

MINUTES OF December 16, 2008

COMMISSION CONFERENCE

COMMENCED: 9:35 am

RECESSED: 10:55 am

RECONVENED: 11:07 am

ADJOURNED: 12:55 pm

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

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

1

Approval of Minutes

November 13, 2008 Regular Commission Conference

DECISION: The minutes were approved.

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

ITEM NO.

CASE

2**

Consent Agenda

PAA

A) Applications for certificates to provide pay telephone service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
080617-TC	Fidelity Properties Trust, Inc.
080618-TC	Benny's of Liberty Inc.

PAA

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
080620-TX	FiberLight, LLC
080636-TX	SIP Interchange Corporation
080645-TX	Broadband Dynamics, L.L.C.
080670-TX	eVox Communications, LLC

PAA

C) Request for approval of assignment of pats certificate with a name change.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
080296-TC	Assignment from: Coin-Tel, Inc. Assignment to: Commercial Pay Phones, Inc. d/b/a Coin-Tel

Minutes of
Commission Conference
December 16, 2008

ITEM NO. _____ CASE _____

2** Consent Agenda

(Continued from previous page)

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
080627-TX	WiTel Local Network, LLC	10/7/2008

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

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3**

Docket No. 070405-WU – Application for certificate to operate water utility in Putnam County by Wilcox Investments, Inc. (MT ROYAL WTP).

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Brubaker

ECR: Clapp, Marsh, Rieger

Issue 1: Should Wilcox Investments, Inc., be ordered to show cause, in writing within 21 days, why it should not be fined for operating without a certificate in apparent violation of Section 367.031, F.S.?

Recommendation: Yes. Wilcox should be ordered to show cause, in writing, within 21 days why it should not be fined a total of \$500 for its apparent violation of Section 367.031, F.S., for its failure to obtain a certificate of authorization. The utility should also be required to file documentation with this Commission by February 2, 2009, either demonstrating its exempt status or completing its application for original water certificate. Further, the utility should be put on notice that failure to comply with Commission orders, rules, or statutes will again subject the utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues as set forth in Section 367.161, Florida Statutes.

Issue 2: Should the docket be closed?

Recommendation: No. If Wilcox pays the \$500 in fines, this show cause matter should be considered resolved. If the utility timely responds in writing to the Order to show cause, the docket should remain open to allow for the appropriate processing of the response. This docket should also remain open to address the disposition of Wilcox's pending application for a certificate of authority.

DECISION: This item was withdrawn.

ITEM NO.

CASE

4**

Docket No. 080278-TL – Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Tan, Teitzman

RCP: Curry, Kennedy

SSC: Moses

Issue 1: Should the Commission order Verizon Florida LLC to show cause, in writing within 21 days from the issuance of the Commission's Show Cause Order, why it should not be penalized in the amount of \$25,000 per violation, for a total of \$6.55 million, for two hundred sixty-two apparent violations of Rule 25-4.070, F.A.C., during 2007 as requested by the Petitioners?

Recommendation: No, the Commission should order Verizon Florida LLC to show cause, in writing within 21 days from the issuance of the Commission's Show Cause Order, why it should not be penalized in the amount of \$10,000 per violation, for a total of \$2.62 million, for two hundred sixty-two apparent violations of Rule 25-4.070, F.A.C., during 2007.

Issue 2: For the year 2008, should the Commission order Verizon Florida LLC to show cause, in writing within 21 days from the issuance of the Commission's Show Cause Order, why it should not be penalized in the amount of \$10,000 per violation, for a total of \$1.94 million, for one hundred ninety-four (194) apparent violations of Rule 25-4.070, F.A.C.?

Recommendation: Yes, the Commission should order Verizon Florida LLC to show cause, in writing within 21 days from the issuance of the Commission's Show Cause Order, why it should not be penalized in the amount of \$10,000 per violation, for a total of \$1.94 million, for one hundred ninety-four (194) apparent violations of Rule 25-4.070, F.A.C., during 2008.

ITEM NO.

