

**MINUTES OF December 14, 2010**

**COMMISSION CONFERENCE**

**COMMENCED: 9:34 am**

**RECESSED: 11:50 am**

**RECONVENED: 1:23 pm**

**RECESSED: 2:42 pm**

**RECONVENED: 2:51 pm**

**ADJOURNED: 3:00 pm**

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

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

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1

**Approval of Minutes**

October 26, 2010 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Graham, Edgar, Skop, Brisé

**ITEM NO.**

**CASE**

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2\*\*

**Consent Agenda**

A) Docket No. 100444-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 2011, 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 2011.

The Company seeks authority to issue during calendar year 2011 up to 6,194,000 shares of Chesapeake common stock; up to 1,000,000 shares of Chesapeake preferred stock; up to \$150 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 2011, in an amount not to exceed \$100 million.

Chesapeake Utilities Corporation allocates funds to the Florida Division, Florida Public Utilities Company, and Indiantown Gas 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.

PAA

B) Application for Certificate to Provide Pay Telephone Service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
100436-TC	Crown Correctional Telephone, Inc.

PAA

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
100430-TX	Sign Language Access, Inc. d/b/a callVRS

ITEM NO. CASE

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2\*\* Consent Agenda  
  
(Continued from previous page)

PAA D) Request for Cancellation of Competitive Local Exchange Telecommunications Certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
100424-TP	Grande Communications Networks LLC	10/13/2010
100433-TP	American Fiber Systems, Inc.	11/05/2010

**Recommendation:** The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of Docket No. 100444-GU. For monitoring purposes, Docket No. 100444-GU should remain open until April 27, 2012 to allow the Company time to file the required Consummation Report.

**DECISION:** The recommendation was approved.

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

**ITEM NO.**

**CASE**

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3

**Docket No. 090505-EI** – Review of replacement fuel costs associated with the February 26, 2008 outage on Florida Power & Light Company's electrical system. (Deferred from the November 30, 2010 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** GCL: Bennett

ECR: Lee, Roberts

RAD: Graves, Matthews

**(Oral Argument Not Requested. Participation at the Discretion of the Commission. Pursuant to Section 350.01, F.S., only Commissioners who voted on the final order may vote on reconsideration. )**

**Issue 1:** Should the Commission reconsider its decision to credit FPL with 27 hours of time associated with the repair of the rod position indication system at Turkey Point Unit 3?

**Recommendation:** No. The Commission considered and evaluated all the record evidence in reaching its conclusion that the incremental time associated with the repair of the rod position indication system was 27 hours and not 126 hours. Because the Commission did not overlook or fail to consider the evidence in the record, FPL's motion for reconsideration should be denied.

**Issue 2:** Should the Commission reconsider its decision to require Florida Power & Light Company to refund the full 107 hours of outage at Turkey Point Unit 4, without giving credit for the time required to replace and test a malfunctioning relay in at the reverse power protection system?

**Recommendation:** No. The Commission did not overlook or fail to consider Order No. 23232, issued July 20, 1990, in Docket No. 090001-EI (Order No. 23232), in requiring a refund for the full outage time at Turkey Point Unit 4. The repair for the relay was not a planned outage. In Order No. 23232, a portion of the outage coincided with a planned outage.

**Issue 3:** Should the Commission make any corrections to the refund amount established in Order No. PSC-10-0381-FOF-EI?

**Recommendation:** No. The Commission did not overlook or fail to consider the factual and legal issues raised by FPL in reaching the Commission's decision to require a refund of \$13,854,054 to ratepayers as a result of the February 26, 2008 outage.

**ITEM NO.**

**CASE**

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3

**Docket No. 090505-EI** – Review of replacement fuel costs associated with the February 26, 2008 outage on Florida Power & Light Company's electrical system. (Deferred from the November 30, 2010 Commission Conference.)

(Continued from previous page)

**Issue 4:** Should this docket be closed?

**Recommendation:** Yes. Upon expiration of the time for appeal, if no appeal has been taken, this docket should be closed.

**DECISION:** This item was deferred to the January 11, 2011, Commission Conference.

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

**ITEM NO.**

**CASE**

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4\*\*PAA

**Docket No. 090551-GU** – Complaint by Gregory L. Spatz against Peoples Gas System for allegedly turning off service without notice.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** GCL: Jaeger

ECR: Kummer, Thompson

**Issue 1:** Did Peoples Gas System (PGS) improperly disconnect Greg Spatz's gas service in violation of Rule 28-7.089(2)(g), Florida Administrative Code (F.A.C.)?

**Recommendation:** No. PGS properly disconnected Mr. Spatz's gas service for failure to pay for utility service for the month of May 2009, including providing proper notice of disconnection. Mr. Spatz's complaint should therefore be dismissed.

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

**Recommendation:** Yes. If no timely protest is received from a substantially affected person upon expiration of the 21-day protest period, the Proposed Agency Action Order will become final upon issuance of a Consummating Order, and the docket should be closed.

**DECISION:** This item was deferred to the January 11, 2011, Commission Conference.

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

**ITEM NO.**

**CASE**

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5\*\*PAA

**Docket No. 100345-EQ** – Petition for approval of negotiated purchase power contract with Hathaway Renewable Energy, Inc. by Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Graham

**Staff:** RAD: Ma, Graves  
ECR: Franklin  
GCL: Tan, Brown

**Issue 1:** Should the Commission approve the petition submitted by PEF requesting approval for cost recovery of a negotiated contract with a qualifying facility, Hathaway Renewable Energy, LLC.?

**Recommendation:** No. Based on the most recent available information, the contracted payments are expected to be approximately \$13.3 million above PEF's current avoided costs, and therefore not eligible for cost recovery, pursuant to Sections 366.051 and 366.91 F.S., and Rule 25-17.0832(2), F.A.C.

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

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

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

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

**ITEM NO.**

**CASE**

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6\*\*PAA

**Docket No. 100346-EQ** – Petition for approval of the second negotiated purchase power contract with Hathaway Renewable Energy, Inc. by Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Graham

**Staff:** RAD: Ma, Graves  
ECR: Franklin  
GCL: Tan, Brown

**Issue 1:** Should the Commission approve the petition submitted by PEF requesting approval for cost recovery of the second negotiated contract with a qualifying facility, Hathaway Renewable Energy, LLC.?

