

MINUTES OF April 21, 2009

COMMISSION CONFERENCE

COMMENCED: 9:37 am
RECESSED: 10:42 am
RECONVENED: 11:12 am
RECESSED: 11:56 am
RECONVENED: 12:04 pm
RECESSED: 12:37 pm
RECONVENED: 12:41 pm
RECESSED: 1:01 pm
RECONVENED: 1:06 pm
ADJOURNED: 1:14 pm

COMMISSIONERS PARTICIPATING: Chairman Carter
Commissioner McMurrian
Commissioner Argenziano
Commissioner Skop

Parties were allowed to address the Commission on items designated by double asterisks (**).

1

Approval of Minutes

March 17, 2009 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

2**

Consent Agenda

PAA

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

DOCKET NO.

COMPANY NAME

090073-TX

Lleida.Net USA, Inc.

090118-TX

TelCentris Communications, LLC

PAA

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

DOCKET NO.

COMPANY NAME

EFFECTIVE DATE

090052-TX

NetworkIP, L.L.C. d/b/a Elite Telecom

12/31/2008

090115-TP

The Hamilton Telephone Company d/b/a
Hamilton Telecommunications

12/31/2008

090116-TX

Eagle Communications, Inc. d/b/a Eagle Telco,
Inc.

3/2/2009

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

DECISION: The recommendation was approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

3**PAA

Docket No. 080632-EU – Joint petition for approval of amended territorial agreement in Sumter, Lake, Marion, Citrus, and Levy Counties by Sumter Electric Cooperative, Inc. and Progress Energy Florida, Inc. (Deferred from the February 10, 2009, Commission Conference, revised recommendation filed.)

Critical Date(s):	None	
Commissioners Assigned:	All Commissioners	
Prehearing Officer:	Skop	
Staff:	GCL: Jaeger ECR: Redemann, Rieger	

Issue 1: Should the Commission approve the joint petition for approval of the territorial agreement between Sumter Electric Cooperative, Inc. (SECO) and Progress Energy Florida, Inc. (PEF)?

Recommendation: Yes. The joint petition for approval of the amended territorial agreement between SECO and PEF is in the public interest and should be approved. Since there will be customers transferred as a result of the agreement, it is recommended that, beginning one year from the date of the Commission order approving the agreement, annual reports should be submitted to the Commission concerning the status of the customer transfers. The reporting requirement shall continue until all Extra-Territorial Customers have been transferred and the terms of the amended agreement have been fully satisfied.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

4**PAA

Docket No. 090095-TX – Request for cancellation of CLEC Certificate No. 7380 by Beauty Town, Inc. d/b/a Anns Communication, effective March 2, 2009.

Critical Date(s):	None
Commissioners Assigned:	All Commissioners
Prehearing Officer:	Administrative
Staff:	RCP: Isler GCL: Brooks

Issue 1: Should the Commission deny Beauty Town, Inc. d/b/a Anns Communication, a voluntary cancellation of its competitive local exchange telecommunications company (CLEC) Certificate No. 7380 and cancel the certificate on the Commission’s own motion with an effective date of March 2, 2009?

Recommendation: Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff’s memorandum dated April 9, 2009.

ITEM NO.

CASE

4**PAA

Docket No. 090095-TX – Request for cancellation of CLEC Certificate No. 7380 by Beauty Town, Inc. d/b/a Anns Communication, effective March 2, 2009.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If the company pays the Regulatory Assessment Fee, including any applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's CLEC certificate will be voluntary. If the company fails to pay the Regulatory Assessment Fee, including any applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's CLEC certificate should be cancelled administratively, and the collection of the unpaid Regulatory Assessment Fee should be referred to the Florida Department of Financial Services for further collection efforts. If the company's CLEC certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fee, including any applicable late payment charges, or upon cancellation of the company's CLEC certificate.

DECISION: The recommendations were approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

5**PAA

Docket No. 090114-TP – Request for cancellation of CLEC Certificate No. 8501, and for acknowledgment of cancellation of IXC Registration No. TJ794 held by PriStar Communications L.L.C., effective February 27, 2009.

Critical Date(s):	None
Commissioners Assigned:	All Commissioners
Prehearing Officer:	Administrative
Staff:	RCP: Isler GCL: McKay

Issue 1: Should the Commission deny PriStar Communications L.L.C. a voluntary cancellation of its CLEC Certificate No. 8501 and IXC Registration No. TJ794 and cancel the tariff and remove the company's name from the register on the Commission's own motion with an effective date of February 27, 2009?

