

**MINUTES OF March 16, 2010
COMMISSION CONFERENCE**
COMMENCED: 9:35 am
RECESSED: 11:10 am
RECONVENED: 1:00 pm
RECESSED: 3:30 pm
RECONVENED: 3:45 pm
RECESSED: 4/25 pm
RECONVENED: 4:35 pm
RECESSED: 6:15 pm
RECONVENED: 6:31 pm
ADJOURNED: 6:35 pm

COMMISSIONERS PARTICIPATING: Chairman Argenziano
Commissioner Edgar
Commissioner Skop
Commissioner Klement
Commissioner Stevens

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

1

Approval of Minutes
January 11, 2010 Regular Commission Conference
January 29, 2010 Special Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO. **CASE**

2** **Consent Agenda**

PAA A) Application for certificate to provide pay telephone service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
100069-TC	Payphone Manager, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE NUMBER and LOCATION</u>
100072-TC	Embarq Payphone Services, Inc.	850-747-8015 850-747-8017 Chemical Addiction Recovery Effort 4000 East 3 rd Street Springfield, FL 32404

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, Klement, Stevens

ITEM NO.

CASE

3**

Docket No. 100062-OT – Initiation of rulemaking to amend Rule 25-22.061, F.A.C., Stay Pending Judicial Review.

Rule Status: Proposal may be deferred

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Cowdery

ECR: Maurey, Springer, Salnova, Hewit

Issue 1: Should the Commission propose the amendment of Rule 25-22.061, F.A.C., Stay Pending Judicial Review?

Recommendation: Yes, the Commission should propose the amendment of this rule as set forth in Attachment A of staff's memorandum dated March 4, 2010.

Issue 2: Should this docket be closed?

Recommendation: Yes.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

4**

Docket No. 100084-EI – Initiation of rulemaking to adopt Rule 25-6.0424, F.A.C.,
Petition for Mid-Course Correction.

Rule Status: Proposal may be deferred

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Cowdery

ECR: Hinton, Lester, Hewitt

Issue 1: Should the Commission propose the adoption of Rule 25-6.0424, F.A.C.,
Petition for Mid-Course Correction?

Recommendation: Yes, the Commission should propose the adoption of this rule as set
forth in Attachment A of staff's memorandum dated March 4, 2010.

Issue 2: Should this docket be closed?

Recommendation: Yes.

DECISION: This item was deferred to the April 6, 2010, Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

5**PAA

Docket No. 090530-EU – Joint Petition for approval to amend territorial agreement by Progress Energy Florida, Inc. and Reedy Creek Improvement District.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Williams

ECR: Rieger

Issue 1: Should the Commission approve the joint petition for approval to amend the territorial agreement between Progress Energy Florida, Inc. (PEF) and Reedy Creek Improvement District (RCID)?

Recommendation: Yes. The joint petition to amend the territorial agreement between PEF and RCID should be approved.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

6**PAA

Docket No. 090513-TI – Acknowledgment of cancellation of IXC Registration No. TK249 by New Venture L.L.C., effective November 12, 2009.

Docket No. 090541-TI – Acknowledgment of cancellation of IXC Registration No. TI534 by Pioneer Telecom, Inc., effective October 13, 2009.

Docket No. 100061-TI – Acknowledgment of cancellation of IXC Registration No. TK105 by Atlantic Ventures Group, Inc. d/b/a Direct Connek, effective December 31, 2009.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Pruitt
GCL: McKay

Issue 1: Should the Commission deny New Venture L.L.C., Pioneer Telecom, Inc., and Atlantic Ventures Group, Inc. d/b/a/ Direct Connek a voluntary cancellation of their respective intrastate interexchange telecommunications carrier (IXC) tariffs and Registration Nos. TK249, TI534, and TK105, and cancel the tariffs and remove each entity's respective name from the register on the Commission's own motion with an effective date as listed in the docket titles?