**Recommendation:** No. Based on the most recent available information, the contracted payments are expected to be approximately \$13.3 million above PEF's current avoided costs, and therefore not eligible for cost recovery, pursuant to Sections 366.051 and 366.91, F.S., and Rule 25-17.0832(2), F.A.C.

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

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

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

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



**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 100347-EQ** – Petition for approval of the third negotiated purchase power contract with Hathaway Renewable Energy, Inc. by Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Graham

**Staff:** RAD: Ma, Graves  
ECR: Franklin  
GCL: Tan, Brown

**Issue 1:** Should the Commission approve the petition submitted by PEF requesting approval for cost recovery of the third negotiated contract with a qualifying facility, Hathaway Renewable Energy, LLC.?

**Recommendation:** No. Based on the most recent available information, the contracted payments are expected to be approximately \$13.3 million above PEF's current avoided costs, and therefore not eligible for cost recovery, pursuant to Sections 366.051 and 366.90, F.S., and Rule 25-17.0832(2), F.A.C.

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

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

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

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

**ITEM NO.**

**CASE**

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8\*\*PAA

**Docket No. 100155-EG** – Petition for approval of demand-side management plan of Florida Power & Light Company. (Deferred from the November 30, 2010 Commission Conference.)

**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. The compliance filing should not include savings associated with FPL's solar pilot programs.

**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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8\*\*PAA

**Docket No. 100155-EG** – Petition for approval of demand-side management plan of Florida Power & Light Company. (Deferred from the November 30, 2010 Commission Conference.)

(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 January 11, 2011, Commission Conference.

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

**ITEM NO.**

**CASE**

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9

**Docket No. 100009-EI** – Nuclear cost recovery clause. (Deferred from the November 30, 2010 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Breman, Hinton, Laux, Maurey

GCL: Young, Bennett, Leveille, Williams

**(Participation is limited to Commissioners and Staff.)**

**Issue 3A:** Does the Commission have the authority to require a “risk sharing” mechanism that would provide an incentive for a utility to complete a project within an appropriate, established cost threshold? If so, what action, if any, should the Commission take?

**Recommendation:** No. Section 366.93, F.S., expressly provides that a utility is entitled to recover all prudently incurred costs resulting from the construction of nuclear power plants. The statute does not set a dollar limit on the amount a utility can recover through the NCRC. Requiring a risk sharing mechanism exceeds the scope of the plain and expressed language and intent of the statute.

**DECISION:** This item was deferred to the January 11, 2011, Commission Conference.

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

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 100405-EI** – Application for authority to issue and sell securities during calendar year 2011 pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Florida Power & Light Company. (Deferred from the November 30, 2010 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Davis, Cicchetti, Maurey, Springer

GCL: Fleming

**Issue 1:** Should the Commission approve FPL's request for authority to issue and sell and/or exchange any combination of the long-term debt and equity securities and/or assume liabilities or obligations as guarantor, endorser or surety in an aggregate amount not to exceed \$6.1 billion during calendar year 2011 and have outstanding the aggregate principal amount not to exceed \$4.0 billion of short-term securities during calendar years 2011 and 2012?

**Recommendation:** Yes. Staff notes that FPL has agreed to certain revisions to its original security application.

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

**Recommendation:** No.

**DECISION:** This item was deferred to the January 11, 2011, Commission Conference.

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

**ITEM NO.**

**CASE**

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11\*\*

**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. (Deferred from the November 30, 2010 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Slemkewicz, Cichettii, Draper, P. Lee, Lester

GCL: Kiser, Helton, Bennett

**Issue A:** Should the Commission grant the Joint Petition to Assign Settlement Agreement to the Full Commission for Decision?

**Recommendation:** Yes. Pursuant to Section 350.01(6), Florida Statutes (F.S.), the full Commission should consider whether to approve the Stipulation and Settlement Agreement. The full Commission should also consider whether to approve Mr. Saporito's base rate petition.

**DECISION:** This issue is moot. These dockets were assigned to the full Commission on December 13, 2010. (see Document Number 09884-10)

**Issue 1:** Should the Commission approve the proposed Stipulation and Settlement?

**Recommendation:** Yes, the Commission should approve the proposed Stipulation and Settlement.

**DECISION:** The recommendation was approved.

**Issue 2:** 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.

**DECISION:** This issue was deferred to the January 11, 2011, Commission Conference.

**Issue 3:** Should these dockets be closed?

**Recommendation:** Yes. These dockets should be closed upon the expiration of the time for appeal.

**DECISION:** This issue was deferred to the January 11, 2011, Commission Conference.

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

**ITEM NO.**

**CASE**

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12\*\*PAA

**Docket No. 100410-EI** – Review of Florida Power & Light Company's earnings. (Deferred from the November 30, 2010 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Slemkewicz, Cicchetti, Maurey, Springer, Willis  
GCL: Bennett

**Issue 1:** Should the Commission initiate a review of Florida Power & Light Company's earnings?

**Recommendation:** Yes.

**Issue 2:** Should the Commission order FPL to hold earnings, for the 12-month period ending March 31, 2011, in excess of the authorized 11.00 percent maximum of the ROE range subject to refund under bond or corporate undertaking?

**Recommendation:** Yes. The Commission should order FPL to hold earnings, for the 12-month period ending March 31, 2011, in excess of the authorized 11.00 percent maximum of the ROE range subject to refund under a corporate undertaking.

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

**Recommendation:** No. This docket should remain open until staff has reviewed FPL's historical earnings data for the year ending March 31, 2011, and the Commission has determined the amount and appropriate disposition of overearnings.

