

MINUTES OF December 1, 2009

COMMISSION CONFERENCE

COMMENCED: 9:40 am
RECESSED 10:55 am
RECONVENED: 11:10 am
RECESSED 11:35 am
RECONVENED: 11:55 am
ADJOURNED: 2:15 pm

COMMISSIONERS PARTICIPATING: Chairman Carter
Commissioner Edgar
Commissioner Argenziano
Commissioner Skop
Commissioner Klement

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

1

Election of a Commission Chairman for a two-year term beginning January 2, 2010

DECISION: On a motion by Chairman Carter and a second by Commissioner Edgar, Commissioner Argenziano was unanimously elected to serve as Chairman for a two-year term, beginning January 2, 2010.

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

Minutes of
Commission Conference
December 1, 2009

ITEM NO.

CASE

2

Approval of Minutes
October 16, 2009 Special Commission Conference

DECISION: The minutes were approved.

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

ITEM NO.

CASE

3**

Consent Agenda

PAA

A) Application for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
090486-TX	PeerTel Communication, LLC

PAA

B) Request for cancellation of a competitive local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
090479-TP	Broadstar Communications, LLC	10/16/2009

C) Docket No. 090487-GU – Application for authorization to issue common stock, preferred stock and secured and/or unsecured debt, and to enter into agreements for interest rate swap products, equity products and other financial derivatives, and to exceed limitation placed on short-term borrowings in 2010, by Chesapeake Utilities Corporation.

Chesapeake Utilities Corporation (Chesapeake or Company) seeks authority to issue common stock, preferred stock and secured and/or unsecured debt, and to enter into agreements for interest rate swap products, equity products and other financial derivatives, and to issue short-term borrowings in 2010.

The Company seeks authority to issue during calendar year 2010 up to 5,000,000 shares of Chesapeake common stock; up to 1,000,000 shares of Chesapeake preferred stock; up to \$120 million in secured and/or unsecured debt; to enter into agreements up to \$40 million in Interest Rate Swap Products, Equity Products and other Financial Derivatives; and to issue short-term obligations during 2010, in an amount not to exceed \$100 million.

Chesapeake Utilities Corporation allocates funds to the Florida Division on an as-needed basis, although in no event would such allocations exceed 75 percent of the proposed equity securities (common stock and preferred stock), long-term debt, short-term debt, Interest Rate Swap Products, Equity Products and Financial Derivatives.

For monitoring purposes, this docket should remain open until April 28, 2011 to allow the Company time to file the required Consummation Report.

ITEM NO.

CASE

3**

Consent Agenda

(Continued from previous page)

D) Docket No. 090494-EI – Application for authority to issue and sell securities during calendar year 2010 pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Florida Power & Light Company.

Florida Power & Light Company (“FPL” or “Company”) seeks authority to issue and sell and/or exchange any combination of long-term debt and equity securities and/or to assume liabilities or obligations as guarantor, endorser, or surety in an aggregate amount not to exceed \$6.1 billion during calendar year 2010. In addition, FPL seeks permission to issue and sell short-term securities during calendar years 2010 and 2011 in an amount or amounts such that the aggregate principal amount of short-term securities outstanding at the time of and including any such sale shall not exceed \$3.5 billion.

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

For monitoring purposes, this docket should remain open until April 28, 2011 to allow the Company time to file the required Consummation Report.

Recommendation: The Commission should approve the action requested in the dockets referenced above and close these dockets. For monitoring purposes, Docket Numbers 090487-GU and 090484-EI should remain open until April 28, 2011, to allow the Company time to file the required Consummation Report.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

4**

Docket No. 090135-TP – Complaint against BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast for anticompetitive behavior in violation of Sections 364.01(4), 364.10(1), and 364.3381, F.S., violating terms of interconnection agreement, and engaging in cramming in violation of Sections 354.604(2), 364.10(1), F.S., and Rule 25-4.110(18), F.A.C., by Cbeyond Communications, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Klement

Staff: GCL: Murphy

RAD: Bloom

Issue 1: Should the Commission acknowledge the Cbeyond Notice of Voluntary Dismissal and close the docket?

Recommendation: Yes. The Commission should acknowledge the Cbeyond Notice of Voluntary Dismissal and close the docket.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

5**

Docket No. 090502-OT – Initiation of rulemaking to amend Rules 25-22.105, 25-22.107 and 25-22.1035, and repeal Rule 25-22.103, F.A.C.

Rule Status: Proposal may be deferred

Commissioners Assigned: All Commissioners

Prehearing Officer: Klement

Staff: GCL: Miller

CLK: Cole

ECR: Hewitt

ITS: Kissell

Issue 1: Should the Commission propose the amendment of Rules 25-22.105, 25-22.107, and 25-22.1035, F.A.C. and the repeal of Rule 25-22.103, F.A.C.?

Recommendation: Yes. The Commission should propose the amendment of Rules 25-22.105, 25-22.107, 25-22.1035, F.A.C., and the repeal of Rule 25-22.103, F.A.C., as set forth in Attachment A of staff's memorandum dated November 17, 2009.