Recommendation: Yes, the company should be denied voluntary cancellations as listed on Attachment A of staff's memorandum dated April 9, 2009.

ITEM NO.

CASE

5**PAA

Docket No. 090114-TP – Request for cancellation of CLEC Certificate No. 8501, and for acknowledgment of cancellation of IXC Registration No. TJ794 held by PriStar Communications L.L.C., effective February 27, 2009.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If the company pays the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff and the removal of its name from the register will be voluntary. If the company fails to pay the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff should be cancelled administratively and its name removed from the IXC register, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff are cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively either upon receipt of payment of the Regulatory Assessment Fees, including applicable late payment charges, or upon cancellation of the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff and removal of its name from the register.

DECISION: The recommendations were approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

6**PAA

Docket No. 090101-TI – Acknowledgment of cancellation of IXC Registration No. TJ915 by MLC Tel Corp., effective March 5, 2009.

Docket No. 090112-TI – Acknowledgment of cancellation of IXC Registration No. TK137 by CVT Prepaid Solutions, Inc., effective December 31, 2008.

Docket No. 090113-TI – Acknowledgment of cancellation of IXC Registration No. TK154 by Comtel Networks, Corp., effective December 31, 2008.

Docket No. 090132-TI – Acknowledgment of cancellation of IXC Registration No. TJ067 by Telcom.Net, Inc., effective March 13, 2009.

Critical Date(s):	None	
Commissioners Assigned:	All Commissioners	
Prehearing Officer:	Administrative	
Staff:	RCP: Isler GCL: McKay	

Issue 1: Should the Commission deny MLC Tel Corp., CVT Prepaid Solutions, Inc., Comtel Networks, Corp., and Telcom.Net, Inc., a voluntary cancellation of their respective intrastate interexchange telecommunications carrier (IXC) tariffs and Registration Nos. TJ915, TK137, TK154, and TJ067, and cancel the tariffs and remove each entity’s respective name from the register on the Commission’s own motion with an effective date as listed in the docket titles?

Recommendation: Yes, each entity should be denied a voluntary cancellation as listed on Attachment A of staff’s memorandum dated April 9, 2009.

ITEM NO.

CASE

6**PAA

Docket No. 090101-TI – Acknowledgment of cancellation of IXC Registration No. TJ915 by MLC Tel Corp., effective March 5, 2009.

Docket No. 090112-TI – Acknowledgment of cancellation of IXC Registration No. TK137 by CVT Prepaid Solutions, Inc., effective December 31, 2008.

Docket No. 090113-TI – Acknowledgment of cancellation of IXC Registration No. TK154 by Comtel Networks, Corp., effective December 31, 2008.

Docket No. 090132-TI – Acknowledgment of cancellation of IXC Registration No. TJ067 by Telcom.Net, Inc., effective March 13, 2009.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any entity fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If an entity pays the Regulatory Assessment Fees, including any accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, then that cancellation of each entity's respective tariff and the removal of its name from the register will be voluntary. If an entity fails to pay the Regulatory Assessment Fees, including any accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, then that entity's respective IXC tariff should be cancelled administratively and its name removed from the register, and the collection of the unpaid Regulatory Assessment Fees, including any accrued statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If an entity's respective IXC tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, that entity should be required to immediately cease and desist providing telecommunications service in Florida. These dockets should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees, including any accrued statutory late payment charges, or upon cancellation of each entity's respective IXC tariff and removal of its name from the register.

DECISION: The recommendations were approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

7**PAA

Docket No. 090096-TX – Request for cancellation of CLEC Certificate No. 7885 by LPGA International Communications, LLC, effective March 2, 2009.

Docket No. 090117-TX – Request for cancellation of CLEC Certificate No. 8580 by Meridian TeleSystems, Inc., effective March 2, 2009.

Docket No. 090124-TX – Request for cancellation of CLEC Certificate No. 8712 by Applied Technology Solutions, Inc., effective March 13, 2009.

Critical Date(s):	None
Commissioners Assigned:	All Commissioners
Prehearing Officer:	Administrative
Staff:	RCP: Isler GCL: Morrow

Issue 1: Should the Commission deny LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc., a voluntary cancellation of their respective competitive local exchange carrier (CLEC) Certificate Nos. 7885, 8580, and 8712 and cancel the certificates on the Commission’s own motion with an effective date as listed in the docket titles?

