

FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: September 7, 2004, 9:30 a.m.

LOCATION: Room 148, Betty Easley Conference Center

DATE ISSUED: August 27, 2004

NOTICE

Persons affected by Commission action on certain items on this agenda for which a hearing has not been held (other than actions on interim rates in file and suspend rate cases) may be allowed to address the Commission when those items are taken up for discussion at this conference. These items are designated by double asterisks (**) next to the agenda item number.

Included in the above category are items brought before the Commission for tentative or proposed action which will be subject to requests for hearing before becoming final. These actions include all tariff filings, items identified as proposed agency action (PAA), show cause actions and certain others.

To obtain a copy of staff's recommendation for any item on this agenda, contact the Division of the Commission Clerk and Administrative Services at (850) 413-6770. There may be a charge for the copy. The agenda and recommendations are also accessible on the PSC Homepage, at <http://www.floridapsc.com>, at no charge.

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Table of Contents
 Commission Conference Agenda
 September 7, 2004

1	Approval of Minutes August 3, 2004 Regular Commission Conference.....	2
2**	Consent Agenda.....	2
3**	Docket No. 040763–TP – Request for submission of proposals for relay service, beginning in June 2005, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.....	4
4**	Docket No. 040301–TP – Petition by Supra Telecommunications and Information Systems, Inc. for arbitration with BellSouth Telecommunications, Inc.	5
5**	Docket No. 981079–SU – Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.	6
6**	Docket No. 040527–TP – Complaint to enforce interconnection agreement with NuVox Communications, Inc. by BellSouth Telecommunications, Inc.	7
7**	Docket No. 971485–TI – Initiation of show cause proceedings against Preferred Carrier Services, Inc. d/b/a Telefonos Para Todos and d/b/a Phones For ALL for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.	8
8**PAA	Compliance investigation for apparent violation of Rule 25-4.0161, F.A.C, Regulatory Assessment Fees; Telecommunications Companies. Docket No. 040406–TC – Ocean Palms Beach Club, Inc. Docket No. 040812–TC – Edward E. Rockey.....	9
9**PAA	Docket No. 040703–TC – Bankruptcy cancellation by Florida Public Service Commission of PATS Certificate No. 5878 issued to Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC, effective 4/2/04.....	10
10**PAA	Docket No. 040791–TI – Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TI258 issued to Inacom Communications, Inc., effective July 27, 2004.	11
11**	Docket No. 040914–EI – Proposed revision to waive certain connection charges during times of natural disaster by Florida Power & Light Company. Docket No. 040915–EI – Petition for approval of tariff revision allowing waiver of service charges for customers affected by natural disasters by Progress Energy Florida, Inc. Docket No. 040958–EI – Petition for expedited approval of tariff revisions to allow waiver of service charges for customers whose electric service has been	

Table of Contents
 Commission Conference Agenda
 September 7, 2004

	affected by natural disasters or other declared emergencies, by Tampa Electric Company.	12
12	Docket No. 031033–EI – Review of Tampa Electric Company's 2004-2008 waterborne transportation contract with TECO Transport and associated benchmark.	13
13**	Docket No. 030991–WU – Application for transfer of all water facilities of Suwannee Valley Estates in Columbia County to Consolidated Water Works, Inc. (holder of Certificate No. 393-W), for cancellation of Certificate No. 421-W, and for amendment of Certificate No. 393-W.	16
14**	Docket No. 040358–SU – Application for certificate to provide wastewater service in Bay County by Crooked Creek Utility Company.	18
15**	Docket No. 040733–SU – Disposition of gain on sale of land held for future use in Marion County by BFF Corp.....	20
16	Docket No. 021256–WU – Application for certificate to provide water service in Volusia and Brevard Counties by Farnton Water Resources LLC.....	21
17**	Docket No. 030746–TP – Complaint of Cargill Crop Nutrition, Inc., f/k/a Cargill Fertilizer, a subsidiary of Cargill Corporation, against Verizon Florida Inc. for enforcement of FCC orders and Florida Public Service Commission decisions eliminating application of tariff charges for complex inside wiring, and request for relief.	24