Issue 2: Should this docket be closed?

Recommendation: Yes.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

6**

Docket No. 090504-TP – Proposed amendment of Rule 25-4.0665, F.A.C., Lifeline Service.

Rule Status: Proposal may be deferred

Commissioners Assigned: All Commissioners

Prehearing Officer: Klement

Staff: GCL: Gervasi

ECR: Hewitt

RAD: Casey, Williams

Issue 1: Should the Commission propose amendments to Rule 25-4.0665, F.A.C.?

Recommendation: Yes, the Commission should propose amendments to Rule 25-4.0665, F.A.C., as set forth in Attachment A of staff's memorandum dated November 17, 2009.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rule as proposed should be filed with the Secretary of State, and the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 090122-EG – Petition for approval of modifications to approved energy conservation programs, by Associated Gas Distributors of Florida. (Deferred from the November 10, 2009 Commission Conference)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Klement

Staff: RAD: Ellis; Brown

GCL: Fleming

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

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

Issue 2: Should this docket be closed?

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

DECISION: This item was deferred to the December 15, 2009, Commission Conference.

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

ITEM NO.

CASE

8**

Docket No. 090241-TC – Compliance investigation of PATS Certificate No. 7989, issued to Protocall Communications, Inc., for apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RAD: Pruitt
GCL: Morrow

Issue 1: Should the Commission dismiss Protocall Communications, Inc.'s protest of PAA Order No. PSC-09-0336-PAA-TC?

Recommendation: Yes. The Commission should dismiss Protocall Communications, Inc.'s protest of PAA Order No. PSC-09-0336-PAA-TC. Additionally, staff recommends that PAA Order No. PSC-09-0336-PAA-TC be reinstated and consummated as a Final Order. **If the Commission approves staff's recommendation in Issue 1, Issue 2 will be moot and a decision need not be rendered.**

Issue 2: Should the Commission grant the relief requested by waiving the \$500 automatic penalty including collection costs?

Recommendation: No. The Commission should not grant the relief requested by waiving the \$500 penalty including collection costs. The Commission should dismiss this protest on its own motion as Protocall has not provided facts upon which the requested relief can be granted.

Issue 3: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation, Protocall Communications, Inc. should make payment of the penalty as required by PAA Order No. PSC-09-0336-PAA-TC, within 14 days after the issuance of the Commission's Final Order from this recommendation. This docket should be closed administratively upon either receipt of the payment of the penalty, or upon cancellation of Protocall Communications, Inc.'s PATS certificate.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**PAA

Docket No. 090371-EQ – Petition for approval of amended negotiated purchase power contract with Vision / FL, LLC by Progress Energy Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Brown

ECR: Lee

GCL: Brubaker

Issue 1: Should the Commission approve the amended negotiated contract between Progress Energy Florida, Inc. (PEF) and Vision / FL, LLC (Vision), for the purchase of 40 MW of renewable firm capacity and energy?

Recommendation: Yes. Payments for energy are expected to produce savings between \$28.6 and \$70.2 million over the term of the contract compared to the original contract and PEF's current avoided cost. Upon a showing by PEF that expenses for the purchased power contract under the negotiated renewable energy contract were reasonable and prudently incurred, PEF should be permitted to recover those costs through the fuel clause.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected files a protest within 21 days of the issuance of the Commission's order approving the petition and contract, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**PAA

Docket No. 090372-EQ – Petition for approval of negotiated purchase power contract with FB Energy, LLC by Progress Energy Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Brown

ECR: Lee

GCL: Brubaker

Issue 1: Should the Commission approve the proposed negotiated purchase power contract between Progress Energy Florida, Inc. (PEF) and Florida Biomass Energy, LLC. (FB Energy)?

Recommendation: Yes. Payments for capacity and energy are expected to produce savings between \$34.2 and \$80.2 million over the term of the contract. Upon a showing by PEF that expenses for the purchased power contract under the negotiated renewable energy contract were reasonable and prudently incurred, PEF should be permitted to recover those costs through the fuel clause.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected files a protest within 21 days of the issuance of the Commission's order approving the petition and contract, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

11**PAA

Docket No. 090480-TX – Compliance investigation of Clective Telecom Florida, LLC for apparent failure to accurately disclose information on application.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Watts

GCL: Tan

Issue 1: Should the Commission cancel Clective Telecom Florida, LLC's CLEC Certificate No. 8736 for the company's apparent failure to accurately disclose information in Docket No. 080545-TX, application for a certificate of public convenience and necessity to provide telecommunications services within the State of Florida as a competitive local exchange company?

Recommendation: Yes, the Commission should cancel Clective Telecom Florida, LLC's CLEC Certificate No. 8736 for the company's apparent failure to accurately disclose information in Docket No. 080545-TX, application for a certificate of public convenience and necessity to provide telecommunications services within the State of Florida as a competitive local exchange company

Issue 2: If the Commission approves Issue 1, should the Commission refer Clective FL to the appropriate authority for a determination whether criminal charges are appropriate regarding the apparent violation of Section 837.06, F.S.?

