

**MINUTES OF December 15, 2009**

**COMMISSION CONFERENCE**

**COMMENCED: 9:35 am**  
**RECESSED 11:25 am**  
**RECONVENED: 11:45 am**  
**RECESSED 2:16 pm**  
**RECONVENED: 2:26 pm**  
**ADJOURNED: 3:00 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 (\*\*).

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1

**Approval of Minutes**

October 27, 2009 Regular Commission Conference

November 10, 2009 Regular Commission Conference

DECISION: The minutes were approved.

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

**ITEM NO.**

**CASE**

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2\*\*

**Docket No. 090512-EI** – Petition to initiate rulemaking by Stephen B. Goldenberg to amend Rule 25-6.105, F.A.C., Refusal or Discontinuance of Service by Utility.

**Critical Date(s):** 12/16/09 (30 day statutory deadline)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Klement

**Staff:** GCL: Cowdery, Cibula

ECR: Kummer, Thompson

**Issue 1:** Should the Commission grant the petition to initiate rulemaking to amend Rule 25-6.105, Florida Administrative Code?

**Recommendation:** Yes, the Commission should grant the petition to initiate rulemaking.

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

**Recommendation:** No. If the Commission approves staff's recommendation in Issue 1, this docket should remain open to proceed with the rulemaking process.

**DECISION:** This item was withdrawn.

**ITEM NO.**

**CASE**

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3\*\*PAA

**Docket No. 090109-EI** – Petition for approval of solar energy power purchase agreement between Tampa Electric Company and Energy 5.0, LLC. (Deferred from the October 27, 2009 Commission Conference, revised recommendation filed.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Klement

**Staff:** RAD: Graves, Ellis, Gilbert, Matthews

ECR: Matlock

GCL: Brubaker

**Issue 1:** Should the Commission approve the requested recovery for costs incurred under the negotiated Contract between TECO and Energy 5.0?

**Recommendation:** Yes. Staff recommends that TECO be authorized to recover the energy payments made to Energy 5.0, up to TECO's as-available energy rate, through TECO's annual fuel cost recovery factor. Staff considers any costs in excess of TECO's as-available energy cost to be associated with the purchase of environmental attributes or renewable energy credits (RECs) which are discussed in Issue 2.

**DECISION:** The recommendation was denied, TECO and Energy 5.0 petitions were adopted. Commissioner Skop dissented, contrast cost exceeds levelized cost estimate. Commissioner Skop will be writing a dissenting opinion.

**Issue 2:** Should the Commission approve cost recovery for payments, above avoided cost, incurred under the negotiated contract between TECO and Energy 5.0 for the purchase of environmental attributes and renewable energy credits?

**Recommendation:** No. Pursuant to Rule 25-17.0825(6), F.A.C., payments to a qualifying facility for as-available energy cannot result in higher cost electric service to the utility's general body of ratepayers. Staff recommends that the environmental attributes and RECs purchased should be the property of TECO, and any risk of profit or loss resulting from the sale of such attributes should be borne by TECO's stockholders.

**DECISION:** The recommendation was denied, TECO and Energy 5.0 petitions were adopted. Commissioner Skop dissented, contrast cost exceeds levelized cost estimate. Commissioner Skop will be writing a dissenting opinion.

**ITEM NO.**

**CASE**

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3\*\*PAA

**Docket No. 090109-EI** – Petition for approval of solar energy power purchase agreement between Tampa Electric Company and Energy 5.0, LLC. (Deferred from the December 1, 2009 Commission Conference, revised recommendation filed.)

(Continued from previous page)

**Issue 3:** 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:** The recommendation was approved.

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

**ITEM NO.**

**CASE**

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4\*\*PAA

**Docket No. 090480-TX** – Compliance investigation of Clective Telecom Florida, LLC for apparent failure to accurately disclose information on application. (Deferred from the December 1, 2009 Commission Conference.)

**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 service 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 service 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.

**ITEM NO.**

**CASE**

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4\*\*PAA

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

(Continued from previous page)

**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 service 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 the January 26, 2010 Commission Conference.

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

**ITEM NO.**

**CASE**

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5\*\*

**Docket No. 090077-TI** – Acknowledgment of cancellation of IXC Registration No. TJ719 by ProNet Communications, Incorporated, effective February 9, 2009.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Pruitt

GCL: Morrow, McKay

**Issue 1:** Should the Commission grant the relief requested by waiving the payment of the 2009 Regulatory Assessment Fee and the statutory late payment charges for the 2008 Regulatory Assessment Fee?

