

FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: Tuesday, April 9, 2013, 9:30 a.m.

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

DATE ISSUED: March 28, 2013

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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In accordance with the American with Disabilities Act, persons needing a special accommodation to participate at this proceeding should contact the Office of Commission Clerk no later than five days prior to the conference at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, via 1-800-955-8770 (Voice) or 1-800-955-8771 (TDD), Florida Relay Service. Assistive Listening Devices are available at the Office of Commission Clerk, Betty Easley Conference Center, Room 110.

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ITEM NO.

CASE

1**

Consent Agenda

A) Docket No. 130062-EI – Florida Power & Light Company (“FPL” or “Company”) seeks authority to issue and sell and/or exchange any combination of long-term debt and equity securities and/or to assume liabilities or obligations as guarantor, endorser, or surety in an aggregate amount not to exceed \$6.1 billion during calendar year 2013. In addition, FPL seeks permission to issue and sell short-term securities during calendar years 2013 and 2014 in an amount or amounts such that the aggregate principal amount of short-term securities outstanding at the time of and including any such sale shall not exceed \$4.0 billion.

In connection with this application, FPL confirms that the capital raised pursuant to the application will be used in connection with the activities of FPL and FPL's regulated subsidiaries and not the unregulated activities of FPL or its unregulated subsidiary or affiliates.

PAA

B) Application for Certificate of Authority to Provide Telecommunications Service.

<u>DOCKET</u>	<u>COMPANY NAME</u>	<u>CERT.NO.</u>
130046-TX	Crosstel Tandem, Inc.	8839

Recommendation: The Commission should approve the action requested in the dockets referenced above and close Docket No. 130046-TX. For monitoring purposes, Docket No. 130062-EI should remain open until April 30, 2014, to allow the Company time to file the required Consummation Report.

ITEM NO.

CASE

2**

Docket No. 120246-WS – Revision to Rule 25-30.335, Customer Billing, Revision to Rule 25-30.350, Backbilling, Adoption of Rule 25-30.351, Unauthorized Use, F.A.C.

Rule Status: Rule proposal may be deferred.

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: GCL: Miller

ECO: Daniel, Hudson, McNulty

Issue 1: Should the Commission propose the amendment of Rule 25-30.335, F.A.C., Customer Billing, and Rule 25-30.350, F.A.C., Backbilling, and the adoption of Rule 25-30.351, F.A.C., Unauthorized Use?

Recommendation: Yes. The Commission should propose the amendment of Rules 25-30.335 and 25-30.350 and the adoption of Rule 25-30.351, as set forth in Attachment A of staff's memorandum dated March 28, 2013.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed.

ITEM NO.

CASE

3**PAA

Docket No. 120297-EI – Complaint of Marlowe Ragland against Progressive Energy for alleged disconnections and high bills.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Harris

CAO: Forsman, Hicks

ECO: Rome

Issue 1: What is the appropriate disposition of the Raglands' Formal Complaint?

Recommendation: The Raglands' Formal Complaint should be denied and they should pay the entire outstanding account balance of \$285.78 as previously billed by the utility. It appears that the Raglands' account was properly billed in accordance with Commission statutes, rules, and PEF's tariffs. Based on documentation provided, an audit of the account indicates that the account balance is accurate. The additional deposit has been accurately calculated and assessed. Furthermore, it does not appear that PEF has violated any jurisdictionally applicable provision of the Florida Statutes, the Florida Administrative Code, or its tariff in the handling of the Raglands' account.

Issue 2: Should this docket be closed?

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

ITEM NO.

CASE

4**PAA

Docket No. 120152-WS – Application for increase in water and wastewater rates in Orange County by Pluris Wedgefield, Inc.

Critical Date(s): 5-Month Effective Date Waived Through 04/09/13.

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham

Staff: AFD: VanEsselstine, Fletcher, Maurey

ECO: Thompson, Hudson

ENG: McRoy

GCL: Lawson

(Proposed Agency Action - Except for Issues 20 and 21.)

Issue 1: Is the quality of service provided by Pluris Wedgefield, Inc. satisfactory?

Recommendation: Yes. The quality of service provided by Pluris Wedgefield, Inc. is satisfactory.

Issue 2: Should the audit adjustments to rate base and net operating income to which the Utility and staff agree be made?