**DECISION:** This item was deferred to the January 11, 2011, Commission Conference.

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

**ITEM NO.**

**CASE**

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13\*\*PAA

**Docket No. 100404-EI** – Petition by Florida Power & Light Company to recover Scherer Unit 4 Turbine Upgrade costs through environmental cost recovery clause or fuel cost recovery clause. (Deferred from the November 30, 2010 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** ECR: Wu, Franklin

GCL: Brown, Bennett, Saylor

**Issue 1:** Is FPL's Scherer Unit 4 steam turbine upgrade project eligible for cost recovery through the ECRC?

**Recommendation:** No. The project does not meet established criteria for cost recovery through the ECRC.

**Issue 2:** Is FPL's Scherer Unit 4 steam turbine upgrade project eligible for cost recovery through the Fuel Clause?

**Recommendation:** No. The project does not meet established criteria for recovery through the Fuel Clause.

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

**Recommendation:** Yes. If no person whose interests are substantially affected files a timely protest of the Commission's Proposed Agency Action, this docket may be closed upon issuance of a Consummating Order.

**DECISION:** This item was deferred to the January 11, 2011, Commission Conference.

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



**ITEM NO.**

**CASE**

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14\*\*PAA

**Docket No. 100266-EI** – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Power & Light Company. (Deferred from the November 30, 2010 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** ECR: L'Amoreaux, Dowds

GCL: Bennett

**Issue 1:** Should the Commission approve Florida Power & Light Company's (FPL) updated 2010-2012 storm hardening plan?

**Recommendation:** Yes, the Commission should approve FPL's updated storm hardening plan.

**Issue 2:** 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 January 11, 2011, Commission Conference.

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

**ITEM NO.**

**CASE**

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15\*\*PAA

**Docket No. 100419-EI** – Petition for approval of base rate increase for extended power uprate systems placed in commercial service, pursuant to Section 366.93(4), F.S., and Rules 25-6.0423(7) and 28-106.201, F.A.C., by Florida Power & Light Company. (Deferred from the November 30, 2010 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Slemkewicz, Breman, Cicchetti, Draper, Laux, Springer

GCL: Young

**Issue 1:** Should FPL's request to increase its base rates by \$1,952,620 for the 2010 EPU project modifications at the St. Lucie and Turkey Point units be approved?

**Recommendation:** Yes. FPL's request to increase its base rates by \$1,952,620 for the 2010 EPU project modifications at the St. Lucie and Turkey Point units should be approved. This approval should be subject to true-up and revision based on the final review of the 2010 modification expenditures in Docket No. 100009-EI, Nuclear Cost Recovery Clause.

**Issue 2:** Should FPL's request to increase its base rates by \$198,307 for the 5-year amortization of the EPU assets that are being retired during 2010 be approved?

**Recommendation:** Yes. FPL's request to increase its base rates by \$198,307 for the 5-year amortization of the EPU assets that are being retired during 2010 should be approved.

**Issue 3:** Should FPL's request to increase its base rates by \$48,335 for a true-up of the 2010 base rate revenue requirement for the PSL2 turbine gantry crane be approved?

**Recommendation:** Yes. FPL's request to increase its base rates by \$48,335 for a true-up of the 2010 base rate revenue requirement for the PSL2 turbine gantry crane should be approved.

**Issue 4:** What is the appropriate effective date of FPL's revised base rates?

**Recommendation:** If the Commission approves the staff recommendation in Issues 1, 2, and 3, the revised base rates should be implemented with the first billing cycle for 2011, which falls on January 3, 2011. Furthermore, FPL should file revised tariff sheets to implement the Commission vote in Issues 1, 2, and 3 for administrative approval by staff prior to their effective date.

**ITEM NO.**

**CASE**

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15\*\*PAA

**Docket No. 100419-EI** – Petition for approval of base rate increase for extended power uprate systems placed in commercial service, pursuant to Section 366.93(4), F.S., and Rules 25-6.0423(7) and 28-106.201, F.A.C., by Florida Power & Light Company. (Deferred from the November 30, 2010 Commission Conference.)

(Continued from previous page)

**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:** This item was deferred to the January 11, 2011, Commission Conference.

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

**ITEM NO.**

**CASE**

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16\*\*PAA

**Docket No. 090531-WS** – Application for staff-assisted rate case in Highlands County by Lake Placid Utilities, Inc. (Deferred from the October 26, 2010 Commission Conference, revised recommendation filed.)

**Critical Date(s):** 04/20/11 (15-Month Effective Date (SARC))

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** ECR: Roberts, Fletcher, Hudson, Maurey, Rieger, Simpson

GCL: Young

**(Proposed Agency Action except for Issues 13, 14, and 15.)**

**Issue 1:** Is the quality of service provided by Lake Placid satisfactory?

**Recommendation:** Yes. The overall quality of service provided by Lake Placid is satisfactory.

**Issue 2:** What are the used and useful percentages for the water treatment plant, the water distribution system, the wastewater treatment plant, and the wastewater collection system?

**Recommendation:** The Lake Placid water treatment plant, water distribution system, and wastewater collection system should be considered 100 percent used and useful (U&U). The wastewater treatment plant should be considered 28.5 percent U&U. A nine percent adjustment should be made to chemicals and electricity to reflect excessive unaccounted for water (EUW) in the distribution system. A 42 percent adjustment should be made to chemicals and electricity to reflect excessive infiltration and inflow (I&I) in the wastewater collection system.

**Issue 3:** Should any adjustments be made to the Utility's Project Phoenix Financial/Customer Care Billing System (Phoenix Project)?

**Recommendation:** Yes. Plant should be reduced by \$559 for water and \$873 for wastewater. In addition, accumulated depreciation and depreciation expense both should be reduced \$180 for water and \$281 for wastewater, respectively.

**Issue 4:** What is the appropriate average test year rate base for the Utility?

**Recommendation:** The appropriate average test year rate bases are \$192,035 for water and \$93,752 for wastewater.

**Issue 5:** What is the appropriate return on equity and overall rate of return for this Utility?

**Recommendation:** The appropriate return on equity (ROE) is 10.64 percent with an allowed range of plus or minus 100 basis points. The appropriate overall rate of return is 7.75 percent.

**Issue 6:** What is the appropriate amount of test year revenue?

**Recommendation:** The appropriate test year revenue for this Utility is \$52,417 for water and \$81,128 for wastewater.

**ITEM NO.**

**CASE**

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16\*\*PAA

**Docket No. 090531-WS** – Application for staff-assisted rate case in Highlands County by Lake Placid Utilities, Inc. (Deferred from the October 26, 2010 Commission Conference, revised recommendation filed.)

