

MINUTES OF July 14, 2009
COMMISSION CONFERENCE
COMMENCED: 9:38 am
RECESSED: 11:06 am
RECONVENED: 11:19 am
RECESSED: 12:01 pm
RECONVENED: 12:09 pm
ADJOURNED: 12:29 pm

COMMISSIONERS PARTICIPATING: Chairman Carter
Commissioner Edgar
Commissioner McMurrin
Commissioner Argenziano (via telephone)
Commissioner Skop

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

1

Approval of Minutes
June 2, 2009 Regular Commission Conference

DECISION: The minutes were approved.

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

ITEM NO.

CASE

2**

Consent Agenda

PAA

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

DOCKET NO.

COMPANY NAME

090316-TX

Absolute Home Phones, Inc.

090326-TX

Public Wireless, Inc.

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

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3

Docket No. 080631-TP – Petition for Commission to intervene, investigate and mediate dispute between DSL Internet Corporation d/b/a DSLi and BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Murphy

RCP: King

(Oral Argument Not Requested)

Issue 1: Should the Commission grant AT&T's Partial Motion to Dismiss?

Recommendation: Yes. The Commission should grant AT&T's Partial Motion to Dismiss.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should not be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4**

Docket No. 070733-EI – Complaint No. 694187E by Cutrale Citrus Juices USA, Inc. against Tampa Electric Company for refusing to provide transformer ownership discount for electrical service provided through Minute Maid substation. (Deferred from the June 30, 2009 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: GCL: Klancke
ECR: Kummer

Issue 1: Should the Commission acknowledge Cutrale Citrus Juices USA, Inc.'s voluntary withdrawal of its petition, and if so, what effect does the withdrawal have on ~~Docket No. 070733-EI~~ Order No. PSC-08-0397-PAA-EI?

Recommendation: Yes, the Commission should acknowledge Cutrale's voluntary withdrawal of its complaint as a matter of right. The effect of the voluntary withdrawal is to divest the Commission of further jurisdiction over this matter, rendering Order No. PSC-08-0397-PAA-EI a nullity.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5**PAA

Docket No. 090083-GU – Complaint of Sun City Center Community Association, Inc. against Peoples Gas System for alleged improper billing.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: GCL: Jaeger

ECR: Kummer

SSC: Hicks

Issue 1: From August 2005 through to the present, was the Sun City Center Community Association, Inc., correctly billed, pursuant to the Residential Service (RS) tariff of the Peoples Gas System, or should it have been billed using the Commercial GS-2 Service tariff?

Recommendation: Because the service provided is in the nature of residential service, Sun City Center Community Association, Inc., was correctly billed, pursuant to the Residential Service rate tariff of Peoples Gas System in effect prior to the approval of new GS Service tariffs at the May 19, 2009, Agenda Conference.

Issue 2: Should Peoples Gas System be required to refund with interest the revenues collected from Sun City Center Community Association, Inc., from August 2005 to the present?

Recommendation: No. If the Commission agrees with staff's recommendation in Issue 1, the Company has used the appropriate tariff, and no refunds are required.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no substantially affected person files a protest within 21 days of the date of the Proposed Agency Action Order, this docket should be closed upon the issuance of a Consummating Order.

DECISION: This item was deferred to the September 15, 2009, Commission Conference.

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

ITEM NO.

CASE

6

Docket No. 080695-WU – Application for general rate increase by Peoples Water Service Company of Florida, Inc.

Critical Date(s): 60-Day Suspension Date - July 20, 2009

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RCP: Polk, Beard, Casey

ECR: Redemann, Daniel, Buys

GCL: Saylor

(Participation is at the Discretion of the Commission)

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

Recommendation: Yes. Peoples’ proposed water rates should be suspended.

Issue 2: Should an interim revenue increase be approved?

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

	Adjusted Test Year Revenues	\$ Increase	Revenue Requirement	% Increase
Water	\$3,066,128	\$284,028	\$3,350,156	9.26%

Issue 3: What are the appropriate interim water rates?

Recommendation: The water service rates for Peoples in effect as of December 31, 2008, should be increased by 9.65 percent to generate the recommended revenue increase for the interim period. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1)(a), F.A.C. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission’s decision, the proposed customer notice is adequate, and the required security discussed in Issue 4 has been filed. The Utility should provide proof of the date the customer notice was given within 10 days after the date of notice.

