

**MINUTES OF July 31, 2007**  
**COMMISSION CONFERENCE**

**COMMENCED: 9:50 a.m.**  
**ADJOURNED: 11:30 a.m.**  
**COMMENCED: 11:50 a.m.**  
**ADJOURNED: 1:45 p.m.**  
**COMMENCED: 2:05 p.m.**  
**ADJOURNED: 3:20 p.m.**  
**COMMENCED: 3:45 p.m.**  
**ADJOURNED: 4:10 p.m.**

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

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

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1

**Approval of Minutes**  
June 19, 2007, Regular Commission Conference

DECISION: The minutes were approved.

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

**ITEM NO.**

**CASE**

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2\*\*

**Consent Agenda**

PAA

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
070334-TX	e-Path Communications, Inc.
070374-TX	Norstar Telecommunications, LLC
070379-TX	New Horizons Communications Corp.
070397-TX	Touchtone Communications Inc. of Delaware
070403-TX	Maryland TeleCommunication Systems, Inc.
070409-TX	FlatPhone, Inc. d/b/a FlatPhone

**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, Carter, McMurrian, Argenziano, Skop

**ITEM NO.**

**CASE**

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3

**Docket No. 070249-TP** – Petition by Sprint Communications Company Limited Partnership and Sprint Spectrum Limited Partnership d/b/a Sprint PCS for arbitration of rates, terms and conditions of interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** GCL: Wiggins, Mann

CMP: Pruitt, King

**Issue 1:** Should the Commission grant AT&T's Motion To Dismiss?

**Recommendation:** Yes. The Commission should grant AT&T's Motion to Dismiss because Sprint is requesting the Commission enforce an allegedly known right (the Merger Commitments as interpreted by Sprint) under an FCC order as opposed to arbitrating an "open" issue concerning Section 251 obligations.

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

**Recommendation:** Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed because the matter has been dismissed and no other issues need to be addressed by the Commission.

**DECISION:** The recommendations were approved. Staff's oral recommendation to deny the Motion for Oral Argument filed by Sprint, was approved

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

**ITEM NO.**

**CASE**

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4\*\*

**Docket No. 040763-TP** – Request for submission of proposals for relay service, beginning in June 2005, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

**Critical Date(s):** 08/01/07 (Contract option year notification requirement due to Sprint.)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** CMP: Moses, Casey

GCL: Tan, Wiggins

**Issue 1:** Should the Commission exercise the contract option to extend the Sprint Relay contract for one (1) year beginning June 1, 2008?

**Recommendation:** Staff recommends that the Commission exercise the contract option to extend the Sprint Relay contract for one (1) year beginning June 1, 2008.

**Issue 2:** Should the Commission modify Section B, Paragraph 3, Section B, Paragraph 7, and Section B, Paragraph 56 of the Request for Proposal (RFP) as shown in the type-and-strike of analysis portion of staff's July 19, 2007, memorandum and incorporate the change by reference into the relay contract with Sprint as Amendment 3?

**Recommendation:** If the Commission approves Issue 1, staff recommends that the Commission approve the proposed changes to Section B, Paragraph 3; Section B, Paragraph 7; and Section B, Paragraph 56 of the RFP as shown in the type-and-strike of analysis portion of staff's July 19, 2007, memorandum and incorporate the changes into the contract with Sprint as Amendment 3, effective June 1, 2008 upon the signature of the Commission's Executive Director and Sprint.

**Issue 3:** Should the Commission approve Mr. Joe Naulty, and Mr. Isaac Abenchuchan as Advisory Committee members to replace Ms. Kathy Zarate and Mr. Chris Wagner, effective immediately?

**Recommendation:** Yes. The Commission should approve Mr. Joe Naulty and Mr. Isaac Abenchuchan, as Advisory Committee members to replace Ms. Kathy Zarate and Mr. Chris Wagner effective immediately.

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

**Recommendation:** No. This docket should remain open for the duration of the contract.

**DECISION:** This item was deferred.

**ITEM NO.**

**CASE**

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5\*\*

**Docket No. 010977-TL** – State certification of rural telecommunications carriers pursuant to 47 C.F.R. 54.314.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Polk, Casey

GCL: Wiggins

**Issue 1:** Should the Florida Public Service Commission (FPSC or Commission) certify to the FCC and to USAC that for the year 2008 Windstream Communications, Inc., Frontier Communications of the South, Inc., GTC, Inc., Indiantown Telecommunications Systems, Inc., Northeast Florida Telephone Company, TDS Telecom, and Smart City Telecom will only use the federal high-cost support they receive for the provision, maintenance and upgrading of facilities and services for which the support is intended?