(Continued from previous page)

**Issue 7:** What is the appropriate amount of operating expenses?

**Recommendation:** The appropriate amount of operating expense for the Utility is \$58,456 for water and \$78,181 ~~\$81,479~~ for wastewater.

**Issue 8:** What is the appropriate revenue requirement?

**Recommendation:** The appropriate revenue requirement is \$73,341 for water and \$85,448 ~~\$88,745~~ for wastewater.

**Issue 9:** Should the Utility's current rate structures for the water and wastewater systems be changed, and, if so, what are the appropriate adjustments?

**Recommendation:** No. The Utility's current residential and non-residential water and wastewater rate structures, which consist of monthly base facility (BFC)/uniform gallonage charge rate structures, should remain unchanged. The BFC cost recovery for the water system should be set at 52 percent. In addition, the bulk wastewater rate should continue to be based on a BFC/gallonage charge rate structure. The bulk customers' BFC should be based on 80 percent of the number of ERCs actually connected to the system. Also, the bulk customer's gallonage charge should be set at 80 percent of the general service gallonage charge. Finally, a flat rate structure should be implemented for the two unmetered residential wastewater customers. The BFC cost recovery for the wastewater system should be set at 50 percent.

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

**Recommendation:** No, a repression adjustment is not appropriate for this utility. However, in order to monitor the effects resulting from the changes in revenues, the Utility should prepare monthly reports for the water system, detailing the number of bills rendered, the consumption billed and revenues billed. 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**

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16\*\*PAA

**Docket No. 090531-WS** – Application for staff-assisted rate case in Highlands County by Lake Placid Utilities, Inc. (Deferred from the October 26, 2010 Commission Conference, revised recommendation filed.)

(Continued from previous page)

**Issue 11:** What are the appropriate rates for this utility?

**Recommendation:** The appropriate monthly water and wastewater rates are shown on Schedules Nos. 4-A and 4-B of staff’s memorandum dated December 2, 2010, respectively. The recommended rates should be designed to produce revenue of \$73,341 for water and ~~\$85,448~~ ~~\$88,745~~ for wastewater, excluding miscellaneous service charges. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within no less than 10 days after the date of the notice.

**Issue 12:** Should the Utility's request for approval of a Non-Sufficient Funds fee be granted?

**Recommendation:** Yes. The Utility's request for a Non-Sufficient Funds (NSF) fee should be approved. The NSF fee should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given within 10 days after the date of the notice.

**Issue 13:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

**Recommendation:** The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B, to remove rate case expense grossed up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. Lake Placid should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

**ITEM NO.**

**CASE**

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16\*\*PAA

**Docket No. 090531-WS** – Application for staff-assisted rate case in Highlands County by Lake Placid Utilities, Inc. (Deferred from the October 26, 2010 Commission Conference, revised recommendation filed.)

(Continued from previous page)

**Issue 14:** Should the recommended rates be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility?

**Recommendation:** Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility. Prior to implementation of any temporary rates, the Utility should provide appropriate security. If the recommended rate is approved on a temporary basis, the revenues collected by the Utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum dated December 2, 2010. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

**Issue 15:** Should the Utility be required to provide proof, within 90 days of an order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts (NARUC USOA) primary accounts associated with the Commission-approved adjustments?

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

**Issue 16:** Should this docket be closed?

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

**DECISION:** The recommendations were approved with noted modification to Issues 7, 8, and 11.

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

**ITEM NO.**

**CASE**

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17\*\*PAA

**Docket No. 100446-SU** – Settlement proposal for possible overearnings by Tierra Verde Utilities, Inc. in Pinellas County.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Fletcher

GCL: Crawford

**Issue 1:** Should the Commission accept the settlement offer proposed by Tierra Verde Utilities, Inc.?

**Recommendation:** Yes. Pursuant to the settlement proposal, Tierra Verde will make an across-the-board rate reduction of \$39,681 or 4.39 percent of total revenues, as well as a refund of \$20,271 with interest. The Utility should file a proposed customer notice reflecting the Commission’s decision within 15 days of the Commission vote. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The Utility should provide proof that the customers have received notice within 10 days after the date of the notice.

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

**Recommendation:** No. If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to verify completion of the refund discussed in Issue 1 and to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once staff has verified that the refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively.

**DECISION:** The recommendations were approved.

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



**ITEM NO.**

**CASE**

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18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

**Critical Date(s):** 01/25/11 (8-Month Effective Date)

**Commissioners Assigned:** Graham, Edgar, Skop  
**Prehearing Officer:** Skop

**Staff:** ECR: Hudson, Cicchetti, Daniel, Fletcher, Lingo, Maurey, Salnova, Stallcup, Walden, Williams  
GCL: Jaeger, Saylor

**(Participation is Limited to Commissioners and Staff.)**

**Issue 1:** Is the quality of service provided by the Utility satisfactory?

**Recommendation:** Yes, the overall quality of service provided by the Utility should be considered satisfactory.

DECISION: The recommendation was approved.

**Issue 2:** What is the used and useful percentage of the Utility’s water distribution system?

**Recommendation:** Consistent with the methodology in Order No. PSC-94-1383-FOF-WU, the Utility’s transmission and distribution mains should be considered 100 percent used and useful, except for the distribution mains less than 8” in diameter serving certain subdivisions within the area known as the Plantation. Those lines inside the Plantation should be considered 60.9 percent used and useful and no further adjustment to the Utility’s MFRs is necessary for the water distribution system.

DECISION: The recommendation was approved.

**Issue 3:** Should any adjustments be made to rate base regarding affiliate assets?

**Recommendation:** No. The Utility removed the plant and accumulated depreciation associated with Trailer No. 2. However, depreciation expense should be reduced by \$2,670.

DECISION: The recommendation was approved.

**ITEM NO.**

**CASE**

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18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 4:** Should any adjustments be made to rate base for vehicles?