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

Recommendation: Peoples cannot support a corporate undertaking in the amount of \$165,852. The Utility should provide either an escrow agreement, a bond, or a letter of credit to guarantee the interim rates collected subject to refund. If the security provided is an escrow agreement, Peoples should deposit 9.26 percent of water revenues into the escrow account each month. If the security provided is a bond or letter of credit, said instrument should be in the amount of \$165,852. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

ITEM NO.

CASE

6

Docket No. 080695-WU – Application for general rate increase by Peoples Water Service Company of Florida, Inc.

(Continued from previous page)

Issue 5: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 090246-TP – Notice of adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Cbeyond Communications, LLC by Clective Telecom Florida, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Bates, Watts

GCL: McKay, Tan

Issue 1: Does AT&T have standing to request the cancellation of Clective's CLEC certificate?

Recommendation: No, AT&T does not have standing to request the cancellation of Clective's CLEC certificate.

Issue 2: Can Clective adopt the BellSouth/AT&T and Cbeyond Interconnection Agreement?

Recommendation: Yes, there is nothing precluding Clective from adoption of the BellSouth/AT&T and Cbeyond Interconnection Agreement, pursuant to 47 U.S.C. §252(i) and 47 C.F.R. §51.809. The parties should file an executed interconnection agreement within ten days after the Consummating Order is issued. The effective date of the agreement should be the date upon which Clective filed its Notice of Adoption, April 29, 2009.

Issue 3: Should this docket be closed?

Recommendation: No. 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, the order should become final and the docket should be closed upon issuance of a Consummating Order. ~~remain open. Upon filing of the parties executed interconnection agreement, this docket should be closed administratively. If the Commission denies staff's recommendation in Issue 2, the docket should remain open for additional Commission action.~~

DECISION: This item was deferred to the August 18, 2009, Commission Conference.

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

ITEM NO.

CASE

8**PAA

Docket No. 090325-TI – Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TK081, issued to USD CLEC, Inc., Effective June 5, 2009.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: McKay

Issue 1: Should the Commission grant USD CLEC, Inc., as listed in Attachment A of staff's memorandum dated July 1, 2009, cancellation of its IXC tariff and remove its name from the register with an effective date of June 5, 2009, due to bankruptcy; direct the Division of Administrative Services to request permission from the Florida Department of Financial Services to write off any unpaid Regulatory Assessment Fees, including statutory late payment charges, instead of requesting collection services; and require the company to immediately cease and desist providing telecommunications service in Florida?

Recommendation: Yes, the company should be granted a bankruptcy cancellation of its IXC tariff and Registration No. TK081 with an effective date of June 5, 2009.

Issue 2: Should this docket be closed?

Recommendation: Yes, this docket should be closed if no protest is filed and upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**PAA

Docket No. 090143-TC – Request for cancellation of PATS Certificate No. 5418 by John Palumbo d/b/a Duck's Back Enterprises, effective March 16, 2009.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: Brooks

Issue 1: Should the Commission vacate Order No. PSC-09-0353-PAA-TC, issued on May 26, 2009; cancel John Palumbo d/b/a Duck's Back Enterprises' pay telephone certificate on the Commission's own motion due to bankruptcy with an effective date of March 16, 2009; direct the Division of Administrative Services to request permission from the Florida Department of Financial Services to write off any unpaid Regulatory Assessment Fees, including statutory late payment charges, instead of requesting collection services; and require the company to immediately cease and desist providing telecommunications service in Florida?

Recommendation: Yes, Order No. PSC-09-0353-PAA-TC should be vacated and the company's pay telephone certificate should be cancelled on the Commission's own motion due to bankruptcy as listed on Attachment A of staff's memorandum dated July 1, 2009.

Issue 2: Should this docket be closed?

Recommendation: Yes, this docket should be closed if no protest is filed and upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**PAA

Docket No. 090331-TP – Bankruptcy cancellation by Florida Public Service Commission of CLEC Certificate No. 4682 and IXC Registration No. TI458, issued to Preferred Carrier Services, Inc. d/b/a Telefonos Para Todos and d/b/a Phones For All, effective June 11, 2009.