Agenda for
Commission Conference
September 7, 2004

<u>ITEM NO.</u>	<u>CASE</u>												
1	Approval of Minutes August 3, 2004 Regular Commission Conference												
2**	Consent Agenda												
PAA	A) Applications for certificates to provide competitive local exchange telecommunications service. <table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>040632-TX</td><td>RNK Telecom, Inc.</td></tr><tr><td>040683-TX</td><td>XFone USA, Inc.</td></tr><tr><td>040771-TX</td><td>US Telecom Group, Inc. d/b/a US Telecom</td></tr><tr><td>040831-TX</td><td>Neutral Tandem-Florida, LLC</td></tr><tr><td>040219-TX</td><td>VOIP Corp</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	040632-TX	RNK Telecom, Inc.	040683-TX	XFone USA, Inc.	040771-TX	US Telecom Group, Inc. d/b/a US Telecom	040831-TX	Neutral Tandem-Florida, LLC	040219-TX	VOIP Corp
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040219-TX	VOIP Corp												
PAA	B) Applications for certificates to provide pay telephone service. <table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>040710-TC</td><td>Marriott Hotel Services, Inc.</td></tr><tr><td>040824-TC</td><td>Juliette Powell</td></tr><tr><td>040825-TC</td><td>Capital Property Solutions, Inc.</td></tr><tr><td>040811-TC</td><td>Judy Brown Montanez and Armando Montanez</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	040710-TC	Marriott Hotel Services, Inc.	040824-TC	Juliette Powell	040825-TC	Capital Property Solutions, Inc.	040811-TC	Judy Brown Montanez and Armando Montanez		
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ITEM NO.

CASE

2**

Consent Agenda

(Continued from previous page)

C) Docket No. 040893-GU – Application by City Gas Company of Florida, a Division of NUI Utilities, Inc., for authority to issue debt securities pursuant to Section 366.04, Florida Statutes, and Chapter 25-8, Florida Administrative Code, and request for expedited consideration. The applicant seeks authority to enter into a \$75 million senior secured credit facility during the twelve-month period ending September 6, 2005. In addition, the applicant seeks approval to extend certain short-term, unsecured financial facilities in the maximum principal amount of \$150 million. The senior secured facility will provide additional liquidity through the close of the sale of the applicant's parent company, NUI Corporation, to AGL Resources, Inc., and can be utilized to purchase gas for the upcoming winter heating season and for general corporate purposes. The applicant requested and staff recommends that the effective date of the order should be the day of the Commission's vote.

Any exercise of the requested authority shall be for the benefit of NUI Utilities, Inc. At no time will the applicant borrow funds, incur debt or assume liabilities or obligations as guarantor, endorser, or surety that are not for the benefit of NUI Utilities, Inc.

For monitoring purposes, this docket should remain open until December 21, 2005, to allow the applicant time to file the required Consummation Report.

RECOMMENDATION: The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of Docket No. 040893-GU, which must remain open for monitoring purposes.

ITEM NO.

CASE

3**

Docket No. 040763-TP – Request for submission of proposals for relay service, beginning in June 2005, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

Critical Date(s): 5/31/05 (Current contract with Sprint expires. Significant time is needed to issue the RFP, evaluate proposals, and set up the system.)

Commissioners Assigned: All Commissioners
Prehearing Officer: Davidson

Staff: CMP: Moses, Casey
GCL: Rojas

Issue 1: Should the draft RFP attached to staff's August 26, 2004 memorandum be issued?

Recommendation: Yes. The Commission should issue the attached RFP.

Issue 2: Should this docket be closed?

Recommendation: No.

ITEM NO.

CASE

4**

Docket No. 040301-TP – Petition by Supra Telecommunications and Information Systems, Inc. for arbitration with BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Bradley

Staff: GCL: Susac
CMP: Dowds

Issue 1: Should Supra Telecommunications & Information Systems, Inc.'s (Supra's) request for an interim rate be granted?

Recommendation: No. There does not appear to be a need or an adequate basis for an interim rate.

Issue 2: Should the Commission grant Supra's Motion for Reconsideration of Order No. PSC-04-0752-PCO-TP, issued August 4, 2004?