**Recommendation:** Yes. Plant should be decreased by \$30,413 for a 2007 Chevy Tahoe. Accumulated depreciation should be reduced by \$4,224. Further, depreciation expense should be reduced by \$5,069. Also, the Utility's adjustments for 50 percent U&U should not be applied to the vice president's vehicle. The net adjustment to U&U is an increase of \$13,094. Depreciation expense should be increased by \$2,535 to remove the U&U adjustment for the vice president's vehicle. Finally, the Utility should be ordered to maintain travel logs for all vehicles to enable staff to evaluate the appropriate level of utility-related usage in future rate case proceedings.

DECISION: The recommendation was approved. Commissioner Skop dissented.

**Issue 5:** Should any adjustments be made to offset plant improvements related to mains in the State Park as a result of WMSI's transfer of rental rights to the elevated tower?

**Stipulation:** As a result of WMSI's transfer of rental rights to the elevated tower, plant and accumulated depreciation should be reduced by \$100,000 and \$6,978, respectively. Additionally, test year depreciation expense should be reduced by \$2,326.

DECISION: The stipulation was approved.

**Issue 6:** Should any adjustments be made to test year plant-in-service balances?

**Recommendation:** Yes. Plant should be increased by \$11,371 to reflect capitalized plant and decreased by \$8,001 for retirement cost of replaced plant items for a net increase of \$3,370. Accordingly, accumulated depreciation should be decreased by \$7,909, and depreciation expense should increase by \$560.

DECISION: The recommendation was approved.

**Issue 7:** Should any adjustments be made to test year land?

**Stipulation:** Land should be decreased by \$3,400 to reflect the removal of appraisal and surveying costs associated with land that was sold.

DECISION: The stipulation was approved.

**ITEM NO.**

**CASE**

---

18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 8:** What improvements, if any, has WMSI made to its water distribution system regarding fire flow that were addressed by the Commission in Orders Nos. PSC-04-0791-AS-WU, issued August 12, 2004, and PSC-05-1156-PAA-WU, issued November 21, 2005, in Docket No. 000694-WU? Do these improvements satisfy the requirements of the orders?

**Recommendation:** The Utility has made the improvements to its water distribution system regarding fire flow and has satisfied the requirements of Commission Order Nos. PSC-04-0791-AS-WU and PSC-05-1156-PAA-WU.

**DECISION:** The recommendation was approved.

**Issue 9:** Should the Utility's pro forma plant additions be approved for recovery? If so, in what manner should they be approved for recovery?

**Recommendation:** The pro forma plant additions should not be approved for recovery in this proceeding. However, all evidence supports that the proposed projects are prudent, reasonable, and should improve the quality of service and the system's reliability. ~~Staff therefore recommends that the Commission find in this proceeding that the pro forma projects are prudent.~~ However, the Utility should file for another proceeding once it has obtained adequate cost justification for the pro forma plant additions. At this time, all adjustments related to the pro forma plant additions should be removed as outlined in the analysis portion of staff's memorandum dated December 3, 2010.

**DECISION:** The recommendation was approved with noted modification. Language in the order to reflect the modification.

**Issue 10:** Should any adjustments be made to test year accumulated depreciation?

**Recommendation:** Yes. However, all such adjustments have been made in preceding issues.

**DECISION:** The recommendation was approved.

**ITEM NO.**

**CASE**

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18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 11:** Should any adjustments be made to test year Advances for Construction?

**Recommendation:** No further adjustment beyond adjustment specified in Stipulation No. 5 identified on page 5 of staff's memorandum dated December 3, 2010, is necessary. The partial stipulation states that Advances for Construction should be decreased by \$9,257 to reflect Commission approved adjustment from the Utility's last rate case.

**DECISION:** The recommendation was approved.

**Issue 12:** What is the appropriate working capital allowance?

**Recommendation:** With the partial stipulation, and other appropriate adjustments, the appropriate working capital allowance is \$39,912.

**DECISION:** The recommendation was approved. Staff was given administrative authority to adjust the numbers in keeping with the decision made at the Commission Conference.

**Issue 13:** What is the appropriate rate base for the December 31, 2009, test year?

**Recommendation:** Consistent with other recommended adjustments, the appropriate 13-month average rate base is \$3,724,384.

**DECISION:** The recommendation was approved. Staff was given administrative authority to adjust the numbers in keeping with the decision made at the Commission Conference.

**Issue 14:** What is the appropriate amount of customer deposits to include in the capital structure?

**Stipulation:** The appropriate amount of customer deposits to include in the capital structure is \$100,499.

**DECISION:** The stipulation was approved.

**Issue 15:** What is the appropriate amount and cost rate for long-term debt for the test year?

**Recommendation:** The appropriate amount and cost rate for long-term debt for the test year is \$3,623,885 at 3.79 percent.

**DECISION:** The recommendation was approved.

**Issue 16:** What is the appropriate return on equity (ROE) for the test year?

**Recommendation:** The appropriate return on equity for the test year is 10.85 percent.

**ITEM NO.**

**CASE**

---

18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

DECISION: The recommendation was approved.

**Issue 17:** What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure for the December 31, 2009, test year?

**Recommendation:** The appropriate weighted average cost of capital for WMSI is 3.85 percent.

DECISION: The recommendation was approved. Staff was given administrative authority to adjust the numbers in keeping with the decision made at the Commission Conference.

**Issue 18:** Should any adjustments be made to the requested level of salaries and wages expense?

**Recommendation:** Yes. The level of salaries and wages expense should be reduced by \$50,424. The corresponding adjustment for payroll taxes is a decrease of \$3,857.

DECISION: The recommendation was approved.

**Issue 19:** Should any adjustments be made to employee pension and benefits?

**Recommendation:** Yes. Employee pension and benefits should be reduced by \$83,665 to reflect the removal of \$80,000 for the executive deferred compensation plan and \$3,665 to allocate 12.5 percent of the expense to affiliate operations.

DECISION: The recommendation was approved.

**Issue 20:** Should any adjustments be made to Materials and Supplies expense?

**Recommendation:** Yes. Materials and Supplies should be decreased by \$8 to remove an out of period expense.

DECISION: The recommendation was approved.

**Issue 21:** Should any adjustments be made to the requested level of Engineering Services expense?

**Recommendation:** Yes. The requested level of Engineering Services expense should be decreased by \$42,128.

DECISION: The recommendation was approved.