**Recommendation:** Yes.

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

**Recommendation:** No. This docket should remain open in order to address future annual certifications of rural telephone companies.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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6

**Docket No. 060767-TP** – Petition of MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services for arbitration of disputes arising from negotiation of interconnection agreement with Embarq Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** CMP: Trueblood, Barrett, Lee, Ollila

GCL: Tan, Teitzman

**Issue 1:** What compensation should apply to virtual NXX Traffic under the Interconnection Agreement?

**Recommendation:** Staff recommends that the physical end points of a virtual NXX (vNXX) call determine the appropriate intercarrier compensation. If the physical end points of a vNXX call are within the local calling area, as defined in the parties' interconnection agreement, the call should be considered local for intercarrier compensation purposes. If one of the physical end points of the call is outside of the local calling area, the call should be considered interexchange and subject to originating access charges (billed by the carrier whose end user makes the vNXX call).

**Issue 4:** When the parties exchange traffic via indirect connection, if Verizon Access has not established direct end office trunking sixty days after reaching a DS1 level, should Verizon Access be required to reimburse Embarq for any transit charges billed by an intermediary carrier for local traffic or ISP-bound traffic originated by Embarq?

**Recommendation:** No, although the language to implement direct end office trunks should, at a minimum:

- include a 90-day timeframe for establishing direct trunks;
- state that this timeframe is extendable if facility, equipment requirements, or related problems with the trunking order cause a delay that is attributable to Embarq;
- state that this timeframe is extendable if facility, equipment requirements, or related problems with the trunking order cause a delay that is attributable to a third party; and
- specify that the timeframe starts when all ordering requirements are fulfilled.

**Issue 5:** What rate should apply to transit traffic under the parties' interconnection agreement?

**Recommendation:** Staff recommends a transit rate of \$0.003 per minute of use (MOU) should apply to transit traffic under the parties' interconnection agreement (ICA).

ITEM NO.

CASE

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6

**Docket No. 060767-TP** – Petition of MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services for arbitration of disputes arising from negotiation of interconnection agreement with Embarq Florida, Inc.

(Continued from previous page)

**Issue 6:** Should this docket be closed?

**Recommendation:** No. This docket should remain open pending the submission of a properly executed conforming Agreement. Thereafter, it is recommended that staff review the Agreement and, if in compliance, administratively approve the Agreement and close the Docket.

**DECISION:** This item was deferred.

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

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 070172-TX** – Application for certificate to provide competitive local exchange telecommunications service by Premier Telecom-VoIP, Incorporated.

**Docket No. 070174-TI** – Acknowledgment of registration as intrastate interexchange telecommunications company, effective March 15, 2007, by Premier Telecom-VoIP, Incorporated.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: McCoy, Kennedy

GCL: McKay, Mann

**Issue 1:** Should the Commission deny Premier Telecom-VoIP, Incorporated's application in Docket No. 070172-TX for authority to provide competitive local exchange telecommunications service within Florida for its failure to show that it has sufficient managerial capability as required by Section 364.337(1), Florida Statutes, and its apparent violation of Section 364.183, Florida Statutes, Access to company records?

**Recommendation:** Yes. The Commission should deny Premier Telecom-VoIP, Incorporated's application for authority to provide competitive local exchange telecommunications service within Florida for its failure to show that it has sufficient managerial capability as required by Section 364.337(1), Florida Statutes, and its apparent violation of Section 364.183, Florida Statutes, Access to company records.

**Issue 2:** Should the Commission remove Premier Telecom-VoIP, Incorporated's name from the IXC register, and cancel its tariff and Registration No. TK143 in Docket No. 070174-TI, on the Commission's own motion, with an effective date of March 15, 2007?

**Recommendation:** Yes. The Commission should remove Premier Telecom-VoIP, Incorporated's name from the IXC register, and cancel its tariff and Registration No. TK143 in Docket No. 070174-TI, on the Commission's own motion, with an effective date of March 15, 2007.



ITEM NO.

