

# FLORIDA PUBLIC SERVICE COMMISSION

## COMMISSION CONFERENCE AGENDA

**CONFERENCE DATE AND TIME:** March 13, 2007, 9:30 a.m.

**LOCATION:** Betty Easley Conference Center, Joseph P. Cresse Hearing Room 148

**DATE ISSUED:** March 2, 2007

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### NOTICE

Persons affected by Commission action on certain items on this agenda may be allowed to address the Commission, either informally or by oral argument, when those items are taken up for discussion at this conference. These items are designated by double asterisks (\*\*) next to the agenda item number.

To participate informally, affected persons need only appear at the agenda conference and request the opportunity to address the Commission on an item listed on agenda. Informal participation is not permitted: (1) on dispositive motions and motions for reconsideration; (2) when a recommended order is taken up by the Commission; (3) in a rulemaking proceeding after the record has been closed; or (4) when the Commission considers a post-hearing recommendation on the merits of a case after the close of the record. The Commission allows informal participation at its discretion in certain types of cases (such as declaratory statements and interim rate orders) in which an order is issued based on a given set of facts without hearing.

See Rule 25-22.0021, F.A.C., concerning Agenda Conference participation and Rule 25-22.0022, F.A.C., concerning oral argument.

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**ITEM NO.** **CASE**

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1 **Approval of Minutes**  
 January 23, 2007, Regular Commission Conference

2\*\* **Consent Agenda**

PAA A) Application for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
070057-TX	Brydels Communications, LLC d/b/a AMIGOS - Tu Compania de Telefonos

PAA B) Requests for cancellation of competitive local exchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
060781-TP	Acceris Management and Acquisition, LLC d/b/a Acceris Communications d/b/a WorldxChange	03/01/2007
	New Access Communications LLC and d/b/a INCOMNET	03/01/2007
060809-TX	Oltronics, Inc.	12/14/2006
070015-TX	Quiet River Communications, LLC	12/19/2006
070091-TP	Nigerian-American Investment Corporation d/b/a NAIC Telecommunications	12/31/2006
070118-TP	Phone 1 Smart LLC	02/16/2007

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Commission Conference  
March 13, 2007

ITEM NO. \_\_\_\_\_ CASE \_\_\_\_\_

2\*\* Consent Agenda  
  
(Continued from previous page)

PAA C) Request for cancellation of a shared tenant services certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
070097-TS	Travelers Cable TV Inc	12/31/2006

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

**ITEM NO.**

**CASE**

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3

**Docket No. 060668-TP** – Proposed amendment of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

**Critical Date(s):** None

**Rule Status:** Adoption

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrian

**Staff:** GCL: Cibula  
CCA: Belcher  
CMP: Kennedy  
ECR: Dickens

**(Participation is limited to Commissioners and staff.)**

**Issue 1:** Should the Commission make changes to proposed Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, to address Global's comments?

**Recommendation:** No. The Commission should adopt proposed Rule 25-4.0161 without changes.

**Issue 2:** Should Rule 25-4.0161 be filed for adoption with the Secretary of State and the docket be closed?

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 1, the rule may be filed with the Secretary of State and the docket should be closed.

**ITEM NO.**

**CASE**

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4\*\*

**Docket No. 060355-EI** – Petition for emergency rule or, alternatively, for declaratory statement prohibiting wireless attachments in electric supply space, by Florida Power & Light Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Pending

**Staff:** GCL: Harris, Cibula

ECR: Trapp

**Issue 1:** Should this docket be closed?

**Recommendation:** Yes. With the withdrawal of the Petition, no further action needs to be taken and the docket should be closed.



**ITEM NO.**

**CASE**

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5\*\*

**Docket No. 060406-SU** – Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrin

**Staff:** GCL: Jaeger

ECR: Hudson, Bulecza-Banks, Rendell

**Issue 1:** Should Crooked Lake Park Sewerage Company be ordered to show cause in writing, within 21 days, why it should not be fined for its apparent failure to comply with the requirements of Order No. PSC-99-2116-PAA-SU, issued October 25, 1999, to satisfy the violations listed by the Department of Environmental Protection in its Warning Letter No. WL980009DW53SWD, dated March 25, 1998?

**Recommendation:** Yes. Crooked Lake Park Sewerage Company should be ordered to show cause in writing, within 21 days, why it should not be fined \$500 for its apparent failure to comply with the requirements of Order No. PSC-99-2116-PAA-SU. The order to show cause should incorporate the conditions stated below in the staff analysis.

**Issue 2:** Should this docket be closed?

**Recommendation:** If Crooked Lake pays the \$500 fine, the docket should be closed administratively. If the utility timely responds in writing to the Order to show cause, the docket should remain open to allow for the appropriate processing of the response.

**ITEM NO.**

**CASE**

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6\*\*PAA

**Docket No. 060741-WS** – Application for certificates to provide water and wastewater service in Duval County by Timucuan Utilities, LLC.

**Critical Date(s):** 03/13/07 (Extended 90-day rule waiver statutory deadline.)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrin

**Staff:** GCL: Gervasi

ECR: Brady, Marsh, Redemann, Slemkewicz

**Issue 1:** Should the Commission grant Timucuan Utilities, LLC's motion for temporary rule waiver from Rule 25-30.033(1)(j), (k), (m), (o), (p), (r), (t), (u), (v), and (w), F.A.C.?

**Recommendation:** Yes. The Commission should grant Timucuan Utilities, LLC's motion for temporary rule waiver until Timucuan Utilities, LLC has completed its permitting and is closer to commencement of operations.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. If no timely protest is received from a substantially affected person within 21 days of the date of the Proposed Agency Action Order, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending Commission action on Timucuan's application for an original water and wastewater certificate.

**ITEM NO.**

**CASE**

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7\*\*

**Docket No. 050595-WS** – Application for certificates to provide water and wastewater service in Polk County by Four Points Utility Corporation.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Pending

**Staff:** GCL: Gervasi

ECR: Johnson, Kaproth, Walden

**Issue 1:** Should the Consented Motion Seeking Commission Approval of Settlement Agreement be granted?

**Recommendation:** Yes. The Consented Motion Seeking Commission Approval of Settlement Agreement should be granted and the Settlement Agreement should be accepted and approved without modification.

**Issue 2:** Should Four Points Utility Corporation be ordered to show cause, in writing within 21 days, as to why it should not be fined for charging unauthorized rates from November 2006 to January 2007, in apparent violation of Sections 367.081(1) and 367.091(3), Florida Statutes, and Rule 25-30.135, Florida Administrative Code?

**Recommendation:** No. Four Points Utility Corporation should not be ordered to show cause for charging unauthorized rates from November 2006 to January 2007. However, the utility should be admonished that it must charge its Commission-approved rates and charges until authorized to change by the Commission, and that such apparent violations will not be tolerated in the future. The utility should be required to file a status report verifying the amount credited to each customer account. The report should be filed within 30 days of the issuance date of the Order memorializing the Commission's decision on the merits of the utility's application.

**Issue 3:** Should the application of Four Points Utility Corporation for water and wastewater certificates be granted?

**Recommendation:** Yes. The Commission should grant Four Points Utility Corporation Certificate Nos. 634-W and 544-S to serve the territory described in Attachment B of staff's March 1, 2007, memorandum, to be effective on the date of the Commission's vote. The subsequent order will serve as the utility's water and wastewater certificates and should be retained by the utility. The utility should be put on notice that the 2006 annual report and Regulatory Assessment Fees (RAFs) are due March 31, 2007.