**ITEM NO.**

**CASE**

---

18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 22:** Should any adjustments be made to the requested level of Accounting Services expense?

**Recommendation:** Yes. The requested level of accounting services expense should be reduced by \$14,333.

**DECISION:** The recommendation was approved. Commissioner Edgar dissented.

**Issue 23:** Should any adjustments be made to the requested level of DEP refinancing costs?

**Recommendation:** Yes. The Utility's test year expenses should be reduced by \$2,500 to remove cost related to the DEP refinancing.

**DECISION:** The recommendation was approved.

**Issue 24:** Should any adjustments be made to the requested level of Contract Labor Costs?

**Stipulation:** \$1,250 of additional contractual service costs should be removed for a total of \$7,250 for Hank Garrett charges during 2009 (on general ledger as management fees).

**DECISION:** The stipulation was approved.

**Issue 25:** Should additional adjustments be made to remove out of period costs for annual report preparation fees?

**Stipulation:** Yes. An adjustment should be made to reduce the out of period costs by \$2,100 to reflect the actual cost incurred in 2009 for preparation of the 2008 Annual Report.

**DECISION:** The stipulation was approved.

**Issue 26:** Should any adjustments be made to rental of building/real property?

**Recommendation:** Yes. Rental of building/real property should be reduced by \$2,250 to reflect the allocation of rent expense to affiliated entities.

**DECISION:** The recommendation was approved.

**ITEM NO.**

**CASE**

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18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 27:** Should any adjustment be made to transportation expense?

**Recommendation:** Yes. Transportation expense should be reduced by \$3,618.

**DECISION:** The recommendation was approved.

**Issue 28:** Should the requested key man life insurance expense be approved?

**Recommendation:** No. The key man life insurance expense should not be approved and the Utility's insurance-other account should be reduced by \$12,015.

**DECISION:** The recommendation was approved.

**Issue 29:** What is the appropriate amount of rate case expense?

**Recommendation:** The Utility's test year rate case expense should be reduced by \$24,184 to remove the fully amortized expense from the Utility's prior limited proceeding. The appropriate amount of rate case expense is \$206,632. The four-year amortization results in test year rate case expense of \$51,658, which decreases the Utility's annual amortization amount by \$5,495.

**DECISION:** The recommendation was approved with the modification that the recommended adjustment to the hourly rates of Mr. Deason and Ms. Clark not be included in what was adopted and that there be an adjustment to remove attorney Clark's cost in the amount of 10 hours. Staff was given administrative authority to adjust the numbers in keeping with the decision made at the Commission Conference. Chairman Graham dissented.

**Issue 30:** Should any adjustments be made to employee training costs?

**Recommendation:** Yes. Employee training costs should be decreased by \$1,752.

**DECISION:** The recommendation was approved.

**Issue 31:** Should any further adjustments be made to miscellaneous expenses?

**Recommendation:** Yes. Miscellaneous expense should be further reduced by \$54,594.

**DECISION:** The recommendation was approved.

**ITEM NO.**

**CASE**

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18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 32:** Should any further adjustments be made to the Utility's pro forma expenses?  
**Recommendation:** No further adjustments should be made to the Utility's pro forma expenses. However, the Utility should submit a quarterly general ledger and canceled checks verifying that the Utility is consistently paying for the pro forma expenses allowed in this rate proceeding for a period of two years.

**DECISION:** The recommendation was approved.

**Issue 33:** Should any adjustments be made to depreciation expense?  
**Recommendation:** Yes. However, all such adjustments have been made in preceding issues.

**DECISION:** The recommendation was approved, as impacted by the vote on Issue 29.

**Issue 34:** Should the company's request to recover the costs associated with the withdrawn wastewater certificate application be approved?  
**Recommendation:** No. The Utility's requested amortization of \$10,570 for cost associated with its application for a wastewater certificate should be removed.

**DECISION:** The recommendation was approved.

**Issue 35:** How should the gain on sale of land and other assets be treated?  
**Recommendation:** The gain on sale of land and other assets of the Utility should be amortized over five years. The annual amortization is \$48,408.

**DECISION:** The recommendation was approved.

**Issue 36:** What is the test year pre-repression water operating income or loss before any revenue increase?  
**Recommendation:** The test year pre-repression water operating income is \$136,572 for water.

**DECISION:** The recommendation was approved. Staff was given administrative authority to adjust the numbers in keeping with the decision made at the Commission Conference.



**ITEM NO.**

**CASE**

18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 37:** What is the appropriate pre-repression revenue requirement for the December 31, 2009 test year?

**Recommendation:** The following revenue requirement should be approved.

	<u>Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$1,302,363	\$7,124	\$1,309,487	0.55%

**DECISION:** The recommendation was approved, as impacted by the vote on Issue 29. Staff was given administrative authority to adjust the numbers in keeping with the decision made at the Commission Conference.

**Issue 38:** What are the appropriate test year billing determinants before repression?

**Recommendation:** The appropriate test year billing determinants before repression are those listed in the MFR Schedule E-2, page 1 of 2, column 5, and in MFR Schedule E-14.

**DECISION:** The recommendation was approved.

**Issue 39:** What are the appropriate rate structures for this utility?

**Recommendation:** The appropriate rate structure for the residential class is a continuation of the Utility’s existing three-tiered inclining block rate structure. The appropriate rate structure for all non-residential classes is a continuation of the BFC/uniform gallonage charge rate structure. Because staff’s recommended change in revenue requirements is approximately one half of one percent, staff recommends that the Utility’s BFC and gallonage charges remain unchanged.

**DECISION:** The recommendation was approved.

**Issue 40:** Is a repression adjustment appropriate in this case, and, if so, what is the appropriate adjustment to make for this Utility?

**Recommendation:** No, a repression adjustment is not appropriate in this case.

**DECISION:** The recommendation was approved.

**ITEM NO.**

**CASE**

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18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 41:** What are the appropriate rates for this Utility?

**Recommendation:** The appropriate monthly rates are shown on Schedule No. 4 of staff's memorandum dated December 3, 2010. Excluding miscellaneous service revenues, the recommended water rates are designed to produce total Utility revenues of \$1,298,436. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given no less than 10 days after the date of the notice.