CASE

4**

Docket No. 080278-TL – Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendations, Verizon will have 21 days from the issuance of the Commission's Show Cause Order to respond in writing why it should not be penalized for its apparent violation of Rule 25-4.070, F.A.C. If the company timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceedings. If Verizon fails to respond to the show cause order or request a hearing, pursuant to Sections 120.569 and 120.57, Florida Statutes, within the 21-day response period, the facts shall be deemed admitted, the right to a hearing waived, and the penalties should be deemed assessed. If the company fails to respond to the order to show cause and the penalty is not paid within ten (10) business days after the expiration of the show cause response period, the penalty should be referred to the Department of Financial Services for collection, and this docket should be closed administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5**PAA

Docket No. 080169-TX – Application for designation as eligible telecommunications carrier (ETC) by Express Phone Service, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrian

Staff: RCP: Williams, Casey

GCL: Murphy, Morrow

Issue 1: Should Express Phone be granted ETC designation in the State of Florida?

Recommendation: Yes. Staff recommends that Express Phone be granted ETC designation status in the AT&T and Verizon wire centers listed in Attachment B of staff's memorandum dated December 4, 2008.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected files a protest to the Commission's Proposed Agency Action within 21 days of the issuance of the Commission Order, this docket should be closed upon issuance of a consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

6**PAA

Docket No. 080653-TX – Request for cancellation of CLEC Certificate No. 6040 by Reliant Communications, Inc., effective October 27, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: Morrow

Issue 1: Should the Commission deny Reliant Communications, Inc., a voluntary cancellation of its competitive local exchange telecommunications company (CLEC) Certificate No. 6040 and cancel the certificate on the Commission's own motion with an effective date of October 27, 2008?

Recommendation: Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff's memorandum dated December 4, 2008.

ITEM NO.

CASE

6**PAA

Docket No. 080653-TX – Request for cancellation of CLEC Certificate No. 6040 by Reliant Communications, Inc., effective October 27, 2008.

(Continued from previous page)

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 080533-EQ – Petition for approval of negotiated power purchase contract for purchase of firm capacity and energy with Horizon Energy Group, LLC, by Progress Energy Florida, Inc. (Deferred from the December 2, 2008 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: SGA: Lewis, Clemence, Ellis

GCL: Hartman

Issue 1: Should the petition submitted by Progress Energy Florida (PEF) requesting approval of a negotiated contract with a qualifying facility, Horizon Energy Group, LLC (Horizon), be approved?

Recommendation: Yes. Payments for capacity and energy are expected to yield \$91.8 million in net present value savings to PEF's ratepayers over the 25 year term of the contract. The performance security required in the contract sufficiently protects ratepayers in the event of default.

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: Carter, Edgar, McMurrian, Argenziano, Skop

ITEM NO.

CASE

8**PAA

Docket No. 080612-EI – Petition of Gulf Power Company for approval of negotiated renewable energy power purchase agreement with Bay County, Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: SGA: Garl, Crawford, Ellis
ECR: Hewitt, Matlock
GCL: Young

Issue 1: Should the Commission approve the contract between Gulf Power Company (Gulf) and Bay County, Florida, for purchase of the entire generation of the Bay County Resource Recovery Facility by Gulf?

Recommendation: Yes. Payments for energy are expected to produce savings of approximately \$1.8 million over the term of the contract. Upon a showing by Gulf that expenses for purchased power under the Negotiated Renewable Energy Contract were reasonable and prudently incurred, Gulf should be permitted to recover those costs through the fuel clause.

Approval of this contract should not in any way guarantee cost recovery of the purchase of renewable attributes or RECs. The contract specifies that Gulf is entitled to all RECs with delivery as “mutually agreed upon by the parties.” The contract is silent as to whether the mutual agreement may include a monetary consideration. Any purchase of RECs, therefore, should be subject to Commission review for prudence as an issue separate from the purchased power.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**PAA

Docket No. 070432-EI – Petition for authority to use deferral accounting and for creation of a regulatory asset for prudently incurred preconstruction costs associated with development of clean coal project, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Slemkewicz

GCL: Brown

SGA: Sickel

Issue 1: Should the Commission grant FPL's petition to use deferral accounting and establish a regulatory asset for the Glades Power Park preconstruction costs?

