FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: February 1, 2005, 9:30 a.m.

LOCATION: Room 148, Betty Easley Conference Center

DATE ISSUED: January 21, 2005

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.

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Any person requiring some accommodation at this conference because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours before the conference. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD). Assistive Listening Devices are available in the Division of the Commission Clerk and Administrative Services, Betty Easley Conference Center, Room 110.

Video and audio versions of the conference are available and can be accessed live on the PSC Homepage on the day of the Conference. The audio version is available through archive storage for up to three months afterward.

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ITEM NO.	CASE
1	Approval of Minutes January 4, 2005 Regular Commission Conference
2**	Consent Agenda

PAA A) Applications for certificates to provide competitive local exchange telecommunications service.

DOCKET NO.	COMPANY NAME
041397-TX	Expedient Carrier Services, LLC
041341-TX	Clear Breeze Telecommunications of Florida, Inc.

PAA B) Application for certificate to provide pay telephone service.

DOCKET NO.	COMPANY NAME
041212-TC	Gregory J. Megas, Sr.

PAA C) Request for cancellation of a competitive local exchange telecommunications certificate.

DOCKET NO.	COMPANY NAME	EFFECTIVE DATE
041411-TX	SBC Telecom, Inc.	Upon notification that the reorganization has been completed.

RECOMMENDATION: The Commission should approve the action requested in the dockets referenced above and close these dockets.

ITEM NO.	CASE

3 Docket No. 040301–TP – Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Bradley

Staff: GCL: Susac
CMP: Vinson, Duffey, Harvey, Dowds

(Renewed motion for interim rate based on changed circumstance – motion for oral argument – participation is at the discretion of the Commission.)
Issue 1: Should the Commission grant Supra Telecommunications and Information Systems Inc.'s Motion for Oral Argument?
Recommendation: Yes. Staff recommends granting Supra's Motion for Oral Argument because staff believes it is beneficial for both parties to address the merits of Supra's Renewed Motion for an Interim Rate for a UNE-P to UNE-L Conversion Based on Changed Circumstances.
Issue 2: Should the Commission grant Supra Telecommunications and Information Systems Inc.'s Renewed Motion for an Interim Rate for a UNE-P to UNE-L Conversion Based on Changed Circumstances?
Recommendation: No. Staff recommends denying Supra's Renewed Motion for an Interim Rate because the Renewed Motion does not present a sufficient evidence that would justify the Commission to reverse or deviate from its prior ruling in Order No. PSC-04-0942-FOF-TP, issued September 23, 2004.
Issue 3: Should the docket be closed?
Recommendation: No. Staff believes this docket should remain open to address the merits of Supra's First Amended Complaint.

ITEM NO.	CASE

4 Docket No. 040301–TP – Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc.
Docket No. 041338–TP – Joint petition by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom d/b/a Grapevine; Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch; DIECA Communications, Inc. d/b/a Covad Communications Company; Florida Digital Network, Inc.; LecStar Telecom, Inc.; MCI Communications, Inc.; and Network Telephone Corporation ("Joint CLECs") for generic proceeding to set rates, terms, and conditions for hot cuts and batch hot cuts for UNE-P to UNE-L conversions and for retail to UNE-L conversions in BellSouth Telecommunications, Inc. service area.
(Issues 1 and 4 deferred from January 18, 2005 conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Bradley

Staff: GCL: Banks, Susac
CMP: Vinson, Dowds, Duffey, Harvey

(Emergency motion for a continuance - motion for reconsideration – motion for summary final order – oral argument requested on motion for reconsideration – participation at the discretion of the Commission.)
Issue 1: Should BellSouth Telecommunications, Inc.'s Emergency Motion For Continuance be granted to the extent that it requests the Commission to consolidate Docket Nos. 040301-TP and 041338-TP?
Recommendation: Yes. Staff recommends consolidating the two dockets due to the fact that both dockets share virtually identical issues of law and fact relating to the rates, terms and conditions for a UNE-P to UNE-L conversion. Further, the consolidation of the dockets will also give the entire CLEC community an opportunity to put forth evidence regarding the UNE-P to UNE-L conversion. Last, administrative efficiency will be gained by consolidating Docket Nos. 040301-TP and 041338-TP.
Issue 4: Should these Dockets be closed?
Recommendation: If Issue 1 is approved then these dockets should be consolidated for hearing purposes. However, if Issue 1 is not approved then both dockets should remain open and proceed to hearing.

