

FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: Tuesday, October 27, 2009, 9:30 a.m.

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

DATE ISSUED: October 19, 2009

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

1**

Consent Agenda

PAA

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

DOCKET NO.

COMPANY NAME

090401-TX

IntelePeer, Inc.

090406-TX

Cincinnati Bell Any Distance Inc.

090440-TX

Rosebud Telephone, LLC

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

ITEM NO.

CASE

2**

Docket No. 080677-EI – Petition for increase in rates by Florida Power & Light Company.

Docket No. 090130-EI – 2009 depreciation and dismantlement study by Florida Power & Light Company.

Docket No. 090079-EI – Petition for increase in rates by Progress Energy Florida, Inc.

Docket No. 090144-EI – Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc.

Docket No. 090145-EI – Petition for expedited approval of the deferral of pension expenses, authorization to charge storm hardening expenses to the storm damage reserve, and variance from or waiver of Rule 25-6.0143(1)(c), (d), and (f), F.A.C., by Progress Energy Florida, Inc.

Critical Date(s): 080677-EI - March 18, 2010 (expiration of 12-month clock)

090079-EI – March 20, 2010 (expiration of 12-month clock)

090130-EI, 090144-EI, 090145-EI - None

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending (080677-EI)

Pending (090130-EI)

Skop (090079-EI, 090144-EI, 090145-EI)

Staff: GCL: Bennett, Fleming

ECR: Devlin, Willis

Issue 1: Can the Commission postpone its final decision in the Florida Power & Light Company and Progress Energy Florida Inc.'s Petitions for base rate increase, and if so, how?

Recommendation: No. Time does not permit a postponement of the decisions in the FPL and PEF rate cases. Section 366.06(3), F.S., mandates the Commission render a final decision in FPL's rate case on or before March 18, 2010, and render a final decision in PEF's rate case on or before March 20, 2010. The Commission should take all steps necessary to timely render its final orders in both cases as mandated by the legislature.

Issue 2: Can FPL begin charging rates subject to refund on January 1, 2010?

Recommendation: If the Commission agrees with Staff's recommendation in Issue 1, this issue is moot and the Commission need not vote. If the Commission disagrees with staff's recommendation in Issue 1, staff recommends that FPL cannot begin charging rates subject to refund on January 1, 2010. The terms of the 2005 Stipulation and Settlement Agreement control to prevent FPL from charging new rates until after the Commission enters its order. The order must be entered within the 12 month timeframe established by Section 366.06(3), F.S. For the reasons discussed above, the Commission should follow the current schedule to set rates by January 11, 2010.

ITEM NO.

CASE

2**

Docket No. 080677-EI – Petition for increase in rates by Florida Power & Light Company.

Docket No. 090130-EI – 2009 depreciation and dismantlement study by Florida Power & Light Company.

Docket No. 090079-EI – Petition for increase in rates by Progress Energy Florida, Inc.

Docket No. 090144-EI – Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc.

Docket No. 090145-EI – Petition for expedited approval of the deferral of pension expenses, authorization to charge storm hardening expenses to the storm damage reserve, and variance from or waiver of Rule 25-6.0143(1)(c), (d), and (f), F.A.C., by Progress Energy Florida, Inc.

(Continued from previous page)

Issue 3: Can the Commission postpone its final decision the Progress Energy Florida, Inc.'s Petition for Base Rate Increase, and if so, how?

Recommendation: No. Time does not permit a postponement of the decisions in the PEF rate case. Section 366.06(3), F.S., mandates the Commission render a final decision in PEF's rate case on or before March 20, 2010. Postponing decisions in each of the rate cases until after newly appointed Commissioners take office will likely delay a final decision past the deadline mandated by the legislature. The Commission should take all steps necessary to timely render its final orders in both cases as mandated by the legislature.

Issue 4: If the Commission postpones its final decision in the Progress Energy Florida, Inc.'s rate case, can Progress Energy Florida, Inc. begin charging rates subject to refund on January 1, 2010?

Recommendation: If the Commission agrees with staff's recommendation in Issue 3, this issue is moot and the Commission need not take action. If the Commission disagrees with staff's recommendation in Issue 3, staff recommends that if the Commission postpones its final decision in the Progress Energy Florida, Inc.'s rate case, Progress Energy Florida, Inc. may begin charging rates subject to refund on January 1, 2010.