CASE

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7\*\*PAA

**Docket No. 070172-TX** – Application for certificate to provide competitive local exchange telecommunications service by Premier Telecom-VoIP, Incorporated.

**Docket No. 070174-TI** – Acknowledgment of registration as intrastate interexchange telecommunications company, effective March 15, 2007, by Premier Telecom-VoIP, Incorporated.

(Continued from previous page)

**Issue 3:** Should these dockets 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's authority to provide CLEC service is denied, its IXC Registration No. TK143 and tariff is cancelled and its name removed from the register 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 and intrastate interexchange telecommunications service in Florida. If there is no protest, these dockets should be closed upon issuance of the Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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8

**Docket No. 060658-EI** – Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million. (Deferred from July 10, 2007, conference; revised recommendation filed.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrian

**Staff:** ECR: McNulty, Draper, Lester, Matlock, Maurey, Sickel, Slemkewicz, Springer

CMP: Coston, Fisher, Vinson

GCL: Bennett, Holley, Young

**Issue 1:** Did PEF act prudently in purchasing coal for Crystal River Units 4 and 5 beginning in 1996 and continuing to 2005?

**Primary Recommendation:** No. PEF did not act prudently in purchasing coal for CR4 and CR5 during the period 2001 through 2005. As discussed in Issues 2 and 4, the Commission should require PEF to refund to customers the amount of \$12,425,492 ~~\$12,453,457~~, plus interest. In addition, the Commission should direct PEF to supplement its 2006 Final True-Up Testimony in Docket No. 070001-EI to address whether the Company was prudent in its 2006 and 2007 coal purchases for CR4 and CR5.

**Alternative Recommendation:** Yes. PEF acted prudently in purchasing coal for CR4 and CR5 during the period 1996 through 2005.

**Issue 2:** If the Commission determines that PEF acted imprudently in its coal purchases, should PEF be required to refund customers for coal purchased to run Crystal River Units 4 and 5 during the time period of 1996 - 2005?

**Primary Recommendation:** If the Commission approves primary staff's recommendation on Issue 1, the Commission should require PEF to refund customers \$12,425,492 ~~\$12,453,457~~, plus interest. In addition, the Commission should encourage the parties of Docket No. 070001-EI to address, in their projection testimony to be filed in September 2007, the issue of whether and how the Commission should conduct prudence reviews of fuel and purchased power costs approved for cost recovery in the fuel docket.

**Alternative Recommendation:** If the Commission approves the alternative staff recommendation on Issue 1, then this issue is moot. The Commission may address the issue of policy raised by Issue 2.

**Issue 3:** Under the circumstances of this case, does the Commission have the authority to grant the relief requested by OPC?

**Recommendation:** The Commission has the authority to grant the relief requested by OPC.

ITEM NO.

CASE

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8

**Docket No. 060658-EI** – Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million. (Deferred from July 10, 2007, conference; revised recommendation filed.)

(Continued from previous page)

**Issue 4:** If the Commission determines that PEF should be required to refund customers for coal purchased to run Crystal River Units 4 and 5, what amount should be refunded, and how and when should such refund be accomplished?

**Primary Recommendation:** If the Commission finds that PEF was imprudent in procuring fuel costs in 2003-2005 (Issue 1) and further finds that the Company should be required to make a refund to customers (Issue 2), then the Commission should require PEF to refund to PEF's ratepayers \$13,826,207 ~~\$13,796,073~~ in excessive coal costs, SO2 allowance costs, and interest incurred during 2003, 2004, and 2005. Interest should continue to accrue until the refund has been completed. This refund should be made through the utility's 2008 fuel factors.

**Alternative Recommendation:** Consistent with the Alternative staff's recommendation for Issue 1, staff does not recommend a refund.

**Issue 5:** If the Commission determines that PEF willfully violated any lawful rule or order of the Commission or any provision of Chapter 366, Florida Statutes, should the Commission impose a penalty on PEF, and what should be the amount of such penalty?

**Recommendation:** No. No party identified a rule, order or statute administered by the Commission that PEF failed to implement or comply with for the period 1996 through 2005. Therefore, the Commission should not impose any fines or penalties.

**Issue 6:** Should this docket be closed?

**Recommendation:** The docket should be closed after the time for filing an appeal has run.

**DECISION:** The primary recommendation was approved on Issues 1, 2, and 4, and the recommendation in Issues 3, 5, and 6. Commissioner McMurrian dissented on Issues 1, 2, and 4. Commissioner Skop will write a concurring opinion, taking issue with the refund amount.