Recommendation: Yes, the companies should be denied a voluntary cancellation as listed on Attachment A of staff’s memorandum dated April 9, 2009.

ITEM NO.

CASE

7**PAA

Docket No. 090096-TX – Request for cancellation of CLEC Certificate No. 7885 by LPGA International Communications, LLC, effective March 2, 2009.

Docket No. 090117-TX – Request for cancellation of CLEC Certificate No. 8580 by Meridian TeleSystems, Inc., effective March 2, 2009.

Docket No. 090124-TX – Request for cancellation of CLEC Certificate No. 8712 by Applied Technology Solutions, Inc., effective March 13, 2009.

(Continued from previous page)

Issue 2: Should these dockets be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If an entity fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If an entity pays the Regulatory Assessment Fees, including applicable statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of that entity's CLEC certificate will be voluntary. If an entity fails to pay the Regulatory Assessment Fees, including applicable statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then that entity's CLEC certificate should be cancelled administratively, and the collection of the past due Regulatory Assessment Fees, including applicable statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If an entity's CLEC certificate is cancelled in accordance with the Commission's Order from this recommendation, that entity should be required to immediately cease and desist providing telecommunications service in Florida. These dockets should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees, including applicable statutory late payment charges, or upon cancellation of each entity's respective CLEC certificate.

DECISION: The recommendations were approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

8**PAA

Docket No. 090131-TP – Request for cancellation of CLEC Certificate No. 8645, and for acknowledgment of cancellation of IXC Registration No. TK062 by World-Link Solutions, Inc. d/b/a WL Solutions, Inc., effective March 16, 2009.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: Morrow

Issue 1: Should the Commission deny World-Link Solutions, Inc. d/b/a WL Solutions, Inc. a voluntary cancellation of its CLEC Certificate No. 8645 and IXC Registration No. TK062 and cancel the tariff and remove the company's name from the register on the Commission's own motion with an effective date of March 16, 2009?

Recommendation: Yes, the company should be denied voluntary cancellations as listed on Attachment A of staff's memorandum dated April 9, 2009.

ITEM NO.

CASE

8**PAA

Docket No. 090131-TP – Request for cancellation of CLEC Certificate No. 8645, and for acknowledgment of cancellation of IXC Registration No. TK062 by World-Link Solutions, Inc. d/b/a WL Solutions, Inc., effective March 16, 2009.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If the company pays the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff and the removal of its name from the register will be voluntary. If the company fails to pay the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff should be cancelled administratively and its name removed from the IXC register, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff are cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively either upon receipt of payment of the Regulatory Assessment Fees, including applicable late payment charges, or upon cancellation of the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff and removal of its name from the register.

DECISION: The recommendations were approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

9**PAA

Docket No. 090086-TS – Compliance investigation of Roberta L. Marcus, Inc. d/b/a The Marcus Centre, for apparent violation of Rule 25-24.565, F.A.C., Certificate of Public Convenience and Necessity Required.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Curry

GCL: Morrow

Issue 1: Should the Commission impose a penalty in the amount of \$25,000 upon Roberta L. Marcus d/b/a The Marcus Centre for its apparent violation of Rule 25-24.565, F.A.C., Certificate of Public Convenience and Necessity Required?

Recommendation: Yes, the Commission should impose a penalty in the amount of \$25,000 upon Roberta L. Marcus d/b/a The Marcus Centre for its apparent violation of Rule 25-24.565, F.A.C., Certificate of Public Convenience and Necessity Required.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If The Marcus Centre fails to timely file a protest and request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If payment of the penalty is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the penalty should be referred to the Department of Financial Services for collection, and the company should be required to immediately cease and desist providing shared tenant services in Florida. This docket should be closed administratively upon The Marcus Centre obtaining a STS certificate and payment of the penalty, or upon the referral of the penalty to the Department of Financial Services.

DECISION: This item was deferred to the June 30, 2009, Commission Conference.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

10**PAA

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

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: RCP: Harvey, Hallenstein

GCL: Teitzman, Brooks

Issue 1: Should AT&T be required to pay SEEM remedies for a St. Louis Data Center outage that occurred on December 6, 2008?