Recommendation: Yes. If staff's recommendation in Issue 1 is approved, the Commission should refer Clective FL to the appropriate authority for a determination whether criminal charges are appropriate regarding the apparent violation of Section 837.06, F.S.

Issue 3: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation 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 any material facts in dispute, in the form provided by Rule 28-106.201, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), F.S., any issues not in dispute should be deemed stipulated. The company should also be required to immediately cease and desist providing all intrastate telecommunications services in Florida, and the CLEC certificate should become inactive on December 31, 2009. If there is no protest, this docket should be closed upon issuance of the Consummating Order.

DECISION: This item was deferred to a later Commission Conference.

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

ITEM NO.

CASE

12

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

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

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

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

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

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

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the November 10, 2009 Commission Conference, Supplemental Recommendation filed.)

Critical Date(s): Pursuant to Section 366.82(6), F.S., the Commission must review conservation goals at least every five years. New conservation goals must be set by January 1, 2010.

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

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

ECR: Dowds, Higgins

GCL: Fleming, Saylor

(Participation is Limited to Commissioners and Staff.)

(Supplemental Recommendation to Staff's October 15, 2009, Recommendation filed November 20, 2009)

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

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

DECISION: The recommendation was approved.

ITEM NO.

CASE

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

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the November 10, 2009 Commission Conference, Supplemental Recommendation filed.)

(Continued from previous page)

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

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

DECISION: The recommendation was approved.

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

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

DECISION: The recommendation was approved.

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

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

DECISION: The recommendation was approved, as discussed at the Commission conference.

ITEM NO.

CASE

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

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Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the November 10, 2009 Commission Conference, Supplemental Recommendation filed.)

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

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

DECISION: The recommendation was denied.

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

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

DECISION: The recommendation was approved.

ITEM NO.

CASE

12

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Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the November 10, 2009 Commission Conference, Supplemental Recommendation filed.)

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

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

DECISION: The recommendation was approved.

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

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

DECISION: This issue was voted on in Issue 4.

ITEM NO.

CASE

12

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

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Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the November 10, 2009 Commission Conference, Supplemental Recommendation filed.)

(Continued from previous page)

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

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

DECISION: The recommendation was modified to adopt the residential portion of the numeric goals embedded within column “E-TRC + (Top 10 Res.)” of Attachment 1 to the staff recommendation dated November 20, 2009, for each of the four major investor-owned utilities (FPL, PEF, TECO, and Gulf). The residential measures shall be considered, but not limited to, the residential measures identified in Attachment 1.

Also, to adopt the numeric goals of E-TRC for FPUC, and the numeric goals for the existing programs currently in place for OUC and JEA.

Note: The residential portion of the numeric goals embedded with column “E-TRC + (Top 10 Rec.)” of Attachment 1 is comprised of the sum of the residential measures shown in Attachment 1, and the Residential “E-TRC” goals shown in Attachment 2, for each of the respective four major investor-owned utilities (FPL, PEF, TECO, and Gulf).

ITEM NO.

CASE

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

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

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

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

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the November 10, 2009 Commission Conference, Supplemental Recommendation filed.)

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

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

DECISION: The recommendation was modified to adopt the commercial/industrial portion of the numeric goals embedded with column “E-TRC + (Top 10 Rec)” of Attachment 1 to the staff recommendation dated November 20, 2009, for each of the four major investor-owned utilities (FPL, PEF, TECO, and Gulf).

Also, to adopt the numeric goals of E-TRC for FPUC, and the numeric goals for the existing programs currently in place for OUC and JEA.

Note: The commercial/industrial portion of the numeric goals embedded with column “E-TRC + (Top 10 Res.) of Attachment 1 is comprised of the Commercial/Industrial “E-TRC” goals shown in Attachment 2, for each of the respective for major investor-owned utilities (FPL, PEF, TECO, and Gulf).

ITEM NO.

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

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

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

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

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the November 10, 2009 Commission Conference, Supplemental Recommendation filed.)

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

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

DECISION: The recommendation was approved with the modification that expenditures should be capped at 10 percent.

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

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

DECISION: The recommendation was approved.

ITEM NO.

CASE

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

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

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the November 10, 2009 Commission Conference, Supplemental Recommendation filed.)

(Continued from previous page)

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

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

DECISION: The recommendation was approved.

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

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

DECISION: The recommendation was approved.

ITEM NO.

CASE

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

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

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

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

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

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

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the November 10, 2009 Commission Conference, Supplemental Recommendation filed.)

(Continued from previous page)

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

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

Issue 16: Should this docket be closed?

DECISION: The recommendation was approved, with the understanding that we adopt goals already established by JEA and OUC.

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

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

13**PAA

Docket No. 090060-WU – Application for staff-assisted rate case in Duval County by Neighborhood Utilities. (Deferred from the November 10, 2009 Commission Conference, revised recommendation filed.)