ITEM NO.	CASE

5**PAA

Docket No. 041385–GU – Joint petition for approval of amendment to territorial agreement in Pasco County, by Peoples Gas System and Clearwater Gas System, a department of the City of Clearwater.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Bradley

Staff: GCL: Vining
CMP: Bulecza-Banks, Makin
RCA: Mills

Issue 1: Should the Commission approve the joint petition for approval of the amendment to the territorial agreement in Pasco County filed by Peoples Gas and Clearwater Gas ?
Recommendation: Yes. The Commission should approve the joint petition filed by Peoples Gas and Clearwater Gas for approval to amend their existing territorial agreement. The amendment should become effective 30 days from the issuance of the Consummating Order in this docket.
Issue 2: Should this docket be closed?
Recommendation: Yes. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order. If a protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order approving this amendment, the docket should remain open.

ITEM NO.	CASE

6** Docket No. 041269–TP – Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Davidson

Staff: GCL: Teitzman
CMP: King

Issue 1: Should the Commission grant CompSouth's Motion to Dismiss and the Joint CLECs' request for dismissal?
Recommendation: No. The Commission should deny CompSouth's Motion to Dismiss and the Joint CLECs' request for dismissal because BellSouth has stated a cause of action for which relief may be granted.
Issue 2: Should this docket be closed?
Recommendation: No. This docket should remain open. Staff will work with the parties to discuss how the docket should proceed and bring a recommendation to the Prehearing Officer.

ITEM NO.	CASE

7** Docket No. 031053–TA – Request for cancellation of AAV/CLEC Certificate No. 3151 by Metropolitan Fiber Systems of Florida, Inc., effective 1/2/04.
Docket No. 031054–TA – Request for cancellation of AAV/CLEC Certificate No. 4040 by MCI WorldCom Communications, Inc., effective 1/2/04.
Docket No. 031055–TS – Request for cancellation of STS Certificate No. 1669 by Access Network Services, Inc., effective 1/2/04.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: GCL: McKay
CMP: Williams

Issue 1: Should the Commission accept the Notice of Voluntary Dismissal of Petition for Formal Proceeding, modify Order No. PSC-03-1460-PAA-TP as requested by the petitioners, consummate Order No. PSC-03-1460-PAA-TP as a final order, and close these dockets?
Recommendation: Yes. The new effective date for cancellation of the CLEC certificate held by Metropolitan Fiber Systems of Florida and the STS certificate held by Access Network Services, Inc. should be April 20, 2004. The new effective date for cancellation of the CLEC certificate held by MCI WorldCom Communications, Inc. should be June 11, 2004, the date the CLEC price list was cancelled.

ITEM NO.	CASE

8** Docket No. 040604–TL – Adoption of the National School Lunch Program and an income-based criterion at or below 135% of the Federal Poverty Guidelines as eligibility criteria for the Lifeline and Link-Up programs.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Baez

Staff: CMP: Casey, Bulecza-Banks
GCL: Teitzman, Scott

Issue 1: Should the Commission approve the BellSouth, Verizon, and Sprint proposed settlement agreements?
Recommendation: Yes. The Commission should approve the BellSouth, Verizon, and Sprint proposed settlement agreements. BellSouth, Verizon, and Sprint should file tariffs reflecting the Commission decision within 15 days of the issuance of a Commission Order, with the tariffs becoming effective 30 days from the filing of the tariffs, and remain in effect through the evaluation period after one year. The instant docket should be held in abeyance for a period of at least one year from the effective date of the tariffs. A review of the simplified certification process should be held after six months from the effective date of the tariffs, or earlier if necessary. At the review, or when the Florida Supreme Court rules on consolidated Case Nos. SC04-9, SC-04-10, and SC04-946 (the access rate reform cases), whichever is earlier, the parties will revisit the issue of adding the National School Lunch Program and an income-based criterion of 135% of the Federal poverty level as additional eligibility criteria. BellSouth, Verizon, and Sprint should commit to working with staff and OPC to include a school outreach effort in the Lifeline education program. BellSouth, Verizon, and Sprint should notify staff of any modifications to the simplified certification process 60 days prior to any modifications, unless extraordinary circumstances warrant less notification, and will notify staff 90 days prior to any cancellation of the simplified certification process.
Issue 2: Should this docket be closed?
Recommendation: No. If the Commission approves Issue 1, this docket should be kept open to monitor the Lifeline simplified certification process trial period. If the Commission does not approve Issue 1, a hearing tract should be reinstituted with hearing dates of February 21-22, 2005.