Recommendation: No. The St. Louis Data Center outage was a Force Majeure event in accordance with the definition in Section 4.5.2 of the SEEM Administrative Plan.

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1 the resulting Order will be issued as a Proposed Agency Action. The Order will become final upon issuance of a Consummating Order, if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. This docket should remain open pending the implementation of the Commission's decision and for purposes of future performance measure monitoring.

DECISION: This item was withdrawn.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

11**

Docket No. 090151-EI – Petition for approval of revisions to GSLM-2 and GSLM-3 load management riders, by Tampa Electric Company.

Critical Date(s): 05/26/09 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Kummer

GCL: Young, Walker

Issue 1: Should the Commission approve Tampa Electric's request to delete the customer charge on the General Service Industrial Load Management Rider and General Service Industrial Standby and Supplemental Load Management Rider rate schedule?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no timely protest is filed within 21 days of the issuance date of the Order, no further action will be necessary and this docket should be closed upon the issuance of a Consummating Order. However, if a protest is filed by a person whose interests are substantially affected within 21 days of the issuance date of the Order, the docket should remain open pending resolution of the protest.

DECISION: The recommendations were approved. Commissioner Argenziano dissented.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

12**PAA

Docket No. 080170-GU – 2008 depreciation study by Indiantown Gas Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrian

Staff: ECR: Gardner, Bulecza-Banks

GCL: Brown

Issue 1: Should the currently prescribed depreciation rates of Indiantown Gas Company be changed?

Recommendation: Yes. A comprehensive review of Indiantown Gas Company's planning and activity since the prior depreciation filing indicates a need for a revision to the currently prescribed depreciation rates.

Issue 2: What are the appropriate remaining lives, net salvage, reserve amounts, and resultant depreciation rates for Indiantown?

Recommendation: Staff's recommended remaining lives, net salvage values, reserves, and resultant depreciation rates are shown on Attachment A of staff's memorandum dated April 9, 2009. The rates, based upon actual investments as of December 31, 2008, would result in a decrease in the annual depreciation expense of approximately \$5,125, as summarized on Attachment B of staff's memorandum dated April 9, 2009.

Issue 3: Should the Commission make any corrections to the reserve allocations between accounts?

Recommendation: Yes. Staff recommends the reserve allocations shown in the table in the analysis portion of staff's memorandum dated April 9, 2009. These allocations bring each account more in line with its theoretically correct reserve level.

Issue 4: What should be the date of implementation for the new depreciation rates?

Recommendation: Staff recommends approval of the company's proposed January 1, 2009, date of implementation for the new depreciation rates.

Issue 5: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

13**PAA

Docket No. 010503-WU – Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

Docket No. 060606-WS – Progress reports on implementation of Anion Exchange in Pasco County, filed by Aloha Utilities, Inc., pursuant to Order PSC-06-0270-AS-WU.

Docket No. 060122-WU – Joint petition for approval of stipulation on procedure with Office of Public Counsel, and application for limited proceeding increase in water rates in Pasco County, by Aloha Utilities, Inc.

Docket No. 090120-WS – Joint notice by Aloha Utilities, Inc. and the Florida Governmental Utility Authority of transfer of water and wastewater assets to the Florida Governmental Utility Authority, in Pasco County, and cancellation of Certificate Nos. 136-W and 97-S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar (010503-WU)
Argenziano (060606-WS)
Skop (060122-WU)
Administrative (090120-WS)

Staff: ECR: Fletcher, Bulecza-Banks, Clapp, Daniel, Marsh
GCL: Hartman, Jaeger, Cowdery

(Proposed Agency Action for Issues 1 and 6)

Issue 1: Does the Commission have continuing jurisdiction over the interim revenues collected subject to refund and originally on deposit in an escrow account pursuant to Order Nos. PSC-01-2199-FOF-WU, issued November 13, 2001, PSC-06-0270-AS-WU, issued April 5, 2006, in Docket No. 010503-WU, and, if so, what is the appropriate disposition of the escrowed funds which are currently being held pursuant to Order No. PSC-06-0270-AS-WU?