Docket No. 090332-TP – Bankruptcy cancellation by Florida Public Service Commission of CLEC Certificate No. 7607 and IXC Registration No. TJ419, issued to ServiSense.com, Inc., effective June 11, 2009.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: Morrow

Issue 1: Should the Commission cancel Preferred Carrier Services, Inc. d/b/a Telefonos Para Todos and d/b/a Phones For All and ServiSense.com, Inc.'s CLEC certificates and IXC tariffs and remove each company's name from the register on the Commission's own motion due to bankruptcy with an effective date of June 11, 2009; direct the Division of Administrative Services to request permission from the Florida Department of Financial Services to write off any unpaid Regulatory Assessment Fees, including statutory late payment charges, instead of requesting collection services; and require the companies to immediately cease and desist providing telecommunications service in Florida?

Recommendation: Yes, each entity's CLEC certificate and IXC tariff and registration should be cancelled on the Commission's own motion due to bankruptcy as listed on Attachment A of staff's memorandum dated July 1, 2009.

Issue 2: Should these dockets be closed?

Recommendation: Yes, these dockets should be closed if no protest is filed and upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

11**PAA

Docket No. 090333-TI – Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TJ477, issued to Long Distance Billing Services, Inc., effective June 11, 2009.

Docket No. 090334-TI – Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TK004, issued to ezTel Network Service, LLC, effective June 11, 2009.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: Morrow

Issue 1: Should the Commission cancel Long Distance Billing Services, Inc. and ezTel Network Service, LLC's Intrastate Interexchange Telecommunications (IXC) tariffs and remove each company's name from the register on its own motion effective June 11, 2009, due to bankruptcy; direct the Division of Administrative Services to request permission from the Florida Department of Financial Services to write off any unpaid Regulatory Assessment Fees, including statutory late payment charges, instead of requesting collection services; and require the company to immediately cease and desist providing telecommunications service in Florida?

Recommendation: Yes, each entity's IXC tariff and registration should be cancelled on the Commission's own motion as listed on Attachment A of staff's memorandum dated July 1, 2009.

Issue 2: Should these dockets be closed?

Recommendation: Yes, these dockets should be closed if no protest is filed and upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

12**PAA

Docket No. 090146-EQ – Petition by Tampa Electric Company for approval of extension of small power production agreement with City of Tampa.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: SGA: Matthews, Ellis

GCL: Brown

Issue 1: Should the Commission approve, for purposes of cost recovery, the proposed extension of a small power production agreement between Tampa Electric Company (TECO) and the City of Tampa?

Recommendation: Yes. Payments for capacity and energy are expected to result in a net present value savings to ratepayers of between \$8.6 million and \$15.6 million as compared to TECO's Standard Offer Contract using a 2012 combustion turbine as the avoided unit.

Issue 2: Should this docket be closed?

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

DECISION: This item was deferred to the August 18, 2009, Commission Conference.

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

ITEM NO.

CASE

13**PAA

Docket No. 090150-EQ – Petition for approval of a modification to existing negotiated renewable energy contract with Solid Waste Authority of Palm Beach County, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Lewis, Brown

ECR: Lester

GCL: Hartman

Issue 1: Should the Commission approve the modified negotiated renewable energy contract between Florida Power & Light Company and the Solid Waste Authority of Palm Beach County for the purchase of firm capacity and energy?

Recommendation: Yes. Payments for energy are expected to produce savings of between \$60.2 and \$72.4 million over the term of the contract. Upon a showing by FPL that expenses for purchased power under the negotiated renewable energy contract were reasonable and prudently incurred, FPL should be permitted to recover those costs through the fuel clause.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14**

Docket No. 090163-EQ – Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities or small qualifying facilities and approval of tariff schedule REF-1, by Gulf Power Company.

Critical Date(s): 12/01/09 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Sickel, Ellis

GCL: Hartman

Issue 1: Should the standard offer contract filed by Gulf Power Company be approved?

Recommendation: Yes. The standard offer contract and related tariff, as modified on May 29, 2009, complies with Rules 25-17.200 through 25-17.310, F.A.C., and should be approved.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by Gulf, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 090163-EQ should be closed, and the standard offer contracts and tariffs filed by Gulf should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that Gulf's tariffs and standard offer contracts 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: Carter, Edgar, McMurrian, Argenziano, Skop

ITEM NO.

CASE

15**PAA

Docket No. 090169-EI – Petition for approval of purchased power agreement between Gulf Power Company and Shell Energy North America (US), L.P., dated March 16, 2009.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: SGA: Garl, Marr

GCL: Brubaker, Williams

Issue 1: Should the petition submitted by Gulf, requesting approval of a purchased power agreement with Shell be approved?