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

**ITEM NO.**

**CASE**

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9\*\*

**Docket No. 070284-EI** – Petition for approval of 2007 depreciation study and annual dismantlement accrual amounts by Tampa Electric Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Gardner, Bulecza-Banks, Springer

GCL: Jaeger

**Issue 1:** Should Tampa Electric Company be allowed to implement its proposed depreciation rates, amortizations, recovery schedules, and provision for dismantlement on a preliminary basis?

**Recommendation:** Yes. Staff recommends that Tampa Electric be allowed to implement, on a preliminary basis, its proposed depreciation rates, amortizations, recovery schedules, and provision for dismantlement, as shown on Attachments A and C of staff's July 19, 2007, memorandum. The effect of this proposal is a decrease in depreciation expenses, as shown on Attachments B and C of staff's memorandum, for an estimated \$13 million for 2007. The resulting expenses should be subject to true-up when final action, expected to occur in November 2007, is taken by the Commission in this docket.

**Issue 2:** What should be the implementation date for the preliminary implementation of the new depreciation rates, amortizations, recovery schedules, and dismantlement accruals?

**Recommendation:** Staff recommends a January 1, 2007, implementation date for Tampa Electric's preliminary implementation of its proposed depreciation rates, amortizations, recovery schedules, and dismantlement provision.

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

**Recommendation:** No. This docket should remain open, pending staff's review and analysis, and the Commission's final action concerning the depreciation rates, amortizations, recovery schedules, and dismantlement provision.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 070378-EI** – Petition for approval of revised fossil dismantlement accrual by Florida Power & Light Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Gardner, Bulecza-Banks

GCL: Brown

**Issue 1:** Should the Commission approve FPL's proposed annual dismantlement accruals on a preliminary basis?

**Recommendation:** Yes. FPL's proposed annual dismantlement accruals as shown on Attachment A and B of staff's July 19, 2007, memorandum should be approved on a preliminary basis. The effect of this proposal would decrease dismantlement expenses by an estimated \$3,323,514 for 2007 and \$3,124,256 from 2008 through 2010. On May 1, 2007, Turkey Point Unit 5 was placed in service, and the company is requesting a half year's dismantlement accrual for 2007. The expenses are subject to true-up when the Commission takes final action in December 2007.

**Issue 2:** What should be the implementation date for the preliminary annual dismantlement accruals?

**Recommendation:** Staff recommends a January 1, 2007, implementation date for FPL's preliminary implementation of its proposed dismantlement provision.

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

**Recommendation:** No. This docket should remain open, pending final Commission action on FPL's proposed annual dismantlement accruals.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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11\*\*PAA

**Docket No. 060747-WS** – Application for staff-assisted rate case in Highlands County by Mink Associates II, LLC d/b/a Crystal Lake Club Utilities.

**Critical Date(s):** 05/15/08 (15-month effective date waived to this date - SARC)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** ECR: Rendell, Bruce, Bulecza-Banks, Edwards, Lingo

GCL: Holley

**Issue 1:** Is the quality of service provided by Crystal Lake Club Utilities satisfactory?

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

**Issue 2:** What are the used and useful percentages for Crystal Lake Club's water and wastewater systems?

**Recommendation:** Crystal Lake Club's used and useful percentages (U&U) should be considered 100% for water, 69.71% for wastewater treatment plants, and 93.29% for both water distribution and wastewater collection systems.

**Issue 3:** What is the appropriate average test year rate base for this utility?

**Recommendation:** The appropriate average test year rate base for this utility is \$182,851 for water and \$208,203 for wastewater.

**Issue 4:** 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 9.06% with a range of 8.06% - 10.06%. The appropriate overall rate of return is 9.06%.

**Issue 5:** What are the appropriate test year revenues?

**Recommendation:** The appropriate test year revenues are \$90,906 for water and \$70,079 for wastewater.

**Issue 6:** What is the appropriate amount of pre-repression operating expense?

**Recommendation:** The appropriate amount of pre-repression operating expense for the utility is \$92,550 for water and \$69,245 for wastewater.

**Issue 7:** What is the appropriate pre-repression revenue requirement?

**Recommendation:** The appropriate pre-repression revenue requirement is \$109,116 for water and \$88,109 for wastewater.