Recommendation: No. Supra's Motion for Reconsideration of Order No. PSC-04-0752-PCO-TP should be denied because it fails to identify a point of fact or law that the Prehearing Officer failed to consider in rendering his Order. Supra's arguments have been considered and rejected by the Prehearing Officer, or the arguments are new, and thus not appropriate for consideration in the context of a motion for reconsideration.

Issue 3: Should this docket be closed?

Recommendation: No. The docket should remain open to determine the merit of Supra Telecommunications & Information Systems, Inc.'s First Amended Petition.

ITEM NO.

CASE

5**

Docket No. 981079-SU – Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Baez

Staff: GCL: Gervasi

ECR: Clapp, Redemann

Issue 1: Should OPC's Motion to Initiate a Show Cause Proceeding Against Hudson Utilities, Inc., for failure to serve the Sea Pines area within a reasonable time be granted?

Recommendation: Yes. The Motion should be granted. Hudson should be required to show cause, in writing within 21 days, as to why it should not be fined in the amount of \$1,500 for failure to serve the Sea Pines area within a reasonable time, in apparent violation of Section 367.111(1), Florida Statutes. The order to show cause should incorporate the conditions stated in the analysis portion of staff's August 26, 2004 memorandum. Moreover, Hudson should be required to file monthly progress reports, starting 30 days from the issuance date of the Order arising from this recommendation, to update the Commission on the status of the construction to Sea Pines, and to include: the status of the construction bids and whether a contractor has been employed to begin construction; the estimated construction costs; the estimated dates to begin and to complete construction; the estimated timeline under which construction activities will occur; whether the final right-of-way permit has been approved; whether funding of the construction has been approved by Hudson's lenders; and the status of Hudson's ongoing negotiations with the County for the transfer of the Sea Pines area to the County.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open in order to monitor Hudson's progress in providing service to the Sea Pines area and for final disposition of the show cause order.

ITEM NO.

CASE

6**

Docket No. 040527-TP – Complaint to enforce interconnection agreement with NuVox Communications, Inc. by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Jaber

Staff: GCL: Rojas, Susac
CMP: Bulecza-Banks, Casey, Cater

Issue 1: Should the Commission grant NuVox's Motion to Dismiss BellSouth's Complaint?

Recommendation: No. Staff recommends that NuVox's Motion to Dismiss be denied.

Issue 2: Should this Docket be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1, this Docket should be held in abeyance for a period of 30 days from the issuance of the order resulting from this recommendation and the parties should be directed to enter staff-assisted discussions to attempt to resolve outstanding issues. If at the conclusion of the 30-day period such discussions are unsuccessful, this matter should be set for hearing.

ITEM NO.

CASE

7**

Docket No. 971485-TI – Initiation of show cause proceedings against Preferred Carrier Services, Inc. d/b/a Telefonos Para Todos and d/b/a Phones For ALL for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: L. Fordham

CMP: Kennedy

Issue 1: Should the Commission notify the Division of the Commission Clerk and Administrative Services to request permission from the Florida Department of Financial Services to write off the uncollectible amount of \$10,000 due to the bankruptcy of Preferred Carrier Services, Inc.?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes.

ITEM NO.

CASE

8**PAA

Compliance investigation for apparent violation of Rule 25-4.0161, F.A.C, Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 040406-TC – Ocean Palms Beach Club, Inc.
Docket No. 040812-TC – Edward E. Rockey

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Rockette-Gray

Issue 1: Should the Commission deny the companies listed on Attachment A of staff's August 26, 2004 memorandum voluntary cancellation of their respective certificates and instead, on the Commission's own motion, cancel the companies' respective certificates with prejudice?

Recommendation: Yes.

Issue 2: Should these dockets be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any company listed on Attachment A of staff's August 26, 2004 memorandum fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If any company listed on Attachment A of staff's memorandum fails to pay the Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, each company's respective certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Department of Financial Services for further collection efforts. If any company's certificate as listed on Attachment A is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone service in Florida. These dockets should be closed administratively upon either receipt of the payment of the Regulatory Assessment Fees, including statutory penalty and interest charges, or upon cancellation of a company's certificate as listed on Attachment A. A protest in one docket should not prevent the action in a separate docket from becoming final.