Recommendation: Yes. Payments for capacity and energy are expected to yield over \$442 million in net present value savings to Gulf's ratepayers over the term of the contract when compared to Gulf's avoided unit. The performance security provisions in the agreement sufficiently protect ratepayers in the event of default.

Issue 2: Should Gulf be permitted to apply for recovery of costs to be incurred under the agreement and associated transmission delivery costs through Gulf's Purchased Power Capacity and Fuel and Purchased Power Cost Recovery Clauses?

Recommendation: Yes. Upon a showing by Gulf that expenses incurred under the agreement and associated transmission delivery costs are reasonable and prudently incurred, the company should be permitted to recover those costs through appropriate cost recovery clauses.

Issue 3: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

16**

Docket No. 090323-TP – Proposed repeal of telecommunications rate-of-return Rules 25-4.017, 25-4.0171, 25-4.0174, 25-4.0175, 25-4.0178, 25-4.0405, 25-4.135, 25-4.140, 25-4.141, 25-4.214, and 25-4.215, F.A.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Hewitt

RCP: Mailhot

GCL: Miller

Issue 1: Should the Commission propose the repeal of Rules 25-4.017, 25-4.0171, 25-4.0174, 25-4.0175, 25-4.0178, 25-4.0405, 25-4.135, 25-4.140, 25-4.141, 25-4.214, and 25-4.215?

Recommendation: Yes. The Commission should propose the repeal of the rules, as set forth in Attachment A of staff's memorandum dated July 1, 2009.

Issue 2: Should this docket be closed?

Recommendation: If no comments or requests for hearing are filed, the rule repeals as proposed by the Commission may be filed with the Department of State and the docket may then be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

17**

Docket No. 080317-EI – Petition for rate increase by Tampa Electric Company.

Critical Date(s): August 11, 2009 (12 month deadline for final agency action pursuant to Section 366.06(3), F.S.)

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Slemkewicz, Draper, Maurey

GCL: Young, Brown, Brubaker, Hartman

Oral Argument Requested on Intervenor’s Motion – Participation dependent upon Commissioners vote on Issue 1

Issue 1: Should the Commission grant the Intervenor’s Request for Oral Argument and TECO’s Conditional Request for Oral Argument?

Recommendation: Yes, the Commission should grant oral argument on the Intervenor’s Motion for Reconsideration, with fifteen minutes allotted to each side.

DECISION: The recommendation was approved.

Issue 2: Should the Commission grant the Intervenor’s Motion for Reconsideration?

Recommendation: No. The Intervenor’s motion for reconsideration should be denied, however, staff recommends that the Commission correct a scrivener’s error and clarify that parties will have a point of entry to contest the continuing need for the CTs and revision of the revenue requirement for the CTs and Rail Facility. Except for the scrivener’s error, the Intervenor has not identified a point of fact or law that was overlooked or which the Commission failed to consider when it made its decision in the first instance.

DECISION: The recommendation was approved. (Also includes correction of scrivener’s error, as discussed at the Commission Conference.) Commissioner Argenziano dissented.

Issue 3: Should the Commission grant TECO’s Motion for Reconsideration requesting recalculation of TECO’s weighted average cost of capital?

Recommendation: Yes. The appropriate weighted average cost of capital for TECO should be revised from 8.11 percent to 8.29 percent.

DECISION: The recommendation was approved.

ITEM NO.

CASE

17**

Docket No. 080317-EI – Petition for rate increase by Tampa Electric Company.

(Continued from previous page)

Issue 4: Should the annual base rate revenue increase and the step increase granted in Order No. PSC-09-0283-FOF-EI be revised to reflect the revised weighted average cost of capital?

Recommendation: Yes. Staff recommends that the approved annual base rate revenue increase should be increased from \$104,268,536 to \$113,604,121, a \$9,335,585 increase, to reflect the revised weighted average cost of capital. In addition, the approved 2010 step increase should be increased from \$33,561,370 to \$34,077,079, a \$515,709 increase.

DECISION: The recommendation was approved.

Issue 5: How should the revised annual base revenue increase be distributed among the rate classes?

Recommendation: If the Commission approves a revised annual base revenue increase in Issue 4, the increase should be allocated to each rate class consistent with the cost of service methodology approved in the Final Order to retain the relative class relationships.