ITEM NO.

CASE

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11\*\*PAA

**Docket No. 060747-WS** – Application for staff-assisted rate case in Highlands County by Mink Associates II, LLC d/b/a Crystal Lake Club Utilities.

(Continued from previous page)

**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 is a continuation of the base facility charge (BFC)/uniform gallonage charge rate structure. The water system's BFC should continue to recover 19.70% of the cost to provide service. The appropriate rate structure for the wastewater system is a continuation of the BFC/gallonage charge rate structure with a 6 kgal gallon cap for residential customers. 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%.

**Issue 9:** Is a repression adjustment appropriate in this case?

**Recommendation:** No. However, in order to monitor the effects resulting from the changes in revenues, the utility should prepare monthly reports for the water and wastewater systems, detailing the number of bills rendered, the consumption billed, and the revenues billed. These reports should be provided to staff. In addition, these reports should be prepared, by customer class 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 10:** What are the appropriate monthly rates for each system?

**Recommendation:** The appropriate water and wastewater monthly rates are shown on Schedule Nos. 4-A and 4-B of staff's July 19, 2007, memorandum, respectively. The recommended rates should be designed to produce revenue of \$109,116 for water and \$88,109 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.

ITEM NO.

CASE

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11\*\*PAA

**Docket No. 060747-WS** – Application for staff-assisted rate case in Highlands County by Mink Associates II, LLC d/b/a Crystal Lake Club Utilities.

(Continued from previous page)

**Issue 11:** Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest 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 shall be subject to the refund provisions discussed in the analysis portion of staff's July 19, 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 12:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

**Recommendation:** The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B of staff's July 19, 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.



ITEM NO.

CASE

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11\*\*PAA

**Docket No. 060747-WS** – Application for staff-assisted rate case in Highlands County by Mink Associates II, LLC d/b/a Crystal Lake Club Utilities.

(Continued from previous page)

**Issue 13:** 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 July 19, 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 14:** 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. When the PAA issues are final and the tariff and notice actions are complete, this docket may be closed administratively.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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12\*\*

**Docket No. 021215-WS** – Application for amendment of Certificates Nos. 340-W and 297-S to add territory in Pasco County by Mad Hatter Utility, Inc.

**Docket No. 041342-WU** – Application for amendment of Certificate No. 340-W to add territory in Pasco County by Mad Hatter Utility, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Walden

GCL: Brubaker

**Issue 1:** Should the Settlement between Mad Hatter and Pasco County be approved, and Mad Hatter's request to amend its water and wastewater certificates be granted?

**Recommendation:** Yes. The Settlement filed by the parties provides a reasonable resolution of the parties' dispute in these dockets and should be approved, and Certificate Nos. 340-W and 297-S held by Mad Hatter Utility, Inc. should be amended to include the territory shown on Attachment B of staff's July 19, 2007, memorandum. The resultant Order should serve as Mad Hatter's water and wastewater certificates and should be retained by the utility. Mad Hatter should charge these customers the same rates and charges contained in the utility's tariff until authorized to change by this Commission in a subsequent proceeding. Mad Hatter should additionally file a report on an annual basis, from the date of the order, updating the status of the Leonard Road customers. Upon notice by Pasco County that it is willing, ready, and able to serve the Leonard Road customers, staff should be given administrative authority to acknowledge the removal of these customers from Mad Hatter's service territory and amend the utility's territory description accordingly.

**Issue 2:** Should Mad Hatter be ordered to show cause, in writing, within 21 days, why it should not be fined for serving outside its certificated territory without prior Commission approval in apparent violation of Section 367.045(2), Florida Statutes?

**Recommendation:** Yes. Mad Hatter should be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$500 for its apparent violation of Section 367.045(2), Florida Statutes. The order to show cause should incorporate the conditions stated in the analysis portion of staff's July 19, 2007, memorandum. Staff further recommends that the Commission require Mad Hatter to provide, within 90 days of the order, a map showing the utility's entire water and wastewater service area, as set forth in the legal descriptions for that certificated area as approved in this order and all prior Commission orders.

ITEM NO.

CASE

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12\*\*

**Docket No. 041342-WU** – Application for amendment of Certificate No. 340-W to add territory in Pasco County by Mad Hatter Utility, Inc.