Recommendation: Yes, unless an entity pays the Regulatory Assessment Fees, including any accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, that entity should be denied a voluntary cancellation as provided in Attachment A of staff's memorandum dated March 4, 2010.

ITEM NO.

CASE

6**PAA

Docket No. 090513-TI – Acknowledgment of cancellation of IXC Registration No. TK249 by New Venture L.L.C., effective November 12, 2009.

Docket No. 090541-TI – Acknowledgment of cancellation of IXC Registration No. TI534 by Pioneer Telecom, Inc., effective October 13, 2009.

Docket No. 100061-TI – Acknowledgment of cancellation of IXC Registration No. TK105 by Atlantic Ventures Group, Inc. d/b/a Direct Connek, effective December 31, 2009.

(Continued from previous page)

Issue 2: 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 any entity 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 an entity pays the Regulatory Assessment Fees, including any accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, then that cancellation of the entity’s respective tariff and the removal of its name from the register will be voluntary. If an entity fails to pay the Regulatory Assessment Fees, including any accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, then that entity’s respective IXC tariff should be cancelled administratively and its name removed from the register. The collection of the unpaid Regulatory Assessment Fees, including any accrued statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts.

These dockets should be closed administratively either as a voluntary cancellation upon receipt of the payment of the Regulatory Assessment Fees, including any accrued statutory late payment charges, or cancelled involuntarily on the Commission’s own motion. Upon cancellation of each entity’s respective IXC tariff and removal of its name from the register, that entity should be required to immediately cease and desist providing telecommunications service in Florida.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

7**PAA

Docket No. 090480-TX – Compliance investigation of Clective Telecom Florida, LLC for apparent failure to accurately disclose information on application.

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 (090480-TX)
Argenziano (090246-TP)

Staff: RAD: Bates, Kennedy, King, Watts
GCL: McKay, Tan

Issue 1: Should the Commission accept Clective Telecom Florida, LLC's offer to voluntarily forfeit, with prejudice, CLEC Certificate No. 8736, effective December 31, 2009, to resolve the company's apparent failure to accurately disclose information in Docket No. 080545-TX, In re: Application for certificate to provide competitive local exchange telecommunications service by Clective Telecom Florida, LLC?

Recommendation: Yes, the Commission should accept Clective Telecom Florida, LLC's offer to voluntarily forfeit, with prejudice, CLEC Certificate No. 8736, effective December 31, 2009, to resolve the company's apparent failure to accurately disclose information in Docket No. 080545-TX, In re: Application for certificate to provide competitive local exchange telecommunications service by Clective Telecom Florida, LLC.

Issue 2: Should these dockets be closed?

Recommendation: If the Commission approves staff's recommendation in Issues 1 and 2, and 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 Docket Nos. 090480-TX and 090246-TP should be closed upon issuance of a Consummating Order. If the Commission's decision in Issue 1 results in action other than the cancellation of Clective's CLEC Certificate No. 8736, then Docket No 090480-TX should be closed upon issuance of a Consummating Order and Docket No. 090246-TP should remain open pending further action.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

8**PAA

Docket No. 060485-TI – Compliance investigation of Toll Free Connect, Inc., Access One Communications, Inc., and Enhanced Billing Services, Incorporated for apparent violations of Chapter 364, F.S., and Chapter 25-24, F.A.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Kennedy

GCL: Tan

Issue 1: Should the Commission, on its own motion and with prejudice, cancel Enhanced Billing Services, Incorporated, Access One Communications, Inc., and Toll Free Connect, Inc.'s intrastate interexchange telecommunications tariffs and remove each company from the register with an effective date of December 31, 2009, and permanently deny any future application for a certificate of public convenience and necessity or registration to operate as a regulated telecommunications provider in Florida submitted by Mr. Willoughby Farr and Ms. Mary Lou Farr, for the companies and the officers apparent violation of Section 364.604, F.S., Billing Practices, Section 364.336, F.S., Regulatory Assessment Fees, and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees, Telecommunications Companies?

