

**MINUTES OF August 31, 2010**  
**COMMISSION CONFERENCE**  
**COMMENCED: 9:31 am**  
**ADJOURNED: 10:00 am**

**COMMISSIONERS PARTICIPATING:** Chairman Argenziano  
Commissioner Edgar  
Commissioner Skop  
Commissioner Graham  
Commissioner Brisé

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

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1                    **Approval of Minutes**  
                         July 13, 2010 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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2\*\*

**Consent Agenda**

PAA

A) Application for Certificate to Provide Competitive Local Exchange Telecommunications Service.

DOCKET NO.      COMPANY NAME

100352-TX      WiMacTel, Inc.

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

**DECISION:** The recommendation was approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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3\*\*PAA

**Docket No. 100154-EG** – Petition of approval of demand-side management plan of Gulf Power Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Graves, Brown, Crawford, Garl, Lewis, Ma

GCL: Fleming, Saylor

**Issue 1:** Does Gulf's proposed Demand-Side Management (DSM) Plan satisfy the company's numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG?

**Recommendation:** No. Gulf's DSM plan fails to meet its residential and commercial/industrial goals for four years of the ten-year period. Gulf's failure to meet its annual conservation goals may result in financial penalties or other appropriate action. Consistent with Section 366.82(7), F.S., staff recommends that Gulf file specific program modifications or additions that are needed in order for the 2010 DSM Plan to be in compliance with Order No. PSC-09-0855-FOF-EG within 30 days of the Commission's Order in this docket.

**Issue 2:** Are the programs contained in Gulf's proposed 2010 Demand-Side Management Plan cost-effective as this criterion is used in Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. All programs in Gulf's proposed 2010 DSM Plan pass the E-TRC and Participants tests. Audits, Pilot Programs, and Research & Development programs are not included in this evaluation because they are not required to pass cost-effectiveness testing. Gulf should be required to file program standards within 30 days of the Commission's Order in this docket.

The Commission should approve cost-effective programs to allow Gulf to file for cost recovery. However, Gulf must still demonstrate, during the cost recovery proceeding, that expenditures in executing its DSM Plan were reasonable and prudent. In addition, the Commission will evaluate Gulf's compliance filing and make a final determination at that time regarding the cost-effectiveness of any modified or new programs.

**ITEM NO.**

**CASE**

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3\*\*PAA

**Docket No. 100154-EG** – Petition of approval of demand-side management plan of Gulf Power Company.

(Continued from previous page)

**Issue 3:** Does Gulf's proposed Demand-Side Management Plan include pilot programs that encourage the development of solar water heating and solar PV technologies consistent with Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. The cost of the proposed pilot programs is within the annual expenditure cap of \$900,338 as specified in Order No. PSC-09-0855-FOF-EG. However, the allocation of funds to: (1) solar thermal vs. solar PV, (2) private customers vs. public institutions, and (3) low-income residential varies widely among the investor-owned utilities. If the Commission desires to have more uniformity among the IOUs' programs, then the Commission should initiate public workshops to explore that issue further.

**Issue 4:** Do any of the programs in Gulf's proposed Demand-Side Management Plan have an undue impact on the costs passed on to customers?

**Recommendation:** No. The proposed programs costs are not undue because the increase in program costs correlates with the increase in goals. The Commission should evaluate the Company's compliance filing and make a final determination in the ECCR clause proceedings regarding the appropriateness of incentive levels.

**Issue 5:** Should this docket be closed?

**Recommendation:** No. This docket should remain open in order for Gulf to refile its demand-side management plan within 30 days from the date of this Order. In addition, if the Commission approves any programs, the programs should become effective on the date of the Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the programs should not be implemented until after the resolution of the protest.

**DECISION:** This item was deferred to the September 14, 2010 Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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4\*\*PAA

**Docket No. 100155-EG** – Petition of approval of demand-side management plan of Florida Power & Light Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Garl, Brown, Harlow, Lewis

GCL: Fleming, Saylor

**Issue 1:** Does FPL’s proposed 2010 Demand-Side Management (DSM) Plan satisfy the Company’s numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG?