(Continued from previous page)

**Issue 3:** Should the dockets be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by the proposed agency action issue files a protest within twenty-one days of the issuance of the order, a consummating order will be issued for the proposed agency action issues. If Mad Hatter pays the \$500 in fines, the dockets should be closed administratively. If the utility timely responds in writing to the Order to show cause, the dockets should remain open to allow for the appropriate processing of the response.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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13\*\*

**Docket No. 070377-WU** – Request for approval of change in meter installation customer deposits tariff and proposed changes in miscellaneous service charges in Marion County by Windstream Utilities Company.

**Critical Date(s):** 08/04/07 (60-day suspension date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Deason, Rendell

GCL: Jaeger

**Issue 1:** Should Windstream's changes and additions to Tariff Sheets Nos. 17.0 and 15.1 be approved?

**Recommendation:** Yes. The utility's First Revised Sheet No. 17.0 and Second Revised Sheet No. 15.1 should be approved as filed. 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), Florida Administrative Code (F.A.C.), provided that 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 that the customers have received notice within 10 days after the date that the notice was sent.

**DECISION:** Staff's recommendation is denied, and the tariff is suspended in its entirety.

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

**Recommendation:** Yes. If Issue 1 is approved, the revised tariffs should become effective on or after the stamped approval date on the revised tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariffs should remain in effect with all increased charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order.

**DECISION:** The recommendation was denied. The docket shall remain open.

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

**ITEM NO.**

**CASE**

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14\*\*

**Docket No. 070366-WU** – Application to amend water tariff to allow collection of customer deposits by O&S Water Company, Inc.

**Critical Date(s):** 08/06/07 (60-day suspension date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Deason, Rendell

GCL: Jaeger

**Issue 1:** Should O&S proposed tariff sheet to collect customer deposits be approved as filed?

**Recommendation:** Yes. Third Revised Sheet No. 13.0 filed on June 7, 2007, should be approved as filed. The revised tariff sheet should be implemented on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(2), Florida Administrative Code (F.A.C.), provided the utility submits and receives approval of its proposed customer notice and that the customers have received the approved notice.

**DECISION:** Staff's recommendation was denied and the tariff is suspended in its entirety.

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

**Recommendation:** If Issue 1 is approved, this tariff should become effective on or after the stamped approval date of the tariff sheet, pursuant to Rule 25-30.475, F.A.C., provided the customers have received adequate notice. If a protest is filed within 21 days of the issuance of the Order by a substantially affected person, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, this docket should be closed, upon the issuance of a Consummating Order.

**DECISION:** The recommendation was denied. The docket shall remain open.

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

**ITEM NO.**

**CASE**

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15\*\*

**Docket No. 070345-WS** – Ordinance by Board of County Commissioners of Columbia County to regulate private water, wastewater, and effluent reuse utilities in Columbia County.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Brady, Kaproth

GCL: Gervasi

**Issue 1:** Should the Commission acknowledge Columbia County's Ordinance No. 2007-15, which specifies its power and authority under Section 367.171, Florida Statutes, to regulate private water, wastewater and effluent reuse facilities within the County?

**Recommendation:** Yes. Columbia County's Ordinance should be acknowledged as rescinding Commission jurisdiction in Columbia County effective May 11, 2007. Certificate No. 581-W held by C.S.M. Enterprises, Inc.; Certificate No. 392-W held by College Manor Water Company, Inc.; Certificate No. 393-W held by Consolidated Water Works, Inc.; Certificate No. 402-W held by Gator Utilities; Certificate No. 501-S held by Kirby D. Morgan, Inc.; and Certificate No. 391-W held by Lenvil H. Dicks should be cancelled effective May 11, 2007. The cancellation of these certificates does not affect the authority of the Commission to collect, nor the obligation of these utilities to pay, regulatory assessment fees, penalties, and interest accrued prior to the May 11, 2007, transfer of jurisdiction to Columbia County. These utilities will be responsible for final payment of RAFs for the period of January 1 through May 11, 2007, on or before the prescribed due date of March 31, 2008. These utilities will not be responsible for filing an annual report for 2007.

**Issue 2:** Should the Commission grant Gator Utilities' request for waiver of its 2005 annual report penalties?

**Recommendation:** Yes. 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 3:** Should this docket be closed?

**Recommendation:** Yes. Since there are no pending matters, the docket should be closed upon the issuance of the order.

**DECISION:** The recommendations were approved.

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