Recommendation: Yes. The adjustments should be made to rate base and net operating income as set forth in Table 2-2 of staff's memorandum dated March 28, 2013.

Issue 3: Should the contested audit adjustments to rate base be made?

Recommendation: Yes. The Utility's wastewater plant should be reduced by \$135,285. Accordingly, corresponding adjustments should be made to decrease accumulated depreciation and depreciation expense by \$17,184 and \$4,318, respectively.

Issue 4: Should the Commission approve any pro forma plant additions?

Recommendation: Yes. The appropriate pro forma plant additions are \$86,203 for water and \$3,103 for wastewater. This results in an incremental increase of \$41,358 for water and decrease of \$7,979 for wastewater from the Utility's initial filing. Corresponding adjustments should also be made to decrease accumulated depreciation by \$44,863 for water and \$9,235 for wastewater and decrease depreciation expense by \$2,028 for water and \$391 for wastewater. Additionally, pro forma property taxes should be increased by \$2,243 for water and \$207 for wastewater.

ITEM NO.

CASE

4**PAA

Docket No. 120152-WS – Application for increase in water and wastewater rates in Orange County by Pluris Wedgefield, Inc.

(Continued from previous page)

Issue 5: What are the Used and Useful percentages of the Utility's water and wastewater systems?

Recommendation: Staff recommends that the Utility's WTP and storage be considered 100 percent used and useful (U&U). The Utility's water distribution system should be considered 85.1 percent U&U. As a result, corresponding adjustments are necessary for the non-U&U water distribution plant. Accordingly, water rate base should be reduced by \$9,787. Corresponding adjustments should be made to increase depreciation expense by \$302 and reduce property taxes by \$894. The Utility's WWTP should be considered 72.1 percent U&U. The Utility's wastewater collection system should be considered 85.1 percent U&U. Accordingly, wastewater rate base should be reduced by \$14,186. Corresponding adjustments should be made to increase depreciation expense by \$163 and reduce property taxes by \$2,465.

Issue 6: What is the appropriate working capital allowance?

Recommendation: The appropriate working capital allowance is \$70,969 for water and \$72,121 for wastewater. This represents a reduction of \$3,370 for water and \$3,361 for wastewater.

Issue 7: What is the appropriate rate base for the test year ended December 31, 2011?

Recommendation: Consistent with other recommended adjustments, the appropriate rate base for the test year ended December 31, 2011, is \$4,439,796 for water and \$885,369 for wastewater.

Issue 8: What is the appropriate return on equity?

Recommendation: Based on the Commission leverage formula currently in effect, the appropriate Return on Equity (ROE) is 10.88 percent. 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?

Recommendation: The appropriate weighted average cost of capital, including the proper components, amounts, and cost rates associated with the capital structure, is 8.36 percent.

Issue 10: What is the appropriate amount of test year revenues?

Recommendation: The appropriate test year revenues for Wedgefield are \$983,812 for water and \$732,003 for wastewater. CIAC for water should be increased by \$8,410.

Issue 11: Should any adjustments be made to Contractual Services – Management Fees?

Recommendation: Yes. The appropriate amount of allocated expenses from Pluris Holdings, LLC to Pluris Wedgefield, Inc. in Contractual Services – Management Fees should be reduced by a total of \$69,419 or by \$34,710 each for water and wastewater.

ITEM NO.

CASE

4**PAA

Docket No. 120152-WS – Application for increase in water and wastewater rates in Orange County by Pluris Wedgefield, Inc.

(Continued from previous page)

Issue 12: What is the appropriate amount of rate case expense?

Recommendation: The appropriate amount of rate case expense is \$94,447. This expense should be recovered over four years for an annual expense of \$12,061 for water and \$11,551 for wastewater. Therefore, total rate case expense should be reduced by \$13,153. This represents a reduction of \$1,680 for water and \$1,609 for wastewater on an annual basis.

Issue 13: Should the Commission approve any pro forma expense items for the Utility?

Recommendation: Yes. O&M expense should be increased by \$9,439 for both water and wastewater. Additionally, property taxes should be increased by \$29,091 for water and \$31,245 for wastewater.

Issue 14: What is the appropriate amount of income tax expense?

Recommendation: The appropriate amount of income tax expense is \$93,646 for water and \$20,166 for wastewater as reflected on Schedules 3-A and 3-B, respectively, of staff's memorandum dated March 28, 2013.