Recommendation: Yes.

ITEM NO.

CASE

8**PAA

Docket No. 060485-TI – Compliance investigation of Toll Free Connect, Inc., Access One Communications, Inc., and Enhanced Billing Services, Incorporated for apparent violations of Chapter 364, F.S., and Chapter 25-24, F.A.C.

(Continued from previous page)

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, 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 Enhanced Billing Services, Incorporated, Access One Communications, Inc., Toll Free Connect, Inc., Mr. Willoughby Farr, or Ms. Mary Lou Farr fails to timely file a protest and request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the cancellation of IXC Registration Nos. TJ938, TJ942, and TK018 should be final. The companies and persons should be required to immediately cease and desist providing intrastate interexchange telecommunications services in Florida. The Commission should order staff to submit a request to write-off the unpaid Regulatory Assessment Fees, and accrued statutory late payment charges to the Florida Department of Financial Services. This docket should be closed administratively upon submission of the request to write-off the Regulatory Assessment Fees and late payment charges to the Department of Financial Services.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

9**PAA

Docket No. 090444-TX – Application for certificate to provide competitive local exchange telecommunications service by Crystal Link Communications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Earnhart, Curry

GCL: Brooks

Issue 1: Should the Commission deny Crystal Link Communications' application for authority to provide competitive local exchange telecommunications services within Florida?

Recommendation: Yes, the Commission should deny Crystal Link Communications' application for authority to provide competitive local exchange telecommunications services within Florida.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If the company's authority to provide CLEC services is denied and there is no protest, this docket shall be closed upon issuance of the Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

10**

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

Critical Date(s): 03/22/10 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Gilbert

ECR: Roberts

GCL: Brown

Issue 1: Should the Commission suspend TECO's proposed standard interconnection agreement for non-export, parallel operators and associated tariffs?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves Issue 1, the docket should remain open to allow staff adequate time to review the filing and bring a recommendation back to the Commission on the merits of the filing.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

11**

Docket No. 080318-GU – Petition for rate increase by Peoples Gas System.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Slemkewicz, Draper, Gardner, Kummer, Maurey, A. Roberts, Salnova
GCL: Klancke, Fleming

Issue 1: Should the Commission approve the proposed Stipulation and Settlement?

Recommendation: Yes. The Commission should approve the proposed Stipulation and Settlement.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

12**PAA

Docket No. 090529-EI – Petition to include costs associated with the extended power uprate project in base rates, by Florida Power & Light Company. (Deferred from the January 26, 2010 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Slemkewicz, Breman, Buys, Davis, Laux, Thompson
GCL: Williams

Issue 1: Should FPL's request to increase its base rates by \$354,225 for the turbine gantry crane phase of the EPU project at PSL2 be approved?

Recommendation: Yes. FPL's request to increase its base rates by \$354,225 for the turbine gantry crane phase of the EPU project at PSL2 should be approved. This approval should be subject to true-up and revision based on the final review of the 2009 turbine gantry crane phase expenditures in Docket No. 100009-EI, Nuclear Cost Recovery Clause.

Issue 2: Should FPL's request to increase its base rates by \$16,924 for the 5-year amortization of the EPU assets that are being retired during 2009 be approved?

Recommendation: No. FPL's request to increase its base rates by \$16,924 for the 5-year amortization of the EPU assets that are being retired during 2009 should be reduced to \$7,136, a reduction of \$9,788.

Issue 3: Should the Commission approve FPL's revised proposal to delay the implementation of any base rate increase approved in this docket until it can be combined with a subsequent base rate increase in a future Nuclear Cost Recovery base rate filing?

Recommendation: No. The Commission should approve FPL's original proposal to implement any base rate increase approved in this docket on the same date as any approved base rate revision in its pending base rate proceeding in Docket No. 080677-EI. Because the recommended base rate increase does not result in a change to any of the rate classes' base rate charge, no revision to the tariff sheets approved in Docket No. 080677-EI is required.