Critical Date(s): 06/28/10 (15-Month Effective Date (SARC))

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: APA: Brown, Deamer

ECR: Bruce, Rieger

GCL: Brubaker

(Pages 19, 21, 22, 24, 26, and 34 are Revised.)

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

Recommendation: No. The overall quality of service provided by Neighborhood Utilities, Inc. is marginal. In order to monitor the customers' concerns about the precautionary "boil water" notices as required by the Department of Environmental Protection (DEP), it is recommended that the Utility provide the Commission with a copy of both the initial and rescinding boil water notifications for a period of one year after the Commission order concerning the rate case.

Issue 2: What are the used and useful percentages of the Utility's water system?

Recommendation: The treatment plant and distribution system is considered 100 percent used and useful.

Issue 3: What is the appropriate average test year rate base for the Utility?

Recommendation: The appropriate average test year rate base for the Utility is \$660 for water.

Issue 4: What is the appropriate rate of return on equity and overall rate of return for this Utility?

Recommendation: The appropriate return on equity is 11.30 percent with a range of 10.30 - 12.30 percent. The appropriate overall rate of return is 9.65 percent.

Issue 5: What are the appropriate amount of test year revenues?

Recommendation: The appropriate test year revenue for this Utility is \$89,675 for water.

Issue 6: What is the appropriate amount of test year operating expense?

Recommendation: The appropriate amount of operating expense for the Utility is \$118,465 for water.

Issue 7: Should the Commission utilize the operating ratio methodology as an alternative means to calculate the revenue requirement for Neighborhood Utilities, Inc. and, if so, what is the appropriate margin?

Recommendation: Yes, the Commission should utilize the operating ratio methodology for calculating the revenue requirement for the Utility water system. The margin should be 10 percent of O&M expense.

ITEM NO.

CASE

13**PAA

Docket No. 090060-WU – Application for staff-assisted rate case in Duval County by Neighborhood Utilities. (Deferred from the November 10, 2009 Commission Conference, revised recommendation filed.)

(Continued from previous page)

Issue 8: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement using the operating ratio methodology for calculating the revenue requirement is \$131,988.

Issue 9: Should the Utility's current rate structure be changed, and if so, what is the appropriate rate structure for the Utility's water system?

Recommendation: Yes. The Utility's current base facility charge (BFC)/uniform gallonage charge rate structure, which is billed on a quarterly basis, should be changed to a monthly three-tier inclining block rate structure with usage blocks set at: a) 0-5 kgals; b) 5-10 kgals; c) usage in excess of 10 kgals, with appropriate usage block rate factors of 1.0, 1.5, 2.0 respectively for water system's residential class. The appropriate rate structure for the water system's non-residential class is a traditional BFC/uniform gallonage charge. The billing system should be changed to a monthly basis. The water system's BFC cost recovery should be set at 35%.

Issue 10: Is a repression adjustment appropriate in this case, and if so, what are the appropriate adjustments to make for this Utility, what are the appropriate corresponding expense adjustments to make, and what are the final revenue requirements?

Recommendation: Yes, a repression adjustment is appropriate for this Utility. Test year consumption should be reduced by 4,360 ~~3,499~~ Kgals or 12.7 ~~10.2~~ percent. Purchased power expense should be reduced by \$978 ~~\$785~~, chemical expense should be reduced by \$436 ~~\$350~~, and regulatory assessment fees (RAFs) should be reduced by \$67 ~~\$53~~. The final post-repression revenue requirement for the water system should be \$130,506 ~~\$130,799~~.

In order to monitor the effect of the changes to rate structure and revenue, the Utility should be ordered to file reports detailing the number of bills rendered, the consumption billed and the revenues billed on a monthly basis. In addition, the reports should be prepared, by customer class and meter size. The reports should be filed with staff, on a semi-annual basis, for a period of two years beginning the first billing period after the approved rates go into effect. To the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility should be ordered to file a revised monthly report for that month within 30 days of any revision.

ITEM NO.

CASE

13**PAA

Docket No. 090060-WU – Application for staff-assisted rate case in Duval County by Neighborhood Utilities. (Deferred from the November 10, 2009 Commission Conference, revised recommendation filed.)

(Continued from previous page)

Issue 11: What are the appropriate rates for this Utility?

Recommendation: The appropriate monthly water rates are shown on Schedules Nos. 4-A of staff's memorandum dated November 17, 2009. The recommended rates should be designed to produce revenue in the amount of \$130,506 ~~\$130,799~~ for water, excluding miscellaneous service 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 on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 12: Should the Commission approve proforma improvement items for the Utility, and if so, what is the appropriate return on equity, overall rate of return, revenue requirement and when should the resulting rates be implemented?

Recommendation: Yes. The Commission should approve a Phase II revenue requirement associated with proforma plant improvements. The Utility's revenue requirement should be \$166,672. Neighborhood should complete the proforma improvements within no more than 12 months of the issuance of the consummating order. The Utility should be allowed to implement the resulting rates once the proforma improvements have been completed and verified by staff. However, Neighborhood should not implement the revised rates until it has submitted a revised tariff and a proposed customer notice reflecting the Commission-approved rates. The rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until notice has been received by the customers. Neighborhood should provide proof of the date notice was given within 10 days after the date of the notice. If the Utility encounters any unforeseen events that will impede the completion of the proforma improvements, the Utility should ~~immediately~~ notify the Commission immediately.