Issue 15: What is the appropriate revenue requirement?

Recommendation: The following revenue requirement should be approved.

	Test Year		Revenue	
	<u>Revenue</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
Water	\$983,812	\$389,470	\$1,373,282	39.59%
Wastewater	\$732,003	\$148,110	\$880,113	20.23%

Issue 16: What is the appropriate rate structure for the Wedgefield water and wastewater systems?

Recommendation: The appropriate rate structure for the water system's residential class should be a continuation of the base facility charge (BFC) and three-tier inclining block gallonage charge rate structure. The appropriate usage blocks should be set for consumption at: 1) 0-5,000 gallons; 2) 5,001-10,000 gallons; and 3) usage in excess of 10,000 gallons, with appropriate usage block rate factors of .81, 1.00, and 1.50, respectively. The recommended rate structure for the water system's non-residential class should be a continuation of the BFC and uniform gallonage charge rate structure. The water system's BFC cost recovery percentage should be set at 35 percent. Staff recommends the residential wastewater gallonage cap be set at 8,000 gallons a month. Furthermore, staff recommends that the non-residential gallonage charge be 1.2 times greater than the residential gallonage charge.

ITEM NO.

CASE

4**PAA

Docket No. 120152-WS – Application for increase in water and wastewater rates in Orange County by Pluris Wedgefield, Inc.

(Continued from previous page)

Issue 17: Is a repression adjustment for Wedgefield's water system appropriate in this case, and, if so, what is the appropriate adjustment to make, what are the corresponding expense adjustments to make, and what is the final revenue requirement for the water system?

Recommendation: Yes, a repression adjustment to the water system is appropriate for this Utility. For the water system, test year gallons sold should be reduced by 7,062,000 gallons, purchased power expense should be reduced by \$4,287, chemicals expenses should be reduced by \$3,926 and regulatory assessment fees (RAFs) should be reduced by \$387. The final post-repression revenue requirement for the water system should be \$1,329,044.

Issue 18: What are the appropriate rates for Wedgefield?

Recommendation: The appropriate monthly water and wastewater rates are shown on Schedule Nos. 4-A and 4-B, respectively, of staff's memorandum dated March 28, 2013. The recommended rates should be designed to produce revenues of \$1,329,044 for water and \$880,113 for wastewater, excluding miscellaneous revenues and expenses associated with the repression adjustments. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. 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), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 19: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenue requirement granted. This results in a refund of 6.49 percent for water and 6.68 percent for wastewater. The refunds should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports, pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC, pursuant to Rule 25-30.360(8), F.A.C. Further, the escrow account funds should be released upon staff's verification that the required refunds have been made.

ITEM NO.

CASE

4**PAA

Docket No. 120152-WS – Application for increase in water and wastewater rates in Orange County by Pluris Wedgefield, Inc.

(Continued from previous page)

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, Florida Statutes?

Recommendation: The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B of staff's memorandum dated March 28, 2013, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. Wedgefield 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. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Issue 21: Should the Utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) primary accounts associated with the Commission-approved adjustments?

Recommendation: Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, Wedgefield should provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Issue 22: 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. 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, and that the interim refund has been completed and verified by staff. Once these actions are complete, this docket should be closed administratively, and the escrow account should be released.

ITEM NO.

CASE

5**PAA

Docket No. 120188-WU – Application for approval of transfer of Century-Fairfield Village, Ltd. water system and Certificate No. 640-W in Marion County to GCP Fairfield Village, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: AFD: Brown, Fletcher, Maurey
ECO: Bruce
ENG: Brady, Lewis, Simpson
GCL: Young

(Proposed Agency Action for Issue 3.)

Issue 1: Should the Commission order Century-Fairfield to show cause, in writing within 21 days, why it should not be fined for its failure to obtain Commission approval prior to transferring its facilities to GCP, in apparent violation of Section 367.071, F.S.?

Recommendation: No. The Commission should not initiate a show cause proceeding, but the Commission should place the Utility on notice that it is expected to know and comply with the Commission's rules and regulations.

Issue 2: Should the transfer of the Century-Fairfield Village, Ltd. water system and Certificate No. 640-W to GCP Fairfield Village, LLC be approved?