**Recommendation:** No. The Commission should not grant the relief requested by waiving the payment of the 2009 Regulatory Assessment Fee and statutory late payment charges for the 2008 RAF. The Commission should dismiss this protest on its own motion as ProNet has not provided facts upon which the requested relief can be granted.

**DECISION:** The recommendation was denied. The Commission voted to waive the RAF, no penalty and interest for 2008.

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

**Recommendation:** Yes. If the Commission approves staff's recommendation, ProNet Communications, Incorporated should make payment of the 2009 Regulatory Assessment Fee and statutory late payment charges on the 2008 RAF as required by Commission Order No. PSC-09-0290-PAA-TI, 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 2009 RAF and 2008 late fees, or upon cancellation of ProNet Communications, Incorporated's IXC tariff and removal of its name from the IXC register on the Commission's own motion.

**DECISION:** The recommendation was modified as voted in Issue 1, the RAF is waived with no penalty and interest for 2008.

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

**ITEM NO.**

**CASE**

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6\*\*

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

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** APA: Harvey, Hallenstein

GCL: Teitzman, Morrow

**Issue 1:** Should the Commission grant AT&T's Motion for expedited approval of Lifeline Outreach funding and modification of SEEM penalty payments?

**Recommendation:** No. The Commission should defer any ruling on AT&T's Motion until staff's review of AT&T's wholesale Performance Assessment Plan is completed, and all proposed changes to the Plan can be brought back, as a whole, to the Commission for decision.

**DECISION:** The recommendation was approved with the additional condition that AT&T will set up a corporate undertaking for all Tier 2 payments until staff's review comes to the Commission for a decision.

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

**Recommendation:** No. If the Commission approves staff's recommendation, this docket should remain open pending the implementation of the Commission's decision and for purposes of future performance measure monitoring.

**DECISION:** The recommendation was approved.

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



**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 090060-WU** – Application for staff-assisted rate case in Duval County by Neighborhood Utilities. (Deferred from the December 1, 2009 Commission Conference, revised recommendation filed.)

**Critical Date(s):** 6/28/10 (15-Month Effective Date (SARC))

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** APA: Brown, Deamer

ECR: Bruce, Rieger

GCL: Brubaker

**(The revised recommendation supersedes all prior recommendations filed in this docket.)**

**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 zero 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 is 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 \$105,942 for water.

**Issue 7:** What is the appropriate revenue requirement?

**Recommendation:** The appropriate revenue requirement is \$106,708.

**ITEM NO.**

**CASE**

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7

**Docket No. 090060-WU** – Application for staff-assisted rate case in Duval County by Neighborhood Utilities. (Deferred from the December 1, 2009 Commission Conference, revised recommendation will be filed.)

(Continued from previous page)

**Issue 8:** 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 BFC, and that a three-tier inclining block rate structure also be implemented. The recommended usage blocks should be set at: a) 0-6 kgals; b) 6-12 kgals; c) usage in excess of 12 kgals, with appropriate usage block rate factors of 1.0, 1.5, and 2.0 respectively for water system's residential class. The appropriate rate structure for the water system's non-residential class is a traditional monthly BFC/uniform gallonage charge rate structure. The billing system should be changed to a monthly basis. The water system's BFC cost recovery should be set at 53.80 percent.

**Issue 9:** 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 1,117 kgals or 3.3 percent. Purchased power expense should be reduced by \$251, chemical expense should be reduced by \$158, and regulatory assessment fees (RAFs) should be reduced by \$19. The final post-repression revenue requirement for the water system should be \$106,281.

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.

**Issue 10:** What are the appropriate rates for this utility?

**Recommendation:** The appropriate monthly water rates are shown on Schedules No. 4. The recommended rates should be designed to produce revenue \$106,281 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.

**ITEM NO.**

**CASE**

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7

**Docket No. 090060-WU** – Application for staff-assisted rate case in Duval County by Neighborhood Utilities. (Deferred from the December 1, 2009 Commission Conference, revised recommendation will be filed.)

(Continued from previous page)

**Issue 11:** 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 improvements. The Utility's revenue requirement should be \$138,658. 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 notify the Commission immediately.