ITEM NO.

CASE

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7\*\*

**Docket No. 050595-WS** – Application for certificates to provide water and wastewater service in Polk County by Four Points Utility Corporation.

(Continued from previous page)

PAA

**Issue 4:** What are the appropriate initial water and wastewater rates and return on investment for this utility?

**Recommendation:** The utility's proposed water and wastewater rates shown on Schedule No. 6 of staff's March 1, 2007, memorandum should be approved. The utility should be required to notice all customers of the approved rates prior to billing for monthly water and wastewater service. The utility should also be required to file a proposed customer notice reflecting the Commission-approved rates within ten days of the date of the consummating order. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. Four Points should charge the approved rates until authorized to change them by this Commission in a subsequent proceeding. A return on equity of 8.97% plus or minus 100 basis points should be approved.

PAA

**Issue 5:** What are the appropriate miscellaneous service charges, late payment charge, and service availability charges?

**Recommendation:** The Commission's standard miscellaneous water and wastewater service charges and a late payment charge are reasonable and should be approved. These charges should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code, and should be included in the notice to the customers. The utility should not be authorized to charge service availability charges.

PAA

**Issue 6:** Should the funds in the escrow account be disbursed and the account closed?

**Recommendation:** Yes. The balance in the escrow account should be disbursed to Four Points and closed.

**Issue 7:** Should this docket be closed?

**Recommendation:** Yes. If no timely protest is filed by a substantially affected person to the proposed agency action (PAA) issues within 21 days of the issuance of the PAA Order, a consummating order should be issued upon the expiration of the protest period and the docket should be closed administratively upon verification by staff that the utility has completed the refund addressed in Issue 2 of staff's March 1, 2007, memorandum.

**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 060122-WU** – Joint petition for approval of stipulation on procedure by Aloha Utilities, Inc. and Office of Public Counsel.

**Critical Date(s):** 04/10/07 (60-day suspension date)  
10/09/07 (8-month effective date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Gervasi, Holley  
ECR: Fletcher, Rendell

**Issue 1:** Should the Commission approve the Stipulation to Increase Service Availability Charges filed February 9, 2007, between Aloha and OPC, specifying that Aloha's service availability charges for its Seven Springs system should be increased to \$3,000 per ERC?

**Recommendation:** Yes. The Stipulation should be approved in its entirety. Moreover, using the proposed \$3,000 per ERC charge and the authorized 300 gallon per day (gpd) demand per ERC, the non-residential service availability charge should be increased to \$10.00 per gallon. With regard to its water tariff, Aloha's Fourth Revised Sheet No. 26.7, First Revised Sheet No. 26.8, Second Revised Sheet No. 26.9, and First Revised Sheet No. 26.24 should be approved as filed. With regard to its wastewater tariff, Aloha's Fifth Revised Sheet No. 22.7, First Revised Sheet No. 22.8, Second Revised Sheet No. 22.9, and First revised Sheet No. 22.24 should be approved as filed. These revised tariff sheets should be effective for connections made on or after the stamped approval date on the tariff sheets provided the appropriate notice has been given, pursuant to Rule 25-30.475(2), Florida Administrative Code. The notice should be mailed or hand delivered to all persons in the service area who have filed a written request for service within the past 12 calendar months or who have been provided a written estimate for service within the past 12 calendar months, pursuant to Rule 25-30.4345, Florida Administrative Code. Aloha should also be required to publish a notice of the proposed charges in a newspaper of general circulation in the service area. The utility should provide proof of the date the notice was given within 10 days after the date of the notice.

ITEM NO.

CASE

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8\*\*

**Docket No. 060122-WU** – Joint petition for approval of stipulation on procedure by Aloha Utilities, Inc. and Office of Public Counsel.

(Continued from previous page)

**Issue 2:** Should this docket be closed?

**Recommendation:** No. This docket should remain open to allow Aloha the opportunity to file a Petition for Limited Proceeding. If no protest occurs within 21 days of the issuance of the Tariff Order, the Order will become final upon the issuance of a Consummating Order. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with the increased charges held subject to refund pending resolution of the protest and the utility should be required to set up an escrow account to guarantee the funds collected subject to refund, as set forth in the analysis portion of staff's March 1, 2007, memorandum. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month indicating the monthly and total monies collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

**ITEM NO.**

**CASE**

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9\*\*

**Docket No. 060598-TL** – Petition to recover 2005 tropical system related costs and expenses, by BellSouth Telecommunications, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Tan, Teitzman

CMP: Casey, Wright

**Issue 1:** Should the Commission grant BellSouth's Motion to Modify Order No. PSC-07-0036-FOF-TL?

**Recommendation:** Yes. Staff recommends the Commission grant the Motion to Modify Order No. PSC-07-0036-FOF-TL. The requested modification is the result of a stipulation the parties agreed will allow for the efficient implementation of the Order's requirement that a line item surcharge be applied to UNE high capacity loops.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. Staff recommends the docket should remain open pending the filing of BellSouth's report on the total storm recovery amount collected.

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 060292-TL** – Review of tariff filing (T-060052) by Verizon Florida Inc. to establish permanent promotional offering.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Fudge, Wiggins

CMP: Simmons, Trueblood

**Issue 1:** Should the Commission acknowledge the Notice of Withdrawal of Protest and close this Docket?

**Recommendation:** Yes.



**ITEM NO.**

**CASE**

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11\*\*PAA

**Docket No. 060732-TL** – Complaint regarding BellSouth Telecommunications, Inc.'s failure to provide service on request in accordance with Section 364.025(1), F.S., and Rule 25-4.091(1), F.A.C., by Lennar Homes, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Fudge

CMP: Buys, Kennedy

**Issue 1:** Is BellSouth's COLR letter of engagement in compliance with Section 364.025, Florida Statutes?

**Recommendation:** Yes. Staff recommends that the Commission find that BellSouth's COLR letter of engagement is in compliance with Section 364.025, Florida Statutes.

**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**

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12\*\*

**Docket No. 060083-TP** – Complaint of Northeast Florida Telephone Company d/b/a NEFCOM against Southeastern Services, Inc. for alleged failure to pay intrastate access charges pursuant to NEFCOM's tariffs, and for alleged violation of Section 364.16(3)(a), F.S.

**Docket No. 060296-TP** – Referral by the Circuit Court of Baker County, Florida to determine whether or not Southeastern Services, Inc. is legally responsible for payment to Northeast Florida Telephone for originating intrastate access charges under Northeast Florida Telephone's Public Service Commission approved tariff for the long distance calls provided by Southeastern Services, Inc. as alleged in the Amended Complaint.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrian

**Staff:** GCL: Fudge

CMP: Lee

**Issue 1:** Should the Commission grant the parties' Joint Motion to Dismiss the Referral from the Circuit Court in Baker County?

**Recommendation:** Yes. The underlying circuit court case upon which the referral to this Commission was based has been dismissed.

**Issue 2:** Should the Commission acknowledge NEFCOM's Notice of Voluntary Dismissal with Prejudice of its Amended Complaint filed in Docket No. 060083-TP?