Issue 13: Should this docket be closed?

Recommendation: Yes, upon expiration of the protest period, if a timely protest is not received from a substantially affected person, this docket should be closed.

DECISION: This item was deferred to the December 15, 2009, Commission Conference.

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

ITEM NO.

CASE

14

Docket No. 090001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor. (Issues for Gulf Power Company)

Critical Date(s): For the fuel factors to be effective on January 1, 2010, the Commission must make a decision on or before December 1, 2009

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Lester, Barrett, Draper, Franklin, Lee, Matlock

GCL: Bennett, Sayler

(Participation is Limited to Commissioners and Staff)

Issue 8: What are the appropriate fuel adjustment true-up amounts for the period January 2008 through December 2008?

Recommendation: The appropriate fuel adjustment true-up amounts for the period January 2008 through December 2008 is an under recovery of \$48,757,977. Gulf calculated this amount in accordance with the cost recovery practices used in other fuel dockets. Regarding transactions under the Intercompany Interchange Contract, staff believes the transactions are at actual costs and no adjustments are warranted.

Issue 9: What are the appropriate fuel adjustment true-up amounts for the period January 2009 through December 2009?

Recommendation: The appropriate fuel adjustment true-up amount for the period January 2009 through December 2009 is \$36,414,908 (over recovery).

Issue 10: What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2010 to December 2010?

Recommendation: The appropriate total fuel adjustment true-up amount to be collected from January 2010 to December 2010 is \$12,343,069.

Issue 12: What are the appropriate projected net fuel and purchased power cost recovery and Generating Performance Incentive amounts to be included in the recovery factor for the period January 2010 through December 2010?

Recommendation: The appropriate projected net fuel and purchased power cost recovery and Generating Performance Incentive amount to be included in the recovery factor for the period January 2010 through December 2010 is \$600,624,266.

Issue 13: What are the appropriate levelized fuel cost recovery factors for the period January 2010 through December 2010?

Recommendation: The appropriate levelized fuel cost recovery factor for the period January 2010 through December 2010 is 5.343 cents per kWh.

Issue 15: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?

Recommendation: The appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses are shown in the table shown in the analysis portion of staff's memorandum dated November 19, 2009.

ITEM NO.

CASE

14

Docket No. 090001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor. (Issues for Gulf Power Company)

(Continued from previous page)

Issue 16: Should this docket be closed?

Recommendation: No. The Fuel and Purchased Power Cost Recovery Clause docket is an on-going docket and should remain open.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

15

Docket No. 090001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor. (Issues for Florida Public Utilities Company)

Critical Date(s): For the fuel factors to be effective on January 1, 2010, the Commission must make a decision on or before December 1, 2009

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Lester, Barrett, Draper, Franklin, Lee, Matlock, Slemkewicz

GCL: Bennett, Sayler

(Participation is Limited to Commissioners and Staff)

Issue 3A: Has FPUC pursued all reasonable avenues to protect its ratepayers from mid-course increases in fuel and demand charges from JEA in 2009?

Recommendation: Yes. FPUC pursued all reasonable avenues to protect its ratepayers from mid-course increases in fuel and demand charges from JEA in 2009.

Issue 3B: Should the Commission approve FPUC's proposal to use a portion of storm hardening revenues to mitigate increases to customers in the Northwest Division?

Recommendation: No. FPUC's proposal merely postpones the 2009 underrecovery to a later date and could compromise reliability due to reduced storm hardening activities.

Issue 8: What are the appropriate fuel adjustment true-up amounts for the period January 2008 through December 2008?

Recommendation: The appropriate fuel adjustment true-up amounts for the period January 2008 through December 2008 are as shown in the analysis portion of staff's memorandum dated November 19, 2009.

Issue 9: What are the appropriate fuel adjustment true-up amounts for the period January 2009 through December 2009?

Recommendation: The appropriate fuel adjustment true-up amounts for the period January 2009 through December 2009 are as shown in the analysis portion of staff's memorandum dated November 19, 2009.

Issue 10: What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2010 to December 2010?

Recommendation: The appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2010 to December 2010 are as shown in the analysis portion of staff's memorandum dated November 19, 2009.

Issue 12: What are the appropriate projected net fuel and purchased power cost recovery and Generating performance Incentive amounts to be included in the recovery factor for the period January 2010 through December 2010?

Recommendation: The appropriate projected net fuel and purchased power cost recovery and Generating Performance Incentive amounts to be included in the recovery factor for the period January 2010 through December 2010 are as shown in the analysis portion of staff's memorandum dated November 19, 2009.

ITEM NO.

