PSC Order No. PSC-08-0364-PAA-GU, issued June 2, 2008, in Docket No. 070322-GU, In re: 2007 depreciation study by Florida Division of Chesapeake Utilities Corporation.		

Notification Expense

Chesapeake has included notification expenses in the amount of $117,940. Staff recognizes that customers and the general public must be notified regarding its pipeline replacement program, and staff believes the expenses are reasonable and Chesapeake should be allowed to recover them through the GRIP surcharge.

Operations and Maintenance Expense

Chesapeake expects lower O&M expenses associated with the new facilities when compared to bare steel mains and services. The O&M required for bare steel mains and services are more frequent and costly than the O&M requirements for the replacement materials.

[14] Order No. PSC-08-0364-PAA-GU, issued June 2, 2008, in Docket No. 070322-GU, In re: 2007 depreciation study by Florida Division of Chesapeake Utilities Corporation.

Chesapeake states that it is unable to quantify the cost differences. Chesapeake explains it has not recognized expected O&M expense reductions as an offset to replacement costs within the GRIP, but the expected differences would be projected in future rate cases.[15]

GRIP Rate Impact

Chesapeake submitted, as part of its joint petition, proposed tariff sheets with GRIP surcharge factors for the period July 2012 through June 2014 based on 2008 rate case replacement costs. Net of its existing bare steel replacement program, Chesapeake's GRIP would have an initial monthly bill impact of $0.22 per bill for a typical residential customer using 20 therms annually, increasing to an estimated monthly bill impact of $1.75 by July 1, 2020.[16]

In response to staff discovery, Chesapeake provided GRIP rate impacts based on FPUC's average 2009-2011 unit replacement costs (i.e. investment cost/mile), which staff believes reflects more reasonable estimates of program costs compared to costs based on FPUC's 2008 rate case replacement costs.[17] Net of its existing bare steel replacement program, Chesapeake would have an initial monthly bill impact of $0.23 for a typical residential customer, increasing to an estimated monthly bill impact of $2.70 by July 1, 2020.[18] Monthly bill impacts for residential customers are shown in Table 2-3. Again, Chesapeake states that it does not oppose the use of the 2009-2011 replacement cost data in this proceeding.

Chesapeake filed revised tariff pages on July 31, 2012, to reflect the 2013 calendar year ratesetting period, based on FPUC's actual 2009-2011 replacement unit costs, to accommodate certain timing and implementation concerns raised by staff (see next section, "Procedure for Setting the Surcharge"). Chesapeake's proposed 2013 rate is set to recover not only its 2013 projected GRIP revenue requirement but also its GRIP revenue requirement of July 1, 2012, through December 31, 2012. The first year bill impact for FTS-1 customers is $0.37 per month ($0.0161/therm times 23 therms).

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[15] See response to Staff's 4th Set of Data Requests, Question No. 10.
[16] Rate impacts for years 3 through 10 (2016-2022) were provided in response to Staff's Data Request No. 1, Question No. 35.
[17] See response to Staff Data Request No. 4, Revised Attachment G, Question 6, Schedules C.
[18] Rate impacts for years 3 through 10 (2016-2022) were provided in response to Staff's Data Request No. 1, Question No. 35.

Table 2-3

Chesapeake's GRIP Residential Bill Impacts
(based on 2 year ratesetting proposal)

Recovery Period	Monthly Bill Impacts Using 2008 Rate Case Costs (typical FTS-1 bill is $25.14 at 23 therms)		Monthly Bill Impacts Using Actual 2009-2011 Costs (typical FTS-1 bill is $25.14 at 23 therms)	
	Residential Bill Increase	Residential Bill Percentage Increase	Residential Bill Increase	Residential Bill Percentage Increase
2012-2014	$0.22	0.8%	$0.23	0.9%
2014-2016	$0.63	2.5%	$0.68	2.7%
2016-2018	$1.03	4.1%	$1.58	6.3%
2018-2020	$1.40	5.6%	$2.16	8.6%
2020-2022	$1.75	7.0%	$2.70	10.7%

Source: Chesapeake's responses to Staff's First Data Request, No. 35, Attachment D, Schedule C and Staff's 4th Data Request, No. 6, Attachment G, Schedule C and Chesapeake's tariff (Original Sheet No. 74).

Note: Bill impact data shown here is stated in real terms and is exclusive of the cost of gas. Inflation has not been included.

Procedure for Setting the Surcharge

Staff is recommending certain timing and implementation changes regarding Chesapeake's GRIP petition as originally filed. First, Chesapeake's original request to implement the surcharge on July 1, 2012 is now moot which also changes the review and true-up calculations as well. Second, Chesapeake request approval of its proposed GRIP program based on adjusting rates biennially beginning on July 1, but staff believes that a calendar year adjustment is more appropriate for purposes of rate stability. This circumstance was effectively resolved on July 31, 2012, when the Company submitted revised GRIP tariff sheets with an effective date of January 1, 2013, extending through December 31, 2013.

