

MINUTES OF February 13, 2007
COMMISSION CONFERENCE
COMMENCED:
ADJOURNED:

COMMISSIONERS PARTICIPATING: Chairman Edgar
~~Commissioner Deason~~
~~Commissioner Arriaga~~ OP
Commissioner Carter 10-29-15
Commissioner Tew

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

1 **Approval of Minutes**
January 9, 2007, Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO. **CASE**

2** **Consent Agenda**

PAA A) Request for cancellation of an alternative access vendor certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
070018-TA	BitStream Communications Inc.	12/31/2006

PAA B) Requests for cancellation of competitive local exchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
070036-TX	OPEX Communications, Inc.	12/31/2006
070061-TX	Speedy Reconnect, Inc.	12/31/2006
070065-TX	Palm Beach Community College	12/31/2006

PAA C) Request for two-year exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE # & LOCATION</u>
060816-TC	Southeast Pay Telephone, Inc.	561-272-9676 Burns Linton Shell 380 W. Linton Blvd. Delray Beach, FL
		561-272-9287 Deb Petroleum 2100 W. Linton Blvd. Delray Beach, FL

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
060804-TX	Callis Communications, Inc.

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2**

Consent Agenda

(Continued from previous page)

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

DECISION: The recommendation was approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

3

Docket No. 060508-EI – Proposed adoption of new rule regarding nuclear power plant cost recovery.

Critical Date(s): None

Rule Status: Adoption

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: GCL: Harris

ECR: Lewis, McNulty, Slemkewicz, Hewitt

(Participation is limited to Commissioners and staff.)

Issue 1: Should the Commission adopt new Rule 25-6.0423, F.A.C., Nuclear Power Plant Cost Recovery, with changes?

Recommendation: Yes. The Commission should adopt new Rule 25-6.0423, F.A.C., with the changes agreed to by participants to the docket as enumerated in staff's February 1, 2007, Recommendation.

Issue 2: Should this docket be closed?

Recommendation: Yes. The rule as approved by the Commission should be filed for adoption with the Secretary of State and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

4**PAA

Docket No. 050805-EQ – Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities and approval of tariff schedule REF-1, by Gulf Power Company.

Docket No. 050806-EQ – Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

Docket No. 050807-EQ – Petition for approval of amended standard offer contract tariff and renewable energy tariff, by Progress Energy Florida, Inc.

Docket No. 050810-EQ – Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Holley

ECR: Ballinger, Baxter

Issue 1: Should the Commission require Gulf Power Company (Gulf), Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), and Tampa Electric Company (TECO) to file tariffs containing new standard offer contracts?

Recommendation: Yes. Gulf, FPL, PEF, and TECO should be required to file tariffs by April 1, 2007, that contain new standard offer contracts with terms that are consistent with the Commission's policy as expressed by the adoption of renewable energy rules in Docket No. 060555-EI. The standard offer contracts should be based on each type of generating unit available in each investor-owned utility's 2007 Ten Year Site Plan.

Issue 2: Should the tariffs filed by Gulf, FPL, PEF, and TECO containing proposed standard offer contracts and approved by Order No. PSC-06-0486-TRF-EQ be closed?

Recommendation: Yes. The tariffs containing the standard offer contracts approved by Order No. PSC-06-0486-TRF-EQ are not consistent with the Commission's current policy as expressed by the adoption of new rules in Docket No. 060555-EI. Therefore, the tariffs containing the IOUs' proposed standard offer contracts that were approved by Order No. PSC-06-0486-TRF-EQ should be closed upon the filing of tariffs containing new standard offer contracts as described above.

ITEM NO.

CASE

4**PAA

Docket No. 050805-EQ – Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities and approval of tariff schedule REF-1, by Gulf Power Company.

Docket No. 050806-EQ – Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

Docket No. 050807-EQ – Petition for approval of amended standard offer contract tariff and renewable energy tariff, by Progress Energy Florida, Inc.

Docket No. 050810-EQ – Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

(Continued from previous page)

Issue 3: Is the protest of Order No. PSC-06-0486-TRF-EQ moot?

Recommendation: Yes. If the Commission approves staff's recommendation in Issues 1 and 2, once Gulf, FPL, PEF, and TECO file tariffs containing new standard offer contracts with terms that are consistent with the Commission's stated policy as expressed by the adoption of renewable energy rules in Docket No. 060555-EI, and the tariffs containing the proposed standard offer contracts approved by Order No. PSC-06-0486-TRF-EQ are closed, FICA's protest of Order No. PSC-06-0486-TRF-EQ will be rendered moot. When the Commission issues a decision on the tariffs containing new standard offer contracts with terms that are consistent with the Commission's current stated policy, all persons whose substantial interests are affected will have a point of entry to challenge the Commission's decision.

Issue 4: Should Docket Nos. 050805-EQ, 050806-EQ, 050807-EQ, and 050810-EQ be closed?

Recommendation: Yes. If the Commission approves staff's recommendation as set forth in Issues 1, 2, and 3, and if no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the order, Docket Nos. 050805-EQ, 050806-EQ, 050807-EQ, and 050810-EQ should be closed upon the issuance of a consummating order. The Commission should open new dockets to consider the tariffs filed by Gulf, FPL, PEF, and TECO containing new standard offer contracts required by Issue 1.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

5**

Docket No. 040028-TP – Complaint and request for summary disposition to enforce contract audit provisions in interconnection agreement with NewSouth Communications Corp., by BellSouth Telecommunications, Inc.
Docket No. 040527-TP – Complaint to enforce interconnection agreement with NuVox Communications, Inc. by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Edgar

Staff: GCL: Tan
CMP: Casey, Wright

Issue 1: Should the Commission grant BellSouth Telecommunications, Inc. and NuVox Communications, Inc.'s Joint Motion to Dismiss Complaints?

Recommendation: Yes. The Commission should grant the parties' Joint Motion to Dismiss Complaints, therefore Docket Nos. 040028-TP and 040527-TP should be dismissed with prejudice.

Issue 2: Should these dockets be closed?

Recommendation: Yes. If the Commission grants the Joint Motion to Dismiss Complaints for Docket Nos. 040028-TP and 040527-TP, no further action needs to be taken and the dockets should be closed. If the Commission denies staff's recommendation, the dockets should remain open.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

6**

Docket No. 060684-TP – Complaint and petition for declaratory relief against BellSouth Telecommunications, Inc. for refusal to provide telephone service to a new development, by Litestream Holdings, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Fudge

CMP: Buys, Kennedy

Issue 1: Should the petition for declaratory relief be granted?

Recommendation: No. The Petition should be dismissed without prejudice to sufficiently plead standing.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the filing of a petition that sufficiently alleges standing as discussed in Issue 1. If Litestream fails to file an amended petition within 30 days of the date of the Order, this docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

7**PAA

Docket No. 060732-TL – Complaint regarding BellSouth Telecommunications, Inc.'s failure to provide service on request in accordance with Section 364.025(1), F.S., and Rule 25-4.091(1), F.A.C., by Lennar Homes, Inc. (Deferred from January 23, 2007, conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Fudge

CMP: Buys, Kennedy

Issue 1: What action should the Commission take regarding Lennar's Complaint against BellSouth Telecommunications, Inc. for Failure to Provide Services in Accordance with Section 364.025(1), Florida Statutes?

Recommendation: The Commission should require BellSouth to comply with 364.025, Florida Statutes, and provide service to Lennar's homes at Echo Lake and other similarly situated Lennar developments.

Issue 2: Is BellSouth's letter of engagement in compliance with 364.025, Florida Statutes?

Recommendation: No. BellSouth impermissibly conditions its compliance with its COLR obligation with restrictions on the Developer's ability to contract for data and/or video services. Any letter of engagement provided by BellSouth in connection with its COLR obligation should only deal with the provision of basic local telecommunications service. In addition, BellSouth should notify the Commission that the letter has been revised and should provide this revised letter to any Developer that has received previous letters.

Issue 3: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

8**PAA

Docket No. 060581-TP – Petition of Alltel Communications, Inc. for designation as eligible telecommunications carrier (ETC) in certain rural telephone company study areas located partially in Alltel's licensed area and for redefinition of those study areas.

Docket No. 060582-TP – Petition of Alltel Communications, Inc. for designation as eligible telecommunications carrier (ETC) in certain rural telephone company study areas located entirely in Alltel's licensed area. (Deferred from January 23, 2007, conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending

Staff: CMP: Casey

GCL: Teitzman

Issue 1: Does the Commission have authority to designate a commercial mobile radio service provider as an eligible telecommunications carrier?

Recommendation: Yes. Staff believes with the enactment of Section 364.011, Florida Statutes, the legislature has granted the Commission limited authority over CMRS providers to those matters specifically authorized by federal law. Because pursuant to §214(e)(2) of the Act, states are authorized to designate eligible telecommunications carrier status on CMRS providers, staff believes the Commission has authority to consider applications by CMRS providers for ETC designation.

Issue 2: Should these dockets be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1, then the dockets should remain open for further proceedings relating to Alltel Wireless' Application. A person whose substantial interests are affected may file a protest within 21 days of the Commission Order. If no protest is filed by a person whose interests are substantially affected within 21 days of the Commission order, the Commission order shall become final upon the issuance of a consummating order.