Issue 4: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

13**

Docket No. 100042-EI – Petition for approval of revised lighting tariff by Tampa Electric Company.

Critical Date(s): 03/22/10 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Roberts

GCL: Brown

Issue 1: Should the Commission suspend TECO's revised lighting tariff sheets Nos. 6.805, 6.806, and 6.810 for proposed new Metal Halide fixtures under Rate Schedule LS-1?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the Commission's final decision on the proposed tariff revision.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

14**

Docket No. 100038-WU – Application to implement a backflow maintenance program by Sunny Shores Water Co.

Critical Date(s): 4/17/2010 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Deason, Bulecza-Banks, Fletcher, Walden
GCL: Brown

Issue 1: Should Sunny Shores' proposed tariff sheet to implement its backflow maintenance program charge be suspended?

Recommendation: Yes. Sunny Shores' proposed tariff sheet to implement its backflow maintenance program should be suspended pending further investigation by staff.

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open pending the Commission's final action on the Utility's requested approval to implement its backflow maintenance program.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

15**

Docket No. 100050-WS – Application for grandfather certificate to operate water and wastewater utility in Hardee County by Aqua Utilities Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Brady, Williams

GCL: Holley

Issue 1: Should Aqua Utilities Florida, Inc.'s application for grandfather water and wastewater certificates in Hardee County be acknowledged?

Recommendation: Yes. AUF's application should be acknowledged and the Utility should be issued Certificate Nos. 555-S and 649-W, effective October 26, 2009, to serve the territory described in Attachment A of staff's memorandum dated March 4, 2010. The resultant order should serve as AUF's water and wastewater certificates and should be retained by the Utility. AUF should be required to file a 2009 annual report by March 31, 2010, and pay regulatory assessment fees (RAFs) by March 31, 2010, for the period of October 26, 2009, through December 31, 2009.

Issue 2: What rates and charges should be approved for Aqua Utilities Florida, Inc.?

Recommendation: The Utility's rates and charges that were in effect when Hardee County rescinded jurisdiction, shown on Schedule No. 1 of staff's memorandum dated March 4, 2010, should be approved. AUF should be required to charge the approved rates until authorized to change by this Commission in a subsequent proceeding. The rates and charges should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.).

Issue 3: Should this docket be closed?

Recommendation: Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of the final order.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

16**

Docket No. 100049-WS – Petition for approval of change in reuse rate by Aqua Utilities Florida, Inc.

Critical Date(s): 03/23/10 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Lingo, Rieger, Thompson
GCL: Holley

Issue 1: Should Aqua Utilities Florida, Inc.'s proposed reuse rates be suspended?

Recommendation: Yes, Aqua Utilities Florida, Inc.'s proposed reuse rate should be suspended.

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open pending the Commission's decision on the Utility's requested rate change.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

17**

Docket No. 090415-SU – Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Hudson, Bulecza-Banks, Daniel, Fletcher, Simpson
GCL: Saylor

Issue 1: Should the Commission acknowledge the voluntary withdrawal of West Lakeland’s SARC application, and if so, what effect does the withdrawal have on Order No. PSC-09-0793-PCO-SU?

Recommendation: Yes, the voluntary withdrawal of West Lakeland’s SARC application should be acknowledged as a matter of right, and West Lakeland’s withdrawal renders Order No. PSC-09-0793-PCO-SU a nullity.

Issue 2: Should the docket be closed?

Recommendation: Yes, if the Commission votes to approve staff’s recommendation in Issue 1, then no further action is required and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

18**PAA

Docket No. 080121-WS – Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Fletcher, Bulecza-Banks, Daniel, Rieger, Stallcup, Thompson, Williams

GCL: Jaeger

RAD: Bloom, Hawkins, King, Merritt

Issue 1: Is Aqua Utilities Florida, Inc.'s performance as specified in the Monitoring Plan detailed in the Final Order adequate?

Recommendation: Yes.