**DECISION:** The recommendation was approved, as impacted by the vote on Issue 29. Staff was given administrative authority to adjust the numbers in keeping with the decision made at the Commission Conference.

**Issue 42:** Should the Utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

**Recommendation:** Yes. Staff recommends that the Utility's proposed charges as reflected in Exhibit 3 (MFR p. 70) are reasonable and should be approved.

**DECISION:** The recommendation was approved.

**Issue 43:** Are the procedures and charges imposed by WMSI when an existing customer disconnects and/or a new customer reconnects in an existing service location appropriate? If not, how should the tariff provisions governing these activities be modified?

**Recommendation:** No. The procedures imposed by WMSI when an existing customer disconnects and/or a new customer reconnects in an existing service location are not appropriate. The Utility does not have the authority to inspect the interior of a customer's property nor refuse service if it can not make an interior inspection. The "Addendum to Water Application" is appropriate as it will assist the Utility in obtaining the necessary information for determining property use and should be incorporated into its tariff. The temporary charge of \$100 is reasonable and should be incorporated in the Utility's tariff along with the definition and policies governing the temporary service charge.

**DECISION:** The recommendation was approved.

**ITEM NO.**

**CASE**

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18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 44:** In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

**Recommendation:** The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenue requirement granted. The Utility should be required to refund 100 percent of the interim increase that was collected by the Utility. The refund should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports, pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC, pursuant to Rule 25-30.360(8), F.A.C. Further, the escrow should be released upon staff's verification that the required refunds have been made.

**DECISION:** The recommendation was approved.

**Issue 45:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

**Recommendation:** The water rates should be reduced as shown on Schedule No. 4 of staff's memorandum dated December 3, 2010, to remove \$54,092 of water rate case expense, grossed up for regulatory assessment fees (RAFs), which is being amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than 30 days prior to the actual date of the required rate reduction. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-40.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. WMSI should provide proof of the date notice was given no less than 10 days after the date of the notice.

**DECISION:** The recommendation was approved, as impacted by the vote on Issue 29 and noting a potential fallout issue from Issue 44. Staff was given administrative authority to adjust the numbers in keeping with the decision made at the Commission Conference.

**ITEM NO.**

**CASE**

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18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 46:** What are the appropriate service availability charges for WMSI?

**Recommendation:** The appropriate service availability charges for WMSI are the charges contained in its current tariff.

DECISION: The recommendation was approved.

**Issue 47:** Should the Utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

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

DECISION: The stipulation was approved.

**Issue 48:** Has the Utility failed to return customer deposits in compliance with the refund procedures stated in Rule 25-30.311(5), Florida Administrative Code, and, if so, what amount of customer deposits shall the Utility be required to refund?

**Recommendation:** No. The Utility has not failed to return customer deposits in compliance with the refund procedures stated in Rule 25-30.311(5), F.A.C.

DECISION: The recommendation was approved.

**Issue 49:** Did the Utility fail to maintain field employee travel records pursuant to Order No. PSC-94-1383-FOF-WU? If so, should the Utility be ordered to show cause why it failed to maintain field employee travel records, pursuant to Order No. PSC-94-1383-FOF-WU, issued November 14, 1994?

**Recommendation:** Yes, the Utility failed to maintain field employee travel records in compliance with the requirements of Order No. PSC-94-1383-FOF-WU, and should be ordered to show cause why it should not be fined \$1,000, pursuant to Section 367.161, F.S., for this failure to comply with the Order.

DECISION: The recommendation was approved.

**ITEM NO.**

**CASE**

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18

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

(Continued from previous page)

**Issue 50A:** Is the Utility’s level of investment in associated companies appropriate? If not, what action should the Commission take?

**Recommendation:** Based on the evidence in the record, it cannot be determined if the level of investment in associated companies is appropriate. However, this amount is not included in rate base and thus is not considered in the determination of the customer rates recommended in this proceeding. ~~Before the next filing by this Utility,~~ s Staff will initiate a cash flow audit to explore this issue in greater detail.

**DECISION:** The recommendation was approved with noted modification.

**Issue 50B:** Are there any non-Utility expenses that the Utility is requesting be recovered through customer rates? If so, what adjustments should be made?

**Recommendation:** Yes, however, all non-Utility adjustments have been made in previous issues.

**DECISION:** The recommendation was approved.

**Issue 51:** Should this docket be closed?

**Recommendation:** If the Commission’s final order is not appealed, this docket should be closed upon staff’s approval of the tariffs, verification of the required refunds, and the expiration of the time for filing an appeal.

**DECISION:** The recommendation was approved, as impacted by the vote on Issue 29.

Commissioners participating: Graham, Edgar, Skop

**ITEM NO.**

**CASE**

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19

**Docket No. 090478-WS** – Application for original certificates for proposed water and wastewater systems, in Hernando and Pasco Counties, and request for initial rates and charges, by Skyland Utilities, LLC.

**Critical Date(s):** None

**Commissioners Assigned:** Graham, Edgar, Skop, Brisé

**Prehearing Officer:** Skop

**Staff:** ECR: Brady, Chase, Daniel, Williams

GCL: Klancke, Bennett

**(Participation is Limited to Commissioners and Staff.)**

**Issue A:** What is the appropriate disposition of the hearsay objections to Exhibits 2, 4, 14, 15, 40, and 45?

**Recommendation:** The hearsay objections to Exhibits 2, 4, 14, 15, 40, and 45 should be denied.

**Issue 1:** Has Skyland presented evidence sufficient to invoke the Commission's exclusive jurisdiction over Skyland's Application for original certificates for proposed water and wastewater systems?

**Recommendation:** Yes. Skyland has presented evidence sufficient to invoke the Commission's exclusive jurisdiction over Skyland's application, pursuant to Section 367.171(7), F.S.

**Issue 1A:** Did Skyland provide evidence to support that it satisfies the definition of "utility" contained in Section 367.021(12), Florida Statutes?

**Recommendation:** Yes. Skyland has provided evidence to support that it satisfies the definition of "utility" contained in Section 367.021(12), Florida Statutes.

**Issue 1B:** Did Skyland provide evidence to support that the service proposed by Skyland transverses county boundaries, pursuant to Section 367.171(7), Florida Statutes?