**Issue 12:** 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:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 080366-GU** – Petition for rate increase by Florida Public Utilities Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Prestwood, Draper

GCL: Jaeger

**(Decision on Stipulation Prior to Hearing.)**

**Issue 1:** Should the Commission approve the Stipulation and Settlement which was entered into between OPC and FPUC for the purpose of settling this Docket?

**Recommendation:** Yes. Staff recommends that the Stipulation and Settlement (Settlement) entered into between OPC and FPUC be approved.

**Issue 2:** Should FPUC be required to make a refund to its customers?

**Recommendation:** Yes. Staff recommends that FPUC refund the difference between the rates approved by the PAA Order and the rates resulting from the Settlement, with interest, in the form of a one-time refund on customer bills. FPUC should also be required to file a report with the Division of Economic Regulation 10 business days prior to the refund being made showing the detailed calculations of the actual refund. Once staff verifies that the refund is complete, the \$6,000,000 corporate undertaking guaranteed by Florida Public Utilities Company, the consolidated entity, may be released. No refund of any of the \$984,054 interim rate increase is warranted.

**Issue 3:** What are the appropriate rates that result from the Settlement?

**Recommendation:** The appropriate rates are shown in Attachment B of staff's memorandum dated December 3, 2009. FPUC should file tariffs reflecting the rates shown in Attachment B. The revised rates should go into effect 30 days after the Commission vote, which under the current schedule would mean for meters read on or after January 14, 2010. The Company should provide notice of the final approved rates as required by Rule 25-22.0406(8), F.A.C. A copy of the notice should be submitted to staff for approval prior to its use.

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

**Recommendation:** No. The docket should remain open until staff has approved the revised tariffs sheets and customer notices, and FPUC has provided staff with proof that it has made the appropriate refunds with interest. Once staff has verified all of the above actions are complete, this docket should be closed administratively.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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9\*\*PAA

**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

**Critical Date(s):** 12/15/09 (5-Month Effective Date (PAA Rate Case))

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Klement

**Staff:** ECR: Kaproth, Bulecza-Banks, D. Buys, Davis, Draper, Hewitt, L'Amoreaux, P. Lee, Piper, A. Roberts, Slemkewicz, Thompson  
GCL: Saylor  
SSC: Hicks, Mills

**Issue 1:** Is Chesapeake's projected test period of the 12 months ending December 31, 2010, appropriate?

**Recommendation:** Yes. With the adjustments recommended by staff in the December 4, 2009, memorandum, the projected test year of 2010 is appropriate.

**Issue 2:** Are the projected bills and therms by rate class for the test year ending December 31, 2010, appropriate for use in this case?

**Recommendation:** Yes. The projected number of bills and therms by rate class as contained in Minimum Filing Requirements (MFR) Schedule G-2, pages 10-12 of staff's memorandum dated December 4, 2009, for test year 2010 are appropriate for this rate case.

**Issue 3:** Is the quality of gas service provided by Chesapeake adequate?

**Recommendation:** Staff recommends that the Commission find that the CUC quality of service is satisfactory.

**Issue 4:** Should Plant in Service be adjusted to remove unsupported 2010 Plant in Service based on Audit Finding No. 2?

**Recommendation:** No adjustment is necessary to the 2010 Plant in Service balance because additional documents were provided by Chesapeake in its response to the audit report.

**Issue 5:** Should Account 376.1, Mains-Steel, or Account 376.2 – Mains-Plastic, be adjusted due to a continuing property records discrepancy noted in Audit Finding No. 3?

**Recommendation:** No. Chesapeake's revised continuing property records reflect the appropriate account balances for Account 376.1 - Mains-Steel and Account 376.2 - Mains-Plastic of \$14,444,603 as of December 31, 1999 and \$12,638,540 as of December 31, 2003 and agree with the Federal Energy Regulatory Commission (FERC) Annual Report balances.

**Issue 6:** Should a sub-account entitled 397.1 AMR Communication Equipment be established?

**Recommendation:** No, Sub-Account 397.1 AMR Communication Equipment should not be established. Instead, staff recommends establishing Sub-Accounts 381.1, AMR Meters, and 382.1, AMR Meter Installations.

**ITEM NO.**

**CASE**

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9\*\*PAA

**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

(Continued from previous page)

**Issue 7:** What should be the average service life, net salvage and depreciation rate for sub-account 397.1?

**Recommendation:** No average service life, net salvage, or depreciation rate needs to be established for Sub-Account 397.1. However, new Sub-Accounts 381.1, AMR Meters, and 382.1, AMR Meter Installations, should have a twenty-year average service life, zero net salvage, resulting in a five percent depreciation rate.