Recommendation: Yes. The transfer is in the public interest and should be approved effective the date of the Commission vote. The territory being transferred is described in Attachment A of staff's memorandum dated March 28, 2013. The resultant order should serve as GCP's water certificate and should be retained as such. Pursuant to Rule 25-9.044(1), Florida Administrative Code (F.A.C.), the Utility's existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475(1), F.A.C. GCP will be responsible for annual reports and regulatory assessment fees (RAFs) for 2012 and all future years.

Issue 3: What is the appropriate net book value of the Utility for transfer purposes, and should an acquisition adjustment be approved?

Recommendation: Neither the net book value (NBV) of the Utility, nor an acquisition adjustment, can be determined at this time.

Issue 4: Should this docket be closed?

Recommendation: Yes. 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, the docket should be closed upon the issuance of a consummating order.

ITEM NO.

CASE

6**PAA

Docket No. 120240-WU – Application for approval of transfer of water Certificate No. 518-W in Lake County from CWS Communities LP (Haselton Village) to MHC HV FL Utility Systems, L.L.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: AFD: Brown, Fletcher, Maurey

ECO: Thompson

ENG: Ballinger, Buys, Simpson

GCL: Lawson

(Proposed Agency Action for Issue 2.)

Issue 1: Should the Transfer of CWS Communities LP water system and Certificate No. 518-W to MHC HV FL Utility System, L.L.C. be approved?

Recommendation: Yes. The transfer is in the public interest and should be approved effective the date of the Commission vote. The territory being transferred is described in Attachment A of staff's memorandum dated March 28, 2013. The resultant order should serve as MHC HV's water certificate and should be retained as such. Pursuant to Rule 25-9.044(1), Florida Administrative Code (F.A.C.), the Utility's existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475(1), F.A.C. MHC HV will be responsible for annual reports and regulatory assessment fees (RAFs) for 2012 and all future years.

Issue 2: What is the appropriate net book value for MHC HV's water system for transfer purposes and should an acquisition adjustment be approved?

Recommendation: The net book value of MHC HV's water system for transfer purposes is \$18,449 as of December 31, 2011. An acquisition adjustment should not be included in rate base. Within 30 days of the final order, MHC HV should be required to provide a general ledger that show its books have been updated to reflect the Commission-approved balances as of December 31, 2011, along with a statement that these adjustments will also be reflected in the Utility's 2012 annual report.

Issue 3: Should this docket be closed?

Recommendation: Yes. 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, the docket should be closed upon the issuance of a consummating order.

ITEM NO.

CASE

7**PAA

Docket No. 120239-WS – Application for approval to transfer water and wastewater Certificate Nos. 625-W and 536-S in Lake County from Hidden Valley SPE LLC d/b/a Orange Lake to MHC OL Utility Systems, L.L.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: AFD: VanEsselstine, Fletcher, Maurey

ECO: Roberts

ENG: P. Buys, C. Lewis

GCL: Lawson

(Proposed Agency Action for Issue 2.)

Issue 1: Should the transfer of the Hidden Valley SPE LLC d/b/a Orange Lake Utilities water and wastewater systems and Certificate Nos. 625-W and 536-S to MHC OL Utility Systems, L.L.C. be approved?

Recommendation: Yes. The transfer is in the public interest and should be approved effective the date of the Commission vote. The territory being transferred is described in Attachment A of staff's memorandum dated March 28, 2013. The resultant order should serve as MHC OL's water and wastewater certificates and should be retained as such. Pursuant to Rule 25-9.044(1), Florida Administrative Code (F.A.C.), the Utility's existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475(1), F.A.C. MHC OL will be responsible for annual reports and regulatory assessment fees (RAFs) for 2012 and all future years.

Issue 2: What are the appropriate net book values for MHC OL's water and wastewater systems for transfer purposes and should an acquisition adjustment be approved?

Recommendation: The net book values of MHC OL's water and wastewater systems for transfer purposes are \$231,435 and \$123,369, respectively, as of December 31, 2011. An acquisition adjustment should not be included in rate base. Within 30 days of the final order, MHC OL should be required to provide general ledgers that show its books have been updated to reflect the Commission-approved balances as of December 31, 2011, along with a statement that these adjustments will also be reflected in the Utility's 2012 annual report.

Issue 3: Should this docket be closed?

Recommendation: Yes. 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, the docket should be closed upon the issuance of a consummating order.

ITEM NO.

CASE

8**PAA

Docket No. 120303-EI – Petition for approval for an accounting order to record in a regulatory asset or liability the unrealized and realized gains and losses resulting from financial accounting requirements related to interest rate derivative agreements, Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: AFD: Bullard, Carbonell, Cicchetti

GCL: Brown

Issue 1: Should the Commission authorize PEF to use deferral accounting to create a regulatory asset or liability account to record the realized and unrealized gains and losses associated with interest rate derivative agreements the Company must record in accordance with GAAP?

Recommendation: Yes. The Commission should authorize PEF to use deferral accounting to create a regulatory asset or liability account to record the realized and unrealized gains and losses associated with interest rate derivative agreements the Company must record in accordance with GAAP. Further, the Commission should find that the approval to record the regulatory asset or liability for accounting purposes does not limit the Commission's ability to review the amounts for reasonableness in future rate proceedings. This accounting treatment should be approved prospectively for the reporting period beginning January 1, 2013.

Issue 2: Should the Commission require PEF to retain and provide documentation of all interest rate derivative activities once granted approval to record in a regulatory asset or liability account the realized and unrealized gains and losses related to interest rate derivative agreements? If so, what type of documentation is required?

Recommendation: Yes. The Commission should require PEF to track and record both the effective and ineffective portions of its realized and unrealized gains and losses. The Commission should authorize the Company to record such transactions as regulatory assets or liabilities in the Accounts 182.3 and 254, respectively. The Commission should require PEF to submit a Risk Management Plan within 90 days of the date of the final order in this docket and then annually with its application to issue securities. PEF also should file a report delineating the interest rate hedging results for the previous year with its securities consummation report each year.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Order, this docket should be closed administratively upon the issuance of a Consummating Order and staff's verification of receipt of the Risk Management Plan recommended in Issue 2.

ITEM NO.

CASE

9**PAA

Docket No. 130051-EI – Request for approval of change of allowance for funds used during construction (AFUDC), by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: AFD: Buys, Cicchetti, Makki, Prestwood

GCL: Brownless

Issue 1: Should the Commission approve FPL's request to increase its AFUDC rate from 6.41 percent to 6.52 percent?

Recommendation: Yes. The appropriate AFUDC rate for FPL is 6.52 percent based on a 13-month average capital structure for the period ended December 31, 2012.

Issue 2: What is the appropriate monthly compounding rate to achieve the requested 6.52 percent annual AFUDC rate?

Recommendation: The appropriate monthly compounding rate to maintain an annual rate of 6.52 percent is 0.527742 percent.

Issue 3: Should the Commission approve FPL's requested effective date of January 1, 2013, for implementing the revised AFUDC rate?

Recommendation: Yes. The revised AFUDC rate should be effective as of January 1, 2013, for all purposes except for Rule 25-6.0423, F.A.C., Nuclear or Integrated Gasification Combined Cycle Power Plant Recovery. For the purposes of Rule 25-6.0423, F.A.C., 7.42 percent is the appropriate AFUDC rate to be utilized for compounding carrying costs for power plant need petitions submitted on or before December 31, 2010.

Issue 4: 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

10**PAA

Docket No. 120314-EQ – Petition for approval of negotiated renewable energy contracts with U.S. EcoGen Okeechobee, LLC, U.S. EcoGen Clay, LLC, and U.S. EcoGen Martin, LLC, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ENG: Ellis, Lee

ECO: Ollila

GCL: Murphy

Issue 1: Should the Commission approve for cost recovery the negotiated purchased power agreements between the US EcoGen Facilities and FPL?

Recommendation: Yes. The Contracts between the US EcoGen Facilities and FPL provide for renewable generation that meets all requirements of the Commission's Rules. The Contracts are estimated to produce a savings of \$89.4 million in net present value over the term of the Contracts. The Contracts include adequate security for early capacity payments and performance guarantees to protect ratepayers in the event of a default.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.

ITEM NO.

CASE

11**PAA

Docket No. 120325-GU – Application for approval of new depreciation rates, effective January 1, 2013, by St. Joe Natural Gas Company, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham

Staff: ECO: Ollila, Higgins

GCL: Klancke

Issue 1: Should St. Joe's currently prescribed depreciation rates be revised?

Recommendation: Yes. A review of the Company's plans and activities indicates a need for a revision to the currently prescribed depreciation rates.

Issue 2: What should be the implementation date for the new depreciation rates?

Recommendation: Staff recommends approval of St. Joe's proposed January 1, 2013, date of implementation for revised depreciation rates.

Issue 3: What are the appropriate depreciation rates?

Recommendation: Staff's recommended depreciation rates are contained in Attachment A of staff's memorandum dated March 28, 2013. Attachment B of staff's memorandum dated March 28, 2013, shows an increase in annual expenses of \$2,486 based on December 31, 2012, investment.

Issue 4: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the Commission's 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

12**

Docket No. 070414-WS – Application for staff-assisted rate case in Polk County by Hidden Cove, Ltd.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECO: Lingo

GCL: Crawford

Issue 1: Has the Utility complied with the metering and billing reports requirements as discussed in the PAA Order, and, if so, is a revenue-neutral rate restructuring appropriate?

Recommendation: The Utility has complied with the metering and billing reports requirements of the PAA Order. A revenue-neutral rate restructuring is not appropriate.

Issue 2: Should this docket be closed?

Recommendation: Yes.

ITEM NO.

CASE

13

Docket No. 090538-TP – Amended Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; STS Telecom, LLC; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

Critical Date(s): None

Commissioners Assigned: Brisé, Edgar, Balbis

Prehearing Officer: Edgar

Staff: GCL: Tan

TEL: Curry, Long

(Post-Hearing Decision - Participation is Limited to Commissioners and Staff.)

Issue 1: 1) For conduct occurring prior to July 1, 2011, does the Florida Public Service Commission retain jurisdiction over:

(a) QCC's First Claim for Relief alleging violation of 364.08(1) and 364.10(1), Florida Statutes (F.S.) (2010);

(b) QCC's Second Claim for Relief alleging violation of 364.04(1) and (2), F.S. (2010);

(c) QCC's Third Claim for Relief alleging violation of 364.04(1) and (2), F.S. (2010)?

Recommendation: No. Staff recommends that the Commission no longer retains jurisdiction to make a finding of specific violations of Sections 364.08(1) or 364.10(1), F.S., however, QCC's claims for relief are grounded in allegations of anticompetitive behavior by the Respondent CLECs, over which the Commission has continuously maintained jurisdiction, pursuant to Chapter 364, F.S.

Issue 2: For conduct occurring on or after July 1, 2011, does the Florida Public Service Commission retain jurisdiction over:

(a) QCC's First Claim for Relief alleging violation of 364.08(1) and 364.10(1), F.S. (2010);

(b) QCC's Second Claim for Relief alleging violation of 364.04(1) and (2), F.S. (2010);

(c) QCC's Third Claim for Relief alleging violation of 364.04(1) and (2) F.S. (2010)?

Recommendation: No. Staff recommends that the Commission no longer retains jurisdiction to make a finding of specific violations of Sections 364.08(1) or 364.10(1), F.S., however, QCC's claims for relief are grounded in allegations of anticompetitive behavior by the Respondent CLECs, over which the Commission has continuously maintained jurisdiction, pursuant to Chapter 364, F.S.

ITEM NO.

CASE

13

Docket No. 090538-TP – Amended Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; STS Telecom, LLC; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

(Continued from previous page)

Issue 3: Which party has (a) the burden to establish the Commission’s subject matter jurisdiction, if any, over QCC’s First, Second, and Third Claims for Relief, as pled in QCC’s Amended Complaint, and (b) the burden to establish the factual and legal basis for each of these three claims?

Recommendation: Staff recommends that the issues before the Commission must be proven by a preponderance of the evidence provided. QCC has the burden to prove subject matter jurisdiction and to establish the factual and legal basis to provide the relief sought by a preponderance of the evidence.

Issue 4: Does QCC have standing to bring a complaint based on the claims made and remedies sought in (a) QCC’s First Claim for Relief; (b) QCC’s Second Claim for Relief; (c) QCC’s Third Claim for relief?

Recommendation: Yes. Staff believes QCC has standing because its substantial interests fall within the zone of interests to be protected under Sections 364.16(1) and (2), F.S. Accordingly, staff recommends that QCC has standing to seek a determination from the Commission to determine if anticompetitive behavior has occurred.

Issue 5: Has the CLEC engaged in unreasonable rate discrimination, as alleged in QCC’s First Claim for Relief, with regard to its provision of intrastate switched access?

Recommendation: No. The CLECs have not engaged in unreasonable rate discrimination, as alleged in QCC’s First Claim for Relief.

Issue 6: Did the CLEC abide by its Price List in connection with its pricing of intrastate switched access service? If not, was such conduct unlawful as alleged in QCC’s Second Claim for Relief?

Recommendation: Yes. The CLECs abided by their price lists in connection with the pricing of intrastate switched access service.

Issue 7: Did the CLEC abide by its Price List by offering the terms of off-Price List agreements to other similarly-situated customers? If not, was such conduct unlawful, as alleged in QCC’s Third Claim for Relief?

Recommendation: Yes. QCC is not a similarly situated customer. Therefore, the CLECs did not fail to abide by their Price Lists.

ITEM NO.

CASE

13

Docket No. 090538-TP – Amended Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; STS Telecom, LLC; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

(Continued from previous page)

Issue 8: Are QCC's claims barred or limited, in whole or in part, by:

- a) the statute of limitations;
- b) Ch. 2011-36, Laws of Florida;
- c) terms of a CLEC's price list;
- d) waiver, laches, or estoppel;
- e) the filed rate doctrine;
- f) the prohibition against retroactive ratemaking;
- g) the intent, pricing, terms or circumstances of any separate service agreements between QCC and any CLEC;
- h) any other affirmative defenses pled or any other reasons?

8(a) Recommendation: No. Staff believes this proceeding is an administrative proceeding that is before the Commission and for which the Commission is the appropriate court of jurisdiction, and therefore recommends that the statute of limitations does not bar or limit, in whole or in part, QCC's claims for relief in this proceeding.

8(b) Recommendation: No. The Commission continues to have exclusive jurisdiction over wholesale carrier-to-carrier disputes and maintains its obligation to ensure fair and effective competition among telecommunications service providers. Staff recommends that QCC's claims are not barred or limited as it pertains to the issue of anticompetitive behavior.

8(c) Recommendation: No. QCC's claims are not barred or limited, in whole or in part, by terms of the CLECs' price lists.

8(d) Recommendation: No. Staff believes that it is not appropriate for the Commission to make a finding that the adoption is barred by the doctrines of equitable relief.

8(e) Recommendation: No. Staff recommends that the filed rate doctrine does not apply to this proceeding and therefore QCC's claims are not barred or limited, in whole or in part.

8(f) Recommendation: No. In order for retroactive ratemaking to be at issue in this case, the Commission would have to set new rates for past service or change the price list schedule.

ITEM NO.

CASE

13

Docket No. 090538-TP – Amended Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; STS Telecom, LLC; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

(Continued from previous page)

8(g) Recommendation: No. QCC's claims are not barred or limited, in whole or in part, by the intent, pricing, terms or circumstances of separate agreements between QCC and any CLEC.

8(h) Recommendation: No. Staff believes that there are no other affirmative defenses pled or any other reason that bar or limit, in whole or in part, QCC's claims.

Issue 9:

a) If the Commission finds in favor of QCC on (a) QCC's First Claim for Relief alleging violation of 364.08(1) and 364.10 (1), F.S. (2010); (b) QCC's Second Claim for Relief alleging violation of 364.04(1) and (2), F.S. (2010); and/or (c) QCC's Third Claim for Relief alleging violation of 364.04(1) and (2) F.S. (2010), what remedies, if any, does the Commission have the authority to award QCC?

b) If the Commission finds a violation or violations of law as alleged by QCC and has authority to award remedies to QCC per the preceding issue, for each claim:

(i) If applicable, how should the amount of any relief be calculated and when and how should it be paid?

(ii) Should the Commission award any other remedies?

9(a) Recommendation If the Commission finds in favor of Qwest on any of its Claims for Relief, the Commission has the authority to order the CLECs to cure any and all anticompetitive behavior, pursuant to Section 364.16(2), F.S.

9(b) Recommendation: If the Commission finds a violation or violations of law as alleged by QCC and has authority to award remedies to QCC per the preceding issue, the CLECs should be ordered to cure any anticompetitive behavior and negotiate a mutually-acceptable agreement with QCC in good faith.

Issue 10: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendations in Issues 1-9, this docket should be closed after the Order becomes final and the time for filing an appeal has passed.