**Recommendation:** No. FPL’s proposed DSM Plan fails to meet its residential goals in at least one category for eight years. Similarly, the Company’s Plan does not meet all the annual commercial/industrial goals for eight years of the ten-year period. FPL’s failure to meet its annual conservation goals may result in financial penalties or other appropriate action.

Consistent with Section 366.82(7), F.S., staff recommends that FPL file specific program modifications or additions that are needed for the 2010 DSM Plan to be in compliance with Order No. PSC-09-0855-FOF-EG within 30 days of the Commission’s Order in this docket.

**Issue 2:** Are the programs contained in FPL’s proposed 2010 DSM Plan cost-effective as this criterion is used in Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. All programs in FPL’s proposed 2010 DSM Plan pass the E-TRC and Participants tests. Audits, Pilot Programs, and Research & Development Programs are not included in this evaluation because they are not required to pass cost-effectiveness testing. FPL should be required to file program standards within 30 days of the Commission’s Order in this docket.

The Commission should approve cost-effective programs to allow FPL to file for cost recovery. However, FPL must still demonstrate, during the cost recovery proceeding, that expenditures in executing its DSM Plan were reasonable and prudent. In addition, the Commission will evaluate FPL’s compliance filing and make a final determination at that time regarding the cost-effectiveness of any modified or new programs.

**ITEM NO.**

**CASE**

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4\*\*PAA

**Docket No. 100155-EG** – Petition of approval of demand-side management plan of Florida Power & Light Company.

(Continued from previous page)

**Issue 3:** Does FPL's proposed 2010 DSM Plan include pilot programs that encourage the development of solar water heating and solar PV technologies consistent with Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. The cost of the proposed pilot programs is within the annual expenditure cap of \$15,536,870 specified by Commission Order No. PSC-09-0855-FOF-EG. However, the allocation of funds to: (1) solar thermal vs. solar PV, (2) private customers vs. public institutions, and (3) low-income residential varies widely among the investor-owned utilities. If the Commission desires to have more uniformity among the IOUs' programs, then the Commission should initiate public workshops to explore that issue further.

**Issue 4:** Do any of the programs in FPL's proposed Demand-Side Management Plan have an undue impact on the costs passed on to customers?

**Recommendation:** No. The proposed program costs are not undue because the increase in program costs correlates with the increase in goals. The Commission should evaluate the Company's compliance filing and make a final determination in the ECCR proceedings regarding the appropriateness of incentive levels.

**Issue 5:** Should this docket be closed?

**Recommendation:** No. This docket should remain open for FPL to refile its demand-side management plan within 30 days from the date of this Order. In addition, if the Commission approves any programs, the programs should become effective on the date of the Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the programs should not be implemented until after the resolution of the protest.

**DECISION:** This item was deferred to the September 14, 2010 Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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5\*\*PAA

**Docket No. 100157-EG** – Petition of approval of demand-side management plan of JEA.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Garl, Brown, Gilbert, Lewis

GCL: Fleming, Saylor

**Issue 1:** Does JEA's proposed Demand-Side Management Plan satisfy the Company's numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG and subsequently revised in Order No. PSC-10-0198-FOF-EG?

**Recommendation:** Yes. JEA has proposed a DSM Plan that projects peak demand and energy savings that exceed the Commission approved residential and commercial/industrial goals.

**Issue 2:** Do any of the programs in JEA's proposed DSM Plan have an undue impact on the costs passed on to customers?

**Recommendation:** No. Since JEA is continuing existing programs, its customers should see no change in monthly bills due to additional DSM programs.