ITEM NO.

CASE

9**PAA

Docket No. 040703-TC – Bankruptcy cancellation by Florida Public Service Commission of PATS Certificate No. 5878 issued to Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC, effective 4/2/04.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Fordham

Issue 1: Should the Commission grant Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC cancellation of its Pay Telephone Service certificate with an effective date of April 2, 2004, due to bankruptcy; notify the Division of the Commission Clerk and Administrative Services that any unpaid RAFs, including statutory penalty and interest charges, should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the company to immediately cease and desist providing pay telephone service in Florida?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no protest is filed and upon issuance of a Consummating Order.

ITEM NO.

CASE

10**PAA

Docket No. 040791-TI – Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TI258 issued to Inacom Communications, Inc., effective July 27, 2004.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission grant Inacom Communications, Inc. cancellation of its tariff and removal from the register with an effective date of July 27, 2004, due to bankruptcy; notify the Division of the Commission Clerk and Administrative Services that any unpaid Regulatory Assessment Fees, including statutory penalty and interest charges, should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the company to immediately cease and desist providing interexchange telecommunications service in Florida?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no protest is filed and upon issuance of a Consummating Order.

ITEM NO.

CASE

11**

Docket No. 040914–EI – Proposed revision to waive certain connection charges during times of natural disaster by Florida Power & Light Company.

Docket No. 040915–EI – Petition for approval of tariff revision allowing waiver of service charges for customers affected by natural disasters by Progress Energy Florida, Inc.

Docket No. 040958–EI – Petition for expedited approval of tariff revisions to allow waiver of service charges for customers whose electric service has been affected by natural disasters or other declared emergencies, by Tampa Electric Company.

Critical Date(s): 60-day suspension dates: 040914-EI – 10/18/04
040915-EI – 10/19/04
040958-EI – 10/24/04

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: ECR: Wheeler
GCL: Helton

Issue 1: Should the Commission approve Florida Power & Light Company’s request to revise its Tariff Sheet No. 4.020 to allow the company to waive certain connection charges for customers affected by natural disasters or during periods of declared emergencies?

Recommendation: Yes.

Issue 2: Should the Commission approve Progress Energy Florida, Inc.’s request to revise its Tariff Sheet No. 4.020 to allow the company to waive certain service charges for customers affected by natural disasters or during periods of declared emergencies?

Recommendation: Yes.

Issue 3: Should the Commission approve Tampa Electric Company’s request to revise its Tariff Sheet No. 3.030 to allow the company to waive certain service charges for customers affected by natural disasters or during periods of declared emergencies?

Recommendation: Yes.

Issue 4: Should these dockets be closed?

Recommendation: Yes. If Issues 1, 2 and 3 are approved, the tariff revisions should become effective on September 7, 2004. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect pending resolution of the protest. If no timely protest is filed, these dockets should be closed upon the issuance of a consummating order.

ITEM NO.

CASE

12

Docket No. 031033–EI – Review of Tampa Electric Company's 2004-2008 waterborne transportation contract with TECO Transport and associated benchmark.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Baez

Staff: ECR: Bohrmann, Devlin, Jenkins, Trapp, Maurey, Windham, Von Fossen, Floyd,
Matlock

GCL: C. Keating, Rodan

(Commissioners and staff may participate.)

Issue 1: Is Tampa Electric's June 27, 2003, request for proposals sufficient to determine the current market price for coal transportation?

Recommendation: No. By its restrictive terms and conditions, Tampa Electric's June 27, 2003, request for proposals (RFP) was not sufficient to determine the market price for coal transportation.

Issue 2: Are Tampa Electric's projected coal transportation costs for 2004 through 2008 under the winning bid to its June 27, 2003, request for proposals for coal transportation reasonable for cost recovery purposes?

Primary Recommendation: No. Although a competitive market for coal transportation services does likely exist, the wide disparity in the estimated rates for such services recommended by the parties and the staff suggests that a consensus definition of the market cannot be reached based on the record in this case. Primary staff recommends that the Commission review the books and records of TECO Transport to determine an appropriate level of cost recovery for Tampa Electric based on what TECO Transport charges non-affiliated companies for waterborne transportation.

