

MINUTES OF June 29, 2010
COMMISSION CONFERENCE
COMMENCED: 9:35 am
ADJOURNED: 10:17 am

COMMISSIONERS PARTICIPATING: Chairman Argenziano
Commissioner Edgar
Commissioner Skop

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

1 **Approval of Minutes**
 May 18, 2010 Regular Commission Conference
 May 27, 2010 Special Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

2**

Consent Agenda

PAA

A) Applications for Certificates to Provide Competitive Local Exchange Telecommunications Service.

DOCKET NO.

COMPANY NAME

100273-TX

Global Capacity Direct, LLC

100309-TX

XYN Communications of Florida, LLC

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

DECISION: The recommendation was approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

3**PAA

Docket No. 090499-EQ – Petition for approval of letter agreement to negotiated purchase power contract with Pinellas County Resource Recovery by Progress Energy Florida, Inc. (Deferred by staff prior to being placed on the March 16, 2010 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: RAD: Garl, Gilbert

GCL: Williams

Issue 1: Should the Commission approve PEF’s petition to modify its current purchased power agreement with the Pinellas County Resource Recovery (PCRR) facility?

Recommendation: Yes. The proposed change to the purchased power agreement did not impact PEF’s system reliability and saved PEF customers over \$2.6 million.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

4**

Docket No. 100043-EQ – Petition for approval of revisions to tariff interconnection agreements by Tampa Electric Company.

Critical Date(s): 09/21/10 (8 month effective date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Gilbert

GCL: Brown

Issue 1: Should the Commission approve the revisions submitted by Tampa Electric Company amending its non-export parallel operators and customer-owned renewable generation standard interconnection agreements.

Recommendation: Yes. The proposed revisions to TECO's tariff and standard interconnection agreements will promote the use of alternative and renewable generation by allowing customers an additional method with which to indemnify and insure their equipment.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 100043-EQ should be closed upon issuance of a Consummating Order, and the tariff should become effective on June 15, 2010. If a protest is filed within 21 days of the issuance of the Commission's order, the tariff should remain in effect pending resolution of the protest. Potential signatories to the tariff should be aware that TECO's tariff may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

5**PAA

Docket No. 100180-TP – Petition for approval of indirect transfer of controlling stock interest in ITS Telecommunications Systems, Inc., from the trustees of the Robert M. Post marital trust to Jeffrey S. Leslie, cancellation of PATS Certificate No. 7551, and waiver of carrier selection requirements.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Curry

ECR: Buys

GCL: Brooks

Issue 1: Should the Commission approve ITS Telecommunications Systems, Inc.'s petition for approval of indirect transfer of controlling stock interest in ITS Telecommunications Systems, Inc., from the trustees of the Robert M. Post Marital Trust to Jeffrey S. Leslie, cancellation of PATS Certificate No. 7551, and acknowledge that a waiver of Rule 25-4.118, Florida Administrative Code, is not required?

Recommendation: Yes, the Commission should approve ITS Telecommunications Systems, Inc.'s petition for approval of indirect transfer of controlling stock interest in ITS Telecommunications Systems, Inc., from the trustees of the Robert M. Post Marital Trust to Jeffrey S. Leslie, cancellation of PATS Certificate No. 7551, and acknowledge that a waiver of Rule 25-4.118, Florida Administrative Code, is not required.

Issue 2: Should this docket be closed?

Recommendation: 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, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. If the Commission's Order is not protested, this docket should be closed administratively upon notification by the company that indirect transfer of controlling stock interest either has or has not been consummated.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

6**PAA

Docket No. 090319-EI – Depreciation and dismantlement study at December 31, 2009, by Gulf Power Company. (Deferred from the May 18, 2010 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: P. Lee, Davis, L'Amoreaux, Maurey, Ollila, Springer

GCL: Fleming

Issue 1: Should Gulf's current depreciation rates, amortization and capital recovery schedules, and provision for dismantlement be changed?

Recommendation: Yes. A review of the Company's planning and activity indicates the need for revising its depreciation rates, amortization and capital recovery schedules, and provision for dismantlement.

Issue 2: What should be the implementation date for the recommended depreciation rates, amortization and capital recovery schedules, and dismantlement provision?