Recommendation: Yes, because these funds were deposited and came under the control of the Commission prior to the sale of Aloha Utilities, Inc., to the Florida Governmental Utility Authority, they remain under Commission jurisdiction. Based on the principles of administrative finality, the Commission should order the release of \$74,239 to the Utility. In order to mitigate any future rate increase by the FGUA for the benefit of the customers, the Customer Intervenors' and Petitioners' Motion to Establish a Rate Stabilization Escrow Account should be approved. The amount to be transferred to the Rate Stabilization Escrow Account should be the current outstanding balance in the escrow account less the \$74,239 associated with the rate case period. In addition, the Commission should order Aloha to work with staff to transfer the interim rate funds from the Regions Bank escrow account to an independent financial institution, consistent with the terms and conditions contemplated by Order No. PSC-01-2199-FOF-WU, by which the escrow account was originally established. If an independent alternative escrow

ITEM NO.

CASE

13**PAA

Docket No. 010503-WU – Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

Docket No. 060122-WU – Joint petition for approval of stipulation on procedure with Office of Public Counsel, and application for limited proceeding increase in water rates in Pasco County, by Aloha Utilities, Inc.

Docket No. 060606-WS – Progress reports on implementation of Anion Exchange in Pasco County, filed by Aloha Utilities, Inc. pursuant to Order PSC-06-0270-AS-WU.

Docket No. 090120-WS – Joint notice by Aloha Utilities, Inc. and the Florida Governmental Utility Authority of transfer of water and wastewater assets to the Florida Governmental Utility Authority, in Pasco County, and cancellation of Certificate Nos. 136-W and 97-S.

(Continued from previous page)

agent is not selected and the funds not transferred to a new escrow account by April 28, 2009, the Commission should authorize staff to take such steps as are necessary to secure a new escrow agent to maintain the interim funds pending resolution of this matter, including, if necessary, enforcing the Commission's order in a court of competent jurisdiction.

DECISION: The recommendation was modified. The full escrow amount is to be given to Florida Governmental Utility Authority for the established of a Rate Stabilization Escrow Account.

Issue 2: Should Docket No. 010503-WU be closed?

Recommendation: No. This docket should remain open pending staff's verification of the establishment of the rate stabilization escrow account in accordance with the Commission's decision. Once the rate stabilization escrow account has been established, this docket should be closed administratively.

DECISION: The recommendation was modified. The docket is to remain open pending final disposition of the matters in Issue 1.

Issue 3: Should Docket No. 060606-WS be closed?

Recommendation: Yes. Docket No. 060606-WS should be closed if the Commission acknowledges FGUA's purchase of Aloha's facilities. This docket was established to track Aloha's progress of designing and installing the plant necessary to implement anion exchange. However, FGUA has recently purchased Aloha's facilities and does not intend to implement anion exchange. Additionally, Aloha has complied with the outstanding show cause order issued in this docket by paying the fine of \$15,000.

DECISION: The recommendation was approved.

ITEM NO.

CASE

13**PAA

Docket No. 010503-WU – Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

Docket No. 060122-WU – Joint petition for approval of stipulation on procedure with Office of Public Counsel, and application for limited proceeding increase in water rates in Pasco County, by Aloha Utilities, Inc.

Docket No. 060606-WS – Progress reports on implementation of Anion Exchange in Pasco County, filed by Aloha Utilities, Inc. pursuant to Order PSC-06-0270-AS-WU.

Docket No. 090120-WS – Joint notice by Aloha Utilities, Inc. and the Florida Governmental Utility Authority of transfer of water and wastewater assets to the Florida Governmental Utility Authority, in Pasco County, and cancellation of Certificate Nos. 136-W and 97-S.

(Continued from previous page)

Issue 4: Should Docket No. 060122-WU be closed?

Recommendation: Yes, Docket No. 060122-WU should be closed if the Commission acknowledges FGUA's purchase of Aloha's facilities.

DECISION: The recommendation was approved.

Issue 5: Should the transfer of Aloha Utilities, Inc. water and wastewater facilities to Florida Governmental Utility Authority be approved and the cancellation of Certificate Nos. 136-W and 97-S be cancelled ~~approved~~?

Recommendation: Yes. The transfer of the Aloha's water and wastewater facilities to the FGUA should be approved as a matter of right, pursuant to Section 367.071(4)(a), F.S., and ~~Certificate Nos. 136-W and 97-S should be cancelled~~ effective February 27, 2009. Consistent with Rule 25-30.037, F.A.C., upon the disposition of any outstanding regulatory assessment fees, fines or refunds owed, and the completion of all pending proceedings before the Commission, Certificate Nos. 136-W and 97-S should be cancelled.