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

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

**DECISION:** This item was deferred to the September 14, 2010 Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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6\*\*PAA

**Docket No. 100158-EG** – Petition of approval of demand-side management plan of Florida Public Utilities Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Matthews, Brown, Garl, Lewis, Marr

GCL: Fleming, Saylor

**Issue 1:** Does Florida Public Utilities Company's proposed Demand-Side Management Plan satisfy the Company's numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. The 2010 Demand-Side Management Plan submitted by FPUC shows estimated conservation achievements for both peak demand and energy reduction which exceed those approved by the Commission in Order No. PSC-09-0855-FOF-EG. However, as discussed further in Issue 2, the Ceiling Insulation Upgrade for both the residential and the commercial sectors and the Commercial Heating & Cooling Efficiency programs do not appear to be cost-effective, and without the savings attributed to these programs the Plan does not meet either the commercial summer peak demand or the commercial annual energy reduction goals set by the Commission in Order No. PSC-09-0855-FOF-EG.

Consistent with Section 366.82(7), F.S., FPUC should file specific program modifications or additions that are needed in order for the 2010 DSM Plan to be cost-effective and in full compliance with Order No. PSC-09-0855-FOF-EG within 30 days of the Commission's Order in this docket.



**ITEM NO.**

**CASE**

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6\*\*PAA

**Docket No. 100158-EG** – Petition of approval of demand-side management plan of Florida Public Utilities Company.

(Continued from previous page)

**Issue 2:** Are the programs contained in FPUC's proposed DSM Plan cost-effective as this criterion is used in Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** No. Three programs, the Residential and Commercial Ceiling Insulation Upgrade and the Commercial Heating & Cooling Efficiency programs, do not pass the E-TRC Test and should not be approved for cost recovery. All of the other programs proposed in FPUC's 2010 DSM Plan pass the E-TRC Test, and all of the programs pass the Participants Test. Audits, Pilot Programs, and Research & Development programs are not included in this evaluation because they are not required to pass cost-effectiveness testing. FPUC should be required to file program standards and a detailed verification methodology for its audit programs within 30 days of the Commission's Order in this docket.

The Commission should approve cost-effective programs to allow FPUC to file for cost recovery. However, FPUC must still demonstrate, during the cost recovery proceeding, that expenditures in executing its DSM Plan were reasonable and prudent. In addition, the Commission will evaluate FPUC's compliance filing and make a final determination at that time regarding the cost-effectiveness of any modified or new programs.

**Issue 3:** Does FPUC's proposed DSM Plan include pilot programs that encourage the development of solar water heating and solar PV technologies consistent with Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. The cost of these proposed programs is within the annual expenditure cap of \$47,233 as specified by Commission Order No. PSC-09-0855-FOF-EG. However, the allocation of funds to: (1) solar thermal vs. solar PV, (2) private customers vs. public institutions, and (3) low-income residential varies widely among the investor-owned utilities. If the Commission desires to have more uniformity among the IOUs' programs, then the Commission should initiate public workshops to explore that issue further.

**Issue 4:** Do any of the programs in FPUC's proposed DSM Plan have an undue impact on the costs passed on to customers?

**Recommendation:** No. Based on the projections provided in FPUC's 2010 DSM Plan, it does not appear that any of the cost-effective programs would have an undue impact on customer's costs. However, three of the programs included in the DSM Plan are not cost-effective, and therefore could cause undue cost impacts to customers. The Commission should evaluate the Company's compliance filing and make a final determination at that time regarding any undue rate impacts to customers.

**ITEM NO.**

**CASE**

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6\*\*PAA

**Docket No. 100158-EG** – Petition of approval of demand-side management plan of Florida Public Utilities Company.

(Continued from previous page)

**Issue 5:** Should this docket be closed?

**Recommendation:** No. This docket should remain open in order for FPUC to refile its demand-side management plan within 30 days from the date of this order. In addition, if the Commission approves any programs, the programs should become effective on the date of the Consummating Order. If a protest is filed within 21 days of the issuance of the order, the programs should not be implemented until after the resolution of the protest.