ITEM NO.	CASE

9**PAA Docket No. 041213–TL – Petition for waiver of Order PSC-96-0012-FOF-TL and request to establish modified price regulation categories by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Davidson

Staff: CMP: Simmons
GCL: Banks, Rojas

Issue 1: Should the Commission grant BellSouth's Petition for Waiver of Order No. PSC-96-0012-FOF-TL and reduce the number of non-basic service categories from ten (10) to four (4)?
Recommendation: The Commission should grant, in part, BellSouth's Petition for Waiver of Order No. PSC-96-0012-FOF-TL and reduce the number of non-basic service categories from ten (10) to five (5) for BellSouth. The existing Local Directory Assistance and Directory Services category should be maintained as a separate category.
Issue 2: Should this docket by 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

10**PAA

Docket No. 040956–GU – Petition for authorization to establish new customer classifications and restructure rates, and for approval of proposed revised tariff sheets by Florida Division of Chesapeake Utilities Corporation.

Critical Date(s): 2/1/05 (5-month proposed agency action deadline)

Commissioners Assigned: All Commissioners
Prehearing Officer: Deason

Staff: ECR: Wheeler, Baxter, Draper, Hewitt, Slemkewicz
CMP: Makin
GCL: Brubaker

Issue 1: Should the Commission approve Chesapeake's request to establish an Environmental Cost Recovery clause to recover the expenses incurred for the remediation of its manufactured gas plant site in Winter Haven?
Recommendation: No.
Issue 2: Should the Commission approve Chesapeake's redesigned customer classifications that result in greater stratification among its large volume rate classes?
Recommendation: Yes.
Issue 3: Should Chesapeake's proposed treatment of customers who use 500 therms or less per year be approved?
Recommendation: Yes.
Issue 4: Should the Commission approve Chesapeake's proposal to discontinue the CTS Rider discount applicable to IMC New Wales, and recover the revenues currently recovered from IMC New Wales through a tariffed rate schedule?
Recommendation: Yes. Chesapeake's proposal does not impact IMC New Wales or the general body of ratepayers. This is an issue of customer classification only.
Issue 5: Should the Commission approve Chesapeake's proposal to change its CRA billing adjustment period from a September year-end period to a calendar year period?
Recommendation: Yes. The current CRA factors should remain in effect until December 31, 2005.
Issue 6: Are the company's proposed two new Third Party Marketer (TPM) rate schedules and their associated charges appropriate?
Recommendation: Yes.
Issue 7: What are the appropriate restructured rates for Chesapeake?
Recommendation: The appropriate restructured rates are contained in Attachment 1, pages 1 and 2 of staff's January 20, 2005 memorandum.
Issue 8: Should the Commission approve Chesapeake's proposed tariff revision that would require customers to pay fixed monthly Firm Transportation Service charges for those months for which the customer has terminated service for less than 12 months?
Recommendation: No.

ITEM NO.	CASE
10**PAA	Docket No. 040956–GU – Petition for authorization to establish new customer classifications and restructure rates, and for approval of proposed revised tariff sheets by Florida Division of Chesapeake Utilities Corporation.

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Issue 9: Is Chesapeake's proposal to establish a maximum allowable operating pressure appropriate?
Recommendation: Yes.
Issue 10: What is the appropriate effective date for Chesapeake's restructured rates and other tariff revisions?
Recommendation: The restructured rates and tariff changes should become effective for meter readings on or after 30 days from the date of the Commission's vote.
Issue 11: Should this 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. If a valid protest is filed, the tariff should remain in effect pending resolution of the protest, with any changes held subject to refund pending resolution of the protest.