First Alternate Recommendation: No. The rate proposed by Tampa Electric for inland river barge service should be reduced by \$0.34 per ton to reflect backhaul opportunities. The rate proposed by Tampa Electric for ocean barge service should be reduced by \$2.69 per ton. This adjustment is based on (1) removing Witness Dibner's preference trade adjustment, (2) accepting Witness Majoros' adjustment to reflect backhaul opportunities, (3) using capitalization ratios that more closely reflect actual conditions for the industry, and (4) adjusting annual throughput to expected annual levels.

Second Alternate Recommendation: No. The rate proposed by Tampa Electric for inland river barge service should be reduced by \$1.00 per ton. The rate proposed for terminal service should be reduced by \$0.23 per ton. The rate proposed for ocean barge service should be reduced by \$2.41 per ton. These adjustments are based on comparisons of waterborne transportation rates paid by other Florida utilities to non-affiliated carriers.

Third Alternate Recommendation: No. The overall rates for waterborne transportation should be reduced to reflect delivery of 1 million tons of coal in 2004 and 2 million tons annually from 2005 through 2008 by rail with the remainder of Tampa Electric's coal

ITEM NO.

CASE

12

Docket No. 031033–EI – Review of Tampa Electric Company's 2004-2008 waterborne transportation contract with TECO Transport and associated benchmark.

(Continued from previous page)

transportation requirements satisfied by waterborne transportation at the market rates proposed by either (a) first alternate staff or (b) second alternate staff.

Fourth Alternate Recommendation: Yes.

Issue 3: Should the Commission modify or eliminate the waterborne coal transportation benchmark that was re-affirmed for Tampa Electric by Order No. PSC-93-0443-FOF-EI, issued March 23, 1993, in Docket No. 930001-EI?

Recommendation: Yes. Staff recommends:

- 1) The benchmark that the Commission approved by Order No. 20298 and reaffirmed for Tampa Electric Company by Order No. PSC-93-0443-FOF-EI, issued March 23, 1993, in Docket No. 930001-EI, is no longer relevant. The Commission should eliminate the benchmark.
- 2) The Commission should not require Tampa Electric to rebid for coal transportation services for the current contract period of 2004 through 2008. Tampa Electric's cost recovery for the 2004 through 2008 period should be governed by the Commission's vote on Issue 2. At its own discretion, Tampa Electric may choose to re-bid part or all of its existing coal transportation requirements to mitigate the impact of the adjustments, if any, the Commission votes on in Issue 2. Should Tampa Electric decide to re-bid, the company may petition the Commission for an alternate regulatory treatment of its coal transportation costs based on the results of the re-bid.
- 3) The Commission should order Tampa Electric to conduct fair, open, and reasonable RFP processes for solid fuel procurement for 2009 and beyond. The Commission should evaluate Tampa Electric's requests for recovery of costs for 2009 and beyond based on the results of the RFP.
- 4) The Commission should require Tampa Electric to perform a separate feasibility analysis of using rail accessible coal supplies and rail transportation, in whole or in part, to supply solid fuel to its Big Bend and Polk Stations. The results of the study should be provided to the Commission within 180 days of the final order.

Issue 4: Should this docket be closed?

Recommendation: If the Commission approves the primary staff recommendation in Issue 2, this docket should remain open for the Commission to determine the appropriate

Agenda for
Commission Conference
September 7, 2004

ITEM NO.

CASE

12

Docket No. 031033–EI – Review of Tampa Electric Company's 2004-2008 waterborne transportation contract with TECO Transport and associated benchmark.

(Continued from previous page)

rate for cost recovery purposes. Otherwise, this docket should be closed after time for filing an appeal has expired.

ITEM NO.

CASE

13**

Docket No. 030991–WU – Application for transfer of all water facilities of Suwannee Valley Estates in Columbia County to Consolidated Water Works, Inc. (holder of Certificate No. 393-W), for cancellation of Certificate No. 421-W, and for amendment of Certificate No. 393-W.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Baez

Staff: ECR: Johnson, Kaproth, Walden
GCL: Brown

Issue 1: Should the Commission approve the transfer of the water facilities from Suwannee Valley Estates to CWW, the cancellation of Certificate No. 421-W, and the amendment of Certificate No. 393-W?