Issue 5: Should these dockets be closed?

Recommendation: No. This is a procedural matter and the dockets should remain open pending final Commission action.

ITEM NO.

CASE

3**PAA

Docket No. 090109-EI – Petition for approval of solar energy power purchase agreement between Tampa Electric Company and Energy 5.0, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending

Staff: SGA: Graves, Ellis, Gilbert, Matthews

ECR: Matlock

GCL: Hartman

Issue 1: Should the Commission approve the requested recovery for costs incurred under the negotiated Contract between TECO and Energy 5.0?

Recommendation: Yes. Staff recommends that TECO be authorized to recover the energy payments made to Energy 5.0, up to TECO's as-available energy rate, through TECO's annual fuel cost recovery factor. Staff considers any costs in excess of TECO's as-available energy cost to be associated with the purchase of environmental attributes or renewable energy credits (RECs) which are discussed in Issue 2.

Issue 2: Should the Commission approve cost recovery for payments, above avoided cost, incurred under the negotiated contract between TECO and Energy 5.0 for the purchase of environmental attributes and renewable energy credits?

Recommendation: No. Pursuant to Rule 25-17.0825(6), F.A.C., payments to a qualifying facility for as-available energy cannot result in higher cost electric service to the utility's general body of ratepayers. Staff recommends that the environmental attributes and RECs purchased should be the property of TECO, and any risk of profit or loss resulting from the sale of such attributes should be borne by TECO's stockholders.

Issue 3: 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

4**PAA

Docket No. 090122-EG – Petition for approval of modifications to approved energy conservation programs, by Associated Gas Distributors of Florida. (Deferred from the September 15, 2009 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending

Staff: SGA: Ellis, Brown

GCL: Fleming

Issue 1: Should the Commission approve the Associated Gas Distributors of Florida's petition to add the proposed Conservation Demonstration and Development Program to their member's conservation programs?

Recommendation: Yes. The proposed Conservation Demonstration and Development Program will allow the members of AGDF to pursue opportunities for joint research and development of new natural gas conservation programs. Expenditures for the program should be capped at \$2,000,000 for a five year period starting October 29, 2009, with a project cap of \$400,000. AGDF should submit petitions for specific projects to the Commission before utilizing the funds established in this program.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the program modifications should become effective October 29, 2009. If a protest is filed within 21 days of the issuance of the proposed agency action order, the program modifications should not be implemented until after the resolution of the protest. If no timely protest is filed, the docket should be closed upon the issuance of a consummating order.

ITEM NO.

CASE

5

Docket No. 080407-EG – Commission review of numeric conservation goals (Florida Power & Light Company).

Docket No. 080408-EG – Commission review of numeric conservation goals (Progress Energy Florida, Inc.).

Docket No. 080409-EG – Commission review of numeric conservation goals (Tampa Electric Company).

Docket No. 080410-EG – Commission review of numeric conservation goals (Gulf Power Company).

Docket No. 080411-EG – Commission review of numeric conservation goals (Florida Public Utilities Company).

Docket No. 080412-EG – Commission review of numeric conservation goals (Orlando Utilities Commission).

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA).

Critical Date(s): Pursuant to Section 366.82(6), F.S., the Commission must review conservation goals at least every five years. New conservation goals must be set by January 2, 2010.

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: SGA: Brown, Clemence, Crawford, Ellis, Garl, Gilbert, Graves, Harlow, Lewis, Marr, Matthews

ECR: Dowds, Higgins

GCL: Fleming, Sayler

(Participation is Limited to Commissioners and Staff. Take up Issues 4 and 8 together.)

Issue 1: Did the Company provide an adequate assessment of the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems, pursuant to Section 366.82(3), F.S.?

Recommendation: Yes. The seven FEECA utilities and NRDC/SACE (the Collaborative) retained the consulting firm ITRON to perform a technical potential study. The ITRON study identified 58,616 GWhs of annual energy, 14,375 MWs of summer system peak demand, and 8,883 MWs of winter system peak demand as the statewide technical potential of demand-side conservation and energy efficiency measures for Florida. A supply-side technical potential was not calculated.