DECISION: The recommendation was approved as modified. All rule transfer requirements will be met before certificates are cancelled, consistent with the discussion at the Commission Conference.

Issue 6: Should Aloha Utilities, Inc. be required to file its 2008 annual report?

Recommendation: Yes. Aloha should be required to file its 2008 annual report by May 21, 2009. If the report is not filed by that date, a penalty should accrue beginning with the due date, March 31, 2009, with interest to accrue beginning June 20, 2009.

DECISION: The recommendation was modified. Aloha Utilities, Inc. has agreed to provide information required by staff in order for them to be able to verify the regulatory assessment fee paid. With receipt of this information, the annual report would be deemed filed.

ITEM NO.

CASE

13**PAA

Docket No. 010503-WU – Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

Docket No. 060122-WU – Joint petition for approval of stipulation on procedure with Office of Public Counsel, and application for limited proceeding increase in water rates in Pasco County, by Aloha Utilities, Inc.

Docket No. 060606-WS – Progress reports on implementation of Anion Exchange in Pasco County, filed by Aloha Utilities, Inc. pursuant to Order PSC-06-0270-AS-WU.

Docket No. 090120-WS – Joint notice by Aloha Utilities, Inc. and the Florida Governmental Utility Authority of transfer of water and wastewater assets to the Florida Governmental Utility Authority, in Pasco County, and cancellation of Certificate Nos. 136-W and 97-S.

(Continued from previous page)

Issue 7: Should Docket No. 090120-WS be closed?

Recommendation: No. This docket should remain open pending final disposition of all issues in Docket No. 010503-WU and the filing of its 2008 annual report. Upon closure of that docket, this docket should be closed administratively.

DECISION: The recommendation was approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

Commissioner Argenziano participated in the vote for Issues 1 and 2 only via telephone.

Commissioner Skop reserves the right to write a concurring opinion favoring giving a direct refund to the consumers for the reasons stated at the Commission Conference.

ITEM NO.

CASE

14**PAA

Docket No. 080248-SU – Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc.

Critical Date(s): 04/24/09 (5-Month Effective Date (PAA Rate Case))

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Buys, Bulecza-Banks, Daniel, Fletcher, Maurey, Walden
GCL: Young

(Proposed Agency Action Except Issues 15 and 16)

Issue 1: Is the quality of service provided by Tierra Verde Utilities, Inc. satisfactory?

Recommendation: Yes. The overall quality of service provided by the Utility is satisfactory.

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

Recommendation: Yes. Based on the audit adjustments agreed to by the Utility and staff, the following adjustments should be made to rate base and operating expenses.

Audit Finding	Wastewater
No. 1 - Increase CIAC	\$25,425
No. 1 - Increase Amortization Expense (CIAC)	\$1,228
No. 1 - Increase Accumulated Amortization of CIAC	\$614
No. 2 - Decrease Accumulated Depreciation	\$75,829
No. 2 - Decrease Accumulated Amortization of CIAC	\$107,686
No. 2 - Decrease Amortization Expense (CIAC)	\$67,203
No. 2 - Decrease CIAC	\$1
No. 3 - Decrease Contractual Services – Legal	\$114
No. 3 - Decrease Rate Case Expense Adjustment	\$2,829
No. 4 - Decrease Accumulated Depreciation	\$1,517
No. 4 - Increase Accumulated Amortization of CIAC	\$1,209
No. 4 - Decrease Depreciation Expense	\$8,074
No. 4 - Increase Amortization Expense (CIAC)	\$1,209
AT No. 5 - Increase Transportation Expense	\$3,138

Issue 3: What are the used and useful percentages of the Utility's wastewater collection system?

Recommendation: The collection system is 100 percent used and useful.

Issue 4: What is the appropriate working capital allowance?

Recommendation: The appropriate working capital allowance is \$91,724.

Issue 5: What is the appropriate rate base for the December 31, 2007, test year?

Recommendation: Consistent with other recommended adjustments, the appropriate simple average rate base for the test year ending December 31, 2007, is \$1,502,918.

ITEM NO.

CASE

14**PAA

Docket No. 080248-SU – Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc.

(Continued from previous page)

Issue 6: What is the appropriate return on common equity?

Recommendation: The appropriate return on common equity is 12.34 percent based on the Commission’s leverage formula currently in effect. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

Issue 7: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2007?

Recommendation: The appropriate weighted average cost of capital for the test year ended December 31, 2007, is 8.29 percent.

Issue 8: Should an adjustment be made to Purchased Wastewater Treatment due to excessive infiltration and inflow?

Recommendation: Yes. Purchased Wastewater Treatment Expense should be decreased by \$84,119 due to excessive infiltration and inflow.

Issue 9: Should an adjustment be made to operation and maintenance expense?

Recommendation: Yes. Operation and maintenance expense should be decreased by \$1,570.

Issue 10: Should an adjustment to Contractual Services-Other be made?

Recommendation: Yes. Contractual Services-Other should be decreased by \$14,536.

Issue 11: What is the appropriate amount of rate case expense?

Recommendation: The appropriate rate case expense is \$91,558. This expense should be recovered over four years for an annual expense of \$22,890. Thus, rate case expense should be reduced by \$19,107.

Issue 12: What is the test year wastewater operating income or loss before any revenue increase?

Recommendation: The test year operating income is a net loss of \$46,891 for wastewater before any revenue increase.

Issue 13: What is the appropriate revenue requirement?

Recommendation: The following is the appropriate revenue requirement:

	Test Year		Revenue	
	<u>Revenues</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
Wastewater	\$780,729	\$287,930	\$1,068,659	36.88%

ITEM NO.

CASE

14**PAA

Docket No. 080248-SU – Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc.

(Continued from previous page)

Issue 14: What are the appropriate wastewater rates for Tierra Verde?

Recommendation: The appropriate monthly rates are shown on Schedule No. 4 of staff's memorandum dated April 9, 2009. Staff's recommended rates are designed to produce revenues of \$1,068,659 excluding miscellaneous service charge revenues. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 15: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenue requirement granted. Based on this calculation, no wastewater refunds are required.

Issue 16: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense?

Recommendation: The rates should be reduced as shown on Schedule No. 4 of staff's memorandum dated April 9, 2009, to remove \$23,969 for rate case expense, grossed up for regulatory assessment fees (RAFs), which is being amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction.

Issue 17: Should the Utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

Recommendation: Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, Tierra Verde should provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts have been made.

ITEM NO.

CASE

14**PAA

Docket No. 080248-SU – Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc.

(Continued from previous page)

Issue 18: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and that the interim refund has been completed and verified by staff. Once these actions are complete, this docket should be closed administratively, and the corporate undertaking should be released.

DECISION: This item was deferred to the May 5, 2009, Commission Conference.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

ITEM NO.

CASE

15**PAA

Docket No. 080250-SU – Application for increase in wastewater rates in Pinellas County by Mid-County Services, Inc.

Critical Date(s): 5-Month Effective Date Waived Through 4/24/09

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Buys, Bulecza-Banks, Daniel, Fletcher, Maurey, Walden

GCL: Hartman

(Proposed Agency Action Except Issue 14 and 15)

Issue 1: Is the quality of service provided by Mid-County Services, Inc. satisfactory?

Recommendation: Yes. The overall quality of service provided by the Utility is satisfactory.

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

Recommendation: Yes. Based on the audit adjustments agreed to by the Utility and staff, the following adjustments should be made to rate base and operating expenses.

Audit Finding	Wastewater
No. 1 - Decrease Plant in Service	\$385
No. 1 - Decrease Accumulated Depreciation	\$10
No. 1 - Decrease Depreciation Expense	\$23
No. 2 - Decrease CIAC	\$633
No. 3 - Decrease Accumulated Depreciation	\$3,290
No. 6 - Increase RAF Expense (TOTI)	\$7,736
AT No. 4 - Increase Plant in Service	\$18,392
AT No. 5 - Increase Transportation Expense	\$5,422

Issue 3: Should any adjustments be made to the Utility's pro forma plant additions and associated expenses?

Recommendation: Yes. Mid-County's pro forma plant additions should be decreased by \$30,000 for wastewater. Corresponding adjustments should be made to decrease accumulated depreciation and depreciation expense by \$333, and \$667, respectfully.

ITEM NO.

CASE

15**PAA

Docket No. 080250-SU – Application for increase in wastewater rates in Pinellas County by Mid-County Services, Inc.

(Continued from previous page)

Issue 4: What are the used and useful percentages of the Utility's wastewater collection system?