DECISION: The recommendation was denied, substituting for recommendation: No. While preliminary monitoring results show substantial improvement in AUF's performance, additional monitoring is required to ultimately render a determination as to the adequacy of AUF's quality of service. Staff will prepare a supplemental monitoring plan, including but not limited to staff recommendations as to monitoring the aesthetic water quality of seven systems, referenced in staff's recommendation, continuing to monitor customer complaints, continuing to monitor accuracy of meter readings, continuing to monitor accuracy of bills, and monitoring environmental progress through the end of the 2010 calendar year. Staff will bring this back to the Commission within 45 days.

ITEM NO.

CASE

18**PAA

Docket No. 080121-WS – Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued, but the docket should remain open contingent on the DEP not issuing any further consent orders regarding the Woods water and wastewater systems within 18 months of the Final Order, issued on May 29, 2009. Once the 18-month timeframe has expired without any further DEP consent orders issued regarding the Woods water and wastewater systems, the increased revenues will no longer be subject to refund and this docket should be closed administratively. However, if new consent order activity for The Woods systems does occur before the 18-month timeframe has expired, staff will report back to the Commission with a recommendation as to how to proceed with the appropriate disposition of the rates made subject to refund.

DECISION: The recommendation was approved as modified to incorporate the additional supplemental monitoring as discussed in Issue 1. Staff was directed to get with the company and the Public Counsel and bring back a Phase II Monitoring Plan within 45 days or less.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

19**

Docket No. 060332-WS – Application for transfer of water and wastewater facilities to Marion County, and for cancellation of Certificate Nos. 312-S and 356-W, by Loch Harbour Utilities, Inc.

Docket No. 090304-WS – Notice of abandonment of water and wastewater system in Marion County by Loch Harbour Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative (060332-WS)
Argenziano (090304-WS)

Staff: ECR: Clapp, Marsh
GCL: Hartman, Jaeger

Issue 1: Should the transfer of the Loch Harbour Utilities, Inc. water and wastewater facilities to Marion County and the cancellation of Certificate Nos. 356-W and 312-S be acknowledged?

Recommendation: Yes. The transfer of the Loch Harbour water and wastewater facilities to Marion County should be acknowledged, as a matter of right, pursuant to section 367.071(4)(a), F.S., and Certificate Nos. 356-W and 312-S should be cancelled effective November 30, 2005.

Issue 2: Should the Commission proceed to request approval to write off the uncollected regulatory assessment fees, fines, and penalties that have not been submitted?

Recommendation: Yes. The Commission should proceed to obtain approval from the Florida Department of Financial Services to write off the uncollected RAFs, fines, and penalties that have not been submitted.

Issue 3: Should Docket Nos. 060332-WS and 090304-WS be closed?

Recommendation: Yes. The utility has requested that action not be taken with regard to its notice of abandonment pending the approval of the transfer. If the Commission acknowledges the transfer to Marion County as recommended in Issue 1, Docket No. 090304-WS is effectively moot. If the Commission approves staff's recommendation in Issue 2, upon referral of the unpaid regulatory assessment fees, penalties, and interest to the Department of Financial Services regarding authority to write off the account as uncollectible, these dockets should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

20**

Docket No. 971622-SU – Initiation of show cause proceedings against Landmark Enterprises, Inc. in Highlands County for violation of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, Regulatory Assessment Fees.
Docket No. 080236-SU – Notice of abandonment of wastewater system in Highlands County by Landmark Utilities, Inc.
Docket No. 090471-SU – Application for transfer of wastewater facilities to City of Sebring by Landmark Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: Edgar, Klement, Stevens (971622-SU)
All Commissioners (080236-SU)
All Commissioners (090471-SU)

Prehearing Officer: Klement (971622-SU)
Argenziano (080236-SU)
Administrative (090471-SU)

Staff: ECR: Walden, Marsh
GCL: Brubaker

Issue 1: Should the Commission acknowledge the appointment of the City of Sebring as receiver for the Utility, recognize the sale of the Utility to the City, and cancel Certificate No. 487-S?