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Docket No. 080412-EG – Commission review of numeric conservation goals (Orlando Utilities Commission).

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA).

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Issue 2: Did the Company provide an adequate assessment of the achievable potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems?

Recommendation: Yes. Each FEECA utility utilized the Technical Potential Study performed by ITRON to develop a statewide achievable potential for energy efficiency and conservation. In coordination with ITRON, the FEECA utilities disclosed the necessary information and analysis required by statute.

Issue 3: Do the Company's proposed goals adequately reflect the costs and benefits to customers participating in the measure, pursuant to Section 366.82(3)(a), F.S.?

Recommendation: Yes. The utilities properly used the Participants Test in the screening of measures in order to determine the costs and benefits to customers that participate in DSM programs.

Issue 4: Do the Company's proposed goals adequately reflect the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant, pursuant to Section 366.82(3)(b), F.S.?

Recommendation: Yes. Staff believes that the Participants Test, RIM Test, and TRC Test should all be used to set goals.

Issue 5: Do the Company's proposed goals adequately reflect the costs imposed by state and federal regulations on the emission of greenhouse gases, pursuant to Section 366.82(3)(d), F.S.?

Recommendation: No. The FEECA utilities, in analyzing DSM measures for this proceeding, went beyond requirements of the statute by including potential CO₂ emission costs. The utilities' projections of potential CO₂ costs varied by over 100 percent, and, therefore, should not be relied upon in this goal setting process.

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Docket No. 080413-EG – Commission review of numeric conservation goals (JEA).

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Issue 6: Should the Commission establish incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems?

Recommendation: No. Increasing rates in order to provide incentives to utilities is more appropriately addressed in a future limited scope proceeding as provided for in Section 366.82(9), F.S. Customers are already eligible to receive incentives through existing DSM programs.

Issue 7: In setting goals, what consideration should the Commission give to the impact on rates?

Recommendation: The Commission should give substantial consideration to the impact on rates when setting conservation goals. The legislative intent for public utility regulation is protection of the public welfare. Ensuring reasonable rates, among other issues, is an integral part of that protection.

Issue 8: What cost-effectiveness test or tests should the Commission use to set goals, pursuant to Section 366.82, F.S.?

Recommendation: As discussed in Issue 4, staff believes that the Participants Test, RIM Test, and TRC Test should all be used to set goals.

ITEM NO.

CASE

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Docket No. 080407-EG – Commission review of numeric conservation goals (Florida Power & Light Company).

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Docket No. 080412-EG – Commission review of numeric conservation goals (Orlando Utilities Commission).

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA).

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Issue 9: What residential summer and winter megawatt (MW) and annual Gigawatt-hour (GWh) goals should be established for the period 2010-2019?

Recommendation: The Commission should reject the residential goals proposed by the utilities, NRDC/SACE, FSC, and GDS for the various reasons discussed in staff's memorandum dated October 15, 2009. Staff recommends that residential goals be approved based on the FEECA utilities continuing to offer their existing programs consistent with their 2009 Ten-Year Site Plans and existing programs. In addition, the utilities should be required to expand their educational programs to include measures that failed the two-year payback screening and measures offering significant savings potential that passed the TRC Test, but failed the RIM Test.

Issue 10: What commercial/industrial summer and winter megawatt (MW) and annual Gigawatt hour (GWh) goals should be established for the period 2010-2019?

Recommendation: The Commission should reject the commercial/industrial goals proposed by the utilities, NRDC/SACE, FSC, and GDS for the various reasons discussed in staff's memorandum dated October 15, 2009. Staff recommends that commercial/industrial goals be approved based on the FEECA utilities continuing to offer their existing programs consistent with previous filings in the Ten-Year Site Plan and power plant need determinations. In addition, the utilities should be required to expand their educational programs to include measures that failed the two-year payback screening and measures offering significant saving potential that passed the TRC Test, but failed the RIM Test.

ITEM NO.

CASE

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Docket No. 080407-EG – Commission review of numeric conservation goals (Florida Power & Light Company).

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Docket No. 080413-EG – Commission review of numeric conservation goals (JEA).

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Issue 11: In addition to the MW and GWh goals established in Issues 9 and 10, should the Commission establish separate goals for demand-side renewable energy systems?