ITEM NO.	CASE

11**PAA

Docket No. 041300–EI – Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Davidson

Staff: ECR: Breman
GCL: Stern

Issue 1: Should the Commission approve TECO's petition for the Comprehensive Demonstration Study as a new activity for cost recovery through the ECRC?
Recommendation: Yes. The program is eligible for recovery through the ECRC and any prudently incurred costs for the Comprehensive Demonstration Study are appropriate for recovery through the ECRC, consistent with the Commission's offsetting policy established in Order No. PSC-00-1167-PAA-EI. If the EPA rule is stayed or new content is proposed, TECO shall notify the Commission within two weeks of such change.
Issue 2: Should this docket be closed?
Recommendation: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.

ITEM NO.	CASE

12**PAA

Docket No. 041375–EI – Request to exclude April 11-12, 2004 and June 13, 24, and 26, 2004 outage events from annual distribution service reliability report by Tampa Electric Company.

Critical Date(s): 3/7/05 (Petition for rule waiver is deemed granted if not addressed in 90 days.)

Commissioners Assigned: All Commissioners
Prehearing Officer: Bradley

Staff: ECR: Breman, Lee
GCL: C. Keating

Issue 1: Should the Commission grant Tampa Electric Company's petition for waiver or variance of the 30-day filing requirement in Rule 25-6.0455(3), Florida Administrative Code?

Recommendation: No. The Commission should deny Tampa Electric Company's petition because Tampa Electric has not demonstrated that application of the rule would create a substantial hardship or violate principles of fairness. If the Commission approves this recommendation, Tampa Electric Company's related outage exclusion request should be denied as untimely.

Issue 2: Should this docket be closed?

Recommendation: 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

13**PAA Docket No. 041143–EI – Petition for approval of depreciation rate changes for Big Bend Combustion Turbine Nos. 2 and 3, and Polk Units 2 and 3, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Deason

Staff: ECR: Gardner, Colson, Haff, Kenny, Lester
GCL: Brown

Issue 1: Should the Commission change the preliminary depreciation rates, amortizations, recovery schedules, account sub categorization, and provision for dismantlement for Tampa Electric Company?
Recommendation: Yes. Staff recommends the Commission approve the company's revised lives, net salvage, reserves, resulting depreciation rates, and provision for dismantlement as shown on Attachments A, B, and C of staff's January 20, 2005 memorandum.
Issue 2: What should be the implementation date for the new depreciation rates, recovery schedules, and dismantlement accruals?
Recommendation: Staff recommends January 1, 2004, as the implementation date for Tampa Electric Company's new depreciation rates, recovery schedules, and provision for fossil dismantlement as shown in Attachments A, B, and C of staff's memorandum.
Issue 3: Should the Commission make any corrective reserve allocations?
Recommendation: Yes. Staff recommends the corrective measures shown in the table in staff's memorandum. Staff recommends that the company make the necessary corrections to the reserve position for Polk Units 2 and 3. This action will bring the affected accounts' reserve more in line with its calculated theoretical level.
Issue 4: Should the Commission change the depreciation rates, recovery schedule, and account sub categorization?
Recommendation: Yes. Staff recommends the Commission approve the lives, net salvages, reserves, account sub categorization, and resultant depreciation rates, as shown on Attachments A and B of staff's memorandum.
Issue 5: Should the Commission revise the preliminary approved annual provision for fossil dismantlement?
Recommendation: Yes. Staff recommends an increase in the annual provision for fossil dismantlement accruals of $2,331 for Big Bend Combustion Turbines Units 2 and 3 beginning January 1, 2004.
Issue 6: Should the current amortization of investment tax credits and flowback of excess deferred income taxes be revised to reflect the approved depreciation rates and recovery schedules?
Recommendation: Yes. The current amortization of investment tax credits (ITC) and the flowback of excess deferred income taxes (EDIT) should be revised to match the actual

ITEM NO.	CASE
13**PAA	Docket No. 041143–EI – Petition for approval of depreciation rate changes for Big Bend Combustion Turbine Nos. 2 and 3, and Polk Units 2 and 3, by Tampa Electric Company.

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recovery periods for the related property. The company should file detailed calculations of the revised ITC amortization and flowback of EDIT at the same time it files its surveillance report covering the period ending December 31, 2004.

Issue 7: Should this 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 issuance of a consummating order.

ITEM NO.	CASE

14**PAA

Docket No. 040033–EG – Petition for approval of numeric conservation goals by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Deason

Staff: ECR: Haff, Colson, Sickel, Wheeler
GCL: Vining

Issue 1: Should the Commission approve Tampa Electric Company's 2005-2014 Demand-Side Management Plan and associated tariff sheets, including approval for cost recovery?

Recommendation: Yes, except for the continuation of the existing Prime Time residential load management program because it is no longer cost-effective. Staff recommends that TECO allow existing Prime Time participants to stay on the program but discontinue the program for new participants. All other programs contained in TECO's DSM Plan meet the policy objectives of Rule 25-17.001, Florida Administrative Code, and FEECA. Consistent with past Commission practice, staff should be allowed to administratively approve the program participation standards at a later date if TECO's DSM Plan is approved.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase 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.

ITEM NO.	CASE

15**PAA Docket No. 040029–EG – Petition for approval of numeric conservation goals by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Deason

Staff: ECR: Harlow, Colson, Sickel
GCL: Vining

Issue 1: Should Florida Power & Light Company's (FPL) proposed 2005 Demand-side Management (DSM) Plan be approved, including approval for cost recovery?
Recommendation: Yes. FPL's DSM Plan: 1) meets the objectives of Rule 25-17.001, Florida Administrative Code, and FEECA; and, 2) contains programs that appear to be cost-effective, directly monitorable, and meet FPL's numeric conservation goals. If a hearing is held on the protest to the BuildSmart Program modifications approved in Order No. PSC-04-1046-PAA-EG, the inclusion of the BuildSmart program in FPL's DSM Plan should be addressed in that proceeding; if a hearing is not held, the BuildSmart Program as modified should be included in FPL's DSM Plan. FPL's research and development program expenditures should be capped as proposed in FPL's DSM Plan.
Issue 2: Should Florida Power & Light Company be required to submit detailed program participation standards?
Recommendation: Yes. If Issue 1 is approved, FPL should file program participation standards within 30 days of the issuance of the order. Staff should administratively approve the program participation standards if they conform to the description of the programs contained in FPL's DSM Plan.
Issue 3: Should this docket be closed?
Recommendation: 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. 030998–WS – Joint application for approval of transfer of majority organizational control of Chateau Communities, Inc., grandparent of Del Tura Phase I, LLC d/b/a Del Tura Utilities, holder of Certificate No. 298-S in Lee County; CWS Communities LP d/b/a Palm Valley Utilities, holder of Certificate Nos. 277-W and 223-S in Seminole County; and CWS Communities LP, holder of Certificate No. 518-W in Lake County, to Hometown America, L.L.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Davidson

Staff: ECR: Clapp, Romig
GCL: Vining

Issue 1: Should the application for transfer of majority organizational control be approved?
Recommendation: Yes. The application for transfer of majority organizational control of Palm Valley, CWS and Del Tura as a result of the merger of Chateau Communities, Inc. with Hometown America, LLC, is in the public interest and should be approved as of October 16, 2003. Palm Valley, CWS, and Del Tura should remain responsible for all regulatory assessment fees and annual reports for 2004 and the future. Descriptions of the territory being transferred are appended to staff's January 20, 2005 memorandum as Attachments A, B and C.

PAA Issue 2: What is the rate base of Palm Valley, CWS, and Del Tura at the time of transfer?
Recommendation: The rate base, which for transfer purposes reflects the net book value at the time of transfer, is $820,485 and $1,422,831 for the Palm Valley water and wastewater systems, respectively. Rate base for transfer purposes should not be established for CWS or Del Tura at this time. Within 60 days of the date of the proposed agency action order, Hometown should provide a statement indicating that Palm Valley's books have been adjusted to reflect the Commission approved rate base balances as of October 16, 2003.
Issue 3: Should the rates and charges approved for Palm Valley, CWS, and Del Tura be continued?
Recommendation: Yes. The buyer should continue charging the rates and charges approved for Palm Valley, CWS, and Del Tura until authorized to change by the Commission in subsequent proceedings. The utilities should be reminded that all customers must be billed for service. The ownership changes did not affect the tariff issuing officers; therefore, revised tariff pages are not required.
Issue 4: Should this docket be closed?
Recommendation: No. If no timely protest by a substantially affected person is received to the proposed agency action issue, a Consummating Order should be issued upon the expiration of the protest period. The docket should remain open until Hometown files a

ITEM NO.	CASE
16**	Docket No. 030998–WS – Joint application for approval of transfer of majority organizational control of Chateau Communities, Inc., grandparent of Del Tura Phase I, LLC d/b/a Del Tura Utilities, holder of Certificate No. 298-S in Lee County; CWS Communities LP d/b/a Palm Valley Utilities, holder of Certificate Nos. 277-W and 223-S in Seminole County; and CWS Communities LP, holder of Certificate No. 518-W in Lake County, to Hometown America, L.L.C.

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statement that the UPIS and depreciation balances provided in staff's recommendation have been booked for Palm Valley, then the docket should be administratively closed.

ITEM NO.	CASE

17** Docket No. 041339–WS – Application for name change on Certificates Nos. 303-W and 252-S in Volusia County from Tymber Creek Utilities to Tymber Creek Utilities, Incorporated.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: ECR: Brady, Kaproth
GCL: Jaeger

Issue 1: Should Tymber Creek Utilities be ordered to show cause in writing, within 21 days, why it should not be fined for its failure to comply with the requirements of Section 367.1214, Florida Statutes?
Recommendation: No. Tymber Creek Utilities should not be ordered to show cause.
Issue 2: Should Tymber Creek Utilities' notice of change of name on Certificate Nos. 303-W and 252-S to Tymber Creek Utilities, Incorporated be approved?
Recommendation: Yes. The name on Certificate Nos. 303-W and 252-S be should be changed to Tymber Creek Utilities, Incorporated effective the date of the Commission's vote. A recorded warranty deed, or long-term lease, reflecting the name change should be provided within 30 days from the date of the Commission's order for the land upon which the utility's wastewater treatment plant resides. The utility's revised tariffs should be effective for services rendered on or after the stamped approval date.
Issue 3: Should the docket be closed?
Recommendation: No. The docket should remain open pending receipt of a recorded warranty deed, or long-term lease, for the land upon which the utility's wastewater treatment plant resides. Upon receipt of such document, the docket should be administratively closed.

ITEM NO. CASE

18 Docket No. 030623–EI – Complaints by Ocean Properties, Ltd., J.C. Penney Corp., Target Stores, Inc., and Dillard's Department Stores, Inc. against Florida Power & Light Company concerning thermal demand meter error.

Critical Date(s): None

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

Staff: GCL: C. Keating
ECR: Floyd, Kummer, Wheeler
RCA: Mills

(Participation is limited to Commissioners and staff.)

Issue 1: Pursuant to Rule 25-6.052, Florida Administrative Code, what is the appropriate method of testing the accuracy of the thermal demand meters subject to this docket?

Recommendation: Staff interprets Rule 25-6.052, Florida Administrative Code, as requiring that the demand portion of the meters be accurate throughout the range of values between 25% and 100% of full scale. Rule 25-6.052 establishes the method for testing the accuracy of the watthour portion of these meters by reference to Rule 25-6.058, Florida Administrative Code. Rule 25-6.058(3)(a) provides the specific method for determining error for the watthour portion of the meters. Staff recommends that the testing already performed by FPL is appropriate to determine whether or not the meters subject to this docket pass or fail the accuracy requirements of the Commission's rules.

Staff makes the following specific recommendations on the eligibility for refunds for each meter subject to this docket:

- Meter #1V7166D failed the accuracy requirement for only the watthour portion of the meter. It was appropriately tested and, based on the undisputed test results, is eligible to receive a refund.
- Meter #1V5871D showed evidence of physical damage (bent maximum demand indicator). Based on record evidence, as discussed in the analysis portion of staff's January 20, 2005 memorandum, this meter is eligible to receive a refund.
- Meter #1V5774D does not require further testing. It was tested at 40% of full scale and found to be slightly underregistering. Based on the test results, this meter is not eligible to receive a refund.
- The remaining eleven meters subject to this docket (#1V52093, #1V7179D, #1V52475, #1V5216D, #1V7001D, #1V5192D, #1V5025D, #1V7019D, #1V7032D, #1V5887D, #1V5159) were tested at 80% of full scale and failed the accuracy requirements of Rule 25-6.052(a) for the demand portion of the meters. These meters are eligible to receive a refund.

Issue 2: Pursuant to Rules 25-6.058 and 25-6.103, Florida Administrative Code, what is the appropriate method of calculating customer refunds for those thermal meters which test outside the prescribed tolerance limits?

ITEM NO. CASE

18 Docket No. 030623–EI – Complaints by Ocean Properties, Ltd., J.C. Penney Corp., Target Stores, Inc., and Dillard's Department Stores, Inc. against Florida Power & Light Company concerning thermal demand meter error.

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Recommendation: To calculate the appropriate refunds for overregistration by the demand portion of these meters, staff recommends a procedure, set forth in detail in the analysis portion of staff's January 20, 2005 memorandum, by which the demand error at the customer's average load is estimated by using the linear relationship determined by the demand errors at two points on the meter scale.

To calculate the appropriate refunds for overregistration by the watthour portion of these meters, the procedure specified in Rule 25-6.058(3)(a) is the appropriate method. Using the percent error as determined by Rule 25-6.058(3)(a), an adjusted bill would be calculated in a manner similar to that outlined in Steps 6 through 9 of the procedure recommended herein to calculate refunds for overregistration by the demand portion of the meter.

Issue 3: Should the customers in this docket be treated the same way in which FPL treated other, similarly situated customers, for the purposes of determining the percentage of meter overregistration error?

Recommendation: Customers in this docket have been treated in the same manner as similarly situated customers; FPL calculated refunds for Customers and similarly situated customers based on a 12-month refund period and the higher of: (1) the meter test point error; or (2) an error calculated by comparing billing records before and after replacement of the meter. Customers in this docket disputed FPL's use of a 12-month refund period and chose to litigate this matter. The "higher of" method requested by Customers goes beyond the requirements of the Commission's rules, which require that the determination of amounts billed in error shall be based on the results of a meter test. Customers cannot now claim entitlement to a benefit to which they were never entitled under the Commission's rules and which they chose to reject.

Issue 4: What rate schedule should be applied in calculating customer refunds?

Recommendation: The proper rate schedule to be used to calculate refunds is the schedule under which the customer would have been billed, had the meter registered accurately.

Issue 5: Pursuant to Rule 25-6.103, Florida Administrative Code, what is the period for which refunds should apply?

Recommendation: The refund period for all meters except Meter #1V5871D (Target – Sarasota), Meter #1V5192D (Target – Bradenton), and Meter #1V7001D (Target – Boynton Beach) should be the twelve billing months prior to replacement of the meter. The refund period for Meter #1V5871D should be all billing months from May 1997 through August 2002. The refund period for Meter #1V5192D should be all billing months from December 1996 through November 2002. The refund period for Meter #1V7001D should be all billing months from December 1993 through November 2002.

ITEM NO.	CASE
18	Docket No. 030623–EI – Complaints by Ocean Properties, Ltd., J.C. Penney Corp., Target Stores, Inc., and Dillard's Department Stores, Inc. against Florida Power & Light Company concerning thermal demand meter error.

(Continued from previous page)

Issue 6: What interest rate should be used to calculate customer refunds?
Recommendation: The Commission should apply the interest rate provisions of Rule 25-6.109, Florida Administrative Code, to calculate appropriate refunds.
Issue 7: Did the sun or radiant heat affect the accuracy of any of the meters subject to this docket? If so, how do such effects impact the determination of which meters are eligible for a refund of the amount of any refund due?
Recommendation: There is no evidence that the sun or radiant heat affected the accuracy of any other meters subject to this docket. Therefore, there is no impact on the determination of which meters are eligible for a refund or the amount of any refund.
Issue 8: What is the appropriate customer refund for each thermal demand meter subject to this docket that tests outside the prescribed tolerance limits?
Recommendation: For the thirteen meters identified in Issue 1 as being eligible for refunds, the Commission should order refunds to be calculated consistent with staff's recommendations in Issues 2-7. Four of the meters should be re-tested as described in Issue 2 before refund calculations can be made. Refunds should be completed within 30 days of the issuance date of the Commission's final order.
Issue 9: Should this docket be closed?
Recommendation: The docket should be closed after the time for filing an appeal has run.

ITEM NO.	CASE
19**	Docket No. 040278–GU – Petition of Florida Public Utilities Company to resolve territorial dispute with Peoples Gas System.

Critical Date(s): None

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

Staff: GCL: Vining
CMP: Bulecza-Banks, Makin

Issue 1: Should this docket be closed?
Recommendation: Yes.