Staff believes Chesapeake should be required to file an annual GRIP petition requesting Commission approval of GRIP surcharges to be effective the following calendar year. Staff recommends that the annual filing be made September 1 of each year for surcharges implemented on January 1 of the subsequent year. The annual filings should include the following three components:

1. A final true-up showing the actual replacement costs, actual surcharge revenues, and over- or under recovery amount for the 12-month historical period from January 1 through December 31 of the year prior to Chesapeake's annual GRIP petition.

2. An actual/estimated true-up showing seven months of actual and five months of projected replacement costs, surcharge revenues, and over- or under-recovery amount.

3. A revenue requirement projection showing 12 months of projected GRIP revenue requirement for the period beginning January 1 following Chesapeake's annual GRIP petition filing.

Staff has reviewed the rate calculations underlying Chesapeake's 2013 calendar year revised tariff filing of July 31, 2012, and believes the calculations were performed correctly with one relatively minor exception; Chesapeake included GRIP recovery of costs for the period July 1, 2012 through August 13, 2012. Consistent with the timing of the Commission's vote on this matter, staff believes Chesapeake should exclude from its September 1, 2013, final true-up calculation all pipeline replacement installation costs incurred from July 1, 2012, to August 13, 2012, the period prior to the Commission vote on Chesapeake's proposed GRIP.

Staff notes that the Commission will have the opportunity to thoroughly review Chesapeake's replacement expenditures during the annual approval process of the surcharges and request additional information if necessary. Staff also intends to conduct financial audits of the actual revenues and expenses of Chesapeake's GRIP program each period. Staff believes that the prevailing commercial paper rate of interest should be applied to all over- and under-recoveries.

Conclusion

It is staff's opinion that the Commission clearly has authority under the broad ratemaking powers found in Sections 366.04, 366.05, and 366.06, F.S., to establish this type of surcharge to recover a discreet set of costs incurred in response to unusual, urgent circumstances. For example, in Action Group v. Deason, 615 So. 2d 683 (Fla. 1993), the Florida Supreme Court upheld the Commission's approval of a 15-year rate rider charged to customers in a specific service area to retire the existing debt of a bankrupt system that Florida Power Corporation (now Progress Energy Florida, Inc.) had purchased. The Court stated that the Commission had the authority under Section 366.04(1), F.S., to fix "just, reasonable, and compensatory rates, charges, fares, tolls, or rentals", and the authority under Section 366.05(1), F.S., to prescribe "fair and reasonable rates and charges [and] classifications," which authority, the Court stated, was to be construed liberally. See also Section 366.041(2), F.S., which provides that the "power and authority herein conferred upon the commission shall . . . be construed liberally to further the legislative intent that adequate service be rendered by public utilities." In Docket No. 041291-

EI, In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Co. Co.,[19] the Commission approved a surcharge to cover FPL's unanticipated storm restoration costs for a period of three years. Likewise, in Docket No. 041272-EI, In re: Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc.,[20] the Commission approved a two-year temporary surcharge to recover Progress's storm costs.

Staff recommends approval of Chesapeake's proposed GRIP. Staff believes the replacement of these types of pipelines is in the public interest to improve the safety of Florida's natural gas infrastructure, thereby reducing the risk to life and property. Given the length of time these types of pipelines have been installed and the leak history due to corrosion, staff believes it is appropriate to approve the proposed replacement program. Without the GRIP surcharge, it is reasonable to expect that Chesapeake will have to file for more frequent base rate proceedings to recover the expenses of an accelerated replacement program. The annual filings will provide the Commission with the oversight to ensure that projected expenses are trued-up and only actual costs are recovered. Chesapeake's GRIP and its associated surcharges will terminate when all replacements have been made and the revenue requirement has been rolled into rate base.

Staff recommends the Commission approve Chesapeake's proposed GRIP based on 2009-2011 actual replacement cost data. Staff recommends the Commission require Chesapeake to structure GRIP as an annual surcharge adjustment mechanism, implemented August 14, 2012. The Company should be directed to file its annual GRIP petitions on September 1 of each year, starting in 2013, wherein such petitions contain a final true-up, actual-estimated true-up, and projected year revenue requirements.

Chesapeake's proposed revised GRIP tariff filed July 31, 2012, effective January 1, 2013 and extending through December 31, 2013, should be approved. In its September 1, 2013, petition for GRIP cost recovery, Chesapeake should include a final true-up for the period August 14, 2012, (i.e. date of the Commission's vote) through December 31, 2012. The final true-up should exclude all pipeline replacement installation costs incurred from July 1, 2012, to August 13, 2012, the period prior to the Commission vote on Chesapeake's proposed GRIP.

Staff further recommends that Chesapeake be required to file quarterly reports with the Commission on the progress of its replacement program. The reports should include information such as the location of the replacements, whether the location is in a high consequence area, the mileage and type of pipeline replaced, the type of material used, and the date the replacement pipe was put into service.

[19] Order No. PSC-05-0937-FOF-EI, issued September 21, 2005.
[20] Order No. PSC-05-0748-FOF-EI, issued July 14, 2005.

Issue 3: Should this docket be closed?

Recommendation: Yes. If Issue 1 and 2 are approved, the tariffs should become effective on January 1, 2013. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Brown)

Staff Analysis: If Issue 1 and 2 approved, the tariffs should become effective on January 1, 2013. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.