Recommendation: The Commission can meet the requirements of Section 366.82(2), F.S., while protecting ratepayers by requiring the IOUs to offer demand-side renewable programs that do not otherwise pass any of the cost-effectiveness tests, subject to an expenditure cap. Utilities should be required to file pilot programs focusing on encouraging solar water heating and solar PV technologies in the DSM program approval proceeding. Expenditures should be capped at 5 percent of the average annual recovery through the Energy Conservation Cost Recovery clause for the previous five years. Annual expenditures of 5 percent would result in total support for programs designed to encourage solar of approximately \$12.2 million per year for the IOUs.

Issue 12: In addition to the MW and GWh goals established in Issues 9 and 10, should the Commission establish additional goals for efficiency improvements in generation, transmission, and distribution?

Recommendation: No. Since the IOUs did not provide a technical potential of supply-side efficiency measures, goals for generation, transmission, and distribution cannot be established at this time. However, efficiency improvements for generation, transmission, and distribution are continually reviewed through the utilities' planning processes in an attempt to reduce the cost of providing electrical service to their customers.

Issue 13: In addition to the MW and GWh goals established in Issues 9 and 10, should the Commission establish separate goals for residential and commercial/industrial customer participation in utility energy audit programs for the period 2010-2019?

Recommendation: No. Separate goals for customer participation in energy audit programs are unnecessary and could be duplicative.

ITEM NO.

CASE

5

Docket No. 080407-EG – Commission review of numeric conservation goals (Florida Power & Light Company).

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Docket No. 080409-EG – Commission review of numeric conservation goals (Tampa Electric Company).

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Docket No. 080413-EG – Commission review of numeric conservation goals (JEA).

(Continued from previous page)

Issue 14: What action, if any, should the Commission take in this proceeding to encourage the efficient use of cogeneration?

Recommendation: No additional action is needed. The Commission has appropriately implemented legislative policy to encourage the development and compensation requirements of cogeneration.

Issue 15: Since the Commission has no rate-setting authority over OUC and JEA, can the Commission establish goals that puts upward pressure on their rates?

Recommendation: Staff recommends that the Commission has authority to adopt conservation goals for all electric utilities under the jurisdiction of FEECA. OUC and JEA come within the meaning of utility as defined by FEECA. Developing, establishing, and adopting conservation goals is a regulatory activity exclusively granted to the Commission by FEECA and is not ratemaking within the meaning of Chapter 366, F.S. Therefore, staff recommends that the Commission has the authority to develop, establish, and adopt conservation goals for OUC and JEA as required by Section 366.82, F.S.

Issue 16: Should this docket be closed?

Recommendation: Yes. These dockets should be closed after the time for filing an appeal has run. Within 90 days of the issuance of the final order, each utility shall file, as needed, a demand side management plan designed to meet the utility's approved goals.

ITEM NO.

CASE

6**

Docket No. 090164-EI – Petition for approval of revised tariff sheets for underground residential distribution service, by Tampa Electric Company.

Critical Date(s): 12/01/09 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Piper, Draper, Kummer

GCL: Saylor

Issue 1: Should the Commission approve TECO's proposed underground residential distribution (URD) tariffs and associated charges?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the tariffs should become effective on October 27, 2009. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

ITEM NO.

CASE

7**

Docket No. 090185-WU – Application for grandfather certificate to operate water utility in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Brady, Kaproth, Simpson

GCL: Bennett

(Proposed Agency Action for Issue 3 only.)

Issue 1: Should the application for a grandfather water certificate in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility be acknowledged?

Recommendation: Yes. Camachee Cove’s application should be acknowledged and the utility should be issued Certificate No. 647-W, effective January 16, 2009, to serve the territory described in Attachment A of staff’s memorandum dated October 15, 2009. The resultant order should serve as Camachee Cove’s water certificate and it should be retained by the utility. Camachee Cove should be required to file an annual report and pay regulatory assessment fees by March 31, 2010, for the period of jurisdiction from January 16, 2009, through December 31, 2009.

Issue 2: What service rates should be approved for Camachee Cove Yacht Harbor Utility?