Recommendation: Yes, the Commission should grant FPL's petition to use deferral accounting and establish a regulatory asset in Account 182.2, Unrecovered Plant and Regulatory Costs, for a portion of the Glades Power Park preconstruction costs.

Issue 2: What is the appropriate amount of Glades Power Park preconstruction costs to be deferred as a regulatory asset?

Recommendation: The appropriate amount of Glades Power Park preconstruction costs to be deferred as a regulatory asset is \$34,090,145. In addition, the \$71,016 of lobbying expenditures should be recorded as an expense in Account 426.4, Expenditures for Certain Civic, Political and Related Activities.

Issue 3: What is the appropriate amortization period and beginning date for the amortization of the Glades Power Park preconstruction costs regulatory asset?

Recommendation: The appropriate amortization period is five years beginning January 1, 2008.

Issue 4: Should this docket be closed?

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

DECISION: The recommendations were approved with the exception of Issue 2. The recommendation for Issue 2 was denied. The Commissioners approved an appropriate amortization period of five years to begin January 1, 2010.

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

ITEM NO.

CASE

10

Docket No. 080001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: ECR: Lester, Breman, Draper, Hinton

GCL: Bennett, Hartman, Young

(Post-Hearing Decision - Participation is Limited to Commissioners and Staff.)

Issue 1: (Hearing Issue 13C) With respect to the outage extension at Turkey Point Unit 3 which was caused by a drilled hole in the pressurized piping, should customers or FPL be responsible for the additional fuel cost incurred as a result of the extension?

Recommendation: FPL failed to carry the burden of proof in showing that it was prudent in the management and oversight of temporary contract personnel during the spring outage of 2006. Therefore, FPL should be responsible for the additional fuel costs at issue. FPL should be required to refund \$6,163,000, plus interest, in the form of a one-time credit on retail customers' bills, beginning with the first day of the first billing cycle 30 days after the final order is issued.

Issue 2: Should this docket be closed?

Recommendation: No. The fuel docket is on-going docket and should remain open.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

11**

Docket No. 080675-EI – Petition for approval of revised lighting tariff closing certain metal halide lighting fixtures to new business by Tampa Electric Company.

Critical Date(s): 01/13/09 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Kummer

GCL: Williams, Brubaker

Issue 1: Should the Commission approve TECO’s request to cease offering metal halide outdoor lighting fixtures for 175 watts and 400 watts to new customers, effective January 1, 2009?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the docket should be closed if no person whose interests are substantially affected by the Commission’s decision files a protest within the 21-day protest period. If no timely protest is filed, this docket should be closed upon issuance of the consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

12**PAA

Docket No. 070740-SU – Joint application for approval of transfer of Hudson Utilities, Inc.'s wastewater system and Certificate No. 104-S, in Pasco County, to Ni Florida, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Johnson

GCL: Klancke

(Proposed Agency Action Except for Issue 3.)

Issue 1: What is rate base for Hudson's wastewater facilities as of December 31, 2007?

Recommendation: The appropriate rate base, which reflects the net book value for transfer purposes, is \$2,417,932 for the Hudson system as of December 31, 2007. Within 60 days of the date of the final order, Ni Florida should be required to provide a statement that the utility's books have been updated to reflect the Commission-approved rate base adjustments and balances. In addition, the Commission-approved rate base adjustments should be reflected in the utility's 2008 annual report.

Issue 2: Should an acquisition adjustment be approved?

Recommendation: No. An acquisition adjustment should not be included in the calculation of rate base for transfer purposes.

Issue 3: Should this docket be closed?

Recommendation: No. If no protest to the proposed agency action issues is filed by a substantially affected person within 21 days of the date of the order, a consummating order should be issued. However, the docket should remain open pending receipt of the confirmation statement that the utility's books have been adjusted to reflect the Commission-approved rate base adjustments. Upon receipt of the statement, the docket should be administratively closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

13**PAA

Docket No. 070739-WS – Application for approval of transfer of Fairways/Mt. Plymouth, Ltd.'s water and wastewater systems to Aqua Utilities Florida, Inc., and for amendment of Certificate Nos. 106-W and 120-S, in Lake County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Brady, Redemann

GCL: Hartman

(Proposed Agency Action for Issues 3, 4, 5, and 6.)

Issue 1: Should Fairways/Mt. Plymouth, Ltd. be ordered to show cause, in writing within 21 days, as to why it should not be fined for providing water and wastewater service to the public for compensation without first obtaining certificates of authorization from the Commission in apparent violation of Sections 367.031 and 367.045, F.S., and Rule 25-30.034, F.A.C.?

Recommendation: No. Show cause proceedings should not be initiated and Fairways/Mt. Plymouth, Ltd. should not be required to refund any portion of its previously unauthorized rates and charges.

Issue 2: Should the transfer of Fairways/Mt. Plymouth, Ltd.'s water and wastewater facilities to Aqua Utilities Florida, Inc. and the amendment of Certificate Nos. 106-W and 120-S in Lake County be approved?

Recommendation: Yes. The transfer of Fairways' water and wastewater facilities to AUFU should be approved effective the date of the transfer on April 30, 2007. AUFU's Certificate Nos. 106-W and 120-S in Lake County should be amended to add the territory described in Attachment A of staff's memorandum dated December 4, 2008. The resultant order should serve as AUFU's amended water and wastewater certificates and should be retained by the utility.

Issue 3: What is rate base for the Fairways' water and wastewater systems at the time of the transfer?

Recommendation: Staff recommends that rate base is \$189,216 for the water system and \$443,036 for wastewater system as of April 30, 2007, as shown on Schedule No. 1 of staff's memorandum dated December 4, 2008. Schedule No. 2, of staff's memorandum dated December 4, 2008, shows the recommended balances for Fairways' water and wastewater plant and accumulated depreciation balances as of April 30, 2007, using the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA). Within 60 days of the date of the final order, the utility should be required to provide a statement that AUFU's books have been updated for the Fairways' systems to reflect the Commission-approved rate base adjustments and balances and that these numbers will also be reflected in the utility's 2008 annual report.

ITEM NO.

CASE

13**PAA

Docket No. 070739-WS – Application for approval of transfer of Fairways/Mt. Plymouth, Ltd.'s water and wastewater systems to Aqua Utilities Florida, Inc., and for amendment of Certificate Nos. 106-W and 120-S, in Lake County.

(Continued from previous page)

Issue 4: Should an acquisition adjustment be recognized for ratemaking purposes?

Recommendation: Yes. Pursuant to Rule 25-30.0371(3)(b), F.A.C., a negative acquisition adjustment of \$55,802 should be recognized for rate-making purposes, amortized over a five year period beginning with the date of the issuance of the order approving the transfer of assets. The negative acquisition adjustment should not be recorded on the books for ratemaking purposes nor used for any earnings review unless AUFU files for a rate increase, pursuant to Sections 367.081(2), 367.0814, 367.0817, or 367.0822, F.S.

Issue 5: What are the appropriate rates and charges for Fairways' water and wastewater systems?

Recommendation: The potable water, wastewater, and irrigation water rates shown on Schedule No. 3 of staff's memorandum dated December 4, 2008, should be continued for Fairways' water and wastewater systems. AUFU should be required to charge these approved rates until authorized to change them by this Commission in a subsequent proceeding. The rates should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C.

Issue 6: Should AUFU's request for initial customer deposits and miscellaneous service charges be approved?

Recommendation: Yes. AUFU's request for initial customer deposits and miscellaneous service charges shown on Schedule No. 4, of staff's memorandum dated December 4, 2008, should be approved. Within 5 working days of the issuance of the PAA order, staff recommends that AUFU be required to file a proposed customer notice of the Commission-approved miscellaneous service charges. Once staff has approved the proposed customer notice, the utility may either choose to mail the notice separately to its customers or insert it with the next billing cycle. Either way, the tariffs approving the miscellaneous service charges should not be stamped approved by staff until after AUFU files an affidavit that notice has been given to customers of the Commission-approved charges. The tariff sheets containing initial customer deposits and miscellaneous service charges should become effective for services rendered on or after the stamped approval date on the tariff, pursuant to Rule 25-30.475, F.A.C.

ITEM NO.

CASE

13**PAA

Docket No. 070739-WS – Application for approval of transfer of Fairways/Mt. Plymouth, Ltd.'s water and wastewater systems to Aqua Utilities Florida, Inc., and for amendment of Certificate Nos. 106-W and 120-S, in Lake County.

(Continued from previous page)

Issue 7: In the event of a timely protest of any rates and charges in the Proposed Agency Action (PAA) Order, should AUFU be allowed to continue charging the Commission-approved rates?

Recommendation: Yes. In the event of a timely protest of any recommended rates and charges in the PAA Order, AUFU should be authorized to continue charging the Commission-approved PAA rates, subject to refund, pending the final outcome of this proceeding. If the final rates are lower than the PAA rates, then AUFU should be required to refund the difference, with interest, pursuant to Rule 25-30.360, F.A.C.

Issue 8: Should this docket be closed?

Recommendation: No. If no protest to the proposed agency action issues is filed by a substantially affected person within 21 days of the date of the order, a consummating order should be issued and the docket should be closed administratively upon receipt of a statement that AUFU's books for Fairways' systems have been updated to reflect the Commission- approved rate base adjustments and balances, and these numbers will also be reflected in the utility's 2008 annual report.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14

Docket No. 080006-WS – Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

Critical Date(s): 12/31/08 (Per Statute, Order must be issued by December 31, 2008)

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Springer, Bulecza-Banks, Livingston, Maurey

GCL: Hartman

(Post-Hearing Decision - Participation is Limited to Commissioners and Staff.)

Issue 1: What is the most appropriate model or method to estimate a fair and reasonable return on a water and wastewater (WAW) utility's common equity capital?

Recommendation: The most appropriate models to estimate a fair and reasonable return on common equity capital for a WAW utility for inclusion in the leverage formula are the Discounted Cash Flow (DCF) model and the Capital Asset Pricing Model (CAPM).

Issue 1A: Should the leverage formula methodology take into account an individual utility's equity ratio in the determination of return on equity?

Recommendation: Yes.

Issue 1B: Should the leverage formula methodology take into account the change to the cost of debt in response to changes in the level of common equity in a utility's capital structure?

Recommendation: No.

Issue 1C: Should the determination of the leverage formula be based on a before-tax or after-tax cost of capital?

Recommendation: The determination of the leverage formula should be based on an after-tax cost of capital.

Issue 1D: Is it appropriate to make a Bond Yield Differential adjustment? If so, how should this adjustment be made?

Recommendation: Yes. Staff recommends the Commission continue to make a bond yield differential adjustment as reflected in Attachment A of staff's memorandum dated December 4, 2008.

Issue 1E: Is it appropriate to make a Private Placement Premium adjustment? If so, how should this adjustment be made?

Recommendation: Yes. Staff recommends the Commission continue to make a Private Placement Premium adjustment of 50 basis points as reflected in Attachment A of staff's memorandum dated December 4, 2008.

ITEM NO.

CASE

14

Docket No. 080006-WS – Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

(Continued from previous page)

Issue 1F: Is it appropriate to make a Small-Utility Risk Premium adjustment? If so, how should this adjustment be made?

Recommendation: Yes. Staff recommends it is appropriate for the Commission to continue to include a small utility risk premium of 50 basis points in the cost of common equity calculation in the leverage formula as reflected in Attachment A of staff's memorandum dated December 4, 2008.

Issue 2: Should the following leverage formula methodology be applied using updated financial data:

Return on Common Equity = 7.36% + 2.123/Equity Ratio

Where the Equity Ratio = Common Equity / (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range 9.48% @ 100% equity to 12.67% @ 40% equity

Recommendation: No, the recommended WAW ROE leverage formula should be approved without using updated financial information. The leverage formula identified above results in a reasonable range of common equity returns for the average WAW utility in Florida and should be approved.

Issue 3: What is the appropriate range of returns on common equity for water and wastewater (WAW) utilities, pursuant to Section 367.081 (4)(f), Florida Statutes?

Recommendation: Staff recommends the following leverage formula:

Return on Common Equity = 7.36% + 2.123/Equity Ratio

Where the Equity Ratio = Common Equity / (Common Equity + Preferred Stock + Long-term and Short-term Debt)

Range: 9.48% @ 100% equity to 12.67% @ 40% equity

In addition, staff recommends the Commission cap returns on common equity at 12.67% for all WAW utilities with equity ratios less than 40 percent to discourage imprudent financial risk.

Issue 4: Should this docket be closed?

Recommendation: No. This docket is a perpetual docket and should not be closed until next year's docket is opened.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

15

Docket No. 080353-WU – Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.

Critical Date(s): 60-Day Suspension Date Waived Through 12/16/08

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: ECR: Billingslea, Bulecza-Banks, Fletcher, Livingston, Walden
GCL: Young

(Participation is at the Discretion of the Commission.)

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

Recommendation: Yes. Placid Lakes' proposed water rates should be suspended.

Issue 2: Should an interim revenue increase be approved?

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

	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$541,232	\$51,031	\$592,263	9.43%

ITEM NO.

CASE

15

Docket No. 080353-WU – Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.

(Continued from previous page)

Issue 3: What are the appropriate interim water rates?

Recommendation: The water service rates for Placid Lakes in effect as of December 31, 2007, should be increased by 9.79 percent to generate the recommended revenue increase for the interim period. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1)(a), F.A.C. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission’s decision, the proposed customer notice is adequate, and the required security discussed in Issue 4 has been filed. The Utility should provide proof of the date notice was given within 10 days after the date of notice.

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

Recommendation: Placid Lakes cannot support a corporate undertaking in the amount of \$30,113. The Utility should provide either an escrow agreement, a bond, or a letter of credit to guarantee the interim rates collected subject to refund. If the security provided is an escrow agreement, Placid Lakes should deposit 9.43 percent of water revenues into the escrow account each month. If the security provided is a bond or letter of credit, said instrument should be in the amount of \$30,113. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

Issue 5: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

16**PAA

Docket No. 080497-SU – Application for staff-assistance for alternative rate setting for increase in wastewater rates, in Pasco County, by Silver Fox Utility LLC d/b/a Timberwood Utilities.

Critical Date(s): 12/16/08 - 90 day deadline pursuant to Rule 25-30.456(13), F.A.C.

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Billingslea, Bulecza-Banks, Daniel, Fletcher, Redemann

GCL: Saylor

Issue 1: Should the Commission approve an alternative rate setting increase for Silver Fox Utility LLC d/b/a/ Timberwood Utilities?

Recommendation: Yes, the Commission should approve an 11.67 percent revenue increase.

Issue 2: What are the appropriate monthly service rates for the Utility?

Recommendation: The wastewater service rates for Timberwood in effect as of June 15, 2008, should be increased across-the-board by 11.67 percent. On December 31, 2008, the Utility should mail the staff-approved customer notice of the Commission's PAA decision, in order to ensure that customers have adequate notice in case any customer wishes to file for a hearing, pursuant to Rule 25-22.029, F.A.C. Timberwood should provide proof of the date notice was given no less than 10 days after the date of the notice. The Utility should file revised tariff sheets to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C.

Issue 3: 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 Rule 25-30.456(15), F.A.C., in the event of a protest of the Proposed Agency Action (PAA) Order by a substantially affected party, the rates established in the PAA Order may be implemented on a temporary basis. The temporary rates should be held subject to refund. Moreover, if a protest is filed, the Utility may elect to pursue rates set pursuant to the rate base determination provisions of Rule 25-30.455, F.A.C. In addition, the maximum increase of up to 50 percent of revenues provided by Rule 25-30.456(12), F.A.C., shall no longer apply in the event of a protest. Further, pursuant to Rule 25-30.456(18), F.A.C., if the Utility fails to comply with the dates established in the procedural order, or to timely file a request for extension of time for good cause shown, may result in dismissal of the staff assisted alternative rate setting application and closure of the docket.

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Issue 4: Should this docket be closed?

Recommendation: Yes, if no timely protest is filed by a substantially affected person within 21 days of the Order, a Consummating Order should be issued and the docket should be closed. If a protest is filed within 21 days of the issuance of the Order, the docket should remain open pending resolution of the protest.

DECISION: The recommendations were approved.

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