CASE

15

Docket No. 090001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor. (Issues for Florida Public Utilities Company)

(Continued from previous page)

Issue 13: What are the appropriate levelized fuel cost recovery factors for the period January 2010 through December 2010?

Recommendation: The appropriate levelized fuel cost recovery factors for the period January 2010 through December 2010 are as shown in the analysis portion of staff's memorandum dated November 19, 2009.

Issue 15: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?

Recommendation: The appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses are as shown in the analysis portion of staff's memorandum dated November 19, 2009.

Issue 16: Should this docket be closed?

Recommendation: No. The Fuel and Purchased Power Cost Recovery Clause docket is an on-going docket and should remain open.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

16**

Docket No. 090173-EI – Request to revise underground residential differential rates by Gulf Power Company.

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

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Roberts, Draper, Kummer

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 December 1, 2009. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

17**

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

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Slemkewicz

GCL: Fleming

Issue 1: Should PEF be authorized to establish a regulatory asset or liability in lieu of implementing the proposed \$499,997,000 base rate increase, effective January 1, 2010?

Recommendation: Yes. PEF should be authorized to establish a regulatory asset or liability in lieu of implementing the proposed \$499,997,000 base rate increase, effective January 1, 2010. The regulatory asset/liability should be collected or refunded through a rate adjustment on customer bills for the remainder of 2010 after new permanent base rates have been implemented. Any remaining balance in the regulatory asset/liability should be included in the capacity cost recovery clause true-up balance for 2010. In addition, PEF should not be authorized to accrue any interest on the accumulated balance in the regulatory asset/liability.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the Commission's final resolution of the Company's requested rate increase.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

18**

Docket No. 090368-EI – Review of the continuing need and costs associated with Tampa Electric Company's 5 Combustion Turbines and Big Bend Rail Facility.

Critical Date(s): 12/12/09 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Klement

Staff: ECR: Chase, Devlin, Kummer, Slemkewicz

GCL: Young, M. Brown

RAD: Ballinger, S. Brown, Ellis

Issue 1: What action should the Commission take with respect to the step increase designed to recover the costs of the five combustion turbine units (CTs) and the rail facilities for unloading coal at Big Bend Station (Rail Facilities)?

Recommendation: For the reasons discussed in staff's memorandum dated November 17, 2009, this matter should be set directly for hearing on the Commission's own motion. However, TECO should be authorized to implement a revised step rate increase of \$26,735,801 on January 1, 2010, subject to refund with interest, during the pendency of the proceeding.

Issue 2: Should the Commission approve TECO's proposed tariffs filed with its petition in this docket, reflecting the costs for the five CT unit additions and the new rail facility at the Big Bend Station?

Recommendation: No. The Commission should deny the tariffs as filed. If the Commission approves Issue 1, the Commission should order TECO to file tariffs using the revised revenue requirement discussed in Issue 1, no later than December 11, 2009. The revised tariffs should be effective beginning with bills rendered on or after January 1, 2010, with all additional revenues collected under the new tariffs held subject to refund, pending final disposition of this matter by the Commission. Staff should be given authority to administratively approve the new tariffs as long as they are consistent with the Commission vote.

Issue 3: Should this docket be closed?

Recommendation: No. This docket should be held open to conduct the hearing recommended by staff.

DECISION: The recommendations were approved. Oral modification was made by staff at the Commission Conference. Commissioner Argenziano dissented on all issues.

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

ITEM NO.

CASE

19**PAA

Docket No. 090421-EI – Petition for Commission approval of base rate increase for costs associated with CR3 uprate project, pursuant to Section 366.93(4), F.S. and Rule 25-6.0423(7), F.A.C., by Progress Energy Florida, Inc. (Deferred from the November 27, 2009 Commission Conference, revised recommendation filed)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Slemkewicz, Buys, Davis, Laux, Lee, Draper

GCL: Brown

Issue 1: Should the Commission approve PEF's request to increase its base rates by \$16,559,938 for the BOP phase of the CR3 Uprate project?

Recommendation: No. PEF's request to increase its base rates by \$16,559,938 for the BOP phase of the CR3 Uprate project should be reduced to \$16,175,437, a reduction of \$384,501. This approval should be subject to true-up and revision based on the final review of the 2009 BOP phase expenditures in Docket No. 090009-EI, Nuclear Cost Recovery Clause.

Issue 2: Should the Commission approve PEF's request to increase its base rates by \$756,338 for the 5-year amortization of the EPU assets that are being retired during 2009?

Recommendation: No. PEF's request to increase its base rates by \$756,338 for the 5-year amortization of the EPU assets that are being retired during 2009 should be reduced to \$637,168, a reduction of \$119,170.

Issue 3: What is the appropriate effective date of the increase in base rates? Should the Commission approve PEF's proposal to add any revenue requirement increase approved in this docket to any approved revenue requirement increase in the pending base rate proceeding, Docket No. 090079-EI, for determining base rates?