Recommendation: The utility’s service rates that were in effect when St. Johns County transferred jurisdiction to the Commission, as shown on Attachment B of staff’s memorandum dated October 15, 2009, should be approved effective January 16, 2009, pursuant to grandfather rights in Section 367.171, F.S. Camachee Cove should be required to charge the approved rates, including the pass-through rate increase also shown on Attachment B, until authorized to change by this Commission in a subsequent proceeding.

ITEM NO.

CASE

7**

Docket No. 090185-WU – Application for grandfather certificate to operate water utility in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.

(Continued from previous page)

Issue 3: Should the utility’s requested miscellaneous service charges and late payment charge be approved?

Recommendation: Yes. The utility’s requested miscellaneous service charges and late payment charge, shown on Attachment B of staff’s memorandum dated October 15, 2009, are reasonable and should be approved. Within five working days of the issuance of the order, staff recommends that the utility be required to provide a proposed customer notice of the approved charges for staff’s review and approval. Once staff has approved the proposed customer notice, the utility may choose to either mail the notice separately to customers or insert it with the next billing cycle. Within five days after the notice is given, the utility should be required to file an affidavit affirming that the notice has been given to customers of the approved charges. The tariff sheet containing the approved miscellaneous service charges and the late payment charge should become effective for services rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code.

Issue 4: Should this docket be closed?

Recommendation: No. If no protest to the proposed agency action issue is filed by a substantially affected person within 21 days of the date of the order, a consummating order should be issued. However, the docket should remain open pending staff’s verification that the notice of miscellaneous service charges and late payment charge has been given to customers, after which the docket should be administratively closed.

ITEM NO.

CASE

8

Docket No. 090182-SU – Application for increase in wastewater rates in Pasco County by Ni Florida, LLC.

Critical Date(s): 60-Day Suspension Date Waived to 10/27/09

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Fletcher, Bulecza-Banks, Daniel, Linn, Maurey, Mouring, Redemann, Salnova

GCL: Brubaker, Williams

(Decision on Suspension of Rates and Interim Rates – Participation is at the Discretion of the Commission.)

Issue 1: Should the Utility's proposed final wastewater rates be suspended?

Recommendation: Yes. Ni Florida's proposed final wastewater rates should be suspended.

Issue 2: Should an interim revenue increase be approved?

Recommendation: Yes, the Utility should be authorized to collect annual wastewater revenues as indicated below:

| | <u>Adjusted Test Year Revenues</u> | <u>\$ Increase</u> | <u>Revenue Requirement</u> | <u>% Increase</u> |
|------------|--|--------------------|--------------------------------|-------------------|
| Wastewater | \$1,470,837 | \$345,103 | \$1,815,940 | 23.46% |

Issue 3: What are the appropriate interim wastewater rates?

Recommendation: The wastewater service rates for Ni Florida in effect as of December 31, 2008, should be increased by 24.00 percent to generate the recommended revenue increase for the interim period. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1)(a), F.A.C. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision, the proposed customer notice is adequate, and the required security has been filed. The Utility should provide proof of the date notice was given within 10 days after the date of notice.

ITEM NO.

CASE

8

Docket No. 090182-SU – Application for increase in wastewater rates in Pasco County by Ni Florida, LLC.

(Continued from previous page)

Issue 4: What is the appropriate security to guarantee the interim increase?

Recommendation: The Utility should be required to open an escrow account or file a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, the Utility should deposit \$28,759 into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$201,457. 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 revenue 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 5: Should the 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

9**

Docket No. 090422-EI – Petition for extension of governmental adjustment factor tariff and approval of seventh revised tariff sheet No. 9.725 by Florida Power & Light Company.

Critical Date(s): 10/28/09 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper

GCL: Brubaker

Issue 1: Should the Commission approve FPL's petition for extension of the GAF tariff?

Recommendation: Yes, the eligibility period for the GAF tariff should be extended for an additional year until October 30, 2010. The Commission should also accept the report attached to the petition in this docket as satisfying the report requirement of Order No. PSC-08-0414-TRF-EI. FPL should, at least 60 days prior to the expiration of the GAF tariff in October 2010, file a report with the Commission providing an updated quantification of storm restoration benefits based on any new storm-restoration data. Based on the analysis, FPL should also petition the Commission at that time to continue, modify, or discontinue the tariff.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on October 31, 2009. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.