**Recommendation:** Yes. The Commission should acknowledge NEFCOM's Notice of Voluntary Dismissal with Prejudice.

**Issue 3:** Should these dockets be closed?

**Recommendation:** With the Joint Motion to Dismiss and request that Docket No. 060083-TP be closed, there are no further matters for this Commission to adjudicate in Docket No. 060083-TP and, therefore, it should be closed. Likewise, with the closing of the underlying circuit court action, Docket No. 060296-TP should be closed.

**ITEM NO.**

**CASE**

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13\*\*PAA

**Docket No. 060637-EU** – Joint petition to approve territorial agreement in Highlands County between Glades Electric Cooperative, Inc. and Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Pending

**Staff:** GCL: Brown

ECR: Redemann, Rieger

**Issue 1:** Should the Commission approve the proposed territorial agreement between Glades Electric Cooperative, Inc. and Progress Energy Florida, Inc.?

**Recommendation:** Yes. The proposed territorial agreement between Glades Electric Cooperative, Inc. and Progress Energy Florida, Inc. is in the public interest and should be approved. The effective date of the agreement should be the date the Commission's order approving the agreement becomes final and no longer subject to judicial review.

**Issue 2:** Should this Docket be closed?

**Recommendation:** If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order.

**ITEM NO.**

**CASE**

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14\*\*PAA

**Docket No. 000121A-TP** – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH FLORIDA TRACK)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** CMP: Harvey, Hallenstein

GCL: Teitzman

**Issue 1:** Should the Commission accept BellSouth's offer to pay penalties of \$66,300 to the Commission for deposit in the State General Revenue Fund as a settlement, pursuant to Section 4.4.3 of BellSouth's Self-Effectuating Enforcement Mechanism (SEEM) Administrative Plan for late remittance of certain Tier 2 payments made in 2004?

**Recommendation:** Yes. Staff recommends that the Commission accept BellSouth's offer to pay \$66,300 to the Commission for deposit in the State General Revenue fund as a settlement for penalties resulting from Tier 2 SEEM payments made after the due date.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. If the Commission approves staff's recommendation in Issue 1, the resulting Order will be issued as Proposed Agency Action. The Order will become final upon issuance of a Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. This Docket should remain open thereafter to continue the review process as adopted in the BellSouth's Performance Assessment Plan.

**ITEM NO.**

**CASE**

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15\*\*PAA

**Docket No. 070050-TI** – Compliance investigation of NETECOM, Inc. for apparent violation of Rules 25-24.470, F.A.C., Registration Required.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Curry

GCL: Tan

**Issue 1:** Should the Commission impose a penalty in the amount of \$25,000 upon NETECOM, Inc. for its apparent violation of Rule 25-24.470, F.A.C., Registration Required, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

**Recommendation:** Yes. The Commission should impose a penalty in the amount of \$25,000 upon NETECOM, Inc. for its apparent violation of Rule 25-24.470, F.A.C., Registration Required, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order.

**Issue 2:** Should this docket be closed?

**Recommendation:** 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 NETECOM fails to timely file a protest and request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If payment of the penalty is not received within fourteen (14) calendar days after the issuance of the Consummating Order the penalty should be referred to the Department of Financial Services for collection and the company should be required to immediately cease and desist providing intrastate interexchange telecommunications services in Florida. This docket should be closed administratively upon receipt of the company's current contact information, tariff, and payment of the penalty, or upon the referral of the penalty to the Department of Financial Services.

**ITEM NO.**

**CASE**

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16\*\*

**Docket No. 060826-TX** – Compliance investigation of USA Telephone Inc. d/b/a Choice One Telecom for apparent violation of Rules 25-22.032(6)(b), F.A.C., Customer Complaints, and 25-24.805, F.A.C., Certificate of Public Convenience and Necessity Required.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Beard, Casey

GCL: Tan

**Issue 1:** Should the Commission impose a penalty upon USA Telecom, Inc. d/b/a Choice One Telecom in the amount of \$10,000 for apparent violation of Rule 25-22.032(6)(b), Florida Administrative Code, Customer Complaints?

**Recommendation:** Yes. The Commission should impose a \$10,000 penalty upon USA Telephone, Inc. d/b/a Choice One Telecom for the apparent violation of Rule 25-22.032(6)(b), Florida Administrative Code, Customer Complaints. The fine should be paid to the Florida Public Service Commission and forwarded to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the Commission does not receive the fine within five business days after the issuance of the Consummating Order, the collection of the fine should be referred to the Office of the Comptroller for collection.

**Issue 2:** Should the Commission fine USA Telecom, Inc. d/b/a Choice One Telecom \$25,000 for apparent violation of Rule 25-24.805, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

**Recommendation:** Yes. The Commission should fine Choice One Telecom \$25,000 for apparent violation of Rule 25-24.805, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.

**Issue 3:** Should all network service providers be ordered to cease providing service to Choice One?

**Recommendation:** Yes. All network service providers should be ordered to cease providing service to Choice One.

ITEM NO.

CASE

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16\*\*

**Docket No. 060826-TX** – Compliance investigation of USA Telephone Inc. d/b/a Choice One Telecom for apparent violation of Rules 25-22.032(6)(b), F.A.C., Customer Complaints, and 25-24.805, F.A.C., Certificate of Public Convenience and Necessity Required.

(Continued from previous page)

**Issue 4:** Should this docket be closed?

**Recommendation:** 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 Choice One fails to timely file a protest and requests a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. The fines should be paid to the Florida Public Service Commission and forwarded to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine is not received within five business days after the issuance of the Consummating Order, the collection of the fine should be referred to the Office of the Comptroller for collection. This docket should remain open until the fines are paid or permission to write off the fines is given by the Office of the Comptroller.

**ITEM NO.**

**CASE**

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17\*\*PAA

**Docket No. 060822-TL** – Petition for relief from carrier-of-last-resort (COLR) obligations pursuant to Florida Statutes 364.025(6)(d) for two private subdivisions in Nocatee development, by BellSouth Telecommunications, Inc.

**Critical Date(s):** 03/22/07 (90-day deadline for Commission to act on the petition)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Pending

**Staff:** CMP: Buys  
GCL: Fudge

**Issue 1:** Should the Commission grant BellSouth's Petition for relief of its carrier-of-last-resort obligation, pursuant to Section 364.025(6)(d), Florida Statutes, for the provision of service at the Riverwood and Coastal Oaks subdivisions in the development known as Nocatee located in Duval and St. Johns Counties?

**Recommendation:** No. BellSouth has not made a prima facie case for good cause, and the Commission should deny BellSouth's Petition for relief of its carrier-of-last-resort obligations for the provision of basic local telecommunications service to the Riverwood and Coastal Oaks subdivisions in the development known as Nocatee, located in Duval and St. Johns Counties. This decision, however, does not preclude BellSouth, as the carrier-of-last-resort, from using the tools that may be available to it in addressing the problem of providing uneconomic service to the identified locations. For example, BellSouth may seek recovery of a portion of its costs for the extension of facilities pursuant to Rule 25-4.067, F.A.C., and the line extension provisions set forth in its tariffs.

**Issue 2:** Should this docket be closed?

**Recommendation:** 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. If the Commission's Order is not protested this docket should be closed administratively upon issuance of the Consummating Order.