**DECISION:** This item was deferred to the September 28, 2010 Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 100159-EG** – Petition of approval of demand-side management plan of Tampa Electric Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Ellis, Brown, Clemence, Garl, Lewis

GCL: Fleming, Saylor

**Issue 1:** Does TECO's proposed Demand-Side Management Plan (DSM) satisfy the Company's numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG?

**Recommendation:** No. TECO's proposed DSM Plan fails to meet its annual residential goals in each category for two or more years, starting in 2013. Similarly, the Company's Plan does not meet all the annual commercial/industrial energy goals by as early as 2014. TECO's failure to meet its annual conservation goals may result in financial penalties or other appropriate action.

Consistent with Section 366.82(7), F.S., staff recommends that TECO file specific program modifications or additions that are needed in order for the 2010 DSM Plan to be in compliance with Order No. PSC-09-0855-FOF-EG within 30 days of the Commission's Order in this docket.

**Issue 2:** Are the programs contained in TECO's proposed 2010 Demand-Side Management Plan cost-effective as this criterion is used in Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. All programs in TECO's proposed 2010 DSM Plan pass the E-TRC and Participants Tests. Audits, Pilot Programs, and Research & Development programs are not included in this evaluation because they are not required to pass cost-effectiveness testing. TECO should be required to file program standards within 30 days of the Commission's Order in this docket.

The Commission should approve cost-effective programs to allow TECO to file for cost recovery. However, TECO must still demonstrate, during the Energy Conservation Cost Recovery clause proceeding, that expenditures in executing its DSM Plan were reasonable and prudent. In addition, the Commission will evaluate the Company's compliance filing and make a final determination at that time regarding the cost-effectiveness of any modified or new programs.

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 100159-EG** – Petition of approval of demand-side management plan of Tampa Electric Company.

(Continued from previous page)

**Issue 3:** Does TECO’s proposed DSM Plan include pilot programs that encourage the development of solar water heating and solar PV technologies consistent with Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. The cost of the proposed pilot program is within the annual expenditure cap of \$1,531,018 that was specified by Commission Order No. PSC-09-0855-FOF-EG. However, the allocation of funds to: (1) solar thermal vs. solar PV, (2) private customers vs. public institutions, and (3) low-income residential varies widely among the investor-owned utilities. If the Commission desires to have more uniformity among the IOUs’ programs, then the Commission should initiate public workshops to explore that issue further.

**Issue 4:** Do any of the programs in TECO’s proposed DSM Plan have an undue impact on the costs passed on to customers?

**Recommendation:** No. The proposed program costs are not undue because the increase in program costs correlates with the increase in goals. The Commission should evaluate the Company’s compliance filing and make a final determination in the ECCR clause proceedings regarding the appropriateness of incentive levels.

**Issue 5:** Should this docket be closed?

**Recommendation:** No. This docket should remain open in order for TECO to refile its demand-side management plan within 30 days from the date of this Order. In addition, if the Commission approves any programs, the programs should become effective on the date of the Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the programs should not be implemented until after the resolution of the protest.

**DECISION:** This item was deferred to the September 14, 2010 Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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8\*\*PAA

**Docket No. 100160-EG** – Petition of approval of demand-side management plan of Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Lewis, Brown, Garl, Webb

GCL: Fleming, Saylor

**Issue 1:** Does PEF's proposed Demand-Side Management (DSM) Plan satisfy the Company's numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG and subsequently revised in Order No. PSC-10-0198-FOF-EG?

**Recommendation:** No. PEF's proposed DSM Plan fails to meet its annual residential goals in any category for the first six years. Similarly, the Company's Plan does not meet all the annual commercial/industrial goals by as early as 2011. PEF's failure to meet its annual conservation goals may result in financial penalties or other appropriate action.

Consistent with Section 366.82(7), F.S., PEF should file specific program modifications or additions that are needed in order for the 2010 DSM Plan to be in compliance with Order No. PSC-10-0198-FOF-EG within 30 days of the Commission's Order in this docket.