**Issue 8:** Is Chesapeake's requested rate base in the amount of \$46,683,296 for the 2010 projected test year appropriate?

**Recommendation:** Yes, \$46,683,296 is the appropriate amount of rate base for the 2010 projected test year.

**Issue 9:** What is the appropriate amount of accumulated deferred taxes to include in the capital structure for the projected test year?

**Recommendation:** The appropriate amount of accumulated deferred taxes to include in the capital structure of Chesapeake Utilities Corporation for the 2010 projected test year is \$7,454,209, as shown on Schedule 2 of staff's memorandum dated December 4, 2009.

**Issue 10:** What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure for the projected test year?

**Recommendation:** The appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure for the 2010 projected year are \$123,004 and zero percent, respectively, as shown on Schedule 2 of staff's memorandum dated December 4, 2009.

**Issue 11:** Have rate base and capital structure been reconciled appropriately?

**Recommendation:** Yes. Rate base and capital structure have been reconciled appropriately.

**Issue 12:** What is the appropriate capital structure for the projected test year?

**Recommendation:** The appropriate capital structure for the purpose of setting rates in this proceeding reflects a projected equity ratio of approximately 54 percent as a percentage of investor-supplied capital. The appropriate capital structure for the projected 2010 test year is detailed on Schedule 2 of staff's memorandum dated December 4, 2009.

**Issue 13:** What is the appropriate cost rate for short-term debt for the projected test year?

**Recommendation:** The appropriate cost rate for short-term debt for the projected test year is 2.90 percent.

**Issue 14:** What is the appropriate cost rate for long-term debt for the projected test year?

**Recommendation:** The appropriate cost rate for long-term debt for the projected test year is 5.76 percent.

**ITEM NO.**

**CASE**

9\*\*PAA

**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

(Continued from previous page)

**Issue 15:** What is the appropriate return on common equity for the projected test year?

**Recommendation:** The appropriate return on common equity for the projected test year is 10.8 percent with a range of plus or minus 100 basis points.

**Issue 16:** Should the Return on Equity be reduced for the failure to adequately preserve and maintain plant records required by Rule 25-7.014(5), F.A.C., Records and Reports in General?

**Recommendation:** Yes. As Chesapeake failed to adequately preserve and maintain plant records as required by Rule 25-7.014(5), its return on equity (ROE) should be reduced by 5 basis points. The 5 basis point ROE reduction is only for the purpose of calculating the appropriate amount of the revenue requirement. The recommended 10.80 percent ROE should be used for all other purposes. The effect of the 5 basis point reduction to staff’s recommended ROE of 10.80 percent is an ROE of 10.75 percent, resulting in a \$15,045 reduction in the revenue requirement.

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

**Recommendation:** The appropriate weighted average cost of capital for the test year is 6.83 percent, as shown on Schedule 2 of staff’s memorandum dated December 4, 2009.

**Issue 18:** What are the appropriate trend factors for use in forecasting the test year budget?

**Recommendation:** The appropriate trend factors are listed as follows:

Table - 1 Appropriate Trend Factors for 2009 and 2010		
Trend Factors	Historic Base Year +1 12/31/2009	Projected Test Year 12/31/2010
Payroll Only	3.50%	3.50%
Customer Growth & Inflation	0.75%	2.66%
Inflation Only	0.00%	1.90%
Customer Growth	0.75%	0.75%

The recommended inflation trend factors of 0 percent for 2009 and 1.90 percent for 2010, result in a decrease of \$187,442 to Chesapeake’s proposed 2010 operation and maintenance expenses.

**ITEM NO.**

**CASE**

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9\*\*PAA

**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

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**Issue 19:** Should the Commission approve Chesapeake's request (1) to defer amortization of a positive acquisition adjustment that resulted from the acquisition of Florida Public Utilities Company by Chesapeake Utilities Corporation and (2) to allow Chesapeake to start amortizing the acquisition adjustment should the Company experience overearnings?

**Recommendation:** Based on Chesapeake's agreement that it will ~~restate~~ adjust its books to properly reflect the Commission's future decision on the appropriate treatment of the acquisition adjustment, staff recommends that Chesapeake be permitted to defer amortization of the positive acquisition adjustment. However, Chesapeake should not be allowed to begin amortizing the acquisition adjustment for any reason, without prior Commission approval. Deferred amortization does not imply future rate recovery of these deferred costs.

**Issue 20:** Should the Commission allow Chesapeake (1) to record transaction and transition costs related to the purchase of Florida Public Utilities by Chesapeake Utilities Corporation as Regulatory Assets, (2) to suspend the amortization of these costs until such time that the regulatory treatment of the transition and transaction costs has been determined by the Commission, and (3) to allow Chesapeake to begin amortizing the Regulatory Assets should the Company experience overearnings?

**Recommendation:** Based on Chesapeake's agreement that it will ~~restate~~ adjust its books to properly reflect the Commission's future decision on the appropriate treatment of the transition and transaction costs, staff recommends that Chesapeake be permitted to record the transaction and transition costs as Regulatory Assets and defer amortization of these costs. However, Chesapeake should not be allowed to begin amortizing the Regulatory Assets for any reason, without prior Commission approval. Deferred amortization does not imply future rate recovery of these deferred costs.

**Issue 21:** What is the appropriate amount of environmental clean-up costs, recovery period and recovery mechanism?

**Recommendation:** The appropriate amount of environmental clean-up costs is \$956,257 with a recovery period of four years. The mechanism for recovery will be addressed in Issue 28.

**Issue 22:** Should an adjustment be made to Income Tax Expenses for the 2010 projected test year?

**Recommendation:** Yes. Total Income Tax Expense should be increased by \$70,534 resulting in a total income tax expense of \$387,702 for the 2010 projected test year.

**Issue 23:** Is Chesapeake's projected Net Operating Income in the amount of \$1,497,585 for the 2010 projected test year appropriate?

**Recommendation:** No. Chesapeake's Net Operating Income with staff's recommended adjustments is \$1,614,492.



**ITEM NO.**

**CASE**

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9\*\*PAA

**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

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**Issue 24:** What is the appropriate 2010 projected test year net operating income multiplier for Chesapeake?

**Recommendation:** The appropriate Revenue Expansion Factor is 62.0582 percent and the appropriate Net Income Multiplier is 1.6114, as shown on Schedule 4 of staff's memorandum dated December 4, 2009.

**Issue 25:** Is Chesapeake's requested annual operating revenue increase of \$2,965,398 for the 2010 projected test year appropriate?

**Recommendation:** No. The appropriate annual operating revenue increase is \$2,536,307 for the 2010 projected test year.

**Issue 26:** What is the appropriate cost of service methodology to be used in allocating costs to the various rate classes?

**Recommendation:** The appropriate cost of service methodology to be used in allocating costs to the various rate classes is reflected in staff's cost of service study contained in Schedule 6, pages 1-26, of staff's memorandum dated December 4, 2009.

**Issue 27:** Should the Commission approve the proposed new Solar Water-heating Administrative and Billing Service tariff?

**Recommendation:** Yes, the tariff initiating the pilot project should be approved, but any costs associated with the pilot should not be approved at this time. Any costs Chesapeake seeks to recover through the Natural Gas Conservation Cost Recovery Clause should be filed in the 2010 clause proceedings.

**Issue 28:** Should the Commission approve the new temporary environmental surcharge to recover costs related to environmental remediation of the Company's former manufactured gas plant (MGP) site in Winter Haven?

**Recommendation:** Yes. The Commission should approve the temporary environmental surcharge to recover costs related to environmental remediation of the Company's former MGP site in Winter Haven, over a four-year period, and any over/under- recovery be included in the Company's true-up at the conclusion of the four-year period.

**Issue 29:** Should Chesapeake be allowed to recover 100 percent of the revenue shortfall associated with Contract Firm Transportation Service discounts offered to industrial customers as opposed to the 50 percent allowed currently?

**Recommendation:** Yes. Chesapeake should be allowed to recover 100 percent of the revenue shortfall associated with Contract Firm Transportation Service (CFTS) discounts offered to industrial customers as opposed to the 50 percent allowed currently.