**ITEM NO.**

**CASE**

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18

**Docket No. 060763-TL** – Petition for waiver of carrier of last resort obligations for multitenant property in Collier County known as Treviso Bay, by Embarq Florida, Inc.

**Critical Date(s):** 03/13/07 (90-day deadline for Commission to act on the petition)

**Commissioners Assigned:** Edgar, Carter, McMurrian

**Prehearing Officer:** Carter

**Staff:** CMP: Buys, Bloom, Dowds, Kennedy

GCL: Fudge

**(Participation is limited to Commissioners and staff.)**

**Issue 1:** Will voice service from other providers be available to customers of Treviso Bay? If so, when and under what conditions?

**Recommendation:** Yes. Voice service from other providers using Voice over Internet Protocol technology and wireless cellular technology will be available on an individual customer basis at retail prices to the residents living within the Treviso Bay development at the time of each resident's occupancy.

**Issue 2:** Has Treviso Bay entered into any agreements, or done anything else, that would restrict or limit Embarq's ability to provide the requested communications service?

**Recommendation:** No. Treviso Bay has not entered into any agreements, or taken any action, that restricts or limits Embarq's ability to provide basic local voice telecommunications service to the residents at the Treviso Bay development.

**Issue 3:** Do Treviso Bay's existing agreements make it uneconomic for Embarq to provide the requested communications service to the customers of Treviso Bay?

**Recommendation:** No. The negative net present value (NPV) analysis at the foundation of Embarq's case relies on an assumption regarding market penetration that lacks supporting evidence. In addition, the analysis uses per-household revenue calculations based on unweighted averages for customers in the Naples market. These assumptions, critical to Embarq's conclusion on this issue, are easily manipulated to produce a positive NPV result using evidence in the record. The fragile assumptions underlying the negative NPV analysis yield conclusions that fail to make a substantive case that entry into Treviso Bay will be inherently uneconomic. For these reasons, staff does not believe Embarq has met its burden of proof on this issue.

**Issue 4:** Has Embarq, formerly known as Sprint-Florida Incorporated, taken any action that would preclude Embarq from obtaining a waiver of its carrier-of-last-resort obligation in Treviso Bay?

**Recommendation:** No. The actions by Embarq should not preclude Embarq from seeking and obtaining a waiver under the requirements of Section 364.025(4)(d), Florida Statutes.

ITEM NO.

CASE

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18

**Docket No. 060763-TL** – Petition for waiver of carrier of last resort obligations for multitenant property in Collier County known as Treviso Bay, by Embarq Florida, Inc.

(Continued from previous page)

**Issue 4A:** Is Embarq obligated to provide service to Treviso Bay by its tariff or by holding itself out as willing and able to provide service?

**Recommendation:** Embarq is required to provide service in accordance with its tariff and applicable law, unless the conditions set forth in either Section 364.025(4)(b) or (d), Florida Statutes, have been met.

**Issue 5:** Has Embarq demonstrated "good cause" under Section 364.025(6)(d), Florida Statutes, for a waiver of its carrier-of-last-resort obligation in Treviso Bay?

**Recommendation:** No. Embarq has not demonstrated "good cause" under Section 364.025(6)(d), Florida Statutes for a waiver of its carrier-of-last-resort obligation in Treviso Bay, thus staff recommends that the Commission deny Embarq's petition for a waiver of its carrier-of-last-resort obligation in Treviso Bay.

**Issue 6:** Should this docket be closed?

**Recommendation:** Yes. This docket should be closed upon issuance of the final order.

**ITEM NO.**

**CASE**

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19\*\*PAA

**Docket No. 060581-TP** – Petition of Alltel Communications, Inc. for designation as eligible telecommunications carrier (ETC) in certain rural telephone company study areas located partially in Alltel's licensed area and for redefinition of those study areas.

**Docket No. 060582-TP** – Petition of Alltel Communications, Inc. for designation as eligible telecommunications carrier (ETC) in certain rural telephone company study areas located entirely in Alltel's licensed area. (Deferred from February 13, 2007, conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Pending

**Staff:** CMP: Casey

GCL: Teitzman, Scott

**Issue 1:** Does the Commission have authority to designate a commercial mobile radio service provider as an eligible telecommunications carrier?

**Recommendation:** Yes. Staff believes with the enactment of Section 364.011, Florida Statutes, the legislature has granted the Commission limited authority over CMRS providers to those matters specifically authorized by federal law. Because, pursuant to §214(e)(2) of the Act, states are authorized to designate eligible telecommunications carrier status on CMRS providers, staff believes the Commission has authority to consider applications by CMRS providers for ETC designation.

**Issue 2:** Should these dockets be closed?

**Recommendation:** No. If the Commission approves staff's recommendation in Issue 1, then the dockets should remain open for further proceedings relating to Alltel Wireless' Application. A person whose substantial interests are affected may file a protest within 21 days of the Commission Order. If no protest is filed by a person whose interests are substantially affected within 21 days of the Commission order, the Commission order shall become final upon the issuance of a consummating order.

If the Commission denies staff's recommendation in Issue 1 and no protest is filed by a person whose interests are substantially affected within 21 days of the Commission order, the dockets should be closed upon the issuance of a consummating order. If a timely protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order, the dockets should remain open pending the resolution of the protest.

**ITEM NO.**

**CASE**

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20\*\*PAA

**Docket No. 060817-TP** – Request for cancellation of PATS Certificate No. 5900 and for acknowledgment of cancellation of IXC Registration No. TJ089 effective December 21, 2006, by SmartStop, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Isler

GCL: McKay

**Issue 1:** Should the Commission deny SmartStop, Inc., a voluntary cancellation of its IXC tariff and Registration No. TJ089 and cancel the tariff and remove the company's name from the register on the Commission's own motion with an effective date of December 21, 2006?

**Recommendation:** Yes. The company should be denied a voluntary cancellation as listed on Attachment A of staff's March 1, 2007, memorandum, and staff shall administratively process the voluntary cancellation of the company's pay telephone certificate in accordance with instructions in the Commission's Administrative Procedures Manual.

ITEM NO.

CASE

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20\*\*PAA

**Docket No. 060817-TP** – Request for cancellation of PATS Certificate No. 5900 and for acknowledgment of cancellation of IXC Registration No. TJ089 effective December 21, 2006, by SmartStop, Inc.

(Continued from previous page)

**Issue 2:** Should this docket 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 the company 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 the company pays the Regulatory Assessment Fees prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's tariff and the removal of its name from the register will be voluntary. If the company fails to pay the Regulatory Assessment Fees prior to the expiration of the Proposed Agency Action Order, then the company's IXC tariff should be cancelled administratively and its name removed from the register, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's IXC tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees or upon cancellation of the company's IXC tariff and removal of its name from the register.

**ITEM NO.**

**CASE**

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21\*\*PAA

**Docket No. 060825-TI** – Acknowledgment of cancellation of IXC Registration No. TJ509 by Gates Communications, Inc., effective December 26, 2006.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Isler

GCL: McKay

**Issue 1:** Should the Commission deny Gates Communications, Inc., a voluntary cancellation of its IXC tariff and Registration No. TJ509 and cancel the tariff and remove the company's name from the register on the Commission's own motion with an effective date of December 26, 2006?

**Recommendation:** Yes. The company should be denied a voluntary cancellation as listed on Attachment A of staff's March 1, 2007, memorandum.