Recommendation: Yes. The transfer of the water facilities from Suwannee Valley to CWW should be approved. Suwannee Valley's Certificate No. 421-W should be canceled and CWW's Certificate No. 393-W should be amended to include the territory of Suwannee Valley. The transfer should be effective the day of the Commission vote. In addition, CWW should be ordered to submit a warranty deed within 60 days of the date the order resulting from action taken at this agenda conference becomes final, reflecting that ownership of the land upon which the Suwannee Valley facilities are located has been properly conveyed to CWW. CWW is responsible for remitting the 2004 and all future regulatory assessment fees (RAFs) and annual reports. A description of the territory to be transferred is appended to staff's August 26, 2004 recommendation as Attachment A.

PAA

Issue 2: What is the rate base of Suwannee Valley at the time of transfer?

Recommendation: The rate base could not be calculated at this time. Therefore rate base has been set at \$0 for transfer purposes as of December 30, 2002. The utility should be required to provide proof within 60 days of the order becoming final that it has set up the books and records for all of CWW, including the Suwannee Valley system, using the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) and that the beginning plant balances for the Suwannee Valley system reflect the balances establish pursuant to this order.

PAA

Issue 3: Should an acquisition adjustment be included in the calculation of rate base?

Recommendation: No. Pursuant to Rule 25-30.0371(2), Florida Administrative Code, an acquisition adjustment should not be included in rate base.

Issue 4: Should the rates and charges approved for Suwannee Valley be continued?

Recommendation: Yes. CWW should continue charging the rates and charges approved for Suwannee Valley until authorized to change by the Commission in a subsequent proceeding. The tariff reflecting the change in ownership should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

ITEM NO.

CASE

13**

Docket No. 030991–WU – Application for transfer of all water facilities of Suwannee Valley Estates in Columbia County to Consolidated Water Works, Inc. (holder of Certificate No. 393-W), for cancellation of Certificate No. 421-W, and for amendment of Certificate No. 393-W.

(Continued from previous page)

Issue 5: Should this docket be closed?

Recommendation: No. This docket shall remain open pending receipt of evidence that CWW owns or has continued use of the land upon which its facilities are located, and pending receipt of proof that it has set up its books and records using the NARUC Uniform System of Accounts. Once the recorded deed and proof of appropriate accounting procedures have been received, and staff has verified that the submissions satisfy the requirements of Rule 25-30.037(2)(q), Florida Administrative Code, this docket may be closed administratively if no timely protest to the Commission’s proposed agency action order has been filed by a substantially affected person, and a consummating order has been issued.

ITEM NO.

CASE

- 14** Docket No. 040358–SU – Application for certificate to provide wastewater service in Bay County by Crooked Creek Utility Company.
- Critical Date(s): 9/16/04 (Statutory deadline for original certificates pursuant to Section 367.031, Florida Statutes.)
- Commissioners Assigned: All Commissioners
Prehearing Officer: Deason
- Staff: ECR: Johnson, Kenny, Lester, Walden
 GCL: Fleming
- Issue 1: Should the application of Crooked Creek Utility Company for a wastewater certificate be granted?
Recommendation: Yes. Crooked Creek Utility Company should be granted Certificate No. 535-S to serve the territory described in Attachment A of staff’s August 26, 2004 memorandum. The utility should file an executed and recorded copy of the warranty deed for the land for the wastewater facilities within 30 days of the issuance date of the Order granting the certificate.
- PAA Issue 2: What are the appropriate initial wastewater rates and return on investment for this utility?
Recommendation: The utility’s proposed wastewater rates, customer deposits, and miscellaneous service charges described in the analysis portion of staff’s August 26, 2004 memorandum should be approved. Crooked Creek should be required to file a tariff reflecting a copy of the customer’s bill, within 120 days of the consummating order. Crooked Creek should charge the approved rates and charges until authorized to change them by this Commission in a subsequent proceeding. The rates should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, Florida Administrative Code. A return on equity of 11.40% should be approved.
- PAA Issue 3: What are the appropriate service availability charges for Crooked Creek Utility Company?
Recommendation: The utility’s proposed service availability policy and charges set forth within the analysis portion of staff’s August 26, 2004 memorandum are appropriate and should be approved effective for connections made on or after the stamped approval date on the tariff sheets.
- PAA Issue 4: Should the utility's proposed Allowance for Funds Used During Construction (AFUDC) rate be approved?
Recommendation: Yes. The utility's proposed AFUDC rate should be approved. An annual AFUDC rate of 9.10% should be approved with a discounted monthly rate of 0.728583%. The approved rate should be applicable for eligible construction projects beginning on or after the date the certificate of authorization is issued.