Recommendation: Yes. The Commission should acknowledge the appointment of the City of Sebring as receiver for the Utility, recognize the sale of the Utility to the City, and cancel Certificate No. 487-S effective June 29, 2009.

Issue 2: Should the Commission proceed to request approval to write off the uncollected regulatory assessment fees, fines, and penalties, as well as penalties for annual reports that have not been submitted?

Recommendation: Yes. The Commission should proceed to obtain approval from the Florida Department of Financial Responsibility to write off the uncollected regulatory assessment fees, fines, and penalties, as well as penalties for annual reports that have not been submitted.

Issue 3: Should these dockets be closed?

Recommendation: Yes. If the Commission approves Staff's recommendations in Issues 1 and 2, upon referral of the unpaid regulatory assessment fees, penalties, and interest to the Department of Financial Services regarding authority to write off the account as uncollectible, these dockets should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

21

Docket No. 080407-EG – Commission review of numeric conservation goals (Florida Power & Light Company).

Docket No. 080408-EG – Commission review of numeric conservation goals (Progress Energy Florida, Inc.).

Docket No. 080409-EG – Commission review of numeric conservation goals (Tampa Electric Company).

Docket No. 080410-EG – Commission review of numeric conservation goals (Gulf Power Company).

Docket No. 080411-EG – Commission review of numeric conservation goals (Florida Public Utilities Company).

Docket No. 080412-EG – Commission review of numeric conservation goals (Orlando Utilities Commission).

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA).

Critical Date(s): None

Commissioners Assigned: Argenziano, Edgar, Skop, Klement

Prehearing Officer: Skop

Staff: GCL: Fleming, Saylor

RAD: Garl, Graves, Lewis

(Posthearing Motion for Limited Reopening of the Record - Decision on Motions for Reconsideration - Oral Argument Not Requested - Participation is at the Commission's Discretion)

Issue 1: Should JEA's motion for limited reopening of the record be granted?

Recommendation: Yes. The record should be reopened for the limited purpose of admitting JEA's corrected response to Staff Interrogatory No. 50, thus correcting a material fact upon which the Commission based its decision in setting JEA's goals.

DECISION: The recommendation was approved.

Issue 2: Should JEA's Motion for Reconsideration be granted?

Recommendation: Yes. If the Commission approves staff's recommendation on Issue 1 to reopen the record for the limited purpose of admitting JEA's corrected response to Staff Interrogatory No. 50, staff recommends that JEA's Motion for Reconsideration be granted because it identifies a point of fact that the Commission overlooked or failed to consider in rendering its order.

DECISION: The recommendation was approved.

ITEM NO.

CASE

21

Docket No. 080407-EG – Commission review of numeric conservation goals (Florida Power & Light Company).

Docket No. 080408-EG – Commission review of numeric conservation goals (Progress Energy Florida, Inc.).

Docket No. 080409-EG – Commission review of numeric conservation goals (Tampa Electric Company).

Docket No. 080410-EG – Commission review of numeric conservation goals (Gulf Power Company).

Docket No. 080411-EG – Commission review of numeric conservation goals (Florida Public Utilities Company).

Docket No. 080412-EG – Commission review of numeric conservation goals (Orlando Utilities Commission).

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA).

(Continued from previous page)

Issue 3: Should Florida Power & Light Company's Motion for Reconsideration be granted?

Recommendation: No. FPL's Motion for Reconsideration fails to identify any point of fact or law that the Commission overlooked or failed to consider in rendering its Order.

DECISION: The recommendation was approved.

Issue 4: Should Progress Energy Florida, Inc.'s Motion for Reconsideration be granted?

Recommendation: No. PEF's Motion for Reconsideration fails to identify any point of fact or law that the Commission overlooked or failed to consider in rendering its Order.

DECISION: PEF made an oral request to reopen the record for the limited purpose of addressing the double counting. The Commission voted to approