Table of Contents
Commission Conference Agenda
February 2, 2016

1** **Consent Agenda** 1

2**PAA **Docket No. 140153-WS** – Complaint No. 1139452W by Ahman Atshan against Pluris Wedgefield, Inc. for alleged overbilling..... 3

3 **Docket No. 150185-EI** – Complaint by Erika Alvarez, Jerry Buechler, and Richard C. Silvestri against Florida Power & Light Company. 4

4**PAA **Docket No. 000121B-TP** – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (CENTURYLINK FLORIDA TRACK) 5

5 **Docket No. 150257-WS** – Application for staff-assisted rate case in Marion County, by East Marion Utilities, LLC..... 6

6**PAA **Docket No. 150223-EI** – Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company. 8

7**PAA **Docket No. 150208-EI** – Petition for base rate reduction reflecting end of amortization period for retired plant, by Florida Power & Light Company. 9

8**PAA **Docket No. 150262-EU** – Joint petition for approval of joint termination of settlement agreement by Tampa Electric Company and Mosaic Fertilizer, LLC. 10

9 **Docket No. 160001-EI** – Fuel and purchased power cost recovery clause with generating performance incentive factor. 11

10**PAA **Docket No. 150218-GU** – Petition for approval to discontinue charging multiple purchased gas adjustment (PGA) factors, by Peoples Gas System. 12

11**PAA **Docket No. 150232-GU** – Petition for approval of variance from area extension program (AEP) tariff to delay true-up and extend amortization period, by Florida City Gas. 13

12** **Docket No. 150260-WS** – Request for approval of late payment charges and return check (NSF) charge and request for approval of amendment to tariff sheets for miscellaneous service charges in Lake County by Brendenwood Waterworks, Inc., Harbor Waterworks, Inc., Lake Idlewild Waterworks, Inc., and Raintree Waterworks, Inc., and in Highlands County by Country Walk Utilities, Inc. 14

Item 1

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 22, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Archer, Buys)
Office of the General Counsel (Barrera)

RE: Docket No. 150251-GU – Application for authorization to issue common stock, preferred stock and secured and/or unsecured debt, and to enter into agreements for interest rate swap products, equity products and other financial derivatives, and to exceed limitation placed on short-term borrowings in 2016, by Chesapeake Utilities Corporation.

AGENDA: 02/02/16 – Consent Agenda - Final Order – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Please place the following securities application on the consent agenda for approval.

Docket No. 150251-GU – Application for authorization to issue common stock, preferred stock and secured and/or unsecured debt, and to enter into agreements for interest rate swap products, equity products and other financial derivatives, and to exceed limitation placed on short-term borrowings in 2016, by Chesapeake Utilities Corporation.

Chesapeake Utilities Corporation (Chesapeake or utility) seeks authority to issue during calendar year 2016: up to 7,965,000 shares of Chesapeake common stock, up to 1,000,000 shares of Chesapeake preferred stock, up to $300 million in secured and/or unsecured debt, to enter into agreements up to $150 million in interest rate swap products, equity products and other financial derivatives and to issue short-term obligations in an amount not to exceed $225 million. Chesapeake would utilize its short-term lines of credit and revolving credit for this purpose.

Chesapeake allocates funds to the Florida Division, Florida Public Utilities, and Indiantown Gas Company on an as-needed basis, although in no event would such allocations exceed 75 percent of the proposed equity securities (common stock and preferred stock), long-term debt, short-term debt, interest rate swap products, equity products, and financial derivatives.

Pursuant to Section 366.04, Florida Statutes, the Commission shall have jurisdiction to regulate and supervise each public utility in the issuance and sale of its securities, except a security which is a note or draft maturing not more than one year after the date of such issuance and sale and aggregating not more than five percent of the par value of the other securities of the public utility then outstanding.

For 2016, five percent of the utility's aggregate outstanding balance of other securities is $8,641,078. Chesapeake requests approval to exceed the five percent limit on short-term debt to administer the Retirement Savings plan, Stock and Incentive Compensation Plan, Dividend Reinvestment and Stock Purchase Plan, Financing of the Utility's acquisition program and other corporate purposes. Staff believes the Utility's request conforms to Section 366.04, Florida Statutes, and the dollar amounts proposed in the application are reasonable.

Staff has reviewed the utility's projected capital expenditures. The amount requested by Chesapeake exceeds its expected capital expenditures. The additional amount requested exceeding the projected capital expenditures allows for financial flexibility for the purposes enumerated in the utility's petition as well as unexpected events such as hurricanes, financial market disruptions, and other unforeseen circumstances. Staff believes the requested amounts are appropriate. Staff recommends the utility's petition to issue securities be approved.

For monitoring purposes, this docket should remain open until May 1, 2017, to allow the utility time to file the required Consummation Report.

State of Florida

Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (D. Flores, C. Beard)
Office of the General Counsel (B. Lherisson)

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 2/2/2016 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Application for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

DOCKET NO.	COMPANY NAME	CERT. NO.
150258-TX	InteleTel, LLC	8885

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entity listed above for payment by January 30.

Item 2

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Tan, Lherisson)
Division of Economics (Thompson) KTSH PA
Division of Engineering (P. Buys, Graves) EEG POB

RE: Docket No. 140153-WS – Complaint No. 1139452W by Ahman Atshan against Pluris Wedgefield, Inc. for alleged overbilling.

AGENDA: 02/02/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

After initially pursuing an informal complaint,[1] on August 14, 2014, Ahman Atshan, filed a formal complaint against Pluris Wedgefield, Inc. (Utility), a Class B utility providing service to approximately 1,598 water and 1,567 wastewater customers in Orange County. While Mr. Atshan filed the complaint, the account for the residence at 2813 Village Terrace, Orlando, Florida, was actually in the name of Rabeha Beatneh, his wife.[2] In the complaint, the Customer asserts that he was overcharged for services for the months of August and September, 2013, as the result of a defective water meter. On August 26, 2014, the Utility emailed Commission staff its work orders documenting various meter readings for the Customer's meter. On September 15, 2014, the Utility filed the same information with the Commission's Clerk. On December 29,

[1] Request No. 1139452 W.
[2] For purposes of this recommendation "Customer" refers to Mr. Atshan and /or the service account at his residence.

2015, the Utility advised the Commission that the Customer has sold his property in the Utility's service area, is no longer a customer of the Utility and that after applying the $40 deposit, the Customer left owing the Utility $1,218.64. The Commission has jurisdiction pursuant to Chapter 367, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission grant the relief requested by the Customer in his complaint?

Recommendation: No. The Customer was not overbilled, staff has identified no rule violation, and to the extent that the Customer may be requesting the award of damages, the Commission has no jurisdiction to make such an award. (Tan, Lherisson, P. Buys)

Staff Analysis: The Customer asserts that the Utility:

- Violated Rule 25-30.263, Florida Administrative Code (F.A.C.), which requires water meters be tested on at least three different rates of flow.
- Violated Rule 25-30.264, F.A.C., by failing to perform testing and calibration of his meter as called for in the Rule.
- Did not test his meter until he requested a meter test on October 17, 2013.

As a remedy, the Customer asks that the Commission: (1) remove the overcharges for the months of August and September 2013, totaling one thousand dollars; and (2) impose a financial penalty upon the Utility based on the magnitude of the violations and the Customer's loss of a $4,000 lawn investment related to his turning off sprinklers "trying to gauge the water consumption at my residence to a minimum."

The informal complaint reflects that the Customer's meter was field tested and the Utility has determined that the Customer had been billed correctly. The Customer was present during this test. However, because the Customer was not satisfied with this test result, the meter was subsequently removed and sent to a third party[3] for additional testing. Third party testing indicated that the meter was registering slowly; therefore, failed the test.[4] This means that the Customer was being billed for less water than he was receiving. As it relates to Rule 25-30.263, F.A.C.,[5] the Utility has provided documentation[6] that it followed appropriate testing and calibration protocols for such testing including testing the meter at three different rates of flow.

The Customer also complained that the Utility violated Rule 25-30.264, F.A.C.,[7] by not testing the meter every 60 days and not calibrating the meter. The Customer asserts that the Utility did not test the meter until he requested the testing. This Rule sets forth the method of how a utility is to maintain a meter that is used for testing. The Customer's meter is not a testing meter but a regular residential meter. Therefore, Rule 25-30.264, F.A.C., is not applicable to the Customer's meter and is not dispositive of this matter. Rule 25-30.265, F.A.C.,[8] describes the maximum interval between tests on different meters and only requires a sample of the meters to be tested.

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[3] MARS Company, Inc.
[4] See Document No. 05154-14: The documentation indicated that the meter was tested on an American Water Works Association approved test bench.
[5] Meter Test Methods.
[6] See Document No. 05154-14
[7] Meter Testing Equipment.
[8] Periodic Meter Tests.

For a typical residential 5/8 inch meter, such as the Customer's meter, the testing interval is ten years.

Based on the above, staff recommends that there is no indication the Customer was overbilled for the water he received; therefore, removal of $1,000 in "overcharges" is not warranted. Similarly, because no violation of rule, statute, or order has been identified, staff recommends that there is no basis for the imposition of the requested "financial penalty." Finally, because the basis for the Customer's request for a financial penalty is partially based upon an alleged $4,000 loss of "lawn investment" when he turned off his sprinklers, it is possible that the financial penalty is intended as a request for damages. The Commission lacks jurisdiction to award damages.[9] If the Customer believes that he is entitled to monetary compensation related to damage to his lawn, the venue for pursuing such a remedy is in the appropriate court. Thus, staff recommends that the Commission deny the relief requested by the Customer.

[9] *See* Order No. PSC-99-1054-FOF-EI, issued May 24, 1999, in Docket No. 981923-EI, *In re: Complaint and petition of John Charles Heekin against Florida Power & Light Company*, p.6 (finding that the Commission lacked subject matter jurisdiction to award monetary damages for alleged property damage to a customer's gate, and dismissing the complaint because the requested relief could not be granted).

Issue 2: Should this docket be closed?

Recommendation: Yes, with the resolution of Issue 1, staff recommends that this docket be closed. If there is no timely protest by a substantially affected party, the docket should be closed. (Tan)

Staff Analysis: With the resolution of Issue 1, staff recommends that this docket be closed. If there is no timely protest by a substantially affected party, the docket should be closed.

Item 3

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Corbari, Lherisson)
Division of Economics (Harlow, Margolis)
Office of Industry Development and Market Analysis (Dowds, Marr)

RE: Docket No. 150185-EI – Amended Complaint by Erika Alvarez, Jerry Buechler, and Richard C. Silvestri against Florida Power & Light Company.

AGENDA: 02/02/16 – Regular Agenda – Motion to Dismiss – Oral Argument Not Requested

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On August 17, 2015, Florida Power & Light Company (FPL) customers, Erika Alvarez, Jerry Buechler, and Richard C. Silvestri (collectively referred to as Petitioners), filed a formal Complaint against FPL. Petitioners alleged that FPL's administration of its online residential solar rebate reservation program was unfair and violated Florida Statutes and Commission Orders governing energy conservation goals and programs and requested a formal hearing. On September 1, 2015, FPL filed a Motion to Dismiss Petitioners' Complaint with prejudice. On September 8, 2015, Petitioners filed a response in opposition to FPL's Motion to Dismiss.

On October 23, 2015, the Commission issued Order No. PSC-15-0496-FOF-EI, dismissing Petitioners' initial complaint, without prejudice, for failing to state a cause of action upon which relief could be granted and not conforming with the pleading requirements of Rule 25-22.036, Florida Administrative Code (F.A.C.). In its Order, the Commission granted Petitioners the opportunity to file an amended complaint, provided the amended complaint conformed to the filing requirements of Rule 25-22.036, F.A.C., and requested appropriate relief.

On November 6, 2015, Petitioners filed an Amended Complaint in response to the Commission's Order.[1] On November 30, 2015, FPL filed a Motion to Dismiss Petitioners Amended Complaint with prejudice.[2] Petitioners did not file a response to FPL's motion.

Neither party requested oral argument; however, pursuant to Rule 25-22.0022, F.A.C., the Commission has the discretion to hear from the parties if it so desires.

The Commission has jurisdiction over this matter pursuant to Chapter 366, Florida Statutes (F.S.).

[1] Document No. 07087-15, in Docket No. 150185-EI, Amended Complaint by Erika Alvarez, Jerry Buechler and Richard C. Silvestri against Florida Power & Light Company.
[2] Document No. 07629-15, in Docket No. 150185-EI, FPL's Motion to Dismiss Amended Complaint With Prejudice.

Discussion of Issues

Issue 1: Should Florida Power & Light Company's Motion to Dismiss be granted?

Recommendation: Yes. Staff recommends that the Commission grant FPL's Motion to Dismiss and dismiss the Amended Complaint with prejudice because the Amended Complaint fails to demonstrate a cause of action upon which the requested relief may be granted, does not substantially comply with Rule 25-22.036, F.A.C., and fails to cure the deficiencies identified in the initial complaint. (Corbari, Lherisson)

Staff Analysis:

Standard of Review

A motion to dismiss challenges the legal sufficiency of the facts alleged in a petition to state a cause of action.[3] The moving party must show that, accepting all allegations as true, the petition fails to state a cause of action for which relief may be granted.[4] The moving party must specify the grounds for the motion to dismiss, and all material allegations must be construed against the moving party in determining if the petitioner has stated the necessary allegations.[5] A sufficiency determination should be confined to the petition and documents incorporated therein, and the grounds asserted in the motion to dismiss.[6] Thus, "the trial court may not look beyond the four corners of the Amended Complaint, consider any affirmative defenses raised by the defendant, nor consider any evidence likely to be produced by either side."[7] All allegations in the petition must be viewed as true and in the light most favorable to the petitioner in order to determine whether there is a cause of action upon which relief may be granted.[8] Finally, pursuant to Section 120.569(2)(c), F.S., a petition shall be dismissed at least once without prejudice unless it conclusively appears from the face of the petition that the defect cannot be cured.[9]

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[3] Meyers v. City of Jacksonville, 754 So. 2d 198, 202 (Fla. 1st DCA 2000); Varnes v. Dawkins, 624 So. 2d 349, 350 (Fla. 1st DCA 1993).

[4] Varnes v. Dawkins, 624 So. 2d at 350.

[5] Matthews v. Matthews, 122 So. 2d 571 (Fla. 2nd DCA 1960).

[6] Barbado v. Green and Murphy, P.A., 758 So. 2d 1173 (Fla. 4th DCA 2000); Varnes v. Dawkins, 624 So. 2d at 350; and Rule 1.130, Florida Rules of Civil Procedure.

[7] Varnes v. Dawkins, 624 So. 2d at 350.

[8] Ralph v. City of Daytona Beach, 471 So. 2d 1, 2 (Fla. 1983); Orlando Sports Stadium, Inc. v. State of Florida ex rel Powell, 262 So. 2d 881, 883 (Fla. 1972); Kest v. Nathanson, 216 So. 2d 233, 235 (Fla. 4th DCA, 1986); Ocala Loan Co. v. Smith, 155 So. 2d 711, 715 (Fla. 1st DCA, 1963).

[9] See also, Kiralla v. John D. and Catherine T. MacArthur Found, 534 So. 2d 774, 775 (Fla. 4th DCA 1988)(stating that a dismissal with prejudice should not be ordered without giving the plaintiff an opportunity to amend the defective pleading, unless it is apparent that the pleading cannot be amended to state a cause of action); and Order No. PSC-11-0285-FOF-EI, issued June 29, 2011, in Docket No. 110069-EI, In re: Amended Complaint of Rosario Rojo against Florida Power & Light Company.

Petitioners' Amended Complaint

In their Amended Complaint, Petitioners allege FPL did not act in good faith during the administration of its two online residential solar PV rebate reservation program offerings in January 2015, as required by Commission Order Nos. PSC-11-0079-PAA-EG[10] and PSC-14-09-0696-FOF-EU.[11] Petitioners allege that FPL's initial rebate offering on January 14, 2015, was "unfair," which led to another offering on January 21, 2015, that "further exacerbated the situation." Petitioners contend that FPL's failure to administer the rebate offerings with good faith amounts to unjust and unfair treatment by FPL. Petitioners request that the Commission assess FPL penalties, pursuant to Section 366.095, F.S., of $5,000, per day, per Petitioner. Petitioners request the penalties be assessed beginning January 14, 2015 (date of initial rebate offering), through the present.

FPL's Motion to Dismiss

FPL asserts Petitioners' Amended Complaint fails to allege sufficient facts to state a cause of action upon which relief could be granted by the Commission and seeks improper relief. Specifically, FPL asserts that Petitioners' Amended Complaint: (1) fails to assert specific facts alleging an act or omission by FPL that resulted in a particular provision of a statute, rule, or Commission Order; and (2) seeks improper relief. Because the deficiencies contained in Petitioners' Amended Complaint cannot be cured, FPL requests that the Amended Complaint be dismissed with prejudice.

Analysis

The Commission grants a motion to dismiss upon a finding that the pleading failed to state a cause of action upon which relief can be granted.[12] In order to determine whether a petition states a cause of action upon which relief may be granted, the Commission must examine the elements needed to be alleged under the substantive law on the matter.[13] If all the necessary elements of a cause of action are not properly alleged in a pleading that seeks affirmative relief, the pleading should be dismissed.[14]

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[10] Order No. PSC-11-0079-PAA-EG, issued January 31, 2011, in Docket No. 100155-EG, In re: Petition for approval of demand-side management plan of Florida Power & Light Company.

[11] Order No. PSC-14-0696-FOF-EU, issued December 16, 2014, in Docket Nos. 130199-EI, In re: Commission review of numeric conservation goals (Florida Power & Light Company); 130200-EI, In re: Commission review of numeric conservation goals (Duke Energy Florida, Inc.); 130201-EG, In re: Commission review of numeric conservation goals (Tampa Electric Company); 130202-EI, In re: Commission review of numeric conservation goals (Gulf Power Company); 130203-EM, In re: Commission review of numeric conservation goals (JEA); 130204-EM, In re: Commission review of numeric conservation goals (Orlando Utilities Commission); 130205-EI, In re: Commission review of numeric conservation goals (Florida Public Utilities Company.

[12] Id.

[13] Kislak v. Kredian, 95 So. 2d 510, 515 (Fla. 1957); Order No. PSC-14-0475-FOF-EI, issued September 8, 2014, in Docket No. 130290-EI – Initiation of formal proceedings of Amended Complaint No. 1115382E of Brian J. Ricca against Florida Power & Light, for failing to provide reasonable service; and Order No. PSC-99-1054-FOF-EI, issued May 24, 1999, in Docket No. 981923-EI, In Re: Amended Complaint and petition of John Charles Heekin against Florida Power & Light Company.

[14] Id.

Rule 25-22.036, F.A.C., outlines the procedure for filing a formal complaint. A pleading that conforms to the rules provides the act or omission that constitutes the violation, the statute that is violated, injury suffered, and remedy or penalty sought.[15]

By Order No. PSC-15-0496-FOF-EI, issued October 23, 2015, the Commission dismissed Petitioners' complaint and request for formal hearing in this matter without prejudice, finding that Petitioners' complaint failed to state a cause of action upon which relief could be granted. In addition, the Commission found that Petitioners' complaint failed to comply with the requirements of Rule 25-22.036, F.A.C., because the complaint contained no specific facts asserting an act or omission by FPL that resulted in a violation of a particular provision of a statute, rule or Commission Order affecting Petitioners' substantive interests. The Order permitted Petitioners the opportunity to file an amended complaint, provided the amended complaint conformed to the pleading requirements of Rule 25-22.036, F.A.C., and sought appropriate relief within the Commission's jurisdiction. Because Petitioners' Amended Complaint again fails to state a cause of action upon which relief may be granted and fails to substantially comply with the Commission's Order, Staff recommends Petitioners' Amended Complaint be dismissed with prejudice for the reasons discussed below.

Petitioners argue that FPL did not act in good faith in administering its residential solar PV rebate offering as required by Commission Order Nos. PSC-11-0079-PAA-EG and PSC-14-09-0696-FOF-EU. However, as FPL argues, Petitioners fail to assert any specific facts describing actions or omissions by FPL that would constitute a violation of a particular provision of a statute, rule or Commission Order affecting Petitioners' substantive interests. Rather, Petitioners' broadly assert that FPL acted in bad faith in administering the rebate offerings. A complaint must sufficiently allege facts that, if established by competent evidence, would support the relief sought under the law.[16] Vague, broad general allegations are insufficient to state a cause of action.[17]

As in their original complaint, Petitioners provide no specific facts or evidence in their Amended Complaint describing how FPL violated Order Nos. PSC-11-0079-PAA-EG and PSC-14-09-0696-FOF-EU. By both Orders, the Commission set conservation goals for FPL and approved FPL's solar pilot programs with an annual expenditure cap. As the Commission stated in its Order dismissing Petitioners' original complaint, no statute, Commission rule or Commission Order prescribes a particular format or manner in which FPL, or any other utility, is required to administer its solar rebate reservations.

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[15] Order No. PSC-11-0285-FOF-EI, issued June 29, 2011, in Docket No. 110069-EI, In re: Amended Complaint of Rosario Rojo against Florida Power & Light Company.

[16] Kislak v. Kredian, 95 So. 2d 510, 514 (Fla. 1957); Order No. PSC-14-0475-FOF-EI, issued September 8, 2014, in Docket No. 130290-EI – Initiation of formal proceedings of Amended Complaint No. 1115382E of Brian J. Ricca against Florida Power & Light, for failing to provide reasonable service; and Order No. PSC-11-0285-FOF-EI, issued June 29, 2011, in Docket No. 110069-EI, In re: Amended Complaint of Rosario Rojo against Florida Power & Light Company.

[17] Id.

In addition, staff notes that the remedy sought by Petitioners is the Commission's penalty power provided in Section 366.095, F.S., which authorizes the Commission to impose a penalty upon a utility "that is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter." Willfulness is a question of fact.[18] The plain meaning of "willful" typically applied by the Courts is an act or omission that is done "voluntarily and intentionally" with specific intent and "purpose to violate or disregard the requirements of the law."[19] Petitioners have not alleged any act or omission that would constitute a violation of either Order No. PSC-11-0079-PAAEG or Order No. PSC-14-0696-FOF-EU, or provided any information that FPL refused to comply with or willfully violated either Order. Therefore, staff does not believe the requested relief is appropriate.

Staff conducted research into the substance of Petitioners' allegations in order to determine whether amendment of Petitioners' Amended Complaint could lead to a situation where the Commission would have jurisdiction to grant Petitioners relief. When viewed within the "four corners of the Amended Complaint" exclusive of all affirmative defenses/responses, assuming all alleged facts are true, and in a light most favorable to Petitioners, staff does not believe Petitioners' Amended Complaint states a cause of action that would invoke the Commission's jurisdiction or permit the Commission to grant the requested relief.

Under the circumstances, staff recommends that the Commission grant FPL's motion to dismiss with prejudice. Petitioners' Amended Complaint is not in substantial compliance with Rule 25-22.036, F.A.C. The rule requires that a written petition contain a statement of all issues of material fact, a concise statement of the ultimate facts alleged, a statement of the specific rules or statutes that apply, an explanation of how the alleged facts relate to the specific rules and statutes, and a statement of the relief sought by the petitioner stating precisely the action the petitioner wishes the agency to take. When viewed within the "four corners of the Amended Complaint" exclusive of all affirmative defenses/responses, assuming all alleged facts are true, and in a light most favorable to Petitioners, the Amended Complaint fails to state a cause of action that would invoke the Commission's jurisdiction or permit the Commission to grant the relief requested. Thus, pursuant to Section 120.569(2)(c), F.S., staff recommends that Petitioners' Amended Complaint should be dismissed with prejudice.

Conclusion

Staff recommends that the Commission grant FPL's Motion to Dismiss and dismiss the Amended Complaint with prejudice because the Amended Complaint fails to demonstrate a cause of action upon which the requested relief may be granted, does not substantially comply with Rule 25-22.036, F.A.C., and fails to cure the deficiencies identified in the initial Amended Complaint.

[18] Fugate v. Fla. Elections Comm'n, 924 So. 2d 74, 75 (Fla. 1st DCA 3006), citing, Metro. Dade County v. State Dep't of Envtl. Prot., 714 So. 2d 512, 517 (Fla. 3d DCA 1998).
[19] Fugate v. Fla. Elections Comm'n, 924 So. 2d at 76.

Issue 2: Should the docket be closed?

Recommendation: Yes. If the Commission agrees with staff regarding Issue 1, then Petitioners' Amended Complaint should be dismissed with prejudice. (Corbari, Lherisson)

Staff Analysis: If the Commission agrees with staff regarding Issue 1, then Petitioners' Amended Complaint should be dismissed with prejudice.

Item 4

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (Bates, Curry, Fogleman, Long)
Office of the General Counsel (Corbari)

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

AGENDA: 02/02/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

By Order No. PSC-03-0067-PAA-TP, issued January 9, 2003, the Commission adopted wholesale permanent performance measures for Embarq Florida, Inc. d/b/a CenturyLink (CenturyLink) in Docket Number 000121B-TP. CenturyLink's Performance Measurement Plan (PMP) is a monitoring device that measures the level of wholesale service performance that CenturyLink provides to competitive local exchange carriers (CLEC or CLECs).

CenturyLink's Florida PMP included the adoption of the August 2002 CenturyLink Nevada PMP, as well as administrative provisions and an associated compliance methodology. Also, this Order required all changes to CenturyLink's PMP that were approved in other states to be brought before the Commission for review, approval, and implementation in Florida. CenturyLink complied with the Order and implemented the Florida PMP on February 1, 2003.

By Order No. PSC-03-1438-PAA-TP, issued December 22, 2003, the Commission approved revisions to CenturyLink's Florida PMP to coincide with revisions to CenturyLink's Nevada PMP. The revisions were effective beginning with February 2004 data. Additional revisions to CenturyLink's Florida PMP were approved by the Commission by Order No. PSC-07-0123-PAA-TP, issued February 12, 2007. The revisions were approved by the Public Utilities Commission of Nevada on August 2, 2006. The most recent revisions to CenturyLink's Florida PMP were approved by the Commission, by Order No. PSC-13-0216-PAA-TP, issued May 22, 2013. Those revisions were approved by the Public Utilities Commission of Nevada on December 5, 2012.

The Commission has jurisdiction pursuant to Section 364.16, F.S.

Discussion of Issues

Issue 1: Should the Commission approve CenturyLink's proposed revisions to its Florida wholesale Performance Measurement Plan as detailed in CenturyLink's proposal filed October 15, 2015?

Recommendation: Yes. Staff recommends the Commission approve CenturyLink's proposed revisions to its Florida wholesale Performance Measurement Plan as detailed in CenturyLink's proposal filed on October 15, 2015. (**Bates**)

Staff Analysis: On October 15, 2015, CenturyLink filed a notice with the Florida Public Service Commission that the Nevada Public Utilities Commission (Nevada Commission or Nevada) issued an order approving revisions to its wholesale Performance Measurement Plan (PMP). The proposed revisions to CenturyLink's PMP include: revising reporting requirements from monthly to quarterly, eliminating several performance measures from the PMP measures, and amending two measures. In addition, the revisions alter the reporting requirements to focus on the products CLECs are currently ordering most, as well as those products requiring repair activity.[1]

The proposed revisions are the same as those provided in CenturyLink's PMP to the Nevada Commission and are the result of a stipulation entered into by the parties to the Nevada docket.[2] The Nevada docket was opened at CenturyLink's request to amend its reporting requirements. The Nevada Commission found the stipulation to be in the public interest and approved the revisions on September 30, 2015.

By Order No. PSC-03-0067-PAA-TP, issued January 9, 2003, any changes to CenturyLink's performance measurements approved by other states must be brought before the Florida Commission to allow staff and CLECs an opportunity to review and comment on such revisions before being implemented in Florida. On October 28, 2015, staff solicited comments from the CLECs and interested parties for review of CenturyLink's Florida PMP revisions. No comments were filed by the comment due date, December 15, 2015.

CenturyLink's proposed revisions fall into three areas: (1) general changes to the measures which include modifying the measurable standards and the report period; (2) eliminating low activity products from the service group types; and (3) establishing a new retail comparison for "UNE Loops–xDSL Provisioned." Attachment A summarizes CenturyLink's proposed revisions to its PMP.[3]

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[1] The Nevada Commission also eliminated financial penalties under the Performance Incentive Plan applicable only in Nevada.

[2] The parties entering the stipulation in Nevada were: Central Telephone Company d/b/a CenturyLink (Nevada), Cox Nevada Telecom, LLC, U.S. Telepacific Corp. (Nevada), Mpower Communications Corp., tw telecom of Nevada LLC, Level 3 Communication of Nevada LLC d/b/a XO Communications, and Sprint Communications Company L.P., and the Public Utilities Commission of Nevada's Regulatory Operations Staff.

[3] Document No. 06617-15. This summary was submitted as Attachment 4 to CenturyLink's October 15, 2015, filing with the Florida Public Service Commission.

CenturyLink proposes to revise specific sections of its PMP including the Executive Summary, Performance Measurements, Service Group Types, Auditing, as well as eliminating the PMP Compliance Methodology.

Measurable Standards Modifications

CenturyLink proposes to eliminate fifteen performance measures from the PMP. Measures were eliminated for the following reasons:

- Four measures are being eliminated as redundant (Measures 8, 12, 13 and 22)
- Four are being eliminated because they are addressed in interconnection agreements (Measures 31, 32, 33 and 34)
- Two are being eliminated because they are "unnecessary for continued regulatory focus and attention" (Measures 40 and 41)
- One is being eliminated because it is "not an indication of the level of service provided by CenturyLink" in completing an order (Measure 18)
- One is being eliminated because a subsequent measure is a better indication of installation timeliness (Measure 6)
- One is being eliminated because performance in that measure is "parity by design" (Measure 24)
- One is being eliminated because CLEC networks are "now essentially established" (Measure 26)
- One eliminates the measure related to the availability of the OSS interface (Measure 42)

In addition, CenturyLink is proposing to modify Measure 1 by eliminating the reporting of manual pre-order queries.

Modify Report Period

Commission Order No. PSC-03-0067-PAA-TP, issued January 9, 2003, requires CenturyLink (f/k/a Sprint) to file reports monthly within 15 days after the data collection month. In its order the Commission stated "that any disaggregation failing for three consecutive months, regardless of compliance ranges, should be reported to us on a monthly basis."[4] CenturyLink's proposal revises its performance measures reporting requirements. The reporting period will remain monthly, but the reports will be provided to CLECs and the Commission quarterly within 30 days after the calendar quarter. In its revisions, CenturyLink modifies seventeen measures to implement changes to the reporting period.

[4] Order No. PSC-03-0067-PAA-TP, issued January 9, 2003, Page 6.

Elimination of low activity Products from Service Group Types

CenturyLink's proposal revises the PMP reporting requirements to focus on the products that CLECs are currently ordering most, in addition to those products requiring repair activity. According to CenturyLink, its review of all products indicate six products make up the majority of the Ordering, Provisioning, and Repair activity reported each month. Ten of the twelve products that account for less than 10% of all activity will be eliminated.[5]

Establish New Retail Comparison for 'UNE Loops–xDSL Provisioned'

According to CenturyLink, the Company attempted to apply a retail comparison for UNE Loops–xDSL Provisioned, but believes because there is no retail equivalent, there is no exact comparison. Since the UNE Loops–xDSL Provisioned element is similar to UNE Loops Non-Designed, CenturyLink proposes a retail comparison between the two will best display the performance of this element. The result of this change is a comparison of Business POTS–Dispatched and for repair the comparison will be Residential and Business POTS.

Conclusion

Staff believes CenturyLink's proposal is appropriate. Staff finds no inconsistencies between this filing and the competitive provisions of Chapter 364.16, Florida Statutes. No party has objected or filed any comments on this proposal. This proposal was vetted and negotiated in Nevada, which may have contributed to the lack of comments in the Florida filing.

Staff recommends the Commission approve CenturyLink's proposed revisions to its Florida wholesale PMP as detailed in CenturyLink's request.

[5] The products to be eliminated include Integrated Services Digital Network Basic Rate Interface (ISDN BRI), Centrex, Private Branch Exchange (PBX), Digital Data Services (DDS), Digital Service 1/Integrated Services Digital Network Primary Rate Interface (DS1/ISDN PRI), Digital Signal 3 (DS3), Voice Grade Private Line/Digital Service 0 (VGPL/DS0), Residential Plain Old Telephone Service (POTS), Unbundled Network Element (UNE) Loops Designed, and Projects.

Issue 2: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order. Any protest of the Commission's decision in this matter should identify with specificity the item or measure being protested, and any such protest should not prevent the remainder of the Order from becoming final and effective. Thereafter, this docket should remain open for the Commission to conduct periodic reviews of CenturyLink's PMP and to complete any third-party audits as outlined in Order No. PSC-03-0067-PAA-TP. **(Corbari)**

Staff Analysis: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order. Any protest of the Commission's decision in this matter should identify with specificity the item or measure being protested, and any such protest should not prevent the remainder of the Order from becoming final and effective. Thereafter, this docket should remain open for the Commission to conduct periodic reviews of CenturyLink's PMP and to complete any third-party audits as outlined in Order No. PSC-03-0067-PAA-TP.

ATTACHMENT 4

2015 CenturyLink Performance Measurement Plan (PMP) Change Appendix

PERFORMANCE MEASUREMENT PLAN

General Changes to the Measures:

- **Modify Measurable Standards.**

  CenturyLink is proposing to eliminate Compliance Methodology. As a result, the Measureable Standards section within each Measure has been modified to note that only results will be provided for performance measures. In addition, where a retail comparison exists, CenturyLink will continue to provide that.

- **Modify Report Period.**

  CenturyLink is proposing to provide reports quarterly. This change clarifies that the report period will remain monthly, but the reports will be provided quarterly.

- **Eliminate low activity Products from Service Group Types**

  A review of all products reported in 2014 indicates that just six products comprise over 90% of the Ordering, Provisioning and Repair activity reported each month. This change would place the focus of reporting on the products that CLECs are currently ordering most, as well as those products requiring repair activity. Of the twelve products that account for less than 10% of all activity, ten will be eliminated. Interconnection trunks and UNE DS3 will remain in the Maintenance measures and Interconnection will remain in Measure 11 for Provisioning.

  The Products to be eliminated include:
  - ISDN BRI
  - Centrex
  - PBX
  - DDS
  - DS1/ISDN PRI
  - DS3
  - VGPL/DS0
  - Residential POTS
  - UNE Loops Designed
  - Projects

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- **Establish New Retail Comparison for 'UNE Loops – xDSL Provisioned'**

  Although CenturyLink attempted to apply a retail comparison for the submeasure UNE Loops – xDSL Provisioned, there is no like-for-like comparison available because there is no Retail UNE Loop-xDSL Provisioned. However, this product is similar to UNE Loops Non-Designed. As such, CenturyLink proposes the Retail xDSL comparison be replaced with the same retail comparison for UNE Loops – Non-Designed. For provisioning this will result in a comparison of Business POTS – Dispatched and for repair the comparison will be Residential and Business POTS.

Changes within Specific Sections of the PMP

Section: I – Executive Summary

- **Update Major Categories and Reservation of Rights**

  Clean-up items are made throughout this section.

Section: II – Performance Measurements

- **Update Reporting Process**

  CenturyLink is proposing to modify the reporting process to publish results quarterly. Additional changes are also made throughout this section to incorporate the elimination of Compliance Methodology.

Section: III – Service Group Types

- **Remove products proposed for elimination and update CenturyLink comparatives as needed.**

  Since CenturyLink proposes the elimination of ten products from the measurements as set forth above, they are no longer necessary in the list of Service Group Types. In addition, the Retail comparison must be updated for UNE Loops xDSL Provisioned as CenturyLink proposes a change to the Retail comparative.

- **Modify Interconnection Trunks**

  The list of Measures for Interconnection trunks needs to be modified to reflect Measures proposed for elimination and the change to report Interconnection trunks only in Maintenance measures, in addition to Measure 11.

- **Eliminate Projects**

  Since CenturyLink proposes the elimination of projects from the measurements as set forth above, they are no longer necessary in the list of Service Group Types.

Section IV – Auditing

- **Remove major service categories**

  These major service categories are no longer necessary because CenturyLink is proposing to eliminate all measures for these categories.

Section VIII – Performance Measurement Plan Compliance Methodology

- **Eliminate Entire Section**

  CenturyLink proposes elimination of all compliance calculations consistent with the elimination of the Performance Incentive Plan in Nevada. Results will continue to be reported and where there Retail comparison was previously parity, the retail results will continue to be provided.

Changes to Specific Measures

Measure 1 – Average Response Time to Pre-Order Queries

- **Remove all Manual Service Group Types.**

  CenturyLink proposes eliminating reporting of manual pre-order queries. These manual queries account for less than 1% of all pre-order queries reported, yet require additional resources to track. Measure 1 also reflects general changes such as reporting quarterly and the elimination of the Compliance Methodology.

Measure 2 – Average FOC Notice Interval

All changes for Measure 2 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 3 – Average Reject Notice Interval

All changes for Measure 3 are to reflect general changes such as reporting quarterly and the elimination of the Compliance Methodology.

Measure 4 – Percent Flow-Through Orders

All changes for Measure 4 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 5 – Percentage of Orders Jeopardized

All changes for Measure 5 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 6 – Average Jeopardy Notice Interval

- **Eliminate Measure**

Measuring due dates missed (Measure 11) is a better indication of installation timeliness than measuring how early notices are sent for orders in jeopardy of missing their associated due dates; which is all this measure is doing. CenturyLink proposes to eliminate this measure, noting that jeopardies will continue to be reported in Measure 5 – Percentage of Orders Jeopardized.

Measure 7 – Average Completed Interval

All changes for Measure 7 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 8 – Percent Completed Within Standard Interval

- **Eliminate Redundant Measure**

Measure 8 is redundant to Measure 7, in that both measure timeliness of installation. Given this redundancy, Measure 8 should be eliminated from reporting. Specifically, Measure 7 captures CenturyLink's Average Completed Interval for CLEC orders, and is a better representation of the efficiency of CenturyLink provisioning.

Measure 11 – Percent Due Dates Missed

All changes for Measure 11 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 12 – Percent Due Dates Missed Due to Lack of Facilities

- **Eliminate Redundant Measure**

  The performance dimension addressed in this measure is already being captured as part of Measure 11 (Percent of Due Dates Missed). Thus, Measure 12 is double counting in the few cases due dates are missed because of the lack of facilities. Therefore, CenturyLink proposes elimination of this measure from reporting.

Measure 13 – Delay Order Interval to Completion Date (For Lack of Facilities)

- **Eliminate Measure**

  CenturyLink proposes elimination of this measure noting that delays in provisioning are already reported both in the Average Completed Interval measure (Measure 7) as well as the Percent of Due Dates Missed (Measure 11), making this measure redundant as well.

Measure 15 – Provisioning Trouble Reports Prior to Service Order Completion

All changes for Measure 15 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 17A – Percentage Troubles in 5 Days for New Orders

All changes for Measure 17A are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 18 – Average Completion Notice Interval

- **Eliminate Measure**

  The completion notice interval has no impact on the CLEC end user customer. The timeframe to provide this notice is also not an indication of the level of service provided by CenturyLink in actually completing the order.

Measure 19 – Customer Trouble Report Rate

All changes for Measure 19 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 20 – Percentage of Customer Trouble Not Resolved Within Estimated Time

All changes for Measure 20 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 21 – Average Time to Restore

All changes for Measure 21 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 22 – POTS Out of Service Less Than 24 Hours

- **Eliminate Redundant Measure**

Measure 22 is directly related to Measure 20, since both address the timeliness of the same repairs, with Measure 22 evaluating repair time against a 24-hour interval, and Measure 20 evaluating repair time against the commitment made to the customer. A number of factors, both Company-related and non-Company related can affect whether a trouble is cleared within 24-hours (Measure 22), but only Company-related factors are addressed in Measure 20.

Measure 23 – Frequency of Repeat Troubles in 30 Day Period

All changes for Measure 23 are to reflect general changes such as reporting quarterly, elimination of low activity products, and the elimination of the Compliance Methodology.

Measure 24 – Percent Blocking on Common Trunks

- **Eliminate Measure**

Performance in this measure is "parity by design," as evident in its definition in the PMP, where only one number is reported, and that number represents the experience of both CenturyLink and any other party that uses the Common Trunks.

Measure 25 – Percent Blocking on Interconnection Trunks

All changes for Measure 25 are to reflect general changes such as reporting quarterly and the elimination of the Compliance Methodology.

Measure 26 – NXX Loaded by LERG Effective Date

- **Eliminate Measure**

  CenturyLink proposes elimination of the measure as CLEC networks are now essentially established, and therefore relatively few code openings are occurring. Moreover CenturyLink and CLECs have an inherent, mutual interest in managing NXX activations, because customers of both may be affected.

Measure 30 – Wholesale Bill Timeliness

- **Modify Service Group Types**

  CenturyLink proposes modifying the Service Group types, consistent with the general changes made to service group types/products. Measure 30 also reflects general changes such as reporting quarterly and the elimination of the Compliance Methodology.

Measure 31 – Usage Completeness

- **Eliminate Measure**

  CenturyLink proposes elimination of this measure as billing practices are well established, with the ICA's providing specific details around those processes. Furthermore, there are well established processes for dispute resolution to be handled outside of the Plan.

Measure 32 – Recurring Charge Completeness

- **Eliminate Measure**

  CenturyLink proposes elimination of this measure as billing practices are well established, with the ICA's providing specific details around those processes. Furthermore, there are well established processes for dispute resolution to be handled outside of the Plan.

Measure 33 – Non-Recurring Charge Completeness

- **Eliminate Measure**

  CenturyLink proposes elimination of this measure as billing practices are well established, with the ICA's providing specific details around those processes. Furthermore, there are well established processes for dispute resolution to be handled outside of the Plan.

Measure 34 – Bill Accuracy

- **Eliminate Measure**

  CenturyLink proposes elimination of this measure as billing practices are well established, with the ICA's providing specific details around those processes. Furthermore, there are well established processes for dispute resolution to be handled outside of the Plan.

Measure 38 – Percent Database Accuracy

All changes for Measure 38 are to reflect general changes such as reporting quarterly and the elimination of the Compliance Methodology.

Measure 39 – E911 MS Database Update Interval

All changes for Measure 39 are to reflect general changes such as reporting quarterly and the elimination of the Compliance Methodology.

Measure 40 – Time to Respond to a Collocation Request

- **Eliminate Measure**

  CLECs are now well established in collocation arrangements, and this measure has proven to be unnecessary for continued regulatory focus and attention. Further, Measure 40 tracks the timeliness of CenturyLink responding only to a request for a collocation arrangement. Collocation activity is not CLEC customer impacting, and its volume has dropped significantly since originally included in the plan.

Measure 41 – Time to Provide a Collocation Arrangement

- **Eliminate Measure**

  CLECs are now well established in collocation arrangements, and this measure has proven to be unnecessary for continued regulatory focus and attention. Further, Collocation activity is not CLEC customer impacting, and its volume has dropped significantly since originally included in the plan.

Measure 42 – Percentage of Time Interface is Available

- **Eliminate Measure**

  CenturyLink proposes elimination of the measure because the EASE application has shown it's stability in being available to CLECs for ordering, and processes are in place to resolve outages quickly, should they arise.

Measure 44 – Center Responsiveness

- **Eliminate Measure**

  With continued emphasis placed on submitting orders and repair tickets electronically, there are fewer calls to these centers. Furthermore, CenturyLink data from 2009 to 2014 demonstrates that the average results far exceeds the benchmark with an average of 92% calls to the ordering center answered within 20 seconds and an average of 13.83 second response time for the repair center.

Item 5

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Vogel, T. Brown)
Division of Economics (Bruce)
Office of the General Counsel (Corbari, Lherisson)

RE: Docket No. 150257-WS – Application for a staff-assisted rate case in Marion County, by East Marion Utilities, LLC.

AGENDA: 02/02/16 – Regular Agenda – Decision on Interim Rates – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: 02/03/16 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Table of Contents

Issue	Description	Page
	Case Background	3
1	Interim Revenues	4
2	Interim Water Rates	6
3	Interim Security	7
4	Close Docket	9
	Schedule No. 1 Interim Water Rates	10

Case Background

East Marion Utilities, LLC (East Marion or utility) is a Class C utility serving one general service and approximately 100 residential water and wastewater customers in Marion County. Rate base was last established by the Commission in Order No. PSC-02-1168-PAA-WS.[1] The net book value was established and current rates were adopted by the Commission in Order No. PSC-15-0576-PAA-WS.[2] According to East Marion's 2014 annual report, the utility had water and wastewater operating revenues of $23,750 and $35,522, respectively, and operating expenses of $31,504 and $37,071, respectively, resulting in net operating losses of $7,754 and $1,550, respectively.

On December 3, 2015, East Marion filed its application for a staff-assisted rate case. In its application, the utility requested a test year ended December 31, 2015, for final rate purposes.

This recommendation addresses the utility's interim rates. The Commission has jurisdiction pursuant to Sections 367.082 and 367.0814(4), Florida Statutes (F.S.).

[1]Order No. PSC-02-1168-PSS-WS, issued August 26, 2002, in Docket No. 010869-WS, *In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.*

[2]Order No. PSC-15-0576-PAA-WS, issued December 21, 2015, in Docket No. 150091-WS, *In re: Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utilities, LLC, in Marion County.*

Discussion of Issues

Issue 1: Should an interim revenue increase be approved?

Recommendation: Yes- East Marion should be authorized to collect interim revenues as indicated below:

	Adjusted Test Year Revenues	$ Increase	Revenue Requirement	% Increase
Water	$23,750	$4,316	$28,066	18.17%
Wastewater	$35,522	$0	$35,522	0%

Revenues are sufficient to cover staff-adjusted O&M expenses for the wastewater system, but not the water system. As such, an interim revenue increase is warranted for the water system but not the wastewater system. (Vogel)

Staff Analysis: On December 3, 2015, East Marion filed an application requesting an interim increase in water and wastewater rates. Section 367.0814(4), F.S., details interim rate increases for staff-assisted rate cases.

> Section 367.0814(4), F.S., states:
>
> (4) The commission may, upon its own motion, or upon petition from the regulated utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

Staff has reviewed the utility's filed O&M expenses in relation to its revenues. Based on the utility's filing, staff recommends that East Marion has demonstrated a *prima facie* entitlement to an interim rate increase in accordance with Section 367.0814(4), F.S., for the water system but not for the wastewater system.

Revenue Increase

In order to establish interim rate relief as prescribed by Section 367.0814(4), F.S., staff utilized the utility's revenues reflected in its filing. The filed revenues exceeded O&M expenses for the wastewater system, but not for the water system. Thus, staff recommends an interim increase for the water system only. The difference between the utility's revenues and the O&M expenses for water is $4,130.

In addition, the interim water increase should be grossed up to include regulatory assessment fees (RAFs). The Commission has previously determined that it would be inappropriate to approve an increase in a utility's rates to cover its operating expenses and deny that same utility the funds to pay RAFs.[3] Furthermore, by approving an interim rate increase that allows for the payment of RAFs, the utility should be able to fully cover its O&M expenses. The RAFs associated with the interim increase is calculated to be $186 ($4,130 x 4.5%).

In total, East Marion should be allowed an interim water revenue increase of $4,316 ($4,130 + $186) in order to produce revenues sufficient to cover water O&M expenses and RAFs. Thus, staff recommends the appropriate interim revenue requirement should be $28,066 for water. This is an 18.17 percent increase above the utility's 2014 water revenues of $23,750. Table 1 illustrates staff's interim increase calculation.

Table 1
Determination of Interim Increase

	Water	Wastewater
1. Utility Adjusted Test Year O&M Expenses	$27,880	$33,083
2. Less: Staff's Adjustments	$0	$0
3. Staff Adjusted Test Year O&M Expenses	$27,880	$33,083
4. Less: Utility Test Year Revenues	$23,750	$35,522
5. Revenues to Cover O&M Expenses	$4,130	($2,439)
6. Interim Revenue Increase	$4,130	$0
7. RAFs on Interim Rate Increase	$186	$0
8. Total Interim Revenue Increase ($)	$4,316	$0
9. Total Interim Revenue Increase (%)	18.17%	0%

[3]Order No. PSC-01-1654-FOF-WS, issued August 13, 2001, in Docket No. 010396-WS, *In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.*

Issue 2: What are the appropriate interim water rates?

Recommendation: The interim rate increase of 18.71 percent for water should be applied as an across-the-board increase to the service rates in effect as of December 31, 2014. The rates, as shown on Schedule No. 1, should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.). The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until the required security has been filed, 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. (Bruce)

Staff Analysis: Staff recommends that interim service rates for East Marion be designed to allow the utility the opportunity to generate annual operating revenues of $27,880 for water. Before removal of miscellaneous revenues, this would result in an increase of $4,130 (17.39 percent) for water. To determine the appropriate increase to apply to the service rates, miscellaneous revenues should be removed from the test year revenues. The calculation is as follows:

Table 2
Percentage Increase Less Miscellaneous Revenues

		Water
1	Total Test Year Revenues	$23,750
2	Less: Miscellaneous Revenues	$1,675
3	Test Year Revenues from Service Rates	$22,075
4	Revenue Increase	$4,130
5	% Service Rate Increase (Line 4/Line 3)	18.71%

Source: Staff's Recommended Revenue Requirement and MFRs

Staff recommends that the interim rate increase of 18.71 percent for water should be applied as an across-the-board increase to the service rates in effect as of December 31, 2014.[4] The rates, as shown on Schedule No. 1, should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until the required security has been filed, 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.

[4]The revenue increase is based on 2014 water revenues. Therefore, the percentage increase should be applied to the rates in effect at year end 2014.

Issue 3: What is the appropriate security to guarantee the interim increase?

Recommendation: The utility should be required to open an escrow account or secure 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 $360 into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of $2,880. 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 in accordance with Rule 25-30.360, F.A.C. (Vogel)

Staff Analysis: Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission. As recommended in Issue 1, the interim increase for water is $4,316. In accordance with Rule 25-30.360, F.A.C., staff calculated the potential refund of revenues and interest collected under interim conditions to be $2,880. This amount is based on an estimated eight months of revenue being collected under the recommended interim rates shown on Schedule No. 1.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Because East Marion was purchased from East Marion Sanitary Systems, Inc. in 2015,[5] the utility does not have a full year of financial statements. Commission practice is to evaluate three years of financial statements for determining if the utility has the financial capability to support a corporate undertaking. Staff recommends East Marion be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refund of water revenues.

If the security provided is an escrow account, said account should be established between the utility and an independent financial institution or the Division of Treasury for the Florida Department of Financial Services pursuant to a written escrow agreement. The Commission should be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: the account is established at the direction of the Commission for the purpose set forth above; no withdrawals of funds shall occur without the prior approval of the Commission through the Commission Clerk, Office of Commission Clerk; the account shall be interest bearing; information concerning that escrow account shall be available from the institution to the Commission or its representative at all times; the amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt; and, pursuant to *Cosentino v. Elson*, 263 So. 2d 253 (Fla 3d DCA 1972), escrow accounts are not subject to garnishments.

If the security provided is an escrow account, the utility should deposit $360 into the escrow account each month. The escrow agreement should also state that "if a refund to the customers is

[5]Order No. PSC-15-0576-PAA-WS, issued December 21, 2015, in Docket No. 150091-WS, *In re: Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utility, LLC, in Marion County.*

required, all interest earned on the escrow account shall be distributed to the customers, and if a refund to the customers is not required, the interest earned on the escrow account shall revert to the utility."

If the security provided is a surety bond or a letter of credit, said instrument should be in the amount of $2,880. If the utility chooses a surety bond as security, the surety bond should state that it will be released or terminated only upon subsequent order of the Commission. If the utility chooses to provide a letter of credit as security, the letter of credit should state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered releasing the funds to the utility or requiring a refund.

Regardless of the type of security provided, the utility should keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), F.A.C., the utility should provide a report by the 20th day 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.

In no instance should maintenance and administrative costs associated with any refund be borne by the customers. Such costs are the responsibility of, and should be borne by, the utility.

Issue 4: 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. (Corbari, Lherisson)

Staff Analysis: The docket should remain open pending the Commission's final action on the utility's requested rate increase.

EAST MARION SANITARY SYSTEMS, INC.
TEST YEAR ENDED DECEMBER 31, 2014 **SCHEDULE NO. 1**
MONTHLY WATER RATES **DOCKET NO. 150257-WS**

	RATES AT 12/31/2014 (1)	CURRENT RATES (2)	STAFF RECOMMENDED INTERIM
Residential and General Service			
Base Facility Charge by Meter Size			
5/8" x 3/4"	$9.88	$10.05	$11.73
3/4"	$14.84	$15.10	$17.60
1"	$24.72	$25.15	$29.33
1-1/2"	$49.44	$50.29	$58.65
2"	$79.11	$80.47	$93.84
3"	$158.22	$160.94	$187.68
4"	$247.22	$251.47	$293.25
6"	$494.43	$502.93	$586.50
Charge per 1,000 Gallons - Residential			
0-10,000 gallons	$2.07	$2.11	$2.46
Over 10,000 gallons	$3.10	$3.15	$3.68
Charge per 1,000 gallons - General Service	$2.42	$2.46	$2.87
Typical Residential 5/8" x 3/4" Meter Bill Comparison			
3,000 Gallons	$16.09	$16.38	$19.11
6,000 Gallons	$22.30	$22.71	$26.49
10,000 Gallons	$30.58	$31.15	$36.33

(1) The interim rate increase was applied to the rates at 12/31/2014.

(2) The current rates became effective October 1, 2015 as a result of a price index.

Item 6

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Matthews, Hill, King)
Division of Economics (Wu)
Office of the General Counsel (Ames)

RE: Docket No. 150223-EI – Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

AGENDA: 02/02/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On October 15, 2015, Tampa Electric Company (TECO or Company) petitioned the Florida Public Service Commission (Commission) to approve its proposed Coal Combustion Residuals Compliance Program (CCR Compliance Program) for cost recovery through the Environmental Cost Recovery Clause (ECRC). No objections to the petition had been received at the time this recommendation was filed.

On April 17, 2015, the United States Environmental Protection Agency (EPA) published its Coal Combustion Residuals Rule (CCR Rule)[1], which establishes the minimum criteria for the safe disposal in new and existing surface impoundments and landfills of CCR generated from the

[1] 40 C.F.R. Parts 257 and 261 (2015).

combustion of coal at electric utilities and independent power producers. The effective date of the Rule is October 19, 2015, and the Rule is self-implementing. According to TECO's petition, its CCR Compliance Program was developed in response to the EPA's CCR Rule, and is legally required.

By Section 366.8255, Florida Statutes (F.S.), the Florida Legislature authorized the recovery of prudently incurred environmental compliance costs through the environmental cost recovery factor. The method for cost recovery of such costs was first established by Order No. PSC-94-0044-FOF-EI issued on January 12, 1994.[2] The Commission has jurisdiction over this matter pursuant to Section 366.8255, F.S.

[2] Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, in Docket No. 930613-EI, *In re: Petition to establish an environmental cost recovery clause pursuant to Section 366.0825, Florida Statutes by Gulf Power Company.*

Discussion of Issues

Issue 1: Should the Commission approve Tampa Electric Company's petition for approval of a new environmental program for cost recovery through the Environmental Cost Recovery Clause?

Recommendation: Yes. Staff recommends that the Commission approve TECO's proposed CCR Compliance Program designed to implement the Environmental Protection Agency's CCR Rule. Staff recommends that, as requested by TECO and consistent with approved similar programs for other IOUs, the costs associated with this new environmental program be allocated to rate classes on an energy basis. (Matthews)

Staff Analysis: The EPA's final CCR Rule sets forth the minimum criteria for the safe disposal of CCR in landfills and surface impoundments at sites where electric utilities use the combustion of coal as an energy source to fuel a steam generating unit, such as TECO's Big Bend Station. The CCR Rule applies to new and existing active landfills and surface impoundments that are used by electric utilities for the purpose of solid waste management of CCR, including CCR units located off the site of the power plant and certain inactive CCR impoundments. Inactive impoundments are those that no longer receive CCR on or after after the October 19, 2015 effective date of the final rule.

TECO's CCR Compliance Program, submitted in this docket, is substantially similar to plans for compliance with the new CCR Rule approved for Florida Power & Light, Duke Energy Florida, and Gulf Power in the 2015 ECRC proceedings.[3] The activities planned by TECO for compliance with the CCR Rule include capital expenditures beginning in 2016, and continuing in 2017. TECO has not yet determined whether additional capital expenses will be incurred in 2018. Operating and maintenance (O&M) expenses began in 2015 and will continue throughout the life of Big Bend Station. The projects planned include groundwater monitoring, increased inspections, evaluations of impoundments and potential liner installations, enhancements of existing CCR units, and potential construction of additional CCR units. The estimated amounts for capital expenditures and O&M expenses for the period from October 15, 2015, through 2018 are shown in Table 1-1 below.

[3] See Order No. PSC-15-0536-FOF-EI, issued November 19, 2015, in Docket No. 150007-EI.

Table 1-1: Estimated Expenditures for CCR Rule Compliance

	Capital ($)	O&M ($)
2015	0	75,000
2016	700,000	2,000,000
2017	1,800,000	850,000
2018	TBD	500,000
Totals	2,500,000	3,425,000

Source: TECO's responses to staff's second data request, No. 1.

The costs in Table 1-1 were developed by TECO based on previous experience with similar work performed at Big Bend Station, discussions with professionals knowledgeable in these areas, and from guidance obtained from the CCR Rule itself. These costs are consistent with the costs approved in the 2015 ECRC for the other Florida investor-owned utilities (IOUs).[4] TECO provided details on the projects and the development of estimated costs in its responses to staff's first data request.[5] Staff notes that TECO's estimates may be adjusted in future filings based on its receipt of detailed engineering and construction bids for planned work, and that estimates for future projects will be submitted as available in annual ECRC proceedings.

Table 1-2 below, shows the estimated residential customer bill impacts resulting from the anticipated compliance activities associated with the CCR Rule.

Table 1-2: Estimated Residential Customer Bill Impacts[6]

	$/1,000 kWh	$/1,200 kWh
2016	0	0
2017	0.0219	0.0262
2018	0.0286	0.0343

Source: TECO's responses to staff's first data request, No.11.

Based on the petition and TECO's responses to staff data requests, staff recommends that the proposed new activities are necessary for compliance with the EPA's CCR Rule.

[4] Docket No. 150007-EI, Environmental Cost Recovery Clause, Hearing EXH 29; EXH 34; EXH 42.
[5] TECO's responses to staff's first data request Nos. 1 and 10.
[6] In TECO's response to staff's first data request, No. 11, TECO indicated impacts of $0.0055/1,000 kWh or $0.0065/1,200 kWh in 2016. Staff has incorporated these amounts into the 2017 bill impacts appearing in this table because such impacts will not take place until 2017 based on the operation of the true-up mechanism in Docket No. 160007-EI (the ECRC docket).

The criteria for ECRC recovery relevant to this docket, established by Order No., PSC-94-0044-FOF-EI, are:

(1) The activities are legally required to comply with a governmentally imposed environmental regulation enacted, became effective, or whose effect was triggered after the company's last test year upon which rates are based; and

(2) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

Based on staff's analysis of the docket material, the activities proposed in TECO's petition meet these criteria. Staff recommends that, based on the information in the docket file, and the CCR Rule[7], these activities are essential projects that would not be necessary but for TECO's obligation to comply with a government-imposed environmental regulation. The need for these compliance activities was triggered after TECO's last test year upon which rates are currently based. Finally, the costs of the proposed compliance activities are not currently being recovered through some other cost recovery mechanism or through base rates.

Staff notes that the reasonableness and prudence of individual expenditures related to TECO's CCR Compliance Program will continue to be subject to the Commission's review in future ECRC proceedings.

Staff recommends that the Commission approve TECO's request for approval of its proposed CCR Compliance Program activities for cost recovery through the ECRC. Staff recommends that, as requested by TECO and consistent with approved similar programs for other IOUs, the costs associated with this new environmental program be allocated to rate classes on an energy basis.

[7] 40 C.F.R .Parts 257 and 261 (2015).

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. (Ames)

Staff Analysis: If no timely protest to the proposed agency action is filed within 21 days, 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 7

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Docket No. 150208-EI

FROM: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk

RE: Rescheduled Commission Conference Agenda Item

Staff's memorandum assigned DN 07293-15 was filed on Novemer 18, 2015, for the December 3, 2015 Commission Conference. As the vote sheet reflects, this item was deferred. This item has been placed on the February 2, 2016 Commission Conference Agenda.

/css

FILED NOV 18, 2015
DOCUMENT NO. 07293-15
FPSC - COMMISSION CLERK

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

RECEIVED-FPSC
15 NOV 18 AM 9:15
COMMISSION CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: November 18, 2015

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Higgins)
Office of the General Counsel (Villafrate)

RE: Docket No. 150208-EI – Petition for base rate reduction reflecting end of amortization period for retired plant, by Florida Power & Light Company.

AGENDA: 12/03/15 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On September 18, 2015, Florida Power and Light Company (FPL or company) filed a petition to reduce its jurisdictional annual revenue requirement by $222,192 in accordance with the Nuclear Cost Recovery (NCR) process set forth in Section 366.93, Florida Statutes (F.S.). FPL states that this proposed revenue requirement reduction reflects the end of the Commission-authorized five-year amortization of the true-up of the final net book value of plant retired in 2009, as well as the actual/estimated net book value of plant retired in 2010, associated with FPL's Extended Power Uprate Project (EPU).[1] The amortization for both of these costs began in March 2011. FPL is requesting to implement its revised annual revenue requirement on March 1, 2016.

[1] Order No. PSC-08-0021-FOF-EI, issued January 7, 2008, Docket No. 070602-EI, In re: Petition for determination of need for expansion of Turkey Point and St. Lucie nuclear power plants, for exemption from Bid Rule 25-22.082, Florida Administrative Code (F.A.C.), and for cost recovery through the Commission's Nuclear Power Plant Cost Recovery Rule, Rule 25-6.0423, F.A.C.

In 2006, the Florida Legislature adopted legislation, Section 366.93, F.S., encouraging the development of nuclear energy in the state. In that section, the Legislature directed the Commission to adopt rules providing for alternative cost recovery mechanisms that would encourage investor-owned electric utilities to invest in nuclear power plants. The Commission adopted Rule 25-6.0423, Florida Administrative Code (F.A.C.), which provides for an annual cost recovery proceeding to consider investor-owned utilities' requests for cost recovery for nuclear plants.

By Order No. PSC-08-0021-FOF-EI,[2] the Commission made an affirmative determination of need for FPL's proposed EPU project to expand all four of its nuclear units: Turkey Point Units 3 and 4 and St. Lucie Units 1 and 2. Staff notes this work has been performed and all four EPU projects are complete.

Pursuant to Rule 25-6.0423(8)(e), F.A.C.,[3] FPL requested to increase its base rates in 2009 to recover the costs of assets retired that same year because of the EPU Project. The Rule states:

> The jurisdictional net book value of any existing generating plant that is retired as a result of operation of the power plant shall be recovered through an increase in base rate charges over a period not to exceed 5 years. At the end of the recovery period, base rates shall be reduced by an amount equal to the increase associated with the recovery of the retired generating plant.

By Order No. PSC-10-0207-PAA-EI,[4] the Commission authorized FPL to increase its base rates for recovering costs associated with the turbine gantry crane phase of the EPU project at St. Lucie Unit 2. This authorization and approval was subject to true-up and revision based on a final review of the associated expenditures in the Nuclear Cost Recovery Clause, Docket No. 100009-EI.

By Order No. PSC-11-0078-PAA-EI[5] the Commission approved FPL's request for a 5-year amortization to recover the net book value of retired plant related to the company's EPU Project in the amount of $198,307 (jurisdictional). Order No. PSC-11-0078-PAA-EI also directed the company to include the true-up revision required by Order No. PSC-10-0207-PAA-EI. This true-up resulted in an additional increase to base rates of $48,335. Of this amount $23,885 related to recovery of retirement, removal, and salvage of plant equipment costs under Rule 25-

[2] Ibid.
[3] Rule 25-6.0423, F.A.C., Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery, was last amended on 1/29/2014. The Rule amendment occurred subsequent to FPL's petition in Docket No. 100419-EI. In it's petition, FPL requested, and the Commission ultimately ordered in Order No. PSC-11-0078-PAA-EI, recovery under Rule 25-6.0423(7), F.A.C. Due the January 2014 amendment, Rule 25-6.0423(7), F.A.C., was re-numbered to Rule 25-6.0423(8), F.A.C. Staff refers to the current numbering of Rule 25-6.0423, F.A.C., throughout this recommendation, however, has left intact the original docket names/references in footnotes.
[4] Order No. PSC-10-0207-PAA-EI, issued April 5, 2010, in Docket No. 090529-EI, In re: Petition to include costs associated with the extended power uprate project in base rates, by Florida Power & Light Company.
[5] Order No. PSC-11-0078-PAA-EI, issued January 31, 2011, in Docket No. 100419-EI, In re: Petition for approval of base rate increase for extended power uprate systems placed in commercial service, pursuant to Section 366.93(4), F.S., and Rules 25-6.0423(7) and 28-106.201, F.A.C., by Florida Power & Light Company.

6.0423(8)(e), F.A.C., was set for 5-year amortization. The combined amount of $198,307 and $23,885, or $222,192, began being amortized March 1, 2011.[6] The company now requests authorization in the instant docket to reflect conclusion of the amortization by reducing its annual revenue requirement by $222,192.

The Commission has jurisdiction over these matters through several provisions of Chapter 366, F.S., including Sections 366.05 and 366.06, F.S.

[6] Ibid.

Discussion of Issues

Issue 1: Should the Commission approve FPL's request to decrease its annual revenue requirement by $222,192 to reflect the conclusion of the 5-year asset amortization, which began in March 2011, for recovery of assets retired in 2009 and 2010 because of the company's EPU project?

Recommendation: Yes. The Commission should approve FPL's request to decrease its annual revenue requirement by $222,192 to reflect the conclusion of the 5-year asset amortization, which began in March 2011, for recovery of assets retired in 2009 and 2010 because of the company's EPU project. (Higgins)

Staff Analysis: By Order No. PSC-11-0078-PAA-EI,[7] the Commission approved FPL's request to increase its base rates by $222,192 for the 5-year asset amortization, which began in March 2011, for recovery of assets retired in 2009 and 2010 because of the company's EPU project. FPL's petition in this docket requesting the Commission approve a decrease of its annual revenue requirement by $222,192 is consistent with that order.

Due to the pending conclusion of the 5-year amortization period, staff recommends the Commission approve FPL's request to reduce its revenue requirement by $222,192. If approved, staff notes that FPL's newly revised revenue requirement will not require any tariff revisions, or change in rates, due to the minimal decrease when appropriately allocated across all of FPL's rate classes.[8] A summary of FPL's proposed revised annual revenue requirement allocated across all rate classes is contained on Attachment B to its petition, which as previously mentioned lists no change in rates for all customer classes.

Conclusion

Staff recommends the Commission approve FPL's request to decrease its annual revenue requirement by $222,192 to reflect the conclusion of the 5-year asset amortization, which began in March 2011, for recovery of assets retired in 2009 and 2010 because of the company's EPU project.

[7] Order No. PSC-11-0078-PAA-EI, issued January 31, 2011, in Docket No. 100419-EI, In re: Petition for approval of base rate increase for extended power uprate systems placed in commercial service, pursuant to Section 366.93(4), F.S., and Rules 25-6.0423(7) and 28-106.201, F.A.C., by Florida Power & Light Company.

[8] The total revenue requirements were allocated based on the nuclear revenue requirements in the Cost of Service Study approved by Order No. PSC-13-0023-S-EI, issued January 14, 2013, in Docket No. 120015-EI, In re: Petition for increase in rates by Florida Power & Light Company.

Issue 2: What is the effective date of FPL's revised revenue requirement?

Recommendation: If the Commission approves the staff recommendation in Issue 1, the revised revenue requirement for FPL should be implemented beginning March 1, 2016. (Higgins)

Staff Analysis: By Order No. PSC-11-0078-PAA-EI[9] the Commission approved FPL's request to increase its base rates for a period of 5 years via amortization to recover the net book value of retiring plant related to the Company's EPU Project. The 5-year amortization period began March 1, 2011. Under Commission rule,[10] the net book value of any existing generating plant that is retired shall be recovered through an increase in base rate charges over a period not to exceed 5 years. Staff notes that the five-year period from inception ends March 1, 2016, which is also the date FPL is requesting to implement its revised revenue requirement. Therefore, staff believes the appropriate date for FPL to revise its revenue requirement by $222,192 is March 1, 2016.

Conclusion

If the Commission approves the staff recommendation in Issue 1, the revised revenue requirement for FPL should be implemented beginning March 1, 2016.

[9] Order No. PSC-11-0078-PAA-EI, issued January 31, 2011, in Docket No. 100419-EI, In re: Petition for approval of base rate increase for extended power uprate systems placed in commercial service, pursuant to Section 366.93(4), F.S., and Rules 25-6.0423(7) and 28-106.201, F.A.C., by Florida Power & Light Company.
[10] Rule 25-6.0423(8)(e), F.A.C.

Issue 3: Should this docket be closed?

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

Staff Analysis: 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 8

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Ollila) S.O. EAD PAD JSC MFB
Office of the General Counsel (Barrera)

RE: Docket No. 150262-EU – Joint petition for approval of joint termination of settlement agreement by Tampa Electric Company and Mosaic Fertilizer, LLC.

AGENDA: 02/02/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On December 10, 2015, Tampa Electric Company (Tampa Electric) and Mosaic Fertilizer, LLC (Mosaic) filed a joint petition requesting approval of joint termination of a settlement agreement (agreement) entered into on October 21, 2003.[1] Mosaic is in the business of mining and processing phosphate, and manufacturing fertilizer. Mosaic owns and operates several qualifying cogeneration facilities that produce energy for Mosaic's internal use and sells excess energy to Tampa Electric. Mosaic's qualifying facilities typically take service under Tampa Electric's interruptible standby rate schedules. A customer taking service under an interruptible rate schedule is subject to interruption whenever any portion of such energy is needed by the utility for the requirements of firm customers.

[1] Order No. PSC-03-1256-AS-EQ, issued November 6, 2003, in Docket No. 020898-EQ, *In re: Petition by Cargill Fertilizer, Inc. for permanent approval of self-service wheeling to, from, and between points with Tampa Electric Company's service area.* Mosaic is the successor to Cargill under the agreement.

The agreement required Tampa Electric to purchase energy generated by Mosaic's Riverview, Green Bay, or Bartow qualifying facilities and simultaneously sell an equivalent amount of energy to these facilities as directed by Mosaic. This would allow Mosaic to avoid service interruptions or the need to purchase optional power and to cover planned and unplanned maintenance outages. Absent the agreement, a qualifying facility that is not selling power to Tampa Electric is subject to interruptions pursuant to the interruptible standby rate schedule.

Exhibit A to the petition is a copy of the order approving the agreement and Exhibit B to the petition is a copy of the joint termination of agreement. The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, 366.051, and 366.075, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve the joint petition of Tampa Electric and Mosaic to terminate their agreement?

Recommendation: Yes, the Commission should approve the joint petition of Tampa Electric and Mosaic to terminate their agreement. (Ollila)

Staff Analysis: Although the ending date of the agreement was December 31, 2007, the terms of the agreement provided that it would continue for successive one-year terms until and unless it is terminated with one year's written notice by either party to the other party.

The parties desire to terminate the agreement at this time and state that neither party requires the one year's prior written notice. The parties have executed a joint termination of agreement which waives the one-year notice required by the agreement and request approval of the joint termination of the agreement. The agreement only impacts Tampa Electric and Mosaic and does not affect Tampa Electric's general body of ratepayers. Mosaic will continue to be able to sell excess power to Tampa Electric; however, Tampa Electric will not be required to sell an equivalent amount of power to Mosaic during periods of interruption.

Staff recommends that the Commission approve the joint petition of Tampa Electric and Mosaic to terminate their agreement.

Issue 2: Should this docket be closed?

Recommendation: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Barrera)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

Item 9

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Guffey, Draper)
Office of the General Counsel (Brownless)

RE: Docket No. 160001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

AGENDA: 02/02/16 – Regular Agenda – Tariff Filing – Participation is at the discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: Pursuant to Order No. PSC-15-0586-FOF-EI this tariff is effective as of the in-service date of the Port Everglades Energy Center, estimated to be April 1, 2016.

SPECIAL INSTRUCTIONS: None

Case Background

On December 30, 2015, Florida Power and Light Company (FPL) filed a petition for approval of revised tariff sheets reflecting the implementation of the generation base rate adjustment (GBRA) resulting from the commercial operation of the Port Everglades Energy Center (PEEC) and a concurrent reduction of fuel factors to reflect PEEC's fuel savings. The GBRA factor of 3.899 percent was approved in Order No. PSC-15-0586-FOF-EI, with the increase in base rates resulting from the application of the GBRA factor to be effective with meter readings made on and after the commercial in service date of PEEC.[1] The estimated commercial in-service date of PEEC is April 1, 2016. In Order No. PSC-15-0586-FOF-EI, the Commission also approved

[1] Order No. PSC-15-0586-FOF-EI, issued December 23, 2015, in Docket No. 150001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.*

FPL's fuel factors to be effective with the commercial operation in-service date of PEEC. FPL has requested that the Commission address this petition at the February 2, 2016 Agenda Conference, in order for FPL to provide timely notice to customers of the revised base rates and fuel factors.

Section 366.05(1)(e), Florida Statutes (F.S.), provides that:

> New tariffs and changes to an existing tariff, other than an administrative change that does not substantially change the meaning or operation of the tariff, must be approved by the majority vote of the commission, except as otherwise specifically provided by law.

This is staff's recommendation on FPL's proposed tariff revisions to implement the GBRA and concurrent reduction of fuel factors. The Commission has jurisdiction pursuant to Section 366.06, F.S.

Discussion of Issues

Issue 1: Should the Commission approve FPL's tariff rate changes to implement the GBRA resulting from the commercial operation of the PEEC and the reduction of fuel factors reflecting the PEEC's fuel savings as approved in the Order No. PSC-15-0586-FOF-EI?

Recommendation: Yes, the Commission should approve FPL's tariff rate changes to implement the GBRA resulting from the commercial operation of the PEEC and approve the reduction of fuel factors to reflect PEEC's fuel savings. Pursuant to the above referenced Order, the rate changes should become effective with meter readings made on or after the commercial in service date of PEEC, estimated to be April 1, 2016. FPL should notify customers of the approved new rates in its March 2016 bills. (Guffey)

Staff Analysis: FPL's petition includes a summary of tariff changes and the proposed tariff sheets. A residential customer who uses 1,000 kilowatt-hours (kWh) per month will see an increase of $1.57 on their monthly bill.[2]

FPL states that the construction of PEEC is ahead of schedule and slated to be in service on April 1, 2016, rather than on June 1, 2016, as originally projected.

Attachment 1 to the recommendation shows current and proposed base rates and fuel factors for the major rate classes. The revised tariff sheets reflect the application of the GBRA factor of 3.899 percent and the fuel factors that have been approved by the Commission in Order No. PSC-15-0586-FOF-EI.

Staff has reviewed FPL's proposed tariff sheets and supporting documentation. The Commission should approve FPL's tariff rate changes to implement the GBRA resulting from the commercial operation of the PEEC and approve the reduction of fuel factors to reflect PEEC's fuel savings. Pursuant to the above referenced Order, the rate changes should become effective with meter readings made on or after the commercial in service date of PEEC, estimated to be April 1, 2016. FPL should notify customers of the approved new rates in the March 2016 bills.

[2] The current 1,000 kwh residential monthly bill is $93.38 and will increase to $94.95, or by $1.57 (including Gross Receipts Tax).

Issue 2: Should this docket be closed?

Recommendation: The fuel docket is on-going and should remain open. (Brownless)

Staff Analysis: The fuel docket is on-going and should remain open.

FPL's Current and Proposed Rates for Major Rate Classes

Customer Class	Type of Charge	Current Rate	Proposed Rate
RS-1 Residential Service	Customer Charge	$7.57	$7.87
	Energy Charge (1st 1,000 kWh)	4.729 ¢/kWh	4.913 ¢/Kwh
	Energy Charge (above 1,000 kWh)	5.811 ¢/kWh	6.038 ¢/kWh
	Fuel Charge (1st 1,000 kWh)*	2.580 ¢/kWh	2.519 ¢/kWh
	Fuel Charge (above 1,000 kWh)	3.580 ¢/kWh	3.519 ¢/kWh
GS-1 General Service Non-Demand (0-20 kW)	Customer Charge	$7.46	$7.75
	Energy Charge	5.182 ¢/kWh	5.384 ¢/kWh
	Fuel Charge	2.907 ¢/kWh	2.846 ¢/kWh
GSD-1 General Service Demand (21-499 kW)	Customer Charge	$19.48	$20.24
	Demand Charge	$7.95	$8.26
	Energy Charge	1.861 ¢/kWh	1.934 ¢/kWh
	Fuel Charge	2.907 ¢kWh	2.846 ¢kWh
GSLD-1 General Service Large Demand 1 (500-1999 kW)	Customer Charge	$59.51	$61.83
	Demand Charge	$9.11	$9.47
	Energy Charge	1.376¢/kWh	1.430 ¢/kWh
	Fuel Charge	2.904 ¢kWh	2.843 ¢kWh

*The fuel charges have been approved in Order No. PSC-15-0586-FOF-EI

Item 10

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: 01/21/2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Guffey) EJD SKG
Office of the General Counsel (Mapp) KHM JSC

RE: Docket No. 150218-GU – Petition for approval to discontinue charging multiple purchased gas adjustment (PGA) factors, by Peoples Gas System.

AGENDA: 02/02/2016 – Proposed Agency Action – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On October 8, 2015, Peoples Gas System (Peoples or Company) filed a petition for approval to discontinue charging multiple purchased gas adjustment (PGA) factors for different classes of customers effective with bills rendered for the first billing cycle of the first month following the Commission's approval of this petition.

The PGA factor allows investor-owned gas utilities to recover, primarily, prudently incurred gas and pipeline transportation costs. The Commission sets a maximum PGA factor (cap) annually in the ongoing PGA docket. The actual PGA factor charged to customers varies monthly and is reported to the Commission. However, the actual factor does not need Commission approval as

long as the factor is below or at the annual cap approved in the PGA docket. Peoples' approved PGA cap for 2016 is 96.064 cents per therm.[1]

In Order No. PSC-99-0634-FOF-GU, Peoples received approval of a methodology to calculate and to charge separate PGA factors for residential and commercial customers.[2] Prior to that, Peoples billed all customer classes the same PGA factor. The Commission continues to approve a PGA cap that applies to all the rate classes for Peoples in the annual PGA docket. Peoples proposes to discontinue charging separate PGA factors to residential and commercial customer classes and charge all customers the same PGA factor.

On October 21, 2015, Peoples met with staff and the Office of Public Counsel in a noticed informal meeting to discuss Peoples' proposal. On December 8, 2015, Peoples responded to Staff's First Data Request. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes.

[1] Order No. PSC-15-0543-FOF-GU, issued November 24, 2015, in Docket No. 150003-GU, *In re: Purchased gas adjustment (PGA) true-up.*

[2] Order No. PSC-99-0634-FOF-GU, issued April 5, 1999, in Docket No. 981698-GU, *In re: Request by Tampa Electric Company d/b/a Peoples Gas System for approval of a methodology for charging multiple purchased gas adjustment factors.*

Discussion of Issues

Issue 1: Should the Commission approve Peoples petition to discontinue charging multiple PGA factors for different classes of customers effective with bills rendered for the first billing cycle of the first month following the Commission's approval of this petition?

Recommendation: Yes. The Commission should approve Peoples petition to discontinue charging multiple PGA factors for different classes of customers effective with bills rendered for the first billing cycle of the first month following the Commission's approval of this petition. (Guffey)

Staff Analysis: The multiple PGA factors have been in effect since April 1999 and are based on residential and commercial customers' percentage of total therm sales in February (winter peak month) and April (summer peak month). The percentages are used to allocate fixed interstate pipeline capacity costs to residential and commercial customers and allows for an assignment of cost responsibility between residential and commercial customers. The fixed costs associated with interstate pipeline capacity are demand reservation charges and No Notice Service charges (service provided by interstate pipelines when Peoples actual use exceeds scheduled gas quantities). To support its petition, Peoples explained that in 1999 the natural gas market was different than it is today and separate PGA factors for residential and commercial customers are no longer necessary.

One of the changes in the gas market since 1999 was the Commission's adoption of Rule 25-7.0335, Florida Administrative Code (F.A.C.), in 2000 requiring investor-owned gas utilities to make transportation service available to all non-residential customers. In a transportation service environment, the customer purchases gas from a third party marketer instead of the utility. A transportation customer therefore does not pay the PGA charge, but pays the marketer for the cost of gas. Peoples stated that in 1999 almost all of its commercial customers purchased their gas from Peoples and paid the PGA factor. Customers who purchase their gas from the utility are referred to as sales customers.

In order to comply with Rule 25-7.0335, F.A.C, Peoples implemented its Natural Choice Transportation Service program to give commercial customers an opportunity to switch from sales to transportation service. A majority of Peoples' commercial customers have migrated to transportation service. As of December 2014, 14,080 commercial customers were taking sales service and 22,123 customers were taking transportation service. Expressed in therms consumed, sales customers consumed 41 million therms in 2014, while transportation customers consumed 305 million therms in 2014. Sales service represents only about 12 percent of total commercial therm sales.

Peoples Gas stated that removal of the dual PGA should incentivize many of the remaining commercial customers to switch to transportation service. Since the gas commodity price is negotiated with a third party, switching to transportation service may help reduce the overall cost to the commercial customer.

Peoples further explained that the separate PGA charges resulted in residential customers bearing more of the cost and therefore paying a higher monthly PGA factor than commercial customers

who have a more consistent load profile and are therefore allocated less pipeline capacity. In response to Staff's First Data Request, Peoples provided a comparison of residential, commercial and combined PGA factors for 2014 and 2015. To illustrate, the October 2015 residential PGA factor was $0.8985 per therm, while the commercial PGA factor was $0.7927 per therm. The combined PGA for October 2015 is $0.8591 per therm. The calculation of a single PGA factor will therefore benefit residential customers. Finally, Peoples stated that a single PGA factor will reduce its administrative burden of calculating and maintaining separate PGA rates.

A single PGA factor will be calculated per the methodology adopted by the Commission in Order No. 24463,[3] the methodology that was in effect prior to Peoples charging separate PGA factors. There will be no change in the currently approved PGA cap, and no changes to the PGA provisions in the Peoples' Commission-approved tariff will be required.

Based on the reasons discussed above, staff recommends approval of Peoples petition to discontinue charging multiple PGA factors for different classes of customers effective with bills rendered for the first billing cycle of the first month following the Commission's approval of this petition.

[3] Order No. 24463, issued May 02, 1991, in Docket No. 910003-GU, *In re: Purchased Gas Adjustment (PGA) True-Up.*

Issue 2: Should this docket be closed?

Recommendation: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Mapp)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

Item 11

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Guffey, Draper)
Office of the General Counsel (Barrera)

RE: Docket No. 150232-GU – Petition for approval of variance from area extension program (AEP) tariff to delay true-up and extend amortization period, by Florida City Gas.

AGENDA: 02/02/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On October 27, 2015, Florida City Gas (FCG or Company) filed a petition for approval of a variance from its Area Extension Program (AEP) tariff to delay the true-up and extend the amortization period by two years.

The AEP tariff is designed to provide FCG with an optional method to recover its capital investment to provide natural gas service to customers in a discrete geographic area who do not have gas service available.[1] The AEP tariff provides for the determination of a charge applicable to all gas customers located in the geographic area over a 10-year amortization period. The AEP charge is applied on a per therm basis in addition to all other tariffed charges. The AEP charge is

[1] Order No. PSC-95-0506-FOF-GU, issued April 24, 1995, Docket No. 950206-GU, *In re: Petition for approval of tariffs governing extension of facilities by City Gas Company of Florida.*

calculated by a formula based on the amount of investment required and the projected gas sales and resulting revenues collected from customers in the AEP area. The AEP tariff specifies the formula to calculate the charge; the AEP charge itself does not require Commission approval.

The AEP tariff requires FCG to recalculate and true-up the AEP charge on the third anniversary of the date when the facilities to provide gas service were placed into service, or on the date when 80 percent of the originally forecast annual load is connected, whichever comes first. The Company can true-up the AEP charge only once, and the new charge will be applied prospectively over the remainder of the amortization period. The AEP tariff includes a provision that the length of the amortization period may be modified upon Commission approval.

FCG stated that it has utilized the AEP tariff eight times since its 1995 implementation and the AEP mechanism has proven very helpful in facilitating projects to extend natural gas service to customers who would otherwise not been served. In 2012, FCG extended its facilities pursuant to the AEP tariff to serve a large commercial customer, who is a citrus producer, located in Hendry County. The project is referred to as the Glades Project. The Glades Project has not developed as projected and FCG therefore is requesting in this petition to deviate from the AEP tariff requirements for the Glades Project. FCG is not requesting to change any provisions of the AEP tariff itself. On December 8, 2015, FCG responded to Staff's First Set of Data Requests. The Commission has jurisdiction over this matter pursuant to Section 366.06, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve FCG's request to delay the true-up of the AEP charge applicable to the Glades Project by two years until October 31, 2017, and extend the 10-year amortization period by two years?

Recommendation: Yes. The Commission should approve FCG's request to delay the true-up of the AEP charge applicable to the Glades Project by two years until October 31, 2017, and extend the 10-year amortization period by two years.

Staff Analysis: In 2012, pursuant to the AEP tariff, FCG extended its East-West pipeline to provide gas service to a large commercial customer located in Hendry County. Based on the initial projected cost of the facilities and projected annual therm usage, FCG calculated an initial AEP charge of $0.241 per therm, which the commercial customer in the Glades Project area has been paying since November 2012.

As required by the AEP tariff, FCG recalculated the AEP charge for the Glades Project based on updated project costs and therm usage by the end of the third year, which was on October 31, 2015. FCG stated that due to unexpected project cost increases and lower gas consumption, the recalculated AEP charge would increase from $0.241 per therm to $0.515 per therm, which would be applied beginning November 1, 2015 through the remainder of the 10-year amortization period (2015 through 2022). While FCG calculated the true-up, FCG did not implement the revised AEP charge pending the Commission's decision in this docket. FCG explained that three factors resulted in the significant increase of the AEP charge, which are listed below:

- The commercial customer did not use the amount of natural gas initially projected due to an outbreak of citrus canker which lowered production and therefore gas usage.

- The cost of the line extension exceeded the initial cost estimated due to unanticipated environmental issues. The 2012 projected facilities cost of $13,500,000 increased to $17,766,616 in 2015.

- New customers did not come on line as anticipated when the line was extended.

FCG stated that while applying the recalculated higher AEP charge starting in November 2015 would be consistent with the AEP tariff, FCG is sensitive to the issues faced by the large commercial customer who is a citrus producer, in the Glades Project area and the impact the higher AEP charge would have on the customer. FCG stated that while the citrus canker disease has abated, new trees will not begin producing fruit for another two years. Once the trees begin producing, FCG anticipates that the customer's gas usage will also begin to increase. FCG explained that deferring the AEP true-up and implementation of a revised AEP charge until October 31, 2017, will provide additional time for gas usage to increase and provide more time for potential new customers to come on line, therefore resulting in the recalculated AEP charge to reflect a much less significant increase. To further mitigate any rate impacts on the

commercial customer, FCG proposed to extend its 10-year amortization period for an additional two years in order to spread the amount to be collected over a slightly longer period of time.

FCG's proposal only impacts the customers in the Glades Project and does not impact the general body of ratepayers. FCG's proposal will benefit the large commercial customer in the Glades Project area who is facing unique economic challenges. FCG stated that it has communicated with the commercial customer and the customer does not oppose FCG's proposal. In response to staff's data request, FCG explained that the seven other AEP projects are performing as projected or better. Staff therefore recommends that the Commission should approve FCG's request to delay the true-up of the AEP charge applicable to the Glades Project by two years until October 31, 2017, and extend the 10-year amortization period by two years.

Issue 2: Should this docket be closed?

Recommendation: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Barrera)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

Item 12

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Thompson, Hudson)
Office of the General Counsel (Villafrate)

RE: Docket No. 150260-WS – Request for approval of late payment charges and return check (NSF) charge and request for approval of amendment to tariff sheets for miscellaneous service charges in Lake County by Brendenwood Waterworks, Inc., Harbor Waterworks, Inc., Lake Idlewild Waterworks, Inc., and Raintree Waterworks, Inc., and in Highlands County by Country Walk Utilities, Inc.

AGENDA: 02/02/16 – Regular Agenda – Tariff Filing - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 2/08/16 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On December 10, 2015, U.S. Water Services Corporation (U.S. Water) filed an application on behalf of Brendenwood Waterworks, Inc., Country Walk Utilities, Inc., Harbor Waterworks, Inc., Lake Idlewild Waterworks, Inc., and Raintree Waterworks, Inc. (utilities) to add and/or modify late payment charges and non-sufficient funds (NSF) charges to their tariffs. U.S. Water is the management company for these particular utilities and would like to have consistent miscellaneous service charges among these systems for administrative efficiency. This recommendation addresses U.S. Water's request to add and/or amend these charges. The Commission has jurisdiction pursuant to Section 367.091(6), Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the request to implement a $5 late payment charge for Brendenwood Waterworks, Inc., Country Walk Utilities, Inc., Harbor Waterworks, Inc., Lake Idlewild Waterworks, Inc., and Raintree Waterworks, Inc. be approved?

Recommendation: Yes. The request to implement a $5 late payment charge for these systems should be approved. The utilities should be required to file a proposed customer notice for each respective system to reflect the Commission-approved charge. The approved charge should be effective 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 charge should not be implemented until staff has approved the proposed customer notices. The utilities should provide proof of the date each notice was given no less than 10 days after the date of the notice. (Thompson)

Staff Analysis: U.S. Water is requesting a $5 late payment charge for these utilities in order to recover the cost of supplies and labor associated with processing late payment notices. The request for a late payment charge was accompanied by its reason for requesting the charge, as well as the cost justification required by Section 367.091, F.S. U.S. Water is requesting an amendment/addition to the existing tariffs as reflected below.

Table 1-1
Late Payment Charge

System	Current	Proposed
Brendenwood Waterworks, Inc.	$3.00	$5.00
Harbor Waterworks, Inc.	N/A	$5.00
Lake Idlewild Waterworks, Inc.	N/A	$5.00
Raintree Waterworks, Inc.	N/A	$5.00
Country Walk Utilities, Inc.	N/A	$5.00

Source: Utility Tariffs

U.S. Water utilizes an outside vendor, Opus 21 (Opus), for all customer service, billing, collection, service order generation, and dispatch, etc. Opus has mailed about 4,776 notices, of which 239 are for these utilities, over the last twelve month period. The total number of customers for these particular utilities is approximately 1,000. In the past, the Commission has allowed 10-15 minutes per account per month for clerical and administrative labor to research, review, and prepare the notice.[1] Opus indicated it will spend approximately 576 hours per billing cycle processing late payment notices, which results in an average of approximately 7.23 minutes per account (34,560 minutes/4,776 accounts) and is consistent with past Commission

[1]Order Nos. PSC-11-0204-TRF-SU, in Docket No. 100413-SU, issued April 25, 2011, *In re: Request for approval of tariff amendment to include a late fee of $14.00 in Polk County by West Lakeland Wastewater.*; PSC-08-0255-PAA-WS, in Docket No. 070391-WS, issued April 24, 2008, *In re: Application for certificates to provide water and wastewater service in Sumter County by Orange Blossom Utilities, Inc.*; and PSC-01-2101-TRF-WS, in Docket No. 011122-WS, issued October 22, 2001, *In re: Tariff filing to establish a late payment charge in Highlands County by Damon Utilities, Inc.*

decisions. The late payment notices will be processed by Opus, which results in labor cost of $4.21 (576x$34.95/4,776) per account. The cost basis for the late payment charge, including the labor, is shown below.

Table 1-2
Cost Basis for Late Payment Charge

Labor	$4.21
Printing/Paper	$0.30
Postage	$0.49
Total Cost	$5.00

Source: U.S. Water Correspondence

Based on staff's research, since the late 1990s, the Commission has approved late payment charges ranging from $2.00 to $7.00.[2] The purpose of this charge is not only to provide an incentive for customers to make timely payment, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing delinquent accounts solely upon those who are cost causers.

Based on the above, staff recommends that the request to implement a $5 late payment charge for these utilities should be approved. The utilities should be required to file a proposed customer notice for each respective system to reflect the Commission-approved charge. The approved charge should be effective 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 charge should not be implemented until staff has approved the proposed customer notices. The utilities should provide proof of the date each notice was given no less than 10 days after the date of the notice.

[2]Order Nos. PSC-01-2101-TRF-WS, in Docket No. 011122-WS, issued October 22, 2001, *In re: Tariff filing to establish a late payment charge in Highlands County by Damon Utilities, Inc.*; PSC-08-0255-PAA-WS, in Docket No. 070391-WS, issued April 24, 2008, *In re: Application for certificates to provide water and wastewater service in Sumter County by Orange Blossom Utilities, Inc.*; PSC-09-0752-PAA-WU, in Docket No. 090185-WU, issued November 16, 2009, *In re: 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.*; PSC-10-0257-TRF-WU, in Docket No. 090429-WU, issued April 26, 2010, *In re: Request for approval of imposition of miscellaneous service charges, delinquent payment charge and meter tampering charge in Lake County, by Pine Harbour Water Utilities, LLC.*; and PSC-11-0204-TRF-SU, in Docket No. 100413-SU, issued April 25, 2011, *In re: Request for approval of tariff amendment to include a late fee of $14.00 in Polk County by West Lakeland Wastewater.*PSC-14-0105-TRF-WS, in Docket No. 130288-WS, issued February 20, 2014, *In re: Request for approval of late payment charge in Brevard County by Aquarina Utilities, Inc.*

Issue 2: Should the request to implement a Non-Sufficient Funds (NSF) charge for Brendenwood, Country Walk, Lake Idlewild, and Raintree be approved?

Recommendation: Yes. The request to implement a NSF charge for Brendenwood, Country Walk, Lake Idlewild, and Raintree should be approved. Staff recommends that the utilities revise each respective systems tariff sheet to reflect the NSF charges currently set forth in Section 68.065, F.S. The NSF charges should be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. Furthermore, the charges should not be implemented until staff has approved the proposed customer notices. The utilities should provide proof of the date each notice was given within 10 days of the date of the notice. (Thompson)

Staff Analysis: Section 367.091, F.S., requires rates, charges, and customer service policies to be approved by the Commission. The Commission has authority to establish, increase, or change a rate or charge. Staff believes that the utilities should be authorized to collect NSF charges consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

1. $25, if the face value does not exceed $50,
2. $30, if the face value exceeds $50 but does not exceed $300,
3. $40, if the face value exceeds $300,
4. or five percent of the face amount of the check, whichever is greater.

Approval of NSF charges is consistent with prior Commission decisions.[3] Furthermore, NSF charges place the cost on the cost-causer, rather than requiring that the costs associated with the return of the NSF checks be spread across the general body of ratepayers. As such, staff recommends that the utilities revise their tariff sheet to reflect the NSF charges currently set forth in Section 68.065, F.S. The NSF charges should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. Furthermore, the NSF charges should not be implemented until staff has approved the proposed customer notice. The utilities should provide proof of the date each notice was given within 10 days of the date of the notice.

[3]Order Nos. PSC-14-0198-TRF-SU, issued May 2, 2014, in Docket No. 140030-SU, *In re: Request for approval to amend Miscellaneous Service charges to include all NSF charges by Environmental Protection Systems of Pine Island, Inc.*, and PSC-13-0646-PAA-WU, issued December 5, 2013, in Docket No. 130025-WU, *In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.*

Issue 3: Should this docket be closed?

Recommendation: No. The docket should remain open pending staff's verification that the revised tariff sheets and customer notices have been filed by the utilities and approved by staff. If a protest is filed within 21 days of the issuance date of the Order, the tariffs should remain in effect with the charges held subject to refund pending resolution of the protest. If no timely protest is filed, a consummating order should be issued and, once staff verifies that the notices of the charges have been given to customers, the docket should be administratively closed. (Villafrate)

Staff Analysis: The docket should remain open pending staff's verification that the revised tariff sheets and customer notices have been filed by the utilities and approved by staff. If a protest is filed within 21 days of the issuance date of the Order, the tariffs should remain in effect with the charges held subject to refund pending resolution of the protest. If no timely protest is filed, a consummating order should be issued and, once staff verifies that the notices of the charges have been given to customers, the docket should be administratively closed.