**ITEM NO.**

**CASE**

9\*\*PAA

**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

(Continued from previous page)

**Issue 30:** Are the utility's proposed miscellaneous service charges appropriate?

**Recommendation:** The appropriate miscellaneous service charges are as follows:

Service Charge	Staff Recommendation
<b>Connection Charge</b>	
FTS-A through FTS-3.1	\$52.00
FTS-4 through FTS-6	\$75.00
FTS-7 and above	\$200.00
<b>Change of Account Charge</b>	
	\$13.00
<b>Return Check Charge</b>	Greater of \$25 or 5% of check
<b>Collection in Lieu of Discontinuance Charge</b>	\$40.00

**Issue 31:** Is the proposed new Failed Trip Charge appropriate?

**Recommendation:** Yes. The new failed trip charge of \$20.00 is appropriate.

**Issue 32:** Is the proposed new Meter Re-Read at Consumer Request Charge appropriate?

**Recommendation:** Yes. Staff recommends approving the new meter re-read at consumer request charge of \$28.00.

**Issue 33:** Is the proposed new Temporary Disconnect Charge appropriate?

**Recommendation:** Yes. The new service charge for temporary disconnect of \$21.00 is appropriate.

**Issue 34:** Should Chesapeake be allowed to eliminate cash as a payment option for initial deposit or bills, and require customers to use check, credit or debit cards?

**Recommendation:** Chesapeake should be allowed to eliminate cash as a payment option for initial deposits since no customers are using this option any more. However, Chesapeake should continue to accept cash as a bill payment method since customers are still using this option. Chesapeake should also make arrangements for a minimum of two payment locations which accept cash payments without requiring a fee to process the utility payment. The Company also currently accepts money orders even though the tariff does not specify this, so the Company should include the acceptance of money orders in its tariff.

**Issue 35:** Are the Company's revisions to its deposit charges appropriate?

**Recommendation:** Yes, the Company's revisions to its deposit charges are appropriate. The FTS-2 class deposit is changing from \$170 to \$175, while the FTS-3 class deposit is changing from \$465 to \$300. The FTS-2.1 and FTS-3.1 classes are new, and the proposed initial deposit for those classes is \$150 and \$500, respectively.

**ITEM NO.**

**CASE**

9\*\*PAA

**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

(Continued from previous page)

**Issue 36:** Should the Commission approve the Company's proposal to divide the existing FTS-2 and FTS-3 rate classes into four rate classes to better match costs and rates?

**Recommendation:** Yes.

**Issue 37:** Should existing customers taking service under rate schedule FTS-A, who qualify for FTS-B, be allowed to return to FTS-A if their usage declines in the future?

**Recommendation:** No, existing customers taking service under rate schedule FTS-A, who qualify for FTS-B, should not be allowed to return to FTS-A if their usage declines in the future.

**Issue 38:** What are the appropriate Firm Transportation charges?

**Recommendation:** Staff's recommended Firm Transportation charges are as follows:

Rate Class	Staff Recommended Firm Transportation Charge
FTS - A	\$13
FTS - A Experimental	\$17
FTS - B	\$15.50
FTS - B Experimental	\$23
FTS - 1	\$19
FTS - 1 Experimental	\$29
FTS - 2	\$34
FTS - 2 Experimental	\$48
FTS – 2.1	\$40
FTS – 2.1 Experimental	\$87
FTS – 3	\$108
FTS – 3 Experimental	\$162
FTS – 3.1	\$134
FTS – 3.1 Experimental	\$263
FTS – 4	\$210
FTS – 5	\$380
FTS – 6	\$600
FTS – 7	\$700
FTS – 8	\$1,200
FTS – 9	\$2,000
FTS – 10	\$3,000
FTS – 11	\$5,500
FTS – 12	\$9,000
FTS - 13	\$16,692.25

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**CASE**

9\*\*PAA

**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

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**Issue 39:** What are the appropriate per therm Usage charges?

**Recommendation:** Staff’s recommended per therm Usage charges are as follows:

Rate Class	Staff Recommended Usage Charges (dollar per therm)
FTS - A	0.46358
FTS - B	0.49286
FTS - 1	0.46310
FTS - 2	0.31960
FTS – 2.1	0.30827
FTS – 3	0.24102
FTS – 3.1	0.20383
FTS – 4	0.18900
FTS – 5	0.16580
FTS – 6	0.15137
FTS – 7	0.12300
FTS – 8	0.11024
FTS – 9	0.09133
FTS – 10	0.08318
FTS – 11	0.06977
FTS – 12	0.06123
FTS - 13	0.00000

**Issue 40:** What are the appropriate charges for the SABS and SAS shipper rate classes?

**Recommendation:** The appropriate charges are shown below:

Rate Schedule	SABS	SAS
Monthly Shipper Administration Charge	\$300	\$300
Consumer Charge (per consumer in shipper pool)	\$5.50	\$7.50

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**CASE**

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**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

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**Issue 41:** What is the appropriate effective date for any new rates and charges approved by the Commission?

**Recommendation:** The revised rates and charges should become effective for meter readings on or after 30 days following the date of the Commission vote approving the rates and charges. If the Commission vote is protested by anyone other than the utility, the rates may go into effect subject to refund pending resolution of the protest. Customers who take service under the optional experimental fixed rate design should be allowed to retain their current Firm Transportation Charge until the open enrollment period in April 2010 and Chesapeake should absorb any resulting revenue shortfall. Chesapeake should file revised tariffs to reflect the Commission-approved final rates and charges for administrative approval within five (5) business days of issuance of the PAA order. Pursuant to Rule 25-22.0406(8), F.A.C., customers should be notified of the revised rates in their first bill containing the new rates. A copy of the notice should be submitted to staff for approval prior to its use.

**Issue 42:** Should any of the \$417,555 interim rate increase granted by Order No. PSC-09-0606-PCO-GU be refunded to the ratepayers?

**Recommendation:** No. Further, the corporate undertaking should be released upon issuance of the Consummating Order in this docket.

**Issue 43:** Should Chesapeake be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records that will be required as a result of the Commission's findings in this rate case?

**Recommendation:** Yes. Chesapeake should be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case.

**Issue 44:** What, if any, filings should be required from the Florida Division of Chesapeake Utilities and Florida Public Utilities Company as a result of a corporate transaction whereby Florida Public Utilities Company became a wholly-owned subsidiary of Chesapeake Utilities Corporation?

**Recommendation:** Florida Public Utilities (FPUC) and Florida Division of Chesapeake Utilities (Chesapeake) should be required to submit data to the Commission no later than April 29, 2011 (18 months of the merger date of October 2009) that details all known benefits, synergies, and cost savings that have resulted from the merger. If costs have risen from the merger, those increases should also be identified.

**ITEM NO.**

**CASE**

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9\*\*PAA

**Docket No. 090125-GU** – Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

(Continued from previous page)

**Issue 45:** 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 with modifications to Issues 19 and 20 made at the Commission Conference.

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

**ITEM NO.**

**CASE**

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9A                    **Docket No. 090001-EI** – Fuel and purchased power cost recovery clause with generating performance incentive factor.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Devlin, Draper, Lester, Barrett

GCL: Bennett

**(Participation is at the Commission's discretion.)**

**Issue 1:** What is the appropriate consumption that FPL should use in calculating the refund of the \$364,843,209 over-recovery?

**Primary Recommendation:** The refund should be based on each customer's consumption for the 12 consecutive billing cycles that end with the December 2009 billing cycle. Only customers of record in January 2010 should receive a refund.

DECISION: This issue is moot due to the decision made in the alternative recommendation.

**Alternative Recommendation:** The refund should be made on January 2010 bills and based upon that bill's consumption.

DECISION: The recommendation was approved.

**Issue 2:** 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 recommendation was approved.

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

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 090500-WS** – Request for approval of late payment charge by Heather Hills Estates Utilities, LLC, in Manatee County.

**Critical Date(s):** 1/2/10 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Mouring, Bulecza-Banks, Fletcher

GCL: Saylor

**Issue 1:** Should the Utility's requested late payment charge be approved?

**Recommendation:** Yes. The Utility's requested late payment charge should be approved. The late payment charge should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.).

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

**Recommendation:** If no protest is filed by a person whose interests are substantially affected within 21 days of the issuance of the Order, the Tariff Order will become final upon the issuance of a Consummating Order and the docket should be closed. If a protest is filed within 21 days of the issuance of the Order, the tariff should remain in effect pending the resolution of the protest, and the docket should remain open.

**DECISION:** The recommendations were approved.

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



**ITEM NO.**

**CASE**

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11\*\*

**Docket No. 090417-WS** – Application for amendment of Certificates 405-W and 342-S to add territory located in Marion County, by Tradewinds Utilities, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Rieger

GCL: Young

**Issue 1:** Should Tradewinds Utilities, Inc. be required to show cause, in writing, within 21 days why it should not be fined for its apparent violation of Section 367.045, Florida Statutes?

**Recommendation:** No. A show cause proceeding should not be initiated.

**Issue 2:** Should the Commission approve Tradewinds' application to amend Certificate Nos. 405-W and 342-S?

**Recommendation:** Yes. The Commission should approve Tradewinds' application for amendment of Certificate Nos. 405-W and 342-S to include territory as reflected in Attachment A of staff's memorandum dated December 3, 2009. The resultant order should serve as Tradewinds' amended certificates and should be retained by the Utility. The Utility should charge the customers in the territory added herein the rates and charges contained in its current tariff until authorized to change by the Commission.

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

**Recommendation:** Yes. If the Commission approves staff's recommendations in Issues 1 and 2, no further action will be necessary and this docket should be closed.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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12\*\*PAA

**Docket No. 090230-WU** – Application for staff-assisted rate case in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.

**Critical Date(s):** 7/26/10 (15-Month Effective Date (SARC))

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Deason, Bruce, Bulecza-Banks, Fletcher, Simpson  
GCL: Brown

**(Proposed Agency Action except for Issues 12, 13, and 14.)**

**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.

**Issue 2:** What are the used and useful percentages of the Utility’s water treatment plant, ground storage tank, and water distribution lines?

**Recommendation:** The Utility’s water treatment plant, ground storage tank, and water distribution system are 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 water rate base for the Utility is \$354,776.

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

**Recommendation:** The appropriate return on equity is 9.67 percent with a range of 8.67 percent-10.67 percent. The appropriate overall rate of return is 9.67 percent.

**Issue 5:** What is the appropriate amount of test year revenues in this case?

**Recommendation:** The appropriate amount of test year revenues in this case is \$45,077.

**Issue 6:** What are the appropriate operating expenses?

**Recommendation:** The appropriate amount of operating expense for the Utility is \$101,675.

**Issue 7:** What is the appropriate revenue requirement?

**Recommendation:** The appropriate revenue requirement is \$135,982.

**Issue 8:** Should customers with 2” meters be charged a lower base facility charge?

**Recommendation:** No. Customers with 2” meters should pay a base facility charge (BFC) consistent with the AWWA meter equivalency factor, which for a 2” meter is worth 8 ERCs.

**ITEM NO.**

**CASE**

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12\*\*PAA

**Docket No. 090230-WU** – Application for staff-assisted rate case in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.

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

**Recommendation:** Yes. The Utility’s current residential water system rate structure, which includes a 3,000 gallon (3 kgal) allotment in the BFC, should be changed to a three-tier inclining block rate structure. The usage blocks should be set for consumption at: a) 0-6 kgals; b) 6-12 kgals; c) usage in excess of 12 kgals, with appropriate usage block rate factors of 1.00; 1.50; and 2.00, respectively. The Utility’s current non-residential water system rate structure, which also includes a 3 kgal allotment in the BFC, should be changed to a traditional BFC/uniform gallonage charge rate structure. Furthermore, the appropriate rate structure for the unmetered non-residential customers should be a uniform flat rate structure. The BFC cost recovery should be set at 35 percent.

**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 19.7 percent, resulting in a consumption reduction of approximately 704 kgals. Purchased power expense should be reduced by \$361; chemical expense should be reduced by \$92, and regulatory assessment fees (RAFS) should be reduced by \$22. The final post-repression revenue requirement for the water system should be \$135,506.

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 usage block, 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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12\*\*PAA

**Docket No. 090230-WU** – Application for staff-assisted rate case in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.

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

**Recommendation:** The appropriate monthly water rates are shown on Schedule No. 4 of staff's memorandum dated December 3, 2009. The recommended rates should be designed to produce revenue of \$135,506 for water, 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 no less than 10 days after the date of the notice.

**Issue 12:** 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, 2009, 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. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. 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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12\*\*PAA

**Docket No. 090230-WU** – Application for staff-assisted rate case in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.

(Continued from previous page)

**Issue 13:** 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 rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum dated December 3, 2009. 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 14:** Should the Utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable 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, Camachee 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 15:** Should this docket be closed?

**Recommendation:** No. The docket should remain open until a final order has been issued, staff has approved the revised tariffs sheets and customer notices, the Utility has sent the notices to its customers, staff has received proof that the customers have received notice within 10 days after the date of the notice, and the Utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once staff has verified all of the above actions are complete, this docket should be closed administratively.

**DECISION:** This item was deferred to the January 26, 2010, Commission Conference.

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