**Issue 2:** Are the programs contained in PEF's proposed 2010 DSM Plan cost-effective as this criterion is used in Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. All programs in PEF's proposed 2010 DSM Plan pass the E-TRC and Participants tests. Audits, Pilot Programs, and Research & Development programs are not included in this evaluation because they are not required to pass cost-effectiveness testing. Staff recommends that PEF should be required to file program standards within 30 days of the Commission's Order in this docket. As discussed in Issue 4, for some programs, PEF has not justified the level of incentives assumed at this time and should not be authorized to recover incentives that exceed the cost of the measure.

The Commission should approve cost-effective programs to allow PEF to file for cost recovery. However, staff recommends that PEF should still demonstrate, during the cost recovery proceeding, that expenditures in executing its DSM Plan were reasonable and prudent. In addition, the Commission should evaluate PEF's compliance filing and make a final determination at that time regarding the cost-effectiveness of any modified or new programs.

**ITEM NO.**

**CASE**

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8\*\*PAA

**Docket No. 100160-EG** – Petition of approval of demand-side management plan of Progress Energy Florida, Inc.

(Continued from previous page)

**Issue 3:** Does PEF's proposed DSM Plan include pilot programs that encourage the development of solar water heating and solar PV technologies consistent with Commission Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. The cost of the proposed pilot programs is within the annual expenditure cap of \$6,467,592 as specified by Commission Order No. PSC-09-0855-FOF-EG. However, the allocation of funds to: (1) solar thermal vs. solar PV, (2) private customers vs. public institutions, and (3) low-income residential varies widely among the investor-owned utilities. If the Commission desires to have more uniformity among the IOUs' programs, then the Commission should initiate public workshops to explore that issue further.

**Issue 4:** Do any of the programs in PEF's proposed DSM Plan have an undue impact on the costs passed on to customers?

**Recommendation:** No. The proposed programs costs are not undue because the increase in program costs correlates with the increase in goals. However, inappropriate incentive levels for certain measures may be contributing to higher than necessary costs in some programs. Because PEF has not justified the level of incentives assumed at this time, staff recommends that PEF should not be authorized to recover the costs of such incentives. The Commission should evaluate the Company's compliance filing and make a final determination in the ECCR clause proceedings regarding the appropriateness of incentive levels.

**Issue 5:** Should this docket be closed?

**Recommendation:** No. This docket should remain open in order for PEF to refile its demand-side management plan within 30 days from the date of this Order. In addition, if the Commission approves any programs, the programs should become effective on the date of the Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the programs should not be implemented until after the resolution of the protest.

**DECISION:** This item was deferred to the September 14, 2010 Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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9\*\*PAA

**Docket No. 100161-EG** – Petition of approval of demand-side management plan of Orlando Utilities Commission.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Lewis, Brown, Garl, Gilbert

GCL: Fleming, Saylor

**Issue 1:** Does OUC's proposed 2010 Demand-Side Management (DSM) Plan satisfy the Company's numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG?

**Recommendation:** Yes. OUC has proposed a DSM Plan that projects peak demand and energy savings that exceed the Commission approved residential and commercial/industrial goals.

**Issue 2:** Do any of the programs in OUC's proposed DSM Plan have an undue impact on the costs passed on to customers?

**Recommendation:** No. Since OUC is continuing existing programs, its customers should see no change in monthly bills due to DSM programs.

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

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

**DECISION:** The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 100165-EI** – Request to revise 2010 overhead/underground residential differential cost data by Gulf Power Company.

**Critical Date(s):** 12/01/10 (8-Month Effective Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Draper, A. Roberts

GCL: Jaeger

**Issue 1:** Should the Commission approve Gulf's revised Underground Residential Distribution (URD) tariffs and their associated charges?

**Recommendation:** Yes.

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

**Recommendation:** Yes. If issue 1 is approved, the tariffs should become effective on August 31, 2010. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

**DECISION:** The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé



**ITEM NO.**

**CASE**

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11\*\*

**Docket No. 100166-EI** – Petition for approval of revised underground residential and commercial differential tariffs, by Florida Power & Light Company.