DECISION: The recommendation was approved, with the recognition that this is consistent with prior decisions.

Issue 6: What is the appropriate effective date for TECO's revised rates and charges?

Recommendation: If the Commission approves the revised annual base rate revenues recommended increase in Issue 4, the revised rates and charges should become effective for meter readings on or after 30 days following the date of the Commission vote. TECO should file revised tariffs to reflect the revised annual base rate increase approved in Issue 4 for administrative approval. Pursuant to Rule 25-22.0406(8), F.A.C., customers should be notified of the revised rates in their first bill containing the new rates. A copy of the notice should be submitted to staff for approval prior to its use.

DECISION: The recommendation was approved.

Issue 7: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon the expiration of the time for appeal.

DECISION: The recommendation was approved. Commissioner Argenziano dissented.

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

ITEM NO.

CASE

18**PAA

Docket No. 090338-EI – Request for short term extension of substation rental agreement with Tropicana Products, Inc., by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Kummer

GCL: Brubaker

Issue 1: Should FPL be allowed to extend, for up to one year, the existing substation Rental Agreement with Tropicana Products, Inc.?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes, if the Commission approves staff's recommendation to approve the modification to the term of the agreement with Tropicana, as requested by FPL, and no person whose substantial interests are affected requests a hearing to address this matter, then this docket should be closed upon issuance of a consummating order. If a protest is filed within 21 days of the issuance of the Commission's order, the proposed term modification should remain in effect pending resolution of the protest.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

19**

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

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Brady, Kaproth, Redemann

GCL: Jaeger

Issue 1: Should the Commission grant Grove Utilities, Inc.'s application to delete its service territory and cancel Certificate Nos. 633-W and 542-S?

Recommendation: Yes. It is in the public interest for the Commission to approve Grove Utilities, Inc.'s request to delete its service territory and cancel Certificate Nos. 633-W and 542-S. The effective date of the cancellation of certificates should be the date of the Commission vote. The utility should be responsible for filing minimum regulatory assessment fees for 2009, as required by Rules 25-30.120(1) and (2), F.A.C.

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: Carter, Edgar, McMurrian, Argenziano, Skop

ITEM NO.

CASE

20**

Docket No. 080098-WU – Application for certificate to provide water service in Sumter County by Cedar Acres Inc. (Deferred from the May 5, 2009 Commission Conference, revised recommendation filed.)

Critical Date(s): 08/20/09 ~~05/10/09~~ (Statutory Deadline for original certificate, pursuant to Section 367.031, Florida Statutes, waived by applicant)

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Clapp, Marsh, Walden

GCL: Young

Issue 1: Should the Commission order the utility to show cause, in writing within 21 days, why it should not be fined for operating a water utility without a certificate of authorization in apparent violation of Chapter 367.031, F.S.?

Recommendation: No, Cedar Acres, Inc should not be ordered to show cause for operating a water utility without a certificate of authorization. No. Show cause proceedings should not be initiated.

Issue 2: Should Cedar Acres, Inc be ordered to show cause, in writing within 21 days, as to why it should not be fined for charging unauthorized rates from September 1987 to present, in apparent violation of Sections 367.081(1) and 367.091(3), Florida Statutes, and Rule 25-30.135, Florida Administrative Code (F.A.C.)?

Recommendation: No, Cedar Acres, Inc should not be ordered to show cause for charging unauthorized rates from September 1987 to present. However, the utility should be placed on notice that it must charge its Commission-approved rates and charges until authorized to change by the Commission, and that such apparent violations will not be tolerated in the future.

Issue 3: Should Cedar Acres Inc be ordered to show cause, in writing, within 21 days, why it should not be fined for failure to file annual reports from 1987 to present, in apparent violation of Rules 25-30-110(3), Florida Administrative Code (F.A.C.)?

Recommendation: No, Cedar Acres, Inc should not be ordered to show cause for failing to file annual reports from 1987 to present. However, the utility should be ordered to file an annual report for 2008, the year the utility filed for an original certificate, by August 31, 2009. If Cedar Acres fails to file its 2008 annual report by August 31, 2009, staff will bring a show cause recommendation at that time.

Issue 4: Should Cedar Acres Inc be ordered to show cause, in writing, within 21 days, why it should not be fined for failure to remit its regulatory assessment fees (RAFs) for 1987 through 2008, in apparent violation of Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code (F.A.C.)?