Recommendation: Staff recommends approval of the Company's proposed January 1, 2010 date of implementation for the new depreciation rates, amortization and capital recovery schedules, and dismantlement provision.

Issue 3: What, if any, capital recovery schedules should be approved?

Recommendation: Staff recommends approval of the capital recovery schedules shown in Attachment A of staff's memorandum dated June 17, 2010, on page 22. These schedules address the recovery of near-term unrecovered retiring investments. The designated recovery periods closely match the remaining period the related assets will provide service to the public. The investments and associated reserves, including any reserve allocations addressed in Issue 4, should be withdrawn from their parent accounts and placed in separate subaccounts or categories. Monthly expenses for each schedule should be determined by dividing the net plant for each month by the planned remaining months in service. This mechanism will adjust for any shifts in plans or unexpected salvage. The annual expense impact over the four-year period covered by the recovery schedules would be zero dollars due to the recommended reserve allocations discussed in Issue 4.

Issue 4: What, if any, corrective reserve allocations should be made?

Recommendation: Staff recommends the corrective reserve allocations shown in Attachment B of staff's memorandum dated June 17, 2010, on page 23, to correct the quantified reserve imbalances.

ITEM NO.

CASE

6**PAA

Docket No. 090319-EI – Depreciation and dismantlement study at December 31, 2009, by Gulf Power Company. (Deferred from the May 18, 2010 Commission Conference, revised recommendation filed.)

(Continued from previous page)

Issue 5: What are the appropriate depreciation rates and amortization schedules?

Recommendation: Staff's recommended lives, net salvage values, reserves, and resultant depreciation rates are shown in Attachment C of staff's memorandum dated June 17, 2010, on pages 24-25. The rates, based on actual January 1, 2010 investments, would result in annual expenses of approximately \$111.6 million as summarized in Attachment D, on pages 26-27. This represents an increase of approximately \$2.4 million compared to the effect from rates currently ordered. Excluding Plant Scherer, recommended depreciation rates result in annual expenses of approximately \$106.9 million, or an increase of approximately \$2.1 million compared to current approved depreciation rates.

Issue 6: What is the appropriate annual accrual for dismantlement?

Recommendation: Staff recommends an annual provision for dismantlement of \$9,591,938 (system), beginning January 1, 2010, as shown in Attachment E of staff's memorandum dated June 17, 2010, on page 28. This represents an increase of \$4,352,695 over the current approved annual accrual. The recommended accrual includes \$98,878 associated with unit power sale (UPS) contracts related to Scherer Unit 3.

Issue 7: Should the current amortization of investment tax credits (ITCs) and flow back of excess deferred income taxes (EDITs) be revised to reflect the approved depreciation rates, amortizations, and capital recovery schedules?

Recommendation: Yes. The current amortization of ITCs and the flowback of EDITs should be revised to match the actual recovery periods for the related property. The utility should file detailed calculations of the revised ITC amortization and flowback of EDITs at the same time it files its surveillance report covering the period ending December 31, 2010.

Issue 8: 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: Argenziano, Edgar, Skop

ITEM NO.

CASE

7**PAA

Docket No. 090447-WS – Application for staff-assisted rate case in Seminole County by CWS Communities d/b/a Palm Valley Utilities.

Critical Date(s): 03/11/11 (15-Month Effective Date (SARC))

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Hudson, Bruce, Daniel, Fletcher, Maurey, Simpson, Stallcup
GCL: Bennett

(Proposed Agency Action Except for Issues 11, 12, and 13)

Issue 1: Is the quality of service provided by Palm Valley satisfactory?

Recommendation: Yes, the quality of service provided by Palm Valley is satisfactory.

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

Recommendation: The Palm Valley water treatment plant (WTP) should be considered 78 percent used and useful (U&U). The wastewater treatment plant (WWTP) should be considered 81 percent U&U. The distribution system, the two storage tanks, the collection system, and the reuse facilities should be considered 100 percent U&U. In addition, staff recommends that chemicals and electricity for the water system be adjusted by 3 percent to recognize excessive unaccounted for water (UFW), and chemicals and electricity for the wastewater system be adjusted by 9 percent to recognize excessive I&I.

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

Recommendation: The appropriate average test year rate base for the Utility is \$622,337 for water and \$1,468,447 for wastewater.

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

Recommendation: The appropriate return on equity (ROE) is 11.22 percent with a range of 10.22–12.22 percent. The appropriate overall rate of return is 7.84 percent.

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

Recommendation: The appropriate test year revenue for this Utility is \$163,648 for water and \$234,130 for wastewater.

Issue 6: What are the appropriate operating expenses?

Recommendation: The appropriate amount of operating expense for the Utility is \$128,408 for water and \$457,928 for wastewater.

ITEM NO.

CASE

7**PAA

Docket No. 090447-WS – Application for staff-assisted rate case in Seminole County by CWS Communities d/b/a Palm Valley Utilities.

(Continued from previous page)

Issue 7: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$177,200 for water and \$573,054 for wastewater.

Issue 8: 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 and non-residential class is a continuation of the monthly base facility charge (BFC)/uniform gallonage charge rate structure. The water system’s BFC cost recovery should be set at 56 percent. The appropriate rate structure for the wastewater system’s residential and non-residential class is a monthly BFC/uniform gallonage. The non-residential 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 percent. The residential wastewater cap should remain set at 6,000 gallons (6 kgals). Also, staff recommends that the current reuse rate structure and rates remain unchanged.

Issue 9: Is a repression adjustment appropriate in this case, and if so, what are the appropriate adjustments to make for this Utility? What are the appropriate corresponding expense adjustments to make, and what are the final revenue requirements for the respective water and wastewater systems?

Recommendation: No, a repression adjustment is not appropriate for this Utility. However, in order to monitor the effects resulting from the changes in revenues, the Utility should prepare monthly reports for the water system, detailing the number of bills rendered, the consumption billed and revenues billed. In addition, the reports should be prepared by customer class and meter size. The reports should be filed with staff, on a semi-annual basis, for a period of two years beginning the first billing period after the approved rates go into effect. To the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility should be ordered to file a revised monthly report for that month within 30 days of any revision.

ITEM NO.

CASE

7**PAA

Docket No. 090447-WS – Application for staff-assisted rate case in Seminole County by CWS Communities d/b/a Palm Valley Utilities.

(Continued from previous page)

Issue 10: What are the appropriate rates for this Utility?

Recommendation: The appropriate monthly water and wastewater rates are shown on Schedules Nos. 4-A and 4-B of staff’s memorandum dated June 17, 2010, respectively. The recommended rates should be designed to produce revenue \$177,200 for water and \$559,152 for wastewater, excluding miscellaneous service charges. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 11: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

Recommendation: The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B of staff’s memorandum dated June 17, 2010, 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. Palm Valley should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

ITEM NO.

CASE

7**PAA

Docket No. 090447-WS – Application for staff-assisted rate case in Seminole County by CWS Communities d/b/a Palm Valley Utilities.

(Continued from previous page)

Issue 12: Should the recommended rates be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than Palm Valley?

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, Palm Valley should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum dated June 17, 2010. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., Palm Valley 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 13: 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 National Association of Regulatory Utility Commissioners Uniform System of Accounts (NARUC USOA) primary accounts associated with the Commission-approved adjustments?

Recommendation: Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, Palm Valley 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 14: Should this docket be closed?

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

DECISION: This item was deferred to the August 3, 2010, Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

8

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

Critical Date(s): None

Commissioners Assigned: Argenziano, Edgar, Skop
Prehearing Officer: Administrative

Staff: GCL: J. Crawford
RAD: Brown

(Oral argument not requested; participation is at Commission's discretion)

Issue 1: Should US Funding Group, LLC's Motion for Reconsideration be granted?

Recommendation: Yes. Funding Group should be given leave to file an amended protest of Order No. PSC-09-0852-PAA-EQ within fifteen days of the date the order on reconsideration issues. If filed, the amended protest should comport with the requirements of Rule 28-106.201, F.A.C., and should conclusively show why Funding Group has standing.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open to permit US Funding Group, LLC to file an amended protest of Order No. PSC-09-0852-PAA-EQ. If US Funding Group, LLC does not timely file an amended protest, the docket should be closed.

DECISION: The recommendations were approved. Commissioner Skop dissented.

Commissioners participating: Argenziano, Edgar, Skop