ITEM NO.

CASE

14**

Docket No. 040358-SU – Application for certificate to provide wastewater service in Bay County by Crooked Creek Utility Company.

(Continued from previous page)

Issue 5: Should this docket be closed?

Recommendation: No. If no timely protest is received upon the expiration of the protest period, the order will become final upon the issuance of a consummating order. This docket should remain open pending receipt of the executed and recorded copy of the warranty deed, at which time the docket may be closed administratively.

ITEM NO.

CASE

15** Docket No. 040733-SU – Disposition of gain on sale of land held for future use in Marion County by BFF Corp.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: ECR: Hudson
 GCL: Brubaker

PAA Issue 1: Should BFF Corp.'s proposed settlement for the disposition of the gain on the sale of the land be approved?

Recommendation: Yes. The utility's proposed settlement should be approved as discussed in the analysis portion of staff's August 26, 2004 memorandum. The utility's revised tariff sheets filed on July 15, 2004 should be approved as filed. The tariff sheets should be implemented on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice.

Issue 2: Should the Commission order BFF Corp to show cause, in writing within 21 days, why it should not be fined for its apparent violation of Order No. PSC-02-0487-PAA-SU?

Recommendation: No. A show cause proceeding should not be initiated.

Issue 3: Should the docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a Consummating Order.

ITEM NO.

CASE

16

Docket No. 021256–WU – Application for certificate to provide water service in Volusia and Brevard Counties by Farmton Water Resources LLC.

Critical Date(s): None

Commissioners Assigned: Deason, Jaber, Bradley
Prehearing Officer: Deason

Staff: GCL: Fleming, Brown, Rodan
ECR: Brady, Kaproth, Rieger, Winters

(Participation is limited to Commissioners and staff.)

Issue 1: Does the Commission have exclusive jurisdiction over the certification of private utilities?

Recommendation: Yes. The Commission has exclusive jurisdiction over the certification of private utilities under the provisions of Chapter 367, Florida Statutes.

Issue 2: Is the service proposed by Farmton Water Resources LLC exempt from Commission jurisdiction?

Recommendation: No. The service proposed by Farmton is not exempt from Commission jurisdiction pursuant to the provisions of Chapter 367, Florida Statutes.

Issue 3: Has Farmton met the filing and noticing requirements pursuant to Rules 25-30.030 and 25-30.033, Florida Administrative Code?

Recommendation: Yes. Farmton has met the filing and noticing requirements required by Commission Rules.

Issue 4: Is there a need for service in Farmton’s proposed service territory and, if so, when will service be required?

Recommendation: Yes. There is a need for service. However, it is not known when all forms of service will be required.

Issue 5: Is Farmton’s application inconsistent with Brevard County’s or Volusia County’s comprehensive plans?

Recommendation: Yes. Farmton’s application appears to be inconsistent with the comprehensive plans, pursuant to Section 367.045(5)(b), Florida Statutes, but in light of the evidence presented in this case, that inconsistency should not cause the Commission to deny the utility’s application.

Issue 6: Will the certification of Farmton result in the creation of a utility which will be in competition with, or duplication of, any other system?

Recommendation: No. The utility will not be in competition with, or duplication of, any other system.

Issue 7: Does Farmton have the financial ability to serve the requested territory?

Recommendation: Yes. Farmton has demonstrated the financial ability to serve the requested territory.

Issue 8: Does Farmton have the technical ability to serve the requested territory?

ITEM NO.