Recommendation: No, Cedar Acres, Inc should not be ordered to show cause for failing to remit its RAFs for 1987 through 2008.

ITEM NO.

CASE

20**

Docket No. 080098-WU – Application for certificate to provide water service in Sumter County by Cedar Acres Inc.

(Continued from previous page)

Issue 5 2: Should the application of Cedar Acres Inc for a water certificate be approved?

Recommendation: Cedar Acres Inc should be granted Certificate No. 643-W to serve the territory described in Attachment A of staff's memorandum dated July 1, 2009, effective the date of the Commission's vote. The resultant order should serve as Cedar Acres' water certificate and it should be retained by the utility.

Issue 6 3: What rates and charges should be approved for Cedar Acres Inc?

Recommendation: The water rates currently charged by the utility, including a \$9.00 base facility charge and \$0.045 per 1000 gallons, should be approved. Cedar Acres should charge the approved rates until authorized to change them by this Commission in a subsequent proceeding. The rates should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C.

Issue 7 4: Should this docket be closed?

Recommendation: Yes. If the Commission approves staffs' recommendations in Issues 1-6 3, this docket should be closed because no further action is necessary.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

21**PAA

Docket No. 080499-WU – Application for certificate to operate water utility in Lake County by TLP Water, Inc.

Critical Date(s): 08/06/09 (Statutory Deadline for original certificate, pursuant to Section 367.031, Florida Statutes)

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Johnson, Walden

GCL: Young

(Proposed Agency Action for Issue 7)

Issue 1: Should the Commission order TLP Water, Inc. to show cause, in writing within 21 days, why it should not be fined for operating a water utility without a certificate of authorization in apparent violation of Chapter 367.031, F.S.?

Recommendation: No, TLP Water, Inc. should not be ordered to show cause for operating a water utility without a certificate of authorization.

Issue 2: Should TLP Water, Inc. be ordered to show cause, in writing within 21 days, as to why it should not be fined for charging unauthorized rates from 1972 to present, in apparent violation of Sections 367.081(1) and 367.091(3), Florida Statutes, and Rule 25-30.135, Florida Administrative Code (F.A.C.)?

Recommendation: No, TLP Water, Inc. should not be ordered to show cause for charging unauthorized rates from 1972 to present. However, the utility should be placed on notice that it must charge its Commission-approved rates and charges until authorized to change by the Commission, and that such apparent violations will not be tolerated in the future.

Issue 3: Should TLP Water, Inc. be ordered to show cause, in writing, within 21 days, why it should not be fined for failure to file annual reports from 1972 to 2007, in apparent violation of Rules 25-30.110(3), Florida Administrative Code (F.A.C.)?

Recommendation: No, TLP Water, Inc. should not be ordered to show cause for failing to file annual reports from 1972 to present.

Issue 4: Should TLP Water, Inc. be ordered to show cause, in writing, within 21 days, why it should not be fined for failure to remit its regulatory assessment fees (RAFs) for 1972 through 2008, in apparent violation of Section 367.145, F.S., and Rule 25-30.120, F.A.C.?

Recommendation: No, TLP Water, Inc. should not be ordered to show cause for failing to remit its RAFs for 1972 through 2008.

Issue 5: Should the application of TLP Water, Inc. for a water certificate be approved?

Recommendation: TLP Water, Inc. should be granted Certificate No. 644-W to serve the territory described in Attachment A of staff's memorandum dated July 1, 2009, effective the date of the Commission's vote. The resultant order should serve as the utility's water certificate and it should be retained by the utility.

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Issue 6: Should the utility's existing rate and charges be continued?

Recommendation: The existing water rate shown on Schedule No. 1 of staff's memorandum dated July 1, 2009, should be approved for TLP's customers. TLP should be required to charge the approved rate until authorized to change by this Commission in a subsequent proceeding. The rate should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C.

Issue 7: Should the utility's requested miscellaneous service charges, and late fee be approved?

Recommendation: Yes. The utility's requested miscellaneous service charges, and late fee should be approved. The miscellaneous service charges, and late fee should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C.

Issue 8: Should this docket be closed?

Recommendation: Yes. If no timely protest is filed by a substantially affected person to proposed agency action in Issue 7, a consummating order should be issued upon expiration of the protest period and the docket should be closed.

DECISION: The recommendations were approved.

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