If the Commission denies staff's recommendation in Issue 1 and no protest is filed by a person whose interests are substantially affected within 21 days of the Commission order, the dockets should be closed upon the issuance of a consummating order. If a timely protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order, the dockets should remain open pending the resolution of the protest.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

9**PAA

Docket No. 070096-TI – Determination of TDS Telecom's compliance with Commission order regarding telephone wood poles inspection plan.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Moses, Harvey, Vinson

GCL: Teitzman

Issue 1: Did TDS violate Commission Order No. PSC-06-0168-PAA-TL?

Recommendation: Yes.

Issue 2: Should TDS be fined for violating Commission Order No. PSC-06-0168-PAA-TL?

Recommendation: No.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no protest is filed by a person whose interests are substantially affected within 21 days of the Commission order, the docket should be closed upon the issuance of a consummating order. If a timely protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order, the docket should remain open pending the resolution of the protest.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

10**PAA

Docket No. 060621-TX – Compliance investigation of Baldwin County Internet/DSSI Service, L.L.C. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Curry, Ollila

GCL: McKay, Tan

Issue 1: Should the Commission accept Baldwin County Internet/DSSI Service, L.L.C.'s proposed settlement offer of \$1,000 for deposit into the General Revenue Fund to resolve the apparent violation of Section 364.183(1), F. S., Access to Company Records?

Recommendation: No. The Commission should not accept Baldwin County Internet/DSSI Service, L.L.C.'s proposed settlement offer of \$1,000 for deposit into the General Revenue Fund to resolve the apparent violation of Section 364.183(1), F. S., Access to Company Records.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1 this matter should be set for an administrative hearing and the docket should remain open pending further action. If the Commission denies staff's recommendation in Issue 1 and accepts Baldwin's settlement offer, the Order resulting from this recommendation should be final and this docket should be closed administratively once the settlement payment has been forwarded to the Division of Financial Services for deposit into the General Revenue Fund.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

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11**PAA

Docket No. 060752-TX – Request for cancellation of CLEC Certificate No. 7288 by Source One Communications, Inc. d/b/a Quick Connects, effective November 30, 2006.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

Issue 1: Should the Commission deny Source One Communications, Inc. d/b/a Quick Connects, a voluntary cancellation of its CLEC Certificate No. 7288 and cancel the certificate on the Commission's own motion with an effective date of November 30, 2006?

Recommendation: Yes. The company should be denied a voluntary cancellation as listed on Attachment A of staff's February 1, 2007, memorandum.

ITEM NO.

CASE

11**PAA

Docket No. 060752-TX – Request for cancellation of CLEC Certificate No. 7288 by Source One Communications, Inc. d/b/a Quick Connects, effective November 30, 2006.

(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 Fees prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's competitive local exchange telecommunications certificate will be voluntary. If the company fails to pay the Regulatory Assessment Fees prior to the expiration of the Proposed Agency Action Order, then the company's competitive local exchange telecommunications certificate should be cancelled administratively, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's competitive local exchange telecommunications certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees or upon cancellation of the company's competitive local exchange telecommunications certificate.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

12**PAA

Docket No. 060781-TP – Request for cancellation of CLEC Certificate Nos. 8371 and 7804 by Acceris Management and Acquisition LLC and New Access Communications LLC, respectively, acknowledgment of cancellation of IXC Registration Nos. TK011 and TJ511 by Acceris Management and Acquisition LLC and New Access Communications LLC, respectively, effective March 1, 2007, and request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to transfer of assets to First Communications, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Watts

GCL: McKay

Issue 1: Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of Acceris Management and Acquisition LLC's and New Access Communications LLC's customers to First Communications, LLC?

Recommendation: Yes. The Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code.

Issue 2: 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 the consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

13**PAA

Docket No. 060815-TI – Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TI446 issued to Corporate Services Telcom, Inc., effective 12/31/06.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: McKay

Issue 1: Should the Commission grant Corporate Services Telcom, Inc., as listed in Attachment A of staff's February 1, 2007, memorandum, cancellation of its IXC tariff and remove its name from the register with an effective date of December 31, 2006, due to bankruptcy; notify the Division of the Commission Clerk and Administrative Services that any unpaid Regulatory Assessment Fees, including statutory late payment charges, should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the company to immediately cease and desist providing intrastate interexchange telecommunications service in Florida?

Recommendation: Yes. The company's IXC tariff and Registration No. TI446 should be granted a bankruptcy cancellation with an effective date of December 31, 2006.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no protest is filed and upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

14**PAA

Docket No. 060794-TX – Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to migration of customers of Florida Phone Service Inc. d/b/a Global Telecom Group, holder of CLEC Certificate No. 8630, to FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA, holder of CLEC Certificate No. 5315; and for name change on Certificate No. 5315 to FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA d/b/a Global Telecom.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Watts

GCL: McKay

Issue 1: Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of Florida Phone Service Inc. d/b/a Global Telecom Group's customers to FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA?

Recommendation: Yes. The Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

15**PAA

Docket No. 060744-TP – Joint petition for waiver of carrier selection requirements of Rule 25-4.118, FAC, to facilitate transfer of customers from Trinsic Communications, Inc. to Communications Xchange, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Watts

GCL: McKay

Issue 1: Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of Trinsic Communications, Inc.'s customers to Communications Xchange, LLC?

Recommendation: Yes. The Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

16

Docket No. 060635-EU – Petition for determination of need for electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee.

Critical Date(s): 02/13/07 (Applicants waived rule requirement for a vote within 135 days until 02/13/07.)

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrian

Staff: ECR: Harlow, Breman, Brown, Lester, Matlock, McRoy, Springer, Stallcup, VonFossen

GCL: Brubaker, Fleming, Holley

(Post-hearing decision - participation is limited to Commissioners and staff.)

Issue 1: Is there a need for the proposed Taylor Energy Center (TEC) generating unit, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. Based upon reasonable projections of load growth, the expiration of existing purchased power contracts, and the retirement of existing generating units, the Applicants have demonstrated a reliability need for the TEC.

Issue 2: Is there a need for the proposed TEC generating unit, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. The proposed TEC is a proven technology and the estimated costs provided by the Applicants appear to be reasonable. Based on current projections, the TEC is expected to provide the Applicants adequate electricity at a reasonable cost.

Issue 3: Is there a need for the proposed TEC generating unit, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. The addition of baseload coal-fired generation from the TEC will improve each Applicant's fuel diversity and supply reliability. The addition of TEC will also mitigate the impact of supply disruptions caused by an overdependence on natural gas.

Issue 4: Are there any conservation measures taken by or reasonably available to the Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee (Applicants) which might mitigate the need for the proposed TEC generating unit?

Recommendation: No. Even if the City of Tallahassee's ambitious DSM savings are applied to the other Applicants' peak demands, it would not relieve JEA's, FMPA's and RCID's reliability need. The Applicants' first priority should be maintaining reliability. Each Applicant utility should continue to report its conservation initiatives and achievements annually in their Ten-Year Site Plan filings.

ITEM NO.

CASE

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Docket No. 060635-EU – Petition for determination of need for electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee.

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Issue 5: Have the Applicants appropriately evaluated the cost of CO₂ emission mitigation costs in their economic analysis?

Recommendation: Yes. Estimating CO₂ emission mitigation costs for the proposed TEC facility is highly speculative because there is no current CO₂ regulation and no consensus regarding potential regulatory requirements. However, the Applicants have performed a reasonable sensitivity analysis based on potential CO₂ regulation, the results of which support the TEC as cost-effective. The Applicants' sensitivity analysis comparing TEC to natural gas fired options showed significant savings for TEC.

Issue 6: Does the proposed TEC generating unit include the costs for the environmental controls necessary to meet current state and federal environmental requirements, including mercury, NO₂, SO₂, and particulate emissions?

Recommendation: Yes. The Applicants appropriately included the costs for current state and federal environmental controls. The Applicants were reasonable to rely on the federal requirements of the Clean Air Interstate Rule and the Clean Air Mercury Rule instead of speculating on the outcome of ongoing rule development and litigation regarding Florida's State Implementation Plan and federal court cases. Cost risks associated with evolving environmental regulations are normal costs that power plant owners and operators incur to address their customers' electrical needs.

Issue 7: Have the Applicants requested available funding from DOE to construct an IGCC unit or other cleaner coal technology?

Recommendation: No. The Applicants did not formally request funding from DOE for IGCC technology. However, the Applicants do appear to have made reasonable efforts to determine whether funding was available in the timeframe required to meet their reliability needs. A formal request of DOE funding for IGCC development is not one of the criteria listed in Section 403.519, Florida Statutes.

Issue 8: Has each Applicant secured final approval of its respective governing body for the construction of the proposed TEC generating unit?

Recommendation: No. Each Applicant has received approval from its respective governing body only through the siting phase for the TEC, which is sufficient for the need proceeding. Each Applicant will have the opportunity to obtain final approval from its respective board prior to the construction phase, and each Applicant plans to reevaluate participation in the TEC with updated data prior to requesting final approval. It is prudent for each Applicant to analyze whether participating in the TEC is in the best interests of its ratepayers before, during and after construction of the unit.