CASE

16

Docket No. 021256–WU – Application for certificate to provide water service in Volusia and Brevard Counties by Farmton Water Resources LLC.

(Continued from previous page)

Recommendation: Yes. The utility has the existing and potential technical ability to serve all the needs of the requested territory.

Issue 9: Does Farmton have sufficient plant capacity to serve the requested territory?

Recommendation: Yes. Farmton has sufficient existing and potential capacity for all services needed in the proposed service area.

Issue 10: Has Farmton provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located?

Recommendation: Yes. The Commission approved the stipulation that Farmton has provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located. If the Commission grants Farmton’s request for a certificate, Farmton should be required to file an executed and recorded copy of its proposed long-term lease with the Miami Corporation within 30 days of the date of Commission vote.

Issue 11: Is it in the public interest for Farmton to be granted a water certificate for the territory proposed in its application?

Recommendation: Yes. When considered as a whole, it is in the public interest to grant Farmton Certificate No. 622-W to provide water service to the territory described in Attachment C of staff’s August 26, 2004 memorandum.

Issue 12: What is the appropriate return on equity for Farmton?

Recommendation: The Commission approved the stipulation that the return on equity should be based on the current leverage graph formula in effect at the time of the Commission vote in this proceeding. Based on that formula, return on equity for Farmton of 11.40%, with a range of plus or minus 100 basis points, should be approved.

Issue 13: What are the appropriate potable water, fire protection, and bulk raw water rates and charges for Farmton?

Recommendation: If Farmton is granted an original water certificate, the rates and charges contained in the analysis portion of staff’s August 26, 2004 memorandum are reasonable and should be approved. Farmton should be required to file revised tariff sheets containing the rates and charges approved by the Commission within 30 days from Commission vote. The tariff should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code. Farmton should be put on notice that it is required to charge the rates and charges in its approved tariff until authorized to change by the Commission.

Issue 14: What are the appropriate service availability charges for Farmton?

Recommendation: Farmton’s proposed service availability policy and charges as set forth within the analysis portion of staff’s August 26, 2004 memorandum are consistent with the guidelines of Rule 25-30.580, Florida Administrative Code, and should be

ITEM NO.

CASE

16

Docket No. 021256–WU – Application for certificate to provide water service in Volusia and Brevard Counties by Farmton Water Resources LLC.

(Continued from previous page)

approved. The charges should be effective for connections made on or after the stamped approval date on the tariff sheets.

Issue 15: What is the appropriate Allowance for Funds Used During Construction (AFUDC) rate for Farmton?

Recommendation: The Commission approved the stipulation that the AFUDC should be based on the current leverage graph formula in effect at the time of the Commission vote in this proceeding. Based on that formula, an annual AFUDC rate of 9.12% and a discounted monthly rate of 0.7596837% should be approved and applied to the qualified construction projects beginning on or after the date the certificate of authorization is issued.

Issue 16: Should this docket be closed?

Recommendation: Upon the expiration of the appeal period, if no party timely appeals the order, upon staff's verification that the utility has filed an executed and recorded copy of its lease and upon the filing and staff's approval of the revised tariff sheets, this docket should be closed administratively.

ITEM NO.

CASE

17**

Docket No. 030746-TP – Complaint of Cargill Crop Nutrition, Inc., f/k/a Cargill Fertilizer, a subsidiary of Cargill Corporation, against Verizon Florida Inc. for enforcement of FCC orders and Florida Public Service Commission decisions eliminating application of tariff charges for complex inside wiring, and request for relief.

Critical Date(s): None

Commissioners Assigned: Jaber, Bradley, Davidson
Prehearing Officer: Bradley

Staff: GCL: Banks, Susac
CMP: Barrett

Issue 1: Should the Commission acknowledge Cargill Fertilizer's Notice of Voluntary Dismissal of its Complaint with prejudice?

Recommendation: Yes. The Commission should acknowledge Cargill's Notice of Voluntary Dismissal of its Complaint with prejudice. In addition, all confidential materials filed in this Docket should be returned to the filing party.

Issue 2: Should this Docket be closed?

Recommendation: Yes. There is nothing further in this Docket for this Commission to consider, and the Docket should be closed.