Recommendation: The revised base rates should become effective for meter readings taken on or after 30 days following the date of the Commission vote approving the BOP phase of the CR3 Uprate project. Under the current schedule, that would mean for meter readings taken on or after December 31, 2009. PEF should file tariff sheets for administrative approval by staff. Yes. PEF should file rates and tariff sheets for approval in compliance with final decisions related to revenue requirements, cost of service, billing determinants, rate design, and effective date made in Docket 090079-EI.

ITEM NO.

CASE

19**PAA

Docket No. 090421-EI – Petition for Commission approval of base rate increase for costs associated with CR3 uprate project, pursuant to Section 366.93(4), F.S. and Rule 25-6.0423(7), F.A.C., by Progress Energy Florida, Inc. (Deferred from the November 27, 2009 Commission Conference, revised recommendation filed)

(Continued from previous page)

Issue 4: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

20**PAA

Docket No. 080182-GU – 2008 depreciation study by Florida City Gas.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Marsh, Bulecza-Banks

GCL: Brown

Issue 1: Should the currently prescribed depreciation rates of FCG be changed?

Recommendation: Yes. A comprehensive review of FCG'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 FCG?

Recommendation: Staff's recommended remaining lives, net salvage values, reserves, and resultant depreciation rates are shown on Attachment A of staff's memorandum dated November 17, 2009. The rates, based upon actual investments as of December 31, 2008, result in a decrease in the annual depreciation expense of approximately \$97,667, as summarized on Attachment B of staff's recommendation dated November 17, 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 staff's memorandum dated November 17, 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, Edgar, Argenziano, Skop, Klement

ITEM NO.

CASE

21

Docket No. 090392-WS – Application for increase in water and wastewater rates in Lake County by Utilities Inc. of Pennbrooke.

Critical Date(s): 60-day Suspension Date Waived by Company to 12/01/09

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Deason, Fletcher, Bulecza-Banks, Springer

GCL: Brubaker

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

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

Recommendation: Yes. Pennbrooke’s proposed final water and wastewater rates should be suspended.

Issue 2: Should any interim revenue increases be approved?

Recommendation: Yes, Pennbrooke should be authorized to collect annual water and wastewater revenues as indicated below:

	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$355,422	\$169,676	\$525,098	47.74%
Wastewater	\$379,591	\$189,766	\$569,357	49.99%

Issue 3: What are the appropriate interim water and wastewater rates?

Recommendation: The water and wastewater service rates for Pennbrooke in effect as of December 31, 2008, should be increased by 47.84 percent and 50.08 percent, respectively, 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.

ITEM NO.

CASE

21

Docket No. 090392-WS – Application for increase in water and wastewater rates in Lake County by Utilities Inc. of Pennbrooke.

(Continued from previous page)

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

Recommendation: The Utility should be required to open an escrow account or file a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, the Utility should deposit \$29,954 into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$209,818. 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.

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: Carter, Edgar, Argenziano, Skop, Klement

ITEM NO.

CASE

22

Docket No. 090402-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation.

Critical Date(s): 60-Day Suspension Date Waived Through 12/01/09

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Linn, Bulecza-Banks, Fletcher, Springer

GCL: Brubaker, Bennett

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

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

Recommendation: Yes. Sanlando's proposed final water and wastewater rates should be suspended.

Issue 2: Should an interim revenue increase be approved?

Recommendation: Yes. Sanlando should be authorized to collect annual water and wastewater revenues as indicated below:

	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$3,226,328	\$171,388	\$3,397,716	5.31%
Wastewater	\$3,562,887	\$401,564	\$3,964,451	11.27%

Issue 3: What are the appropriate interim water and wastewater rates?

Recommendation: The water and wastewater service rates for Sanlando in effect as of December 31, 2008, should be increased for water by 5.35 percent and for wastewater by 11.29 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), Florida Administrative Code (F.A.C.). The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision, the proposed customer notice is adequate, and the required security has been filed. The Utility should provide proof of the date notice was given within 10 days after the date of notice.

ITEM NO.

CASE

22

Docket No. 090402-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation.

(Continued from previous page)

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

Recommendation: The Utility should be required to open an escrow account or file a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, the Utility should deposit \$47,746 into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$334,451. 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.

Issue 5: Should the docket be closed?

Recommendation: No. The docket should remain open pending the Commission's final action on the Utility's requested rate increase.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

23

Docket No. 090381-SU – Application for increase in wastewater rates in Seminole County by Utilities Inc. of Longwood.

Critical Date(s): 60-Day Suspension Date Waived Through 12/01/09

Commissioners Assigned: All Commissioners

Prehearing Officer: Klement

Staff: ECR: Fletcher, Bulecza-Banks, Springer

GCL: Klancke

(Decision on Interim Rates - Participation is Limited to Commissioners and Staff)

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

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

Issue 2: Should an interim revenue increase be approved?

Recommendation: Yes. On an interim basis, the Utility should be authorized to collect annual wastewater revenues as indicated below:

	Adjusted Test Year Revenues	\$ Increase	Revenue Requirement	% Increase
Wastewater	\$742,330	\$109,159	\$851,489	14.70%

Issue 3: What are the appropriate interim wastewater rates?