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16

Docket No. 060635-EU – Petition for determination of need for electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee.

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Issue 9: Is the proposed TEC generating unit the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. Combined cumulative present worth cost savings from the TEC are estimated to be \$899 million for the Applicants compared to the next least cost expansion plan for each Applicant, and appear to be robust under changing circumstances. The Applicants provided approximately 70 sensitivities, including changes in fuel prices, capital costs, and potential CO₂ regulation. The TEC provided savings in all but one sensitivity. The Applicants appropriately tested the TEC against other supply-side alternatives, including IGCC and biomass capacity. Further, the Applicants' analysis showed significant savings when the TEC was compared to a joint owned natural gas combined cycle, as well as an all natural gas expansion plan.

Issue 10: Based on the resolution of the foregoing issues, should the Commission grant the Applicants' petition to determine the need for the proposed TEC generating unit?

Recommendation: Yes. As discussed in Issues 1 through 9, the record evidence indicates that the Applicants have met the criteria set forth in Section 403.519, Florida Statutes. Therefore, the Applicants' petition to determine the need for the proposed TEC unit should be approved.

Issue 11: Should this docket be closed?

Recommendation: The docket should be closed 32 days after issuance of the order, to allow the time for filing an appeal to run.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

17**

Docket No. 070040-EI – Petition for approval to amend Rate Schedules CS-1 and LS-1, by Progress Energy Florida, Inc.

Critical Date(s): 03/12/07 (60-day suspension date)

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: ECR: Baxter
GCL: Holley

Issue 1: Should Progress Energy Florida's petition to amend rate schedules SC-1 and LS-1 be suspended?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: No.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

18**

Docket No. 060150-EI – Petition for approval of revisions to contribution-in-aid-of-construction definition in Section 12.1 of First Revised Tariff Sheet No. 6.300, by Florida Power & Light Company.

Critical Date(s): 05/21/07 (8-month clock)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper, Breman, Kummer, Trapp

GCL: Gervasi

Issue 1: Should the Commission approve FPL's amended petition for approval of revisions to its tariff to implement a Governmental Adjustment Factor (GAF) for calculation of CIAC?

Primary Recommendation: Yes; however, the GAF and associated tariffs should be effective for only two and a half years from the initial effective date, which is April 4, 2006. At least 60 days prior to the expiration of the GAF and associated tariffs, FPL should be required to file a report with the Commission providing an updated quantification of storm restoration benefits. FPL should also petition the Commission to continue the tariff, modify the tariff, or discontinue the tariff at that time as necessary.

Alternative Recommendation: The Commission should decline to rule on the tariff at this time because FPL has not adequately justified the 25 percent GAF waiver. An expedited hearing schedule should be set to allow the Commission to hear testimony and make a decision on matters of fact and policy necessary to show how this filing comports with the requirements of revised Rule 25-6.115, F.A.C. If the Commission is unable to render a decision by the statutory deadline of May 21, 2007, the tariff shall go into effect pending completion of the hearing and the Commission's final decision on the matter. Alternatively, the Commission should deny the tariff and suggest that FPL refile its tariff implementing the requirements of Rule 25-6.115, F.A.C

ITEM NO.

CASE

18**

Docket No. 060150-EI – Petition for approval of revisions to contribution-in-aid-of-construction definition in Section 12.1 of First Revised Tariff Sheet No. 6.300, by Florida Power & Light Company.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves the primary staff recommendation on Issue 1, or denies the tariff as alternatively suggested in the alternate recommendation, and if no timely protest is filed within 21 days of the issuance date of the Order, no further action will be necessary and this docket should be closed upon the issuance of a Consummating Order. However, if a protest is filed by a person whose interests are substantially affected within 21 days of the issuance date of the Order, the docket should remain open pending resolution of the protest. If the Commission approves the alternate staff recommendation on Issue 1, this docket should remain open in order to proceed directly to hearing.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason~~, Arriaga, Carter, Tew

ITEM NO.

CASE

19**PAA

Docket No. 070022-EU – Recommendation on Commission action regarding adoption of PURPA Standard 14, "Time-based Metering and Communications."

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: ECR: Kummer
GCL: Helton

Issue 1: Should the Commission adopt new PURPA Standard 14?

Recommendation: No. Under the guidance of the PSC, Florida utilities already offer a variety of time-sensitive rates and load management options where such programs are cost effective. Adoption of Standard 14 will not materially further this activity and may result in requests for installation of equipment where it may not be cost effective.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no protest is received, after issuance of the consummating order, the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

20**PAA

Docket No. 070056-EG – Petition for approval of extension and permanent status of price responsive load management pilot program, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: ECR: Sickel, Draper
GCL: Fleming

Issue 1: Should the Commission grant the request by Tampa Electric Company (TECO) to extend its Residential Price Responsive Load Management Pilot Program until the Commission has an opportunity to consider the conversion of this Program to permanent status?

Recommendation: Yes. The pilot program should be extended until the Commission has an opportunity to consider TECO's petition for conversion, but should cease no later than August 31, 2007. TECO is expected to file the petition requesting conversion before May 1, 2007.

Issue 2: Should TECO be allowed to recover, for the limited extension, the reasonable and prudent expenditures associated with the Residential Price Responsive Load Management Pilot Program through TECO's Energy Conservation Cost Recovery (ECCR) Clause?

Recommendation: Yes. If Issue 1 is approved, the prudent expenditures required to maintain the operation of the pilot program through the extension are appropriate for recovery.

Issue 3: Should this docket be closed?

Recommendation: No. If no timely protest is received, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending Commission action on TECO's application for conversion of the pilot program to a permanent program.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

21**PAA

Docket No. 060772-EG – Petition for approval of modifications to approved energy conservation programs by Florida Division of Chesapeake Utilities Corporation.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Carter

Staff: ECR: Brown
GCL: Fleming

Issue 1: Should the Commission approve Chesapeake Utilities Corporation's Petition for Approval of Modifications to Approved Energy Conservation Programs?

Recommendation: Yes. Each of the proposed residential programs are cost effective. The proposed increase in cost allowances could decrease the cost to customers when purchasing new appliances. Also, as a result of the higher appliance allowances, it is possible to see an increase in customer participation resulting in more customer savings.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the program modifications should become effective March 29, 2007. If a protest is filed within 21 days of the issuance of the proposed agency action order, the modifications should not be implemented until after the resolution of the protest. If no timely protest is filed, the docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

22**PAA

Docket No. 050862-WU – Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.

Critical Date(s): 06/06/07 (15-month effective date – SARC)

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending

Staff: ECR: Hudson, Edwards, Lingo, Rendell

GCL: Gervasi

(All issues proposed agency action except Issues 16 and 17.)

Issue 1: Should the quality of service provided by County-Wide Utility be considered satisfactory?

Recommendation: Yes. The quality of service should be considered satisfactory.

Issue 2: Was it prudent for the utility to interconnect to the City of Ocala to serve current customers?

Recommendation: No, it was not prudent for the utility to interconnect to the City of Ocala to serve current customers; however, it was prudent to interconnect to provide water service to future customers.

Issue 3: What are the used and useful percentages for the utility's water distribution systems?

Recommendation: The water distribution system should be considered 100% used and useful.

Issue 4: What is the appropriate test year rate base for the utility?

Recommendation: The appropriate test year rate base for the utility is \$7,511.

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

Recommendation: The appropriate return on equity is 11.54% with a range of 10.54% - 12.54%. The appropriate overall rate of return is 8.01%.

Issue 6: What are the appropriate test year revenues?

Recommendation: The appropriate test year revenue for this utility is \$112,099 for water.

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

Recommendation: The appropriate amount of operating expenses for the utility is \$141,689 for water.

Issue 8: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$142,291 for water.

ITEM NO.

CASE

22**PAA

Docket No. 050862-WU – Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.

(Continued from previous page)

Issue 9: Is a continuation of the utility's current rate structure for its water system appropriate, and, if not, what is the appropriate rate structure?

Recommendation: No, a continuation of the utility's current rate structure is not appropriate. Specifically, the utility's current gallonage allotments should be removed from both the residential and general service base facility charges (BFCs), and the declining block rate structure should be eliminated. The residential rate structure should be replaced with a three-tier inclining block rate structure, with usage blocks of 0 – 10 kgal, 10.001 – 20 kgal, and in excess of 20 kgal. The usage block rate factors should be 1.0, 1.25 and 1.5, respectively. The general service rate structure should be replaced with a BFC/uniform gallonage charge. The appropriate post-repression BFC cost recovery should set at 40%.

Issue 10: Is a repression adjustment appropriate in this case, and, if so, what is the appropriate adjustment to make for this utility?

Recommendation: Yes, a repression adjustment is appropriate. Residential consumption should be reduced by 7.4%, resulting in a consumption reduction of approximately 1,381.2 kgal. The resulting total water consumption for ratesetting is 34,331.4 kgal, which represents a 4.3% reduction in overall consumption and a reduction in purchased water expense of \$1,522. The post-repression revenue requirement is \$138,491. In order to monitor the effects of both the changes in revenue and rate structure, the utility should be ordered to file monthly reports detailing the number of bills rendered, the consumption billed and the revenues billed. In addition, the reports should be prepared, by customer class, usage block and meter size. The reports should be filed with staff, on a quarterly 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 11: What are the appropriate rates for this utility?

Recommendation: The appropriate monthly water rates are shown on Schedule 4 of staff's February 1, 2007, memorandum. Excluding miscellaneous service revenues, the recommended water rates are designed to produce revenues of \$138,491. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date the notice was given no less than 10 days after the date of the notice.

ITEM NO.

CASE

22**PAA

Docket No. 050862-WU – Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.

(Continued from previous page)

Issue 12: Should the utility be authorized to revise its miscellaneous service charges, and if so, what are the appropriate charges?

Recommendation: Yes. The utility should be authorized to revise its miscellaneous service charges. The appropriate charges are reflected below. The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

Issue 13: Should the utility be authorized to collect a \$5.00 late payment fee?

Recommendation: Yes. The utility should be authorized to collect a \$5.00 late payment fee. The utility should file revised tariff sheets that are consistent with the Commission's vote within one month of the Commission's final vote. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the late payment fee should become effective for connections made on or after the stamped approval date of the revised tariff sheets, provided no protest is filed and customers have been noticed.

Issue 14: Should the utility's meter test fees be changed to allow the actual cost to the utility?

Recommendation: No. The utility's meter test fees should not be changed. The utility's meter test fees should be allowed as prescribed in Rule 25-30.266, F.A.C.

Issue 15: In determining whether any portion of the emergency increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: The proper refund amount should be calculated by using the revised revenue requirement for the emergency rate collection period and comparing it to the amount of emergency revenues granted. Based on this calculation, the utility should be required to refund 47% of water revenues collected under emergency rates. The refund should be made with interest in accordance with Rule 25-30.360(4) F.A.C. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C.

ITEM NO.

CASE

22**PAA

Docket No. 050862-WU – Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.

(Continued from previous page)

Issue 16: 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, Florida Statutes?

Recommendation: The water rates should be reduced as shown on Schedule No. 4 of staff's February 1, 2007, memorandum, to remove rate case expense grossed up for regulatory assessment fees 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.

Issue 17: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of 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 February 1, 2007, memorandum. 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 18: What are the appropriate service availability charges?

Recommendation: The appropriate service availability charge for the utility is a main extension charge of \$1,012. The utility's system capacity charge should be discontinued. If the Commission approves these charges, the utility should file revised tariff sheets which are consistent with the Commission's vote. Staff recommends that it be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the revised service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets.

ITEM NO.

CASE

22**PAA

Docket No. 050862-WU – Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.

(Continued from previous page)

Issue 19: Should County-Wide be authorized to collect Allowance for Funds Prudently Invested (AFPI) charges, and if so, what are the appropriate charges?

Recommendation: Yes. County-Wide should be authorized to collect water AFPI charges. The beginning date of the AFPI charges should be January 1, 2006. After December 31, 2010, the utility should be allowed to collect the constant charge until all projected 502 water ERCs in the calculation have been added, at which time the charge should be discontinued. The utility should file revised tariff sheets which are consistent with the Commission's vote within 30 days of the issuance of the Consummating Order. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision and provided future customers have been noticed pursuant to Rule 25-30.475(2), F.A.C. In no event should the rates be effective for services rendered prior to the stamped approval date.

Issue 20: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

23**

Docket No. 060540-WU – Application for increase in water rates in Pasco County by Colonial Manor Utility Company.

Critical Date(s): 02/20/07 (60-day suspension date)

Commissioners Assigned: All Commissioners
Prehearing Officer: Carter

Staff: ECR: Fletcher, Rendell
GCL: Jaeger

Issue 1: Should the Commission suspend Colonial's proposed water rate increase?

Recommendation: Yes. The Commission should suspend the proposed rate increase.

Issue 2: 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: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

24**

Docket No. 060285-SU – Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven.

Critical Date(s): 02/28/07 (60-day suspension date)

Commissioners Assigned: All Commissioners
Prehearing Officer: Carter

Staff: ECR: Rendell, Biggins, Massoudi
GCL: Brown

Issue 1: Should the Commission suspend Utilities Inc. of Sandalhaven's proposed wastewater rate increase?

Recommendation: Yes. The Commission should suspend the proposed rate increase.

Issue 2: 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: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

25**PAA

Docket No. 060257-WS – Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

Critical Date(s): 02/13/07 (5-month effective date extended by utility - PAA Rate Case)

Commissioners Assigned: All Commissioners
Prehearing Officer: Pending

Staff: ECR: Revell, Rendell, Springer, Kyle, Edwards, Lingo
GCL: Fleming

(All issues proposed agency action except Issues 26, 27 and 28.)

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

Recommendation: Cypress Lakes' overall quality of service should be considered marginally satisfactory.

Issue 2: Should the rate base adjustments to which the utility agrees be made?

Recommendation: Yes. Based on audit adjustments which the utility agrees with, water plant in service should be reduced by \$26,843, and wastewater plant in service should be increased by \$217,552. Associated water accumulated depreciation should be decreased by \$8,213, and wastewater accumulated depreciation should be increased by \$53,726.

Issue 3: What are the appropriate Water Service Corporation (WSC) and Utilities, Inc. of Florida (UIF) rate base allocations for Cypress Lakes?

Recommendation: The appropriate WSC net rate base allocation for Cypress Lakes is \$7,597 for water and \$6,918 for wastewater. This represents an increase of \$1,436 and \$1,177 for water and wastewater, respectively. WSC depreciation expense should also be increased by \$70 and \$64, for water and wastewater, respectively. Further, the appropriate UIF rate base allocation for Cypress Lakes is \$11,089 for water and \$10,364 for wastewater. This represents water plant and accumulated depreciation decreases of \$17,841 and \$5,181, respectively, and wastewater plant and accumulated depreciation increases of \$14,637 and \$4,274, respectively. In addition, depreciation expense should be decreased by \$914 for water and increased by \$469 for wastewater.

Issue 4: Should other rate base adjustments be made in calculating final rates?

Recommendation: Yes. Water pro forma plant should be reduced by \$4,343, and wastewater pro forma plant should be reduced by \$8,696. Water and wastewater accumulated depreciation and depreciation expense should be reduced by \$203 and \$483, respectively.

Issue 5: What is the used and useful percentage for the water treatment plant?

Recommendation: The water treatment plant should be considered 100% used and useful.

ITEM NO.

CASE

25**PAA

Docket No. 060257-WS – Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

(Continued from previous page)

Issue 6: What is the level of unaccounted for water, is any portion excessive, and, if so, should any adjustments be made?

Recommendation: The test year unaccounted for water level is 12.62%, of which 2.62% is excessive. No adjustment is necessary to the U&U calculation because the plant is 100% used and useful before consideration of growth. However, purchased power and chemical expenses should be reduced by \$287 and \$106, respectively, for a total reduction of \$393.

Issue 7: What is the used and useful percentage for the utility's wastewater treatment plant?

Recommendation: Overall, the wastewater treatment plant should be considered 95.71% U&U.

Issue 8: What are the used and useful percentages for the utility's wastewater collection and water distribution systems?

Recommendation: With the exception of a portion of Account 354; the wastewater collection system and the water distribution systems should be considered 100% U&U. A portion of plant in Account 354 should be considered 95.71% U&U.

As a result of the used and useful adjustments discussed in Issue 7 and this issue, net rate base should be reduced by \$25,755. Corresponding adjustments should also be made to reduce depreciation expense by \$1,870 and property taxes by \$217.

Issue 9: What is the appropriate working capital allowance?

Recommendation: The appropriate amount of working capital is \$18,402 for water and \$33,782 for wastewater based on the formula method.

Issue 10: What is the appropriate rate base?

Recommendation: The appropriate water rate base for the test year ending December 31, 2005, is \$733,072. The appropriate wastewater rate base of the period ending December 31, 2005, is \$1,249,100.

Issue 11: What is the appropriate return on common equity?

Recommendation: The appropriate return on common equity is 11.45% based on the Commission leverage formula currently in effect. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

Issue 12: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2005?

Recommendation: The appropriate weighted average cost of capital for the test year ended December 31, 2005 is 8.40%.

Issue 13: What adjustments, if any, should be made to the utility's test year revenue?

Recommendation: Water revenues should be increased by \$5,246 and wastewater revenues should be increased by \$2,582.

ITEM NO.

CASE

25**PAA

Docket No. 060257-WS – Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

(Continued from previous page)

Issue 14: Should audit net operating income adjustments be made?

Recommendation: Yes. Water and wastewater O&M expense should be reduced by \$3,464 and \$6,531, respectively. Additionally water depreciation expense should be reduced by \$3,365, and wastewater depreciation expense should be increased by \$15,190.

Issue 15: What is the appropriate amount of allocated WSC and UIF expenses for Cypress Lakes?