Recommendation: The wastewater treatment plant is 92 percent used and useful. The collection system is 100 percent used and useful, except that portion of the collection system that is booked in Account 354, which is 92 percent used and useful. Staff has reduced rate base by \$272,407 and has made corresponding adjustments to reduce depreciation expense by \$12,004 and reduce property tax by \$1,422. Staff's adjustments to non-used and useful plant are shown on the rate base and operating income adjustment Schedules 1-B and 3-B of staff's memorandum dated April 9, 2009.

Issue 5: What is the appropriate working capital allowance?

Recommendation: The appropriate working capital allowance is \$13,356.

Issue 6: What is the appropriate rate base for the December 31, 2007, test year?

Recommendation: Consistent with other recommended adjustments, the appropriate simple average rate base for the test year ending December 31, 2007, is \$2,907,990.

Issue 7: What is the appropriate return on common equity?

Recommendation: The appropriate return on common equity is 11.83 percent based on the Commission's leverage formula currently in effect. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

Issue 8: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2007?

Recommendation: The appropriate weighted average cost of capital for the test year ended December 31, 2007, is 8.52 percent.

Issue 9: Should an adjustment to Contractual Services-Other be made?

Recommendation: Yes. Contractual Services-Other should be decreased by \$18,872.

Issue 10: What is the appropriate amount of rate case expense?

Recommendation: The appropriate amount of rate case expense is \$107,968. This expense should be recovered over four years for an annual expense of \$26,992. The Utility's requested annual rate case expense of \$71,711 should be reduced by \$28,748 to remove prior rate case expense of \$28,748, and reduced by \$15,972 for staff's recommended adjustments to current rate case expense, for a total reduction of \$44,720.

Issue 11: What is the test year wastewater operating income or loss before any revenue increase?

Recommendation: The test year operating income is \$69,406 for wastewater before any revenue increase.

ITEM NO.

CASE

15**PAA

Docket No. 080250-SU – Application for increase in wastewater rates in Pinellas County by Mid-County Services, Inc.

(Continued from previous page)

Issue 12: What is the appropriate revenue requirement?

Recommendation: The following is the appropriate revenue requirement:

	Test Year		Revenue	
	<u>Revenues</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
Wastewater	\$1,712,614	\$299,373	\$2,011,987	17.48%

Issue 13: What are the appropriate wastewater rates for Mid-County?

Recommendation: The appropriate monthly rates are shown on Schedule No. 4 of staff's memorandum dated April 9, 2009. Staff's recommended rates are designed to produce revenues of \$2,011,987 excluding miscellaneous service charge revenues. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 14: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenue requirement granted. Based on this calculation, no wastewater refunds are required.

Issue 15: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense?

Recommendation: The rates should be reduced as shown on Schedule No. 4 of staff's memorandum dated April 9, 2009, to remove \$28,263 for rate case expense, grossed up for regulatory assessment fees (RAFs), which is being amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction.

ITEM NO.

CASE

15**PAA

Docket No. 080250-SU – Application for increase in wastewater rates in Pinellas County by Mid-County Services, Inc.

(Continued from previous page)

Issue 16: Should the Utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

Recommendation: Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, Mid-County should provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts have been made.

Issue 17: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and that the interim refund, if any, has been completed and verified by staff. Once these actions are complete, this docket should be closed administratively, and the corporate undertaking should be released.

DECISION: This item was deferred to the May 5, 2009, Commission Conference.

Commissioners participating: Carter, Edgar, McMurrian, Argenziano, Skop

ITEM NO.

CASE

16**

Docket No. 090034-WS – Application for quick-take amendment of Certificate Nos. 496-W and 465-S to extend service area in Lake County, by Lake Utility Services, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Walden

GCL: Fleming

Issue 1: Should the Commission acknowledge Lake Utility Services, Inc.'s "Quick Take" application to amend Certificate Nos. 496-W and 465-S?

Recommendation: Yes, the Commission should acknowledge LUSI's amendment application to expand its water and wastewater territory. The proposed territory is described in Attachment A of staff's memorandum dated April 9, 2009. The resultant order should serve as the Utility's amended certificate and should be retained by the Utility. The existing charges contained in its tariff should be applied to the customers in the new territory until it is authorized by the Commission to change them in a subsequent proceeding.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendations in Issue 1, no further action will be necessary and this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Carter, McMurrian, Argenziano, Skop