Recommendation: The wastewater service rates for Longwood in effect as of December 31, 2008, should be increased by 15.25 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 discussed in Issue 4 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 \$9,097 into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$63,720. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

ITEM NO.

CASE

23

Docket No. 090381-SU – Application for increase in wastewater rates in Seminole County by Utilities Inc. of Longwood.

(Continued from previous page)

Issue 5: Should this docket be closed?

Recommendation: No. The docket should remain open pending the Commission's final action on the Utility's requested rate increase.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

24**

Docket No. 090443-WS – Application for transfer of water and wastewater facilities to Martin County, and cancellation of Certificate No(s). 352-W and 308-S, by Miles Grant Water and Sewer Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Clapp, Kaproth

GCL: Bennett

Issue 1: Should the transfer of the water and wastewater facilities of Miles Grant Water and Sewer Company to Martin County, Florida be acknowledged as a matter of right and Certificate Nos. 352-W and 308-S be cancelled?

Recommendation: Yes. The transfer of the Miles Grant water and wastewater territory and facilities to Martin County should be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 352-W and 308-S should be cancelled effective November 9, 2009, which was the closing date of the sale. Miles Grant should be required to pay all outstanding regulatory assessment fees (RAFs) for July 1, 2009, through November 9, 2009, by January 30, 2010.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

25**

Docket No. 080183-WU – Joint application for approval of transfer of Tamiami Village Water Company, Inc.'s water system and Certificate No. 388-W in Lee County to Ni Florida, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Brady, Walden

GCL: Klancke

Issue 1: Should the corrected legal description shown in Attachment A of staff's memorandum dated November 17, 2009, be approved as the territory that Ni Florida, LLC is authorized to serve?

Recommendation: Yes. The corrected legal description shown in Attachment A of staff's memorandum dated November 17, 2009, should be approved as the territory that Ni Florida is authorized to serve. The resulting order should serve as Certificate No. 388-W and should be retained by Ni Florida.

Issue 2: Should this docket be closed?

Recommendation: Yes. Since no further actions are required, the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

26**

Docket No. 090489-WS – Ordinance by Board of County Commissioners of Hardee County relating to regulation of privately owned water and sewer utilities within the unincorporated areas of Hardee County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Johnson

GCL: Fleming

Issue 1: Should the Commission acknowledge Ordinance No. 2010-02 by the Board of County Commissioners of Hardee County which transfers jurisdiction over the County's privately-owned water and wastewater utilities to the Commission?

Recommendation: Yes. The Commission should acknowledge Ordinance No. 2010-02 by the County Commissioners of Hardee County, effective October 26, 2009. All non-exempt, privately-owned water and wastewater utilities in Hardee County should be directed to comply with the provisions of Chapter 367, F.S.

Issue 2: Should this docket be closed?

Recommendation: Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of a final order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

27**

Docket No. 090442-WS – Application for transfer of water and wastewater facilities to Martin County, and cancellation of Certificate No(s). 336-W and 291-S, by Utilities, Inc. of Hutchinson Island.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Clapp, Kaproth

GCL: Fleming

Issue 1: Should the transfer of the water and wastewater facilities of Utilities, Inc. of Hutchinson Island to Martin County, Florida be acknowledged as a matter of right and should Certificate Nos. 336-W and 291-S be cancelled?

Recommendation: Yes. The transfer of the UIHI water and wastewater territory and facilities to Martin County should be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 336-W and 291-S should be cancelled effective November 9, 2009, which was the closing date of the sale. UIHI should be required to pay all outstanding regulatory assessment fees (RAFs) for July 1, 2009, through November 9, 2009, by January 30, 2010.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

28

Docket No. 080731-TP – Petition by Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone for arbitration of an interconnection agreement with Quincy Telephone Company d/b/a TDS Telecom, pursuant to Section 252 of the Federal Communications Act of 1934, as amended, and Sections 120.57(1), 120.80(13), 364.012, 364.15, 364.16, 364.161, and 364.162, F.S., and Rule 28-106.201, F.A.C.

Critical Date(s): None

Commissioners Assigned: Carter, Argenziano, Skop

Prehearing Officer: Argenziano

Staff: RAD: King

GCL: Brooks, Murphy

(Participation is Limited to Commissioners and Staff)

Issue 1: Is TDS required to offer interconnection to Comcast under Section 251 of the Telecommunications Act of 1996 and/or Sections 364.16, 324.161, and 364.162, Florida Statutes?

Recommendation: Yes. TDS is required to offer interconnection to Comcast under Section 251 of the Telecommunications Act of 1996 because Comcast is a telecommunications carrier, as defined by 47 U.S.C. § 153 (44).

Issue 2: Should this docket be closed?

Recommendation: No, if the Commission approves staff's recommendation in Issue 1, then the parties should be required to submit a signed final interconnection agreement. Staff recommends that the parties be required to file the final interconnection agreement for approval within 45 days of issuance of the Final Order.

DECISION: The recommendations were approved.

Commissioners participating: Carter, Argenziano, Skop