Recommendation: Based on the audit adjustments and the ERC-only methodology, the appropriate WSC O&M expenses and taxes other than income for Cypress Lakes are \$42,890 and \$1,932, respectively. As such, water O&M expenses and taxes other than income should be decreased by \$1,158 and \$88, respectively, and wastewater O&M expenses and taxes other than income should be decreased by \$1,055 and \$80, respectively. Further, the appropriate UIF O&M expenses for Cypress Lakes are \$2,003 for water and \$1,824 for wastewater. As such, water and wastewater O&M expense should be increased by \$9 and \$8, respectively.

Issue 16: Should an adjustment be made to the utility's pro forma salaries and wages, pensions and benefits, and payroll taxes?

Recommendation: Yes. Cypress Lakes' salaries and wages should be decreased by \$10,349 for water and \$9,531 for wastewater. Accordingly, pensions and benefits should be reduced by \$873 and \$790 for water and wastewater, respectively, and payroll taxes should be reduced by \$662 and \$607 for water and wastewater, respectively.

Issue 17: What is the appropriate amount of rate case expense?

Recommendation: As a result of an audit finding, \$2,379 and \$2,311 of overstated rate case expense for the prior rate case for water and wastewater, respectively, should be removed.

The appropriate total rate case expense for the current docket is \$84,859. This expense should be recovered over four years for an annual expense of \$21,215, or \$12,715 less than requested. The allocated portion of the annual expense to water and wastewater is \$11,104 and \$10,111, respectively. Rate case expense should be reduced by a total of \$16,273 (\$3,558 to correct inclusion of prior rate case expense + \$12,715 to adjust current rate case expense.)

Issue 18: Was rainfall during the 2005 test year abnormally high, and, therefore, result in understated test year consumption?

Recommendation: No. Rainfall during the 2005 test year was not abnormally high and did not result in understated test year consumption.

Issue 19: What is the test year operating income before any revenue increase?

Recommendation: Based on the adjustments discussed in previous issues, the test year operating income before any provision for increased revenues is \$34,989 and \$18,284 for water and wastewater, respectively.

ITEM NO.

CASE

25**PAA

Docket No. 060257-WS – Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

(Continued from previous page)

Issue 20: What is the appropriate pre-repression revenue requirements for water and wastewater?

Recommendation: The following pre-repression revenue requirement should be approved:

	<u>Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$253,603	\$44,585	\$298,188	17.58%
Wastewater	\$362,819	\$145,367	\$508,186	40.07%

Issue 21: What are the appropriate rate structures for the utility's various customer classes?

Recommendation: The appropriate rate structure for the water system's residential class is a continuation of its three-tier inclining-block rate structure. The current usage blocks and usage block rate factors should also remain unchanged. The appropriate rate structure for the water system's non-residential classes is a continuation of its base facility charge (BFC)/uniform gallonage charge rate structure. The BFC cost recovery percentage for the water system should be set at 30%. The appropriate rate structure for the wastewater system is a continuation of the BFC/gallonage charge rate structure. The current residential wastewater monthly gallonage cap should be lowered to 6 kgal. The general service gallonage charge should be 1.2 times greater than the corresponding residential charge, and the BFC cost recovery percentage for the wastewater system should be set at 50%.

ITEM NO.

CASE

25**PAA

Docket No. 060257-WS – Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

(Continued from previous page)

Issue 22: Are repression adjustments appropriate in this case, and if so, what are the appropriate adjustments to make for this utility, what are the corresponding expense adjustments to make, and what are the final revenue requirements?

Recommendation: Yes, repression adjustments are appropriate for this utility. For the water system, test year kgals sold should be reduced by 828 kgals, purchased power expense should be reduced by \$165, chemicals expense should be reduced by \$61, and regulatory assessment fees (RAFs) should be reduced by \$10. The final post-repression revenue requirement for the water system, excluding miscellaneous revenues of \$2,017, should be \$296,198. For the wastewater system, test year kgals sold should be reduced by 737 kgals, purchased power expense should be reduced by \$875, chemicals expense should be reduced by \$125, sludge removal expense should be reduced by \$974, and RAFs should be reduced by \$89. The final post-repression revenue requirement for the wastewater system, excluding miscellaneous revenues of \$2,898, should be \$503,226.

In order to monitor the effect of the rate changes, the utility should be ordered to file quarterly 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, usage block and meter size. The reports should be filed with staff, on a quarterly 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 23: What are the appropriate water and wastewater rates for this utility?

Recommendation: The appropriate monthly water rates are shown on Schedule No. 4-A of staff's February 1, 2007, memorandum, and the appropriate wastewater monthly rates are shown on Schedule No. 4-B. Excluding miscellaneous service charges, the recommended water rates produce revenues of \$296,198, and the recommended wastewater rates produce revenues of \$503,226. The utility should file revised water and wastewater tariff sheets and a proposed customer notice to reflect the Commission-approved rates for the respective systems. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice. 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

25**PAA

Docket No. 060257-WS – Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

(Continued from previous page)

Issue 24: Should the utility be authorized to revise its water and wastewater miscellaneous service charges, and, if so, what are the appropriate charges?

Recommendation: Yes. The utility should be authorized to revise its water and wastewater miscellaneous service charges. The appropriate charges are reflected in the analysis portion of staff's February 1, 2007, memorandum. The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

Issue 25: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenues granted. Using these principles, staff recommends that no refund of water or wastewater revenues is required.

Issue 26: 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 rates should be reduced as shown on Schedule No. 4 of staff's February 1, 2007, memorandum to remove \$11,627 for water and \$10,587 for wastewater rate case expense, grossed up for regulatory assessment fees, which is being amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction.

Issue 27: Should the utility be required to show cause, in writing within 21 days, why it should not be fined for its apparent failure to comply with the requirements of Order Nos. PSC-04-0358-FOF-WS and PSC-04-1275-AS-WS, to adjust its books to reflect the adjustments to all the applicable primary accounts required by these Orders?

Recommendation: Yes. Cypress Lakes Utilities, Inc. should be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$3,000 for its apparent failure to timely comply with the requirements of Order Nos. PSC-04-0358-FOF-WS and PSC-04-1275-AS-WS. The order to show cause should incorporate the conditions stated in the analysis portion of staff's February 1, 2007, memorandum.

ITEM NO.

CASE

25**PAA

Docket No. 060257-WS – Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

(Continued from previous page)

Issue 28: Should the utility be required to provide proof that it has adjusted its books for all Commission-approved adjustments?

Recommendation: Yes. To ensure that the utility adjusts its books in accordance with the Commission's decision, Cypress Lakes should provide proof, within 90 days of the Consummating Order, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Issue 29: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action issues files a protest within 21 days of the issuance of the order, a Consummating Order will be issued. However, the docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff, and the disposition of the show cause recommendation in Issue 27. When the PAA issues are final, the tariff and notices actions are complete, and the show cause has been resolved, this docket may be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

26**PAA

Docket No. 060260-WS – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc.

Critical Date(s): 02/13/07 (5-month effective date - PAA Rate Case)

Commissioners Assigned: All Commissioners
Prehearing Officer: Pending

Staff: ECR: Joyce, Rieger, Lingo, Springer, Kyle, Rendell
GCL: Fleming

(All issues proposed agency action except Issues 19 and 21.)

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

Recommendation: Yes. The utility's overall quality of service is satisfactory.

Issue 2: Should the audit rate base adjustments to which the utility agrees be made?

Recommendation: Yes. Based on audit adjustments which the utility agrees with, plant should be reduced by \$14,150 for water and \$3,093 for wastewater. In addition, accumulated depreciation should be increased by \$4,555 for water and \$4,424 for wastewater.

Issue 3: What is the appropriate Water Service Corporation (WSC) and Utilities, Inc. of Florida (UIF) rate base allocations for Lake Placid?

Recommendation: The appropriate WSC net rate base allocation for Lake Placid is \$824 for water and \$1,591 for wastewater. This represents an increase of \$197 and \$308 for water and wastewater, respectively. WSC depreciation expense should also be increased by \$12 and \$16, for water and wastewater, respectively. Further, the appropriate UIF rate base allocation for Lake Placid is \$4,781 for water and \$4,837 for wastewater. This represents water plant and accumulated depreciation decreases of \$12,591 and \$7,350, respectively, and wastewater plant and accumulated depreciation increases of \$12,582 and \$7,745, respectively. In addition, depreciation expense should be decreased by \$764 for water and increased by \$1,656 for wastewater.

Issue 4: Should other rate base adjustments be made?

Recommendation: Yes. Pro forma plant should be reduced by \$22,424 for water and \$1,343 for wastewater. Corresponding adjustments should be made to increase accumulated depreciation by \$17,036 for water, decrease accumulated depreciation by \$30 for wastewater and decrease depreciation expense by \$1,083 and \$30 for water and wastewater, respectively. Accumulated Amortization of Acquisition should be decreased by \$9,204 for water. Historical plant should be increased by \$17,900 for wastewater.

ITEM NO.

CASE

26**PAA

Docket No. 060260-WS – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc.

(Continued from previous page)

Issue 5: What is the used and useful percentage for the water treatment plant?

Recommendation: Lake Placid's water treatment plant should be considered 100% used and useful. The wastewater treatment plant should be considered 18.68% used and useful, and the water distribution system and wastewater collection system, with the exception of Account 354, should be considered 100% used and useful as reflected in Attachment A of staff's February 1, 2007, memorandum. As a result of the above adjustments, net wastewater rate base should be reduced by \$112,842. Corresponding adjustments should also be made to reduce wastewater depreciation expense by \$2,344 and property taxes by \$689. An adjustment should be made to reduce O&M expense by \$681 for excessive unaccounted for water.

Issue 6: What is the appropriate working capital allowance?

Recommendation: The appropriate amount of working capital is \$2,210 for water and \$7,091 for wastewater based on the formula method.

Issue 7: What is the appropriate rate base?

Recommendation: The appropriate water rate base for the test year ending December 31, 2005, is \$159,685. The appropriate wastewater rate base of the period ending December 31, 2005, is \$85,569.

Issue 8: What is the appropriate return on common equity?

Recommendation: The appropriate return on common equity is 11.45% based on the Commission leverage formula currently in effect. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

Issue 9: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2005?

Recommendation: The appropriate weighted average cost of capital for the test year ended December 31, 2005 is 7.43%.

Issue 10: What adjustments, if any, should be made to the utility's test year revenue?

Recommendation: Water revenues should be increased by \$1,809 and wastewater revenues should be increased by \$20,353.

Issue 11: Should audit net operating income adjustments to which the utility agrees be made?

Recommendation: Yes. Water O&M expense should be reduced by \$2,602. Taxes Other Than Income should be increased by \$468 and \$2,064 for water and wastewater, respectively. Additionally water depreciation expense should be increased by \$957, and wastewater depreciation expense should be increased by \$762.

ITEM NO.

CASE

26**PAA

Docket No. 060260-WS – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc.

(Continued from previous page)

Issue 12: What is the appropriate amount of allocated WSC and UIF expenses for Lake Placid?

Recommendation: The appropriate WSC O&M expenses and taxes other than income for Lake Placid are \$2,825 and \$3,724, respectively. As such, water and wastewater O&M expenses should be increased by \$62 and \$81, respectively, and water and wastewater taxes other than income should be decreased by \$4 and \$6, respectively. Further, the appropriate UIF O&M expenses for Lake Placid are \$1,913 for water and \$2,522 for wastewater. As such, water and wastewater O&M expense should be increased by \$178 and \$235, respectively.

Issue 13: Should an adjustment be made to the utility's pro forma salaries and wages, pensions and benefits, and payroll taxes?

Recommendation: Yes. Lake Placid's salaries and wages should be decreased by \$705 for water and \$749 for wastewater. Accordingly, pensions and benefits should be reduced by \$48 for water and \$52 for wastewater, respectively, and payroll taxes should be reduced by \$78 and \$96 for water and wastewater, respectively.

Issue 14: Should additional adjustments be made to Taxes Other Than Income?

Recommendation: Yes. Taxes Other Than Income (TOTI) should be increased by \$931 and \$1,451 for water and wastewater, respectively to reflect the appropriate amount of test year regulatory assessment fees (RAFs).

Issue 15: What is the appropriate amount of rate case expense?

Recommendation: The appropriate rate case expense is zero for water and \$12,000 for wastewater. This expense should be recovered over four years for an annual expense of \$3,000 for wastewater. Thus rate case expense should be reduced by \$57,755 for water and \$61,506 for wastewater.

Issue 16: What is the test year operating income?

Recommendation: Based on the adjustments discussed in previous issues, the test year operating income before any provision for increased revenues is \$11,282 and \$8,382 for water and wastewater, respectively.

Issue 17: What are the appropriate revenue requirements for water and wastewater?

Recommendation: The following revenue requirement should be approved.

	<u>Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$47,204	\$969	\$48,172	2.05%
Wastewater	\$90,765	(\$3,403)	\$87,361	(3.75%)

ITEM NO.

CASE

26**PAA

Docket No. 060260-WS – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc.

(Continued from previous page)

Issue 18: What are the appropriate rate structures for the water and wastewater systems?

Recommendation: The appropriate rate structure for the water system is a continuation of the current base facility charge (BFC)/uniform gallonage charge rate structure. The residential wastewater-only flat rate structure should be discontinued and replaced with the BFC/gallonage charge rate structure. The BFC/gallonage charge rate structure should be continued for the remaining wastewater customers. The multi-residential gallonage charge rate should be set at an amount equal to the general service gallonage charge rate.

Issue 19: What are the appropriate rates for monthly service for the water and wastewater systems?

Recommendation: The appropriate water and wastewater rates are indicated in Schedules Nos. 4-A and 4-B of staff's February 1, 2007, memorandum.

Issue 20: 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 wastewater rates should be reduced as shown on Schedule No. 4-A of staff's February 1, 2007, memorandum to remove \$3,000 of rate case expense, grossed up for regulatory assessment fees, which is being amortized over a four-year period. The decrease in water 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.

Issue 21: Should the utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

Recommendation: Yes. The utility should be authorized to revise its miscellaneous service charges. The appropriate charges are reflected in the analysis portion of staff's February 1, 2007, memorandum. The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

ITEM NO.

CASE

26**PAA

Docket No. 060260-WS – Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities, Inc.

(Continued from previous page)

Issue 22: Should the utility be required to provide proof that it has adjusted its books for all Commission-approved adjustments?

Recommendation: Yes. To ensure that the utility adjusts its books in accordance with the Commission's decision, Lake Placid should provide proof, within 90 days of the issuance of the Consummating Order, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Issue 23: Should this docket be closed?

Recommendation: No. If no timely protest is filed by a substantially affected person within 21 days of the Proposed Agency Action Order, a Consummating Order should be issued and the corporate undertaking released. However, the docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

27**PAA

Docket No. 060258-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.

Critical Date(s): 02/13/07 (5-month effective date - PAA Rate Case)

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending

Staff: ECR: Fletcher, Kyle, Lingo, Rendell, Rieger, Springer

GCL: Brubaker

(All issues proposed agency action except issues 25, 27 and 28.)

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

Recommendation: Yes. The utility's overall quality of service is satisfactory.

Issue 2: Should the audit rate base, net operating income, and capital structure adjustments to which the utility agrees be made?

Recommendation: Yes. Based on audit adjustments agreed to by the utility and staff, plant should be decreased by \$413,782 for water and by \$275,180 for wastewater; land should be decreased by \$6,800 for water; accumulated depreciation should be decreased by \$90,243 for water and by \$59,654 for wastewater; contributions in aid of construction (CIAC) should be decreased by \$582,949 for water and \$698,756 for wastewater; accumulated amortization of CIAC should be decreased by \$374,213 for water and \$387,964 for wastewater; working capital should be increased by \$125,309 for water and \$58,819 for wastewater; net depreciation expense should be increased by \$29,818 for water and \$46,276 for wastewater; operation and maintenance (O&M) expenses should be decreased by \$50,005 for water and \$240 for wastewater; taxes other than income taxes (TOTI) should be increased by \$3,289 for water and increased by \$4,112 for wastewater; short-term debt should be decreased by \$119,308; common equity should be increased by \$3,093,004; long-term debt rate should be decreased by 7 basis points; and, finally, short-term debt rate should be increased by 13 basis points.

Issue 3: What are the appropriate Water Service Corporation (WSC) and Utilities, Inc. of Florida (UIF) rate base allocations for Sanlando?

Recommendation: The appropriate WSC net rate base allocation for Sanlando is \$75,478 for water and \$57,717 for wastewater. This represents an increase of \$13,600 and \$9,020 for water and wastewater, respectively. WSC depreciation expense should also be reduced by \$405 and \$310, for water and wastewater, respectively. Further, the appropriate UIF rate base allocation for Sanlando is \$106,848 for water and \$99,862 for wastewater. This represents water plant and accumulated depreciation decreases of \$92,400 and \$42,630, respectively, and wastewater plant and accumulated depreciation increases of \$48,065 and \$28,161, respectively. In addition, depreciation expense should be increased by \$3,100 for water and \$1,883 for wastewater.

ITEM NO.

CASE

27**PAA

Docket No. 060258-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.

(Continued from previous page)

Issue 4: What is the appropriate land balance for the utility's water system?

Recommendation: The appropriate land balance for the utility's water system is \$90,312. As such, land should be reduced by \$26,660 to remove the land sold by Sanlando. Further, Sanlando should be required to amortize the \$18,405 gain on sale of land over five years which represents an annual amortization of \$3,681.

Issue 5: Should adjustments be made to the utility's pro forma plant additions?

Recommendation: Yes. Plant should be increased by \$414,721 for water and decreased by \$125,609 for wastewater, and accumulated depreciation should be decreased by \$73,655 for water and \$26,294 for wastewater. In addition, net depreciation expense should be increased by \$20,761 for water and decreased by \$10,598 for wastewater.

Issue 6: What are the used and useful percentages of the utility's reuse and wastewater systems?

Recommendation: Sanlando's water treatment plants are 100% used and useful, the wastewater treatment plants are 100% used and useful, and the water distribution and wastewater collection systems are 100% used and useful as reflected in Attachment A of staff's February 1, 2007, memorandum.

Issue 7: What is the appropriate working capital allowance?

Recommendation: The appropriate working capital allowance is \$295,976 for water and \$431,745 for wastewater. As such, working capital should be increased by \$55,481 for water and \$80,931 for wastewater.

Issue 8: What is the appropriate rate base for the December 31, 2005, test year?

Recommendation: Consistent with other recommended adjustments, the appropriate 13-month average rate base for the test year ending December 31, 2005, is \$4,011,116 for water and \$9,695,430 for wastewater.

Issue 9: What is the appropriate return on common equity?

Recommendation: The appropriate return on common equity is 11.46% based on the Commission leverage formula currently in effect. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

Issue 10: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2005?

Recommendation: The appropriate weighted average cost of capital for the test year ended December 31, 2005, is 8.36%.

ITEM NO.

CASE

27**PAA

Docket No. 060258-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.

(Continued from previous page)

Issue 11: Should a pro forma miscellaneous adjustment be made to test year revenues?

Recommendation: Yes. Using the incremental increase from the recommended charges addressed in Issue 23 and the historical reconnections and premise visits, miscellaneous service revenues of \$1,565 should be imputed equally among water and wastewater (\$783 each for water and wastewater). Accordingly, water and wastewater regulatory assessment fees (RAFs) should both be increased by \$35.

Issue 12: What is the appropriate amount of allocated WSC and UIF expenses for Sanlando?

Recommendation: Based on the above audit adjustments and the ERC-only methodology, the appropriate WSC O&M expenses and taxes other than income for Sanlando are \$399,125 and \$18,383, respectively. As such, water and wastewater O&M expenses should be decreased by \$14,217 and \$10,871, respectively, and water and wastewater taxes other than income should be increased by \$4,979 and \$3,808, respectively. Further, the appropriate UIF O&M expenses for Sanlando are \$21,290 for water and \$16,281 for wastewater. As such, water and wastewater O&M expense should be decreased by \$498 and \$381, respectively.

Issue 13: Should an adjustment be made to the utility's pro forma salaries and wages, pensions and benefits, and payroll taxes?

Recommendation: Yes. Sanlando's salaries and wages should be decreased by \$43,936 for water and \$22,352 for wastewater. Accordingly, pensions and benefits should be reduced by \$26 for water and increased by \$120 for wastewater, respectively, and payroll taxes should be reduced by \$2,357 and \$1,803 for water and wastewater, respectively.

Issue 14: What is the appropriate amount of rate case expense?

Recommendation: The appropriate rate case expense is \$155,900. This expense should be recovered over four years for an annual expense of \$38,975. Thus, rate case expense should be decreased by \$1,761 and \$1,848 for water and wastewater, respectively.

Issue 15: Should an adjustment be made to the utility's pro forma amortization expenses?

Recommendation: Yes. The water and wastewater amortization expenses should be reduced by \$6,600 and \$24,600, respectively. Further, the wastewater O&M expense should be increased by \$32,862.

Issue 16: Should any adjustments be made to property taxes?

Recommendation: Yes. In order to reflect a corresponding increase in property taxes as a result of the recommended pro forma net plant additions, property taxes should be increased by \$18,339 for water and \$13,950 for wastewater.

ITEM NO.

CASE

27**PAA

Docket No. 060258-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.

(Continued from previous page)

Issue 17: What is the test year pre-repression water and wastewater operating income before any revenue increase?

Recommendation: Based on the adjustments discussed in previous issues, staff recommends that the test year pre-repression water operating income before any provision for increased or decreased revenues should be \$94,186 for water and \$414,413 for wastewater.

Issue 18: What is the appropriate pre-repression revenue requirement for the December 31, 2005, test year?

Recommendation: The following pre-repression revenue requirement should be approved.

	<u>Test</u>		<u>Revenue</u>	
	<u>Year Revenues</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
Water	\$2,086,740	\$404,581	\$2,491,321	19.39%
Wastewater	\$3,332,467	\$664,394	\$3,996,861	19.94%

Issue 19: What are the appropriate rate structures for the utility's water and wastewater systems?

Recommendation: The appropriate rate structure for the water system's residential class is a change to a two-tier inclining-block rate structure. The appropriate usage blocks are 0-10 kgal/month in the first usage block, and in excess of 10 kgal/month in the second usage block. The appropriate rate factors are 1.0 and 2.0 respectively. The appropriate rate structure for the water system's nonresidential classes is a continuation of its base facility charge (BFC)/uniform gallonage charge rate structure. The BFC cost recovery percentage for the water system should be set at 30.3%. The entire water system revenue increase should be applied to the gallonage charge. In addition, \$500,000 of the wastewater system revenue requirement associated with the reuse facilities should be reallocated to the water system's gallonage charge. The appropriate rate structure for the wastewater system is a continuation of the BFC/gallonage charge rate structure. The residential wastewater monthly gallonage cap should be set at 10 kgal. The wastewater rates prior to filing should receive an across the board percentage increase of 4.9%.

ITEM NO.

CASE

27**PAA

Docket No. 060258-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.

(Continued from previous page)

Issue 20: Are repression adjustments appropriate in this case, and, if so, what are the appropriate adjustments to make for this utility, what are the corresponding expense adjustments to make and what are the final revenue requirements for respective water and wastewater systems

Recommendation: Yes, a repression adjustment to the water system is appropriate for this utility. For the water system, test year kgal sold should be reduced by 176,292 kgal to 2,018,839 kgal, purchased power expense should be reduced by \$32,727, chemicals expenses should be reduced by \$5,415 and RAFs should be reduced by \$1,797. The final post-repression revenue requirement for the water system should be \$2,939,855. Staff recommends no repression adjustment to the wastewater system because it is immaterial. The final revenue requirement for the wastewater system should be \$3,496,864.

In order to monitor the effect of the rate structure and rate changes, 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, usage block, and meter size. The reports should be filed with staff, on a quarterly basis, for a period of two years beginning with 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 21: What are the appropriate monthly rates for the water and wastewater systems for the utility?

Recommendation: The appropriate monthly water rates are shown on Schedule No. 4-A of staff's February 1, 2007, memorandum. The appropriate wastewater monthly rates are shown on Schedule No. 4-B of staff's February 1, 2007, memorandum. Excluding miscellaneous service charges, the recommended water rates produce revenues of \$2,939,855. Excluding miscellaneous service charges, the recommended wastewater rates produce revenues of \$3,496,864. The utility should file revised water and wastewater tariff sheets and a proposed customer notice to reflect the Commission-approved rates for the water and wastewater systems. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice. 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

27**PAA

Docket No. 060258-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.

(Continued from previous page)

Issue 22: What are the appropriate reuse rates for this utility?

Recommendation: No rate should be established for the utility's large reuse end-users at this time. Sanlando should be encouraged to begin negotiating with its large reuse end-users regarding charging for this service in the future. Within twelve months of the effective date of the final order in this docket, the utility should submit a report outlining the results of its negotiations with its large reuse end-users and provide a copy of all corresponding related to those negotiations. A residential reuse base facility charge of \$3.65 and a gallonage charge of \$0.39 per thousand gallons should be approved for this utility. The utility should file tariff sheets which are consistent with the Commission's decision within 30 days from the Commission's vote. The tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C.

Issue 23: Should the utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

Recommendation: Yes. The utility should be authorized to revise its miscellaneous service charges. The appropriate charges are reflected in the analysis portion of staff's February 1, 2007, memorandum. The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

Issue 24: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund if any?

Recommendation: The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenues granted. Based on this calculation, no refund is required. Further, upon issuance of the Consummating Order in this docket, the corporate undertaking should be released.

ITEM NO.

CASE

27**PAA

Docket No. 060258-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.

(Continued from previous page)

Issue 25: What is the appropriate amount by which rates should be reduced four years after established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

Recommendation: The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B of staff's February 1, 2007, memorandum to remove \$23,126 of water rate case expense and \$17,685 of wastewater rate case expense (grossed up for regulatory assessment fees). The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than 30 days prior to the actual date of the required rate reduction. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-40.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 26: What are the appropriate meter installation fees for the utility's water and reuse customers?

Recommendation: Sanlando should be authorized to collect water and reuse meter installation fees of \$150 for a 5/8"x3/4" meter and actual cost for meters greater than 5/8"x3/4". The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

Issue 27: Should the utility be required to show cause, in writing within 21 days, why it should not be fined for its apparent violation of Rule 25-30.116(1)(d)5., F.A.C.?

Recommendation: Yes. Sanlando Utilities, Corp. 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 Rule 25-30.116(1)(d)5., F.A.C. The order to show cause should incorporate the conditions stated in the analysis portion of staff's February 1, 2007, memorandum.

ITEM NO.

CASE

27**PAA

Docket No. 060258-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.

(Continued from previous page)

Issue 28: 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, Sanlando 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 29: Should this docket be closed?

Recommendation: No. If no timely protest is filed by a substantially affected person within 21 days of the Proposed Agency Action Order, a Consummating Order should be issued and the corporate undertaking released. However, the docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

28**PAA

Docket No. 020640-SU – Application for certificate to provide wastewater service in Lee County by Gistro, Inc. (Deferred from April 4, 2006, conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Brady, Redemann

GCL: Gervasi

(Proposed agency action for Issues 3 and 4.)

~~**(All issues proposed agency action except Issues 3 and 4.)**~~

Issue 1: Should the Commission acknowledge Gistro, Inc.'s Notice of Withdrawal of its application for a wastewater certificate?

Recommendation: No. The Commission should decline to acknowledge the notice of withdrawal and should proceed with a ruling on the merits of the application as set forth in Issues 2 through 5 of staff's February 1, 2007, recommendation. If the Commission disagrees, Issues 2 through 5 need not be ruled upon and the docket should be closed in Issue 6.

Issue 2: If the Commission declines to acknowledge Gistro, Inc.'s Notice of Withdrawal, should Gistro, Inc.'s application for a wastewater certificate be granted?

Recommendation: Yes. Gistro, Inc. should be granted Certificate No. 541-S to serve the territory described in Attachment A of staff's February 1, 2007, memorandum. The effective date of the certificate should be the date of the Commission vote. The resultant order should serve as Gistro Inc.'s wastewater certificate and should be retained by the applicant as such. Within 45 days after the issuance of a final order granting a certificate, the applicant should be required to file an affidavit attesting that Gistro's books and records have been established and will be maintained pursuant to the NARUC uniform system of accounts. The affidavit should attest that the applicant is aware of his responsibility to timely file annual reports and remit regulatory assessment fees for 2007 and in all future years. The applicant should also be put on notice that, pursuant to Rule 25-30.225(9), Florida Administrative Code, each utility is required to inspect its plant and facilities in such a manner and with such frequency as may be necessary to ensure that the plant and facilities are maintained in proper condition for rendering safe and adequate service and that failure to do so may result in show cause proceedings.

ITEM NO.

CASE

28**PAA

Docket No. 020640-SU – Application for certificate to provide wastewater service in Lee County by Gistro, Inc. (Deferred from April 4, 2006, conference; revised recommendation filed.)

(Continued from previous page)

PAA Issue 3: If the Commission grants Gistro, Inc. a certificate of authorization, what is the appropriate initial wastewater service rate?

Recommendation: A quarterly wastewater service rate of \$19.18 per residential connection should be approved. The applicant should be required to charge the approved rate until authorized to change by the Commission in a subsequent proceeding. The applicant should be put on notice that he may not require persons wishing to connect to the collection system to purchase stock in Gistro. The applicant should also be put on notice that, pursuant to Section 367.111(1), Florida Statutes, the utility is required to provide service to its certificated area within a reasonable time and that the Commission will not tolerate the refusal of such service. Within 10 days from the date of the Commission vote, the applicant should file a proposed customer notice and a revised tariff reflecting its approved rates and charges for staff's review. The approved rates and charges should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision and the proposed customer notice is adequate. The utility should provide proof of the date the staff-approved notice was given within 10 days after the date of notice. A return on equity of 8.88% plus or minus 100 basis points should be approved.

PAA Issue 4: If the Commission grants Gistro, Inc. a certificate of authorization, what are the appropriate miscellaneous service charges?

Recommendation: The Commission's standard miscellaneous wastewater services charges, as described in the analysis portion of staff's February 1, 2007, memorandum, should be approved. In addition, a \$5.00 late payment charge is reasonable and should be approved. These charges should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code, and should be included in the notice described in Issue 3.

ITEM NO.

CASE

28**PAA

Docket No. 020640-SU – Application for certificate to provide wastewater service in Lee County by Gistro, Inc. (Deferred from April 4, 2006, conference; revised recommendation filed.)

(Continued from previous page)

Issue 5: If the Commission grants Gistro, Inc. a certificate of authorization, should the approved rates be implemented on a temporary basis, subject to refund with interest, in the event of a protest?

Recommendation: Yes. In the event of a protest, the applicant should be authorized to implement the approved rates on a temporary basis, subject to refund, pending the final outcome of this proceeding. Should the final rates be lower than the temporary rates, the applicant should be required to refund the difference, with interest, pursuant to Rule 25-30.360, Florida Administrative Code. Prior to the implementation of any temporary rates, the applicant should be required to provide evidence of security as described in the analysis portion of staff's February 1, 2007, memorandum. In addition, after the temporary rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the applicant should file monthly reports no later than the 20th of each month indicating the monthly and total amount of money that was subject to refund at the end of the preceding month until the final order is issued. The monthly reports should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 6: Should this docket be closed?

Recommendation: If the Commission acknowledges the applicant's Notice of Withdrawal in Issue 1, no further action is necessary and the docket should be closed. If the Commission declines to acknowledge the applicant's Notice of Withdrawal, grants a certificate of authorization, sets initial rates and charges and no timely protest is received to the proposed agency action issues, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of a proposed notice reflecting the applicant's approved rates, a statement confirming that the notice has been given, a revised tariff, and an affidavit attesting that the books and records for Gistro have been established pursuant to the NARUC uniform system of accounts, and that the applicant is aware of his responsibility to timely file annual reports and remit RAFs for 2007 and in all future years. Upon receipt and verification of such documents, the docket should be administratively closed. If a timely protest to a proposed agency action issue is filed by a person whose interests are substantially affected, the docket should remain open in order to proceed to hearing.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

29**

Docket No. 060601-WS – Application for certificates to provide water and wastewater service in Okeechobee County by Grove Utilities, Inc.

Critical Date(s): 04/02/07 (Statutory deadline for original certificate, pursuant to Section 367.031, Florida Statutes.)

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending

Staff: ECR: Brady, Redemann

GCL: Jaeger

Issue 1: Should the application by Grove Utilities, Inc. for water and wastewater certificates be granted?

Recommendation: Yes. Grove Utilities, Inc. should be granted Certificate Nos. 633-W and 542-S to serve the territory described in Attachment A of staff's February 1, 2007, memorandum. The effective date should be the date of the Commission vote. The resultant order should serve as Grove Utilities, Inc.'s water and wastewater certificates and should be retained by the utility as such. Beginning in January of 2008, the utility should be required to file a report in the docket indicating the status of its development plan. This requirement should continue annually thereafter until the information on rates and charges is filed.

Recommendation: No. The docket should remain open pending the filing of the information necessary to establish rates and charges, as well as the proof of ownership of the land under the proposed utility facilities, and the Commission's subsequent decision on the appropriate rates and charges.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

30**

Docket No. 060703-WS – Application for transfer of Certificate Nos. 542-W and 470-S in Putnam County from St. John's River Club, L.L.C. to St. John's River Club Utility Company, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending

Staff: ECR: Johnson

GCL: Gervasi

Issue 1: Should the Commission approve the transfer of facilities and Certificate Nos. 542-W and 470-S from St. John's River Club, L.L.C. to St. John's River Club Utility Company, L.L.C.?

Recommendation: Yes. The transfer of facilities and Certificate Nos. 542-W and 470-S from St. John's River Club, L.L.C. to St. John's River Club Utility Company, L.L.C. is in the public interest and should be approved. The effective date of the transfer is the date of closing. In addition, St. John's River Club, L.L.C. will be responsible for the payment of all Regulatory Assessment Fees (RAFs) due for revenues received from January 1, 2006, through the date of closing and for filing the 2006 annual report. St. John's River Club Utility Company, L.L.C. will be responsible for the payment of all RAFs and filing annual reports thereafter. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets. The subsequent order will serve as the utility's water and wastewater certificates and should be retained by the utility. Within 30 days of the order approving the transfer, the utility should provide a copy of the recorded lease and proof of the closing. A description of the territory being transferred is appended to staff's February 1, 2007, recommendation as Attachment A.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open until staff receives proof of the executed purchase agreement confirming the closing and a copy of the recorded lease agreement. The docket should be closed administratively upon receipt of the executed purchase agreement and the recorded lease.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew

ITEM NO.

CASE

31**

Docket No. 060820-WS – Application for transfer of majority organizational control and Certificate Nos. 611-W and 527-S of MSM Utilities, LLC in Charlotte County to Sun River Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending

Staff: ECR: Clapp, Marsh, Walden
GCL: Brown

Issue 1: Should the transfer of majority organizational control be approved?

Recommendation: Yes. The transfer of majority organizational control of MSM Utilities, LLC to Sun River Utilities, Inc. is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as the utility's water and wastewater certificates and should be retained by the utility. MSM should remain responsible for all regulatory assessment fees and annual reports for 2006 and the future. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

Issue 2: Should this docket be closed?

Recommendation: Yes, because no further action is necessary, this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga,~~ Carter, Tew

ITEM NO.

CASE

32**PAA

Docket No. 060754-WS – Request for waiver of 2005 annual report penalty for Ferncrest Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: ECR: Kaproth
GCL: Jaeger

Issue 1: Should the Commission impose penalties on Ferncrest Utilities, Inc. for its failure to timely file its 2005 Annual Report?

Recommendation: No. Because the utility has demonstrated good cause for noncompliance, the penalty set out in Rule 25-30.110(7), F.A.C., should not be assessed.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no protest to this proposed agency action is filed by a person whose interests are substantially affected within 21 days of the Order arising from this recommendation, the docket should be closed upon the issuance of a Consummating Order. If a timely protest to the proposed agency action is filed by a person whose substantial interests are affected within 21 days of the Commission Order, the docket should remain open pending the resolution of the protest.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, ~~Deason, Arriaga~~, Carter, Tew