**Recommendation:** Yes. Staff believes that Skyland has provided evidence to support that the service proposed by Skyland transverses county boundaries, pursuant to Section 367.171(7), Florida Statutes.

**Issue 2:** Is there a need for service in Skyland's proposed service territory and, if so, when will service be required?

**Recommendation:** No. The preponderance of the evidence does not support an immediate need for service or when, or in what form, any future service would be required in the requested territory for which a Commission certificate would be required.

**Issue 3:** Is Skyland's application inconsistent with Hernando County's comprehensive plan?

**Recommendation:** Yes. Skyland's application appears to be inconsistent with the Hernando County Comprehensive Plan. However, in light of the evidence presented in this case, that inconsistency should not cause the Commission to deny the Application.

**ITEM NO.**

**CASE**

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**Docket No. 090478-WS** – Application for original certificates for proposed water and wastewater systems, in Hernando and Pasco Counties, and request for initial rates and charges, by Skyland Utilities, LLC.

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**Issue 4:** Is Skyland's application inconsistent with Pasco County's comprehensive plan?

**Recommendation:** Yes. Skyland's application appears to be inconsistent with a number of provisions in the Pasco County Comprehensive Plan, most notably that which prohibits central water and wastewater services in the Northeast Pasco Rural Area, except under very limited circumstances.

**Issue 5:** Will the certification of Skyland result in the creation of a utility which will be in competition with, or duplication of, any other system, pursuant to Section 367.045(5)(a), F.S.?

**Recommendation:** No. The utility will not be in competition with, or duplication of, any other system.

**Issue 6:** Does Skyland have the financial ability to serve the requested territory?

**Recommendation:** Yes, Skyland has demonstrated the financial ability to serve the requested territory.

**Issue 7:** Does Skyland have the technical ability to serve the requested territory?

**Recommendation:** Yes. The utility has the existing and potential technical ability to serve all the needs of the requested territory

**Issue 8:** Has Skyland provided evidence that it has continued use of the land upon which the Utility treatment facilities are or will be located?

**Recommendation:** No. The lease agreements provided in the Application do not provide sufficient evidence of continued use of the land upon which the Utility treatment facilities are or will be located, pursuant to Rule 25-30.033(1)(j), F.A.C. If certificates for the proposed water and wastewater systems are granted, the Utility should be required to file an executed and recorded copy of the deed, or executed copy of the lease, showing continued use of the land upon which the Utility water and wastewater treatment facilities are or will be located, within 30 days after the issuance of the order granting certificates.

**Issue 9:** Is it in the public interest for Skyland to be granted water and wastewater certificates for the territory proposed in its application?

**Recommendation:** No. The preponderance of the evidence indicates that granting Skyland's application is not in the public interest. However, if the Commission grants the application, Water Certificate No. 653-W and Wastewater Certificate No. 558-S should be issued to serve the territory described in Attachment A of staff's memorandum dated December 2, 2010. The resultant order should serve as Skyland's water and wastewater certificates and should be retained by the utility. The appropriate rates and charges are discussed in subsequent issues.

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**Issue 10:** If the certificates for the proposed water and wastewater systems are granted, what is the appropriate return on equity for Skyland?

**Recommendation:** If the certificates for the proposed water and wastewater systems are granted, the appropriate return on equity for Skyland should be 10.85 percent, with a range of plus or minus 100 basis points, based on the leverage graph formula in effect at the time of the Commission vote in this proceeding.

**Issue 11:** If the certificates for the proposed water and wastewater systems are granted, what are the appropriate potable water and wastewater rates for Skyland?

**Recommendation:** If the certificates for the proposed water and wastewater systems are granted, water and wastewater rates should not be approved at this time. Instead, the utility should be required to file rates and charges at the time that all aspects of cost are reasonably known. However, should the Commission choose to establish rates and charges at this time, the rates and charges contained in the analysis portion of staff's memorandum dated December 2, 2010, are reasonable and should be approved. Skyland should be required to charge these rates and charges until authorized to change them by the Commission in a subsequent proceeding. Within 30 days from the date of the issuance of the order in this proceeding, Skyland should be required to file revised tariffs representing the Commission's vote for administrative approval by staff. Pursuant to Rule 25-30.475, F.A.C., the tariffs should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets.

**Issue 12:** If the certificates for water and wastewater systems are granted, what are the appropriate service availability charges for Skyland?

**Recommendation:** If the certificates for the proposed water and wastewater systems are granted and if the Commission votes to establish rates and charges at this time, Skyland's service availability policy and staff's recommended water and wastewater service availability charges shown on Schedule Nos. 1 and 2 of staff's memorandum dated December 2, 2010, respectively, are consistent with the guidelines of Rule 25-30.580, F.A.C., and should be approved. The charges should be effective for connections made on or after the stamped approval date on the tariff sheets.

**Issue 13:** If the certificates for the proposed water and wastewater systems are granted, what is the appropriate Allowance for Funds Used During Construction (AFUDC) rate for Skyland?

**Recommendation:** If the certificates for the proposed water and wastewater systems are granted, an annual AFUDC rate of 8.70 percent and a discounted monthly rate of 0.69760205 percent should be approved and applied to the qualified construction projects beginning on or after the date the certificates of authorization are issued.



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**Issue 14:** Should this docket be closed?

**Recommendation:** If the Commission denies the Application, upon the expiration of the appeal period, if no party timely appeals the order, this docket should be closed. If the proposed certificates for water and wastewater and rates and charges are granted, this docket should remain open pending staff's verification that the Utility has filed evidence of continued use of the land upon which the treatment facilities will be located, and revised tariff sheets. Upon the Utility's filing of this evidence, and upon filing and staff's approval of the revised tariff sheets, this docket should be closed administratively. If the proposed certificates for water and wastewater are granted but rates and charges are not approved, the docket should remain open pending staff's verification that the Utility has filed evidence of continued use of the land and the Utility's filing of rates and charges at the time that all aspects of the case are reasonably known.

**DECISION:** This item was deferred to the January 11, 2011, Commission Conference. Commissioner Skop dissented on deferring this item.

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