**Issue 2:** Should this docket 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 the company 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 the company pays the Regulatory Assessment Fees prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's tariff and the removal of its name from the register will be voluntary. If the company fails to pay the Regulatory Assessment Fees prior to the expiration of the Proposed Agency Action Order, then the company's IXC tariff should be cancelled administratively and its name removed from the register, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's IXC tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees or upon cancellation of the company's IXC tariff and removal of its name from the register.

**ITEM NO.**

**CASE**

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22

**Docket No. 070094-GU** – Petition for approval of tariff modification to delete miscellaneous service charges for bills paid electronically, by Peoples Gas System.

**Critical Date(s):** 03/30/07 (60-day suspension date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Draper

GCL: Brown

**Issue 1:** Should the Commission approve Peoples' petition for approval of a tariff modification deleting a miscellaneous service charge for bills paid electronically?

**Recommendation:** Yes.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If Issue 1 is approved, this tariff should become effective on May 1, 2007. If a protest is filed within 21 days of the issuance of the order, this tariff 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.

**ITEM NO.**

**CASE**

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23

**Docket No. 060635-EU** – Petition for determination of need for electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee. (Deferred from February 13, 2007, conference.)

**Critical Date(s):** 02/13/07 (Applicants waived rule requirement for a vote within 135 days until 02/13/07.)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrian

**Staff:** ECR: Harlow, Breman, Brown, Lester, Matlock, McRoy, Springer, Stallcup, VonFossen

GCL: Brubaker, Fleming, Holley

**(Post-hearing decision - participation is limited to Commissioners and staff.)**

**Issue 1:** Is there a need for the proposed Taylor Energy Center (TEC) generating unit, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

**Recommendation:** Yes. Based upon reasonable projections of load growth, the expiration of existing purchased power contracts, and the retirement of existing generating units, the Applicants have demonstrated a reliability need for the TEC.

**Issue 2:** Is there a need for the proposed TEC generating unit, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

**Recommendation:** Yes. The proposed TEC is a proven technology and the estimated costs provided by the Applicants appear to be reasonable. Based on current projections, the TEC is expected to provide the Applicants adequate electricity at a reasonable cost.

**Issue 3:** Is there a need for the proposed TEC generating unit, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, Florida Statutes?

**Recommendation:** Yes. The addition of baseload coal-fired generation from the TEC will improve each Applicant's fuel diversity and supply reliability. The addition of TEC will also mitigate the impact of supply disruptions caused by an overdependence on natural gas.

**Issue 4:** Are there any conservation measures taken by or reasonably available to the Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee (Applicants) which might mitigate the need for the proposed TEC generating unit?

**Recommendation:** No. Even if the City of Tallahassee's ambitious DSM savings are applied to the other Applicants' peak demands, it would not relieve JEA's, FMMPA's and RCID's reliability need. The Applicants' first priority should be maintaining reliability. Each Applicant utility should continue to report its conservation initiatives and achievements annually in their Ten-Year Site Plan filings.



ITEM NO.

CASE

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23

**Docket No. 060635-EU** – Petition for determination of need for electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee. (Deferred from February 13, 2007, conference.)

(Continued from previous page)

**Issue 5:** Have the Applicants appropriately evaluated the cost of CO<sub>2</sub> emission mitigation costs in their economic analysis?

**Recommendation:** Yes. Estimating CO<sub>2</sub> emission mitigation costs for the proposed TEC facility is highly speculative because there is no current CO<sub>2</sub> regulation and no consensus regarding potential regulatory requirements. However, the Applicants have performed a reasonable sensitivity analysis based on potential CO<sub>2</sub> regulation, the results of which support the TEC as cost-effective. The Applicants' sensitivity analysis comparing TEC to natural gas fired options showed significant savings for TEC.

**Issue 6:** Does the proposed TEC generating unit include the costs for the environmental controls necessary to meet current state and federal environmental requirements, including mercury, NO<sub>2</sub>, SO<sub>2</sub>, and particulate emissions?

**Recommendation:** Yes. The Applicants appropriately included the costs for current state and federal environmental controls. The Applicants were reasonable to rely on the federal requirements of the Clean Air Interstate Rule and the Clean Air Mercury Rule instead of speculating on the outcome of ongoing rule development and litigation regarding Florida's State Implementation Plan and federal court cases. Cost risks associated with evolving environmental regulations are normal costs that power plant owners and operators incur to address their customer's electrical needs.

**Issue 7:** Have the Applicants requested available funding from DOE to construct an IGCC unit or other cleaner coal technology?

**Recommendation:** No. The Applicants did not formally request funding from DOE for IGCC technology. However, the Applicants do appear to have made reasonable efforts to determine whether funding was available in the timeframe required to meet their reliability needs. A formal request of DOE funding for IGCC development is not one of the criteria listed in Section 403.519, Florida Statutes.

**Issue 8:** Has each Applicant secured final approval of its respective governing body for the construction of the proposed TEC generating unit?

**Recommendation:** No. Each Applicant has received approval from its respective governing body only through the siting phase for the TEC, which is sufficient for the need proceeding. Each Applicant will have the opportunity to obtain final approval from its respective board prior to the construction phase, and each Applicant plans to reevaluate participation in the TEC with updated data prior to requesting final approval. It is prudent for each Applicant to analyze whether participating in the TEC is in the best interests of its ratepayers before, during and after construction of the unit.

ITEM NO.

CASE

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23

**Docket No. 060635-EU** – Petition for determination of need for electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee. (Deferred from February 13, 2007, conference.)

(Continued from previous page)

**Issue 9:** Is the proposed TEC generating unit the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

**Recommendation:** Yes. Combined cumulative present worth cost savings from the TEC are estimated to be \$899 million for the Applicants compared to the next least cost expansion plan for each Applicant, and appear to be robust under changing circumstances. The Applicants provided approximately 70 sensitivities, including changes in fuel prices, capital costs, and potential CO<sub>2</sub> regulation. The TEC provided savings in all but one sensitivity. The Applicants appropriately tested the TEC against other supply-side alternatives, including IGCC and biomass capacity. Further, the Applicants' analysis showed significant savings when the TEC was compared to a joint owned natural gas combined cycle, as well as an all natural gas expansion plan.

**Issue 10:** Based on the resolution of the foregoing issues, should the Commission grant the Applicants' petition to determine the need for the proposed TEC generating unit?

**Recommendation:** Yes. As discussed in Issues 1 through 9, the record evidence indicates that the Applicants have met the criteria set forth in Section 403.519, Florida Statutes. Therefore, the Applicants' petition to determine the need for the proposed TEC unit should be approved.

**Issue 11:** Should this docket be closed?

**Recommendation:** The docket should be closed 32 days after issuance of the order, to allow the time for filing an appeal to run.

**ITEM NO.**

**CASE**

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24\*\*PAA

**Docket No. 060793-EI** – Petition for approval of long-term fuel transportation contracts with Duke Energy Southeast Supply Header, LLC and CenterPoint Energy Southeastern Pipelines Holding, L.L.C. ("SESH Pipeline Contracts"), by Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** ECR: Lester, Colson

GCL: Bennett

**Issue 1:** Should the Commission approve the terms and conditions of Progress Energy's long term fuel transportation contracts with Southeast Supply Header, LLC (an affiliate of Duke Energy Gas Transmission, LLC) and CenterPoint Energy Southeastern Pipelines Holding, LLC. (an affiliate of CenterPoint Energy, Inc)?

**Recommendation:** No. As a matter of policy, the Commission should not approve the terms and conditions of the long term fuel contracts between PEF and Southeast Supply Header, LLC (an affiliate of Duke Energy Gas Transmission, LLC) and CenterPoint Energy Southeastern Pipelines Holding, LLC. (an affiliate of CenterPoint Energy, Inc). PEF already has sufficient certainty concerning the regulatory treatment of these contracts.

**Issue 2:** Are the costs associated with PEF's proposed participation in the Southeast Supply Header pipeline appropriate for recovery through the fuel cost-recovery clause beginning in 2008?

**Recommendation:** Yes. Costs associated with PEF's proposed participation in the Southeast Supply Header Pipeline project are appropriate for recovery through the fuel cost recovery clause. The Commission should allow PEF to charge the gas transportation costs associated with the pipeline to the clause when the pipeline begins providing service to PEF. The costs associated with this pipeline, like all gas transportation costs, will be subject to the annual cost review in the fuel clause proceeding and further review, subject to a finding that PEF has managed its contracts in a reasonable and prudent manner.

**Issue 3:** Should this docket be closed?

**Recommendation:** Yes. The Commission should close this docket upon issuance of a consummating order unless a person whose 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**

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25\*\*PAA

**Docket No. 060260-WS** – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc. (Deferred from February 13, 2007, conference; revised recommendation filed.)

**Critical Date(s):** 03/13/07 (5-month effective date - PAA Rate Case)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Pending

**Staff:** ECR: Rendell, Rieger, Lingo, Springer, Kyle

GCL: Fleming

**(All issues proposed agency action except Issues 20 and 22.)**

**Issue 1:** Is the quality of service provided by Lake Placid Utilities, Inc. considered satisfactory?

**Recommendation:** Yes. The utility's overall quality of service is satisfactory.

**Issue 2:** Should the audit rate base adjustments to which the utility agrees be made?

**Recommendation:** Yes. Based on audit adjustments which the utility agrees with, plant should be reduced by \$14,150 for water and \$3,093 for wastewater. In addition, accumulated depreciation should be increased by \$4,555 for water and \$4,424 for wastewater.

**Issue 3:** What is the appropriate Water Service Corporation (WSC) and Utilities, Inc. of Florida (UIF) rate base allocations for Lake Placid?

**Recommendation:** The appropriate WSC net rate base allocation for Lake Placid is \$824 for water and \$1,591 for wastewater. This represents an increase of \$197 and \$308 for water and wastewater, respectively. WSC depreciation expense should also be increased by \$12 and \$16, for water and wastewater, respectively. Further, the appropriate UIF rate base allocation for Lake Placid is \$4,781 for water and \$4,837 for wastewater. This represents water plant and accumulated depreciation decreases of \$12,591 and \$7,350, respectively, and wastewater plant and accumulated depreciation increases of \$12,582 and \$7,745, respectively. In addition, depreciation expense should be decreased by \$764 for water and increased by \$1,656 for wastewater.

**Issue 4:** Should other rate base adjustments be made?

**Recommendation:** Yes. Pro forma plant should be reduced by \$22,424 for water and \$1,343 for wastewater. Corresponding adjustments should be made to increase accumulated depreciation by \$17,036 for water, decrease accumulated depreciation by \$30 for wastewater and decrease depreciation expense by \$1,083 and \$30 for water and wastewater, respectively. Accumulated Amortization of Acquisition should be decreased by \$9,204 for water. Historical plant should be increased by \$17,900 for wastewater.

ITEM NO.

CASE

25\*\*PAA

**Docket No. 060260-WS** – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc. (Deferred from February 13, 2007, conference; revised recommendation filed.)

(Continued from previous page)

**Issue 5:** What is the used and useful percentage for the water treatment plant, the wastewater treatment plant, the water distribution system and the wastewater collection system?

**Recommendation:** Lake Placid's water treatment plant should be considered 100% used and useful. The wastewater treatment plant should be considered 30.46% used and useful, and the water distribution system and wastewater collection system, with the exception of Account 354, should be considered 100% used and useful as reflected in Attachment A of staff's March 1, 2007, memorandum. As a result of the above adjustments, net wastewater rate base should be reduced by \$94,585. Corresponding adjustments should also be made to reduce wastewater depreciation expense by \$8,206 and property taxes by \$589. An adjustment should be made to reduce O&M expense by \$681 for excessive unaccounted for water.

**Issue 6:** What is the appropriate working capital allowance?

**Recommendation:** The appropriate amount of working capital is \$3,181 for water and \$7,952 for wastewater based on the formula method.

**Issue 7:** What is the appropriate water and wastewater rate base?

**Recommendation:** The appropriate water rate base for the test year ending December 31, 2005, is \$160,656. The appropriate wastewater rate base for the period ending December 31, 2005, is \$104,686.

**Issue 8:** What is the appropriate return on common equity?

**Recommendation:** The appropriate return on common equity is 11.45% based on the Commission leverage formula currently in effect. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

**Issue 9:** What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2005?

**Recommendation:** The appropriate weighted average cost of capital for the test year ended December 31, 2005 is 7.50%.

**Issue 10:** What adjustments, if any, should be made to the utility's test year revenue?

**Recommendation:** Water revenues should be increased by \$1,809 and wastewater revenues should be increased by \$1,631.

**Issue 11:** Should audit net operating income adjustments to which the utility agrees be made?

**Recommendation:** Yes. Water O&M expense should be reduced by \$2,602. Taxes Other Than Income should be increased by \$468 and \$2,064 for water and wastewater, respectively. Additionally water depreciation expense should be increased by \$957, and wastewater depreciation expense should be increased by \$762.

ITEM NO.

CASE

25\*\*PAA

**Docket No. 060260-WS** – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc. (Deferred from February 13, 2007, conference; revised recommendation filed.)

(Continued from previous page)

**Issue 12:** What is the appropriate amount of allocated WSC and UIF expenses for Lake Placid?

**Recommendation:** The appropriate WSC O&M expenses and taxes other than income for Lake Placid are \$2,825 and \$3,724, respectively. As such, water and wastewater O&M expenses should be increased by \$62 and \$81, respectively, and water and wastewater taxes other than income should be decreased by \$4 and \$6, respectively. Further, the appropriate UIF O&M expenses for Lake Placid are \$1,913 for water and \$2,522 for wastewater. As such, water and wastewater O&M expense should be increased by \$178 and \$235, respectively.

**Issue 13:** Should an adjustment be made to the utility's pro forma salaries and wages, pensions and benefits, and payroll taxes?

**Recommendation:** Yes. Lake Placid's salaries and wages should be decreased by \$705 for water and \$749 for wastewater. Accordingly, pensions and benefits should be reduced by \$48 for water and \$52 for wastewater, respectively, and payroll taxes should be reduced by \$78 and \$96 for water and wastewater, respectively.

**Issue 14:** Should additional adjustments be made to Taxes Other Than Income?

**Recommendation:** Yes. Taxes Other Than Income should be increased by \$931 and \$1,451 for water and wastewater, respectively, to reflect the appropriate amount of test year regulatory assessment fees (RAFs).

**Issue 15:** What is the appropriate amount of rate case expense?

**Recommendation:** The appropriate rate case expense is \$31,073 for water and \$39,547 for wastewater. This expense should be recovered over four years for an annual expense of \$7,768 for water and \$9,887 for wastewater. Thus annual rate case expense should be reduced by \$6,745 for water and \$8,415 for wastewater.

**Issue 16:** What is the test year operating income?

**Recommendation:** Based on the adjustments discussed in previous issues, the test year operating income before any provision for increased revenues is \$6,469 and (\$3,219) for water and wastewater, respectively.

**Issue 17:** What are the appropriate revenue requirements for water and wastewater?

**Recommendation:** The following revenue requirement should be approved.

	<u>Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$47,204	\$9,375	\$56,579	19.86%
Wastewater	\$72,043	\$18,591	\$90,634	25.81%

ITEM NO.

CASE

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25\*\*PAA

**Docket No. 060260-WS** – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc. (Deferred from February 13, 2007, conference; revised recommendation filed.)

(Continued from previous page)

**Issue 18:** What are the appropriate rate structures for the water and wastewater systems?

**Recommendation:** The appropriate rate structure for the water system is a continuation of the current base facility charge (BFC)/uniform gallonage charge rate structure. The residential wastewater-only flat rate structure should be discontinued and replaced with a bulk wastewater rate based on a BFC/gallonage charge rate structure. The bulk customers' BFC should be based on 80% of the number of equivalent residential connections actually connected to the system, while the gallonage charge should be set at 80% of the general service gallonage charge. The traditional BFC/gallonage charge rate structure should be continued for the remaining wastewater customers. The BFC cost recovery should be set at 54.6% for the water system and 50% for the wastewater system. The multi-residential gallonage charge rate should be set at an amount equal to the general service gallonage charge rate.

**Issue 19:** What are the appropriate rates for monthly service for the water and wastewater systems?

**Recommendation:** The appropriate water and wastewater rates are shown in Schedule Nos. 4-A and 4-B of staff's March 1, 2007, memorandum.

**Issue 20:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

**Recommendation:** The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B of staff's March 1, 2007, memorandum to remove rate case expense, grossed up for regulatory assessment fees, which is being amortized over a four-year period. The decrease in water rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction.

ITEM NO.

CASE

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25\*\*PAA

**Docket No. 060260-WS** – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc. (Deferred from February 13, 2007, conference; revised recommendation filed.)

(Continued from previous page)

**Issue 21:** Should the utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

**Recommendation:** Yes. The utility should be authorized to revise its miscellaneous service charges. The appropriate charges are reflected in the analysis portion of staff's March 1, 2007, memorandum. The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

**Issue 22:** Should the utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

**Recommendation:** Yes. To ensure that the utility adjusts its books in accordance with the Commission's decision, Lake Placid should provide proof, within 90 days of the issuance of the Consummating Order, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

**Issue 23:** Should this docket be closed?

**Recommendation:** No. If no person whose substantial interests are affected by the proposed agency action issues files a protest within 21 days of the issuance of the order, a Consummating Order will be issued. However, the docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. When the PAA issues are final and the tariff and notice actions are complete, this docket may be closed administratively.



**ITEM NO.**

**CASE**

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26

**Docket No. 060285-SU** – Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven.

**Critical Date(s):** 07/09/07 (5-month statutory date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** ECR: Fletcher, Springer, Rendell

GCL: Brown

**(Participation is at the discretion of the Commission.)**

**Issue 1:** Should the utility's proposed wastewater system capacity charge of \$2,627.75 per equivalent residential connection and \$13.83 per gallon for all others be approved on a temporary basis?

**Recommendation:** Yes. The utility's proposed wastewater system capacity charges of \$2,627.75 per equivalent residential connection and \$13.83 per gallon for all others should be approved on a temporary basis, subject to refund, for connections made after the stamped approval date of the tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code.

**Issue 2:** If the temporary charges are approved, what is the appropriate security to guarantee the temporary increase?

**Recommendation:** A corporate undertaking is acceptable contingent upon receipt of the written guarantee of the parent company, Utilities, Inc. (UI), and written confirmation of UI's continued attestation that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states. UI should be required to file a corporate undertaking on behalf of its subsidiaries to guarantee any potential refunds of monies collected under temporary conditions. UI's total guarantee should be a cumulative amount of \$1,216,970, which includes an amount of \$124,497, subject to refund in this docket. Pursuant to Rule 25-30.360(6), F.A.C., the utility should provide a report by the 20th of each month indicating the monthly and total amount collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

**Issue 3:** Should this docket be closed?

**Recommendation:** No. The docket should remain open pending the Commission's final action on the utility's requested rate increase.

**ITEM NO.**

**CASE**

27\*\*PAA

**Docket No. 060693-WS** – Petition for establishment of allowance for funds used during construction (AFUDC) rate for systems located in Alachua, Brevard, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties, by Aqua Source Utility, Inc. d/b/a Aqua Utilities Florida, Inc., Arredondo Utility Company, Inc. d/b/a Aqua Utilities Florida, Inc., Crystal River Utilities, Inc. d/b/a Aqua Utilities Florida, Inc., Jasmine Lakes Utilities Corporation d/b/a Aqua Utilities Florida, Inc., Ocala Oaks Utilities, Inc. d/b/a Aqua Utilities Florida, Inc., and Aqua Utilities Florida, Inc., effective January 1, 2006.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners  
**Prehearing Officer:** Administrative

**Staff:** ECR: Joyce, Rendell  
 GCL: Jaeger

**Issue 1:** What is the appropriate AFUDC rate for Aqua Utilities Florida, Inc.?

**Recommendation:** The appropriate AFUDC and discounted monthly rates for each of the systems for the period January 1, 2006, through October 12, 2006, are listed below.

<u>Systems</u>	<u>AFUDC Rate</u>	<u>Monthly Discounted Rate</u>
Arredondo Estates/Arredondo Farms	8.18%	0.657371
Jasmine Lakes	8.02%	0.644956
Crystal River Utilities, Inc.	8.88%	0.711487
AquaSource Utility, Inc.	8.88%	0.711487
Ocala Oaks	7.33%	0.591224
Aqua Utilities Florida Inc.	8.85%	0.709174

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no timely protest from a substantially affected person on the Commission-approved AFUDC rate is received within 21 days of the issuance of the PAA Order, the PAA Order on the AFUDC rate will become final upon issuance of a Consummating Order, and the docket should be closed.

**ITEM NO.**

**CASE**

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28\*\*PAA

**Docket No. 060819-WS** – Petition for establishment of allowance for funds used during construction (AFUDC) rate in Alachua, Brevard, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties, by Aqua Utilities Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Pending

**Staff:** ECR: Joyce, Rendell

GCL: Jaeger

**Issue 1:** What is the appropriate AFUDC rate for Aqua Utilities Florida, Inc.?

**Recommendation:** The appropriate AFUDC rate for Aqua is 7.90%, with a discounted monthly rate of 0.635634 and should be effective for eligible projects as of October 13, 2006.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no timely protest from a substantially affected person on the Commission-approved AFUDC rate is received within 21 days of the issuance of the PAA Order, the PAA Order on the AFUDC rate will become final upon issuance of a Consummating Order, and the docket should be closed.

**ITEM NO.**

**CASE**

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29\*\*

**Docket No. 060694-WS** – Application for certificates to provide water and wastewater service in Flagler and Volusia Counties by D & E Water Resources, L.L.C.

**Critical Date(s):** 03/13/07 (Statutory deadline waived by utility until this date.)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Pending

**Staff:** ECR: Clapp, Marsh, Rieger  
GCL: Fleming

**Issue 1:** Should the D & E Water Resources, L.L.C.’s application for water and wastewater certificates be granted?

**Recommendation:** Yes. D & E Water Resources, L.L.C. should be granted Certificate Nos. 635-W and 545-S to serve the territory described in Attachment A of staff’s March 1, 2007, memorandum, effective the date of the Commission’s vote. The resultant order should serve as D & E’s water and wastewater certificates and it should be retained by the utility. The utility should file an executed and recorded copy of the leases for the land for the water and wastewater facilities within 30 days of the issuance date of the Order granting the certificate.

PAA

**Issue 2:** What are the appropriate initial water rates and return on investment for this utility?

**Recommendation:** The staff recommended water and wastewater rates and miscellaneous service charges, shown on Schedule No. 4 of staff’s March 1, 2007, memorandum, should be approved. D & E 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 11.54% with a range of plus or minus 100 basis points should be approved.

PAA

**Issue 3:** What are the appropriate service availability charges for D & E Water Resources, L.L.C.?

**Recommendation:** The service availability policy and charges set forth within the analysis portion of staff’s March 1, 2007, memorandum are appropriate and should be approved effective for connections made on or after the stamped approval date on the tariff sheets.

**Issue 4:** Should this docket be closed?

**Recommendation:** No. If no protest to the proposed agency action issues is filed by a substantially affected person within 21 days of the date of the order, a consummating order should be issued and the docket should be closed administratively upon receipt of the executed and recorded copy of the long-term lease.

**ITEM NO.**

**CASE**

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30\*\*

**Docket No. 020640-SU** – Application for certificate to provide wastewater service in Lee County by Gistro, Inc. (Deferred from February 13, 2007, conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** ECR: Brady, Redemann

GCL: Gervasi

**Issue 1:** Should the Commission acknowledge Gistro, Inc.'s Notice of Withdrawal of its application for a wastewater certificate?

**Recommendation:** No. The Commission should decline to acknowledge the notice of withdrawal and should proceed with a ruling on the merits of the application as set forth in Issues 2 through 5 of staff's February 1, 2007, recommendation. If the Commission disagrees, Issues 2 through 5 need not be ruled upon and the docket should be closed in Issue 6.

**Issue 2:** If the Commission declines to acknowledge Gistro, Inc.'s Notice of Withdrawal, should Gistro, Inc.'s application for a wastewater certificate be granted?

**Recommendation:** Yes. Gistro, Inc. should be granted Certificate No. 541-S to serve the territory described in Attachment A of staff's February 1, 2007, memorandum. The effective date of the certificate should be the date of the Commission vote. The resultant order should serve as Gistro Inc.'s wastewater certificate and should be retained by the applicant as such. Within 45 days after the issuance of a final order granting a certificate, the applicant should be required to file an affidavit attesting that Gistro's books and records have been established and will be maintained pursuant to the NARUC uniform system of accounts. The affidavit should attest that the applicant is aware of his responsibility to timely file annual reports and remit regulatory assessment fees for 2007 and in all future years. The applicant should also be put on notice that, pursuant to Rule 25-30.225(9), Florida Administrative Code, each utility is required to inspect its plant and facilities in such a manner and with such frequency as may be necessary to ensure that the plant and facilities are maintained in proper condition for rendering safe and adequate service and that failure to do so may result in show cause proceedings.

ITEM NO.

CASE

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30\*\*

**Docket No. 020640-SU** – Application for certificate to provide wastewater service in Lee County by Gistro, Inc. (Deferred from February 13, 2007, conference.)

(Continued from previous page)

PAA

**Issue 3:** If the Commission grants Gistro, Inc. a certificate of authorization, what is the appropriate initial wastewater service rate?

**Recommendation:** A quarterly wastewater service rate of \$19.18 per residential connection should be approved. The applicant should be required to charge the approved rate until authorized to change by the Commission in a subsequent proceeding. The applicant should be put on notice that he may not require persons wishing to connect to the collection system to purchase stock in Gistro. The applicant should also be put on notice that, pursuant to Section 367.111(1), Florida Statutes, the utility is required to provide service to its certificated area within a reasonable time and that the Commission will not tolerate the refusal of such service. Within 10 days from the date of the Commission vote, the applicant should file a proposed customer notice and a revised tariff reflecting its approved rates and charges for staff's review. The approved rates and charges should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision and the proposed customer notice is adequate. The utility should provide proof of the date the staff-approved notice was given within 10 days after the date of notice. A return on equity of 8.88%, plus or minus 100 basis points, should be approved.

PAA

**Issue 4:** If the Commission grants Gistro, Inc. a certificate of authorization, what are the appropriate miscellaneous service charges?

**Recommendation:** The Commission's standard miscellaneous wastewater services charges, as described in staff's the analysis portion of staff's February 1, 2007, memorandum, should be approved. In addition, a \$5.00 late payment charge is reasonable and should be approved. These charges should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code, and should be included in the notice described in Issue 3.

ITEM NO.

CASE

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30\*\*

**Docket No. 020640-SU** – Application for certificate to provide wastewater service in Lee County by Gistro, Inc. (Deferred from February 13, 2007, conference.)

(Continued from previous page)

**Issue 5:** If the Commission grants Gistro, Inc. a certificate of authorization, should the approved rates be implemented on a temporary basis, subject to refund with interest, in the event of a protest?

**Recommendation:** Yes. In the event of a protest, the applicant should be authorized to implement the approved rates on a temporary basis, subject to refund, pending the final outcome of this proceeding. Should the final rates be lower than the temporary rates, the applicant should be required to refund the difference, with interest, pursuant to Rule 25-30.360, Florida Administrative Code. Prior to the implementation of any temporary rates, the applicant should be required to provide evidence of security as described in the analysis portion of staff's February 1, 2007, memorandum. In addition, after the temporary rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the applicant should file monthly reports no later than the 20th of each month indicating the monthly and total amount of money that was subject to refund at the end of the preceding month until the final order is issued. The monthly reports should also indicate the status of the security being used to guarantee repayment of any potential refund.

**Issue 6:** Should this docket be closed?

**Recommendation:** If the Commission acknowledges the applicant's Notice of Withdrawal in Issue 1, no further action is necessary and the docket should be closed. If the Commission declines to acknowledge the applicant's Notice of Withdrawal, grants a certificate of authorization, sets initial rates and charges and no timely protest is received to the proposed agency action issues, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of a proposed notice reflecting the applicant's approved rates, a statement confirming that the notice has been given, a revised tariff, and an affidavit attesting that the books and records for Gistro have been established pursuant to the NARUC uniform system of accounts, and that the applicant is aware of his responsibility to timely file annual reports and remit RAFs for 2007 and in all future years. Upon receipt and verification of such documents, the docket should be administratively closed. If a timely protest to a proposed agency action issue is filed by a person whose interests are substantially affected, the docket should remain open in order to proceed to hearing.