**Critical Date(s):** 12/01/10 (8-Month Effective Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Draper, A. Roberts

GCL: Jaeger

**Issue 1:** Should the Commission approve FPL's revised Underground Residential Distribution (URD) tariffs and their associated charges?

**Recommendation:** Yes. The proposed URD charges are reasonable and staff recommends approval.

**Issue 2:** Should the Commission approve FPL's revised Underground Commercial Distribution (UCD) tariffs and their associated charges?

**Recommendation:** Yes. The proposed UCD charges are reasonable and staff recommends approval.

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

**Recommendation:** Yes. If issues 1 and 2 are approved, the tariffs should become effective on September 30, 2010. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

**DECISION:** The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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12

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

**Docket No. 090130-EI** – 2009 depreciation and dismantlement study by Florida Power & Light Company. (Items 1 and 3 through 10 were deferred from the August 17, 2010 Commission Conference)

**Critical Date(s):** None

**Commissioners Assigned:** Argenziano, Edgar, Skop

**Prehearing Officer:** Skop

**Staff:** ECR: P. Lee, Draper, Kummer, Maurey, Gardner, Slemkewicz, Prestwood,  
Lester

GCL: Bennett

**(Interested Persons May Participate in Issue 9 Only. Oral Argument has not been requested for Issues 1 - 8. Participation of parties for Issues 1 - 8 is at the discretion of the Commission.)**

**Issue 1:** Should the Commission grant FPL's Motion for Leave to file a Response to SFHHA's Response?

**Recommendation:** No. FPL's Motion for Leave to file a Response to SFHHA's Response is not permitted, pursuant to Rule 25-22.060, F.A.C.

**Issue 2:** Should the Commission reconsider Issue 46 because the Commission ordered a one-time refund of the over-recovery in the fuel docket?

**Recommendation:** Yes. The Commission should reconsider Issue 46 and recognize the impact on the 2010 test year of the fuel docket decision to refund the 2009 over-recovery in one month rather than ratably over a twelve-month period. As a result, the \$101,971,000 adjustment to reduce working capital should be revised to \$73,827,000, a change of \$28,144,000.

**Decision:** This item was decided at the August 17, 2010 Commission Conference.

**Issue 3:** Should the Commission reconsider Issue 89 regarding the impact of the minimum late payment charge?

**Recommendation:** Yes. The Commission should reconsider its decision on Issue 89 regarding the level of late payment charge (LPC) revenue. This adjustment will result in a decrease in the projected test year LPC revenues of \$25,776,146.

**Issue 4:** Should the Commission reconsider Issue 103 regarding salaries and employee benefits?

**Recommendation:** Yes. The Commission should reconsider Issue 103 regarding the executive incentive compensation of \$12,700,000 that had been removed through the allocation to affiliates. As a result, the \$49,510,136 net adjustment decrease to the 2010 test year operating and maintenance (O&M) expenses should be revised to a \$36,810,136 net adjustment decrease. This represents a \$12,700,000 million reduction to the approved adjustment of \$49,510,136.

**ITEM NO.**

**CASE**

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12

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

**Docket No. 090130-EI** – 2009 depreciation and dismantlement study by Florida Power & Light Company. (Items 1 and 3 through 10 were deferred from the August 17, 2010 Commission Conference)

(Continued from previous page)

**Issue 5:** Should the Commission reconsider Issue 109 regarding the 2010 test year charge from FiberNet to FPL?

**Recommendation:** Yes. The Commission should reconsider its decision on the FiberNet equipment lease charge to FPL. This adjustment will result in an increase in the allowed lease payment of \$585,000 and a corresponding increase of the same amount in FPL's 2010 test year revenue requirements.

**Issue 6:** Should the Commission clarify its Final Order as it relates to the computation of test year depreciation expense?

**Recommendation:** No. The Commission should not clarify its Final Order as it relates to the computation of test year depreciation expense.

**Issue 7:** How should FPL be required to implement any change to the 2010 test year revenue requirements?

**Recommendation:** FPL should implement the \$41,902,170 net change in revenue requirements identified in Issues 2 through 6 by offsetting the increase or decrease against the depreciation reserve surplus. In order to offset the calculated \$41,902,170, both the remaining \$894,600,000 reserve surplus and the test year depreciation expense should be reduced by \$43,851,218 and the test year accumulated depreciation should be increased by \$21,925,609.

**Issue 8:** Should the Commission grant FIPUG's motion for reconsideration?

**Recommendation:** No. FIPUG's Motion for Reconsideration should be denied.

**Issue 9:** Should the Commission grant Thomas Saporito's Petition for Base Rate Proceeding?

**Recommendation:** No. The Commission should not grant the Petition for Base Rate Proceeding. The petition does not meet the requirements of Rule 28-106.201, F.A.C., because it fails to allege any material issue of disputed facts.

**Issue 10:** Should this docket be closed?

**Recommendation:** Yes. The docket should be closed upon the expiration of the time for appeal.

**DECISION:** This item was withdrawn.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

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13\*\*

**Docket No. 100049-WS** – Petition for approval of change in reuse rate by Aqua Utilities Florida, Inc.

**Critical Date(s):** 09/23/2010 (8-Month Effective Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Thompson, Rieger

GCL: Crawford

**Issue 1:** Should the Commission approve a change in reuse rate by Aqua Utilities Florida, Inc.?

**Recommendation:** Yes. The Commission should approve Aqua Utilities Florida, Inc.'s (AUF) request to provide effluent to South Seas Island Resort (SSIR) at a special reuse rate which would allow for AUF to provide the effluent to SSIR at no cost. AUF's proposed tariff sheet reflecting the revised reuse rate should be approved. The Utility should file a proposed customer notice to reflect the Commission-approved tariff sheet. The new rate should be effective for service rendered as of the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code.

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

**Recommendation:** Yes. If no timely protest to the order is filed by a substantially affected person within 21 days, a Consummating Order should be issued and the docket should be closed. In the event there is a timely protest, this docket should remain open pending resolution of the protest.

**DECISION:** The recommendations were approved with the direction to staff to work with the Company on the issues discussed at the Commission Conference. Commissioner Skop dissented.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

**ITEM NO.**

**CASE**

14

**Docket No. 100149-WU** – Application for increase in water rates in Lee County by Ni Florida, LLC.

**Critical Date(s):** 08/31/10 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** ECR: Deason, Cicchetti, Davis, Fletcher, Maurey  
GCL: Crawford

**(Participation is at the Discretion of the Commission)**

**Issue 1:** Should the Utility’s proposed final water rates be suspended?

**Recommendation:** Yes. Ni Florida’s proposed final water rates should be suspended.

**Issue 2:** Should any interim revenue increase be approved?

**Recommendation:** Yes, Ni Florida should be authorized to collect annual water revenues as indicated below:

	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$220,716	\$117,668	\$338,385	53.31%

**Issue 3:** What are the appropriate interim water rates?

**Recommendation:** The water service rates for Ni Florida in effect as of December 31, 2009, should be increased by 53.55 percent, to generate the recommended revenue increase for the interim period. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1)(a), F.A.C. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission’s decision, the proposed customer notice is adequate, and the required security has been filed. The Utility should provide proof of the date notice was given within 10 days after the date of notice.

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

**Recommendation:** The Utility should be required to open an escrow account or file a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, the Utility should deposit \$9,807 into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$68,710. 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.

**ITEM NO.**

**CASE**

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14

**Docket No. 100149-WU** – Application for increase in water rates in Lee County by Ni Florida, LLC.

(Continued from previous page)

**Issue 5:** Should the docket be closed?

**Recommendation:** No. The docket should remain open pending the Commission's PAA decision on the Utility's requested rate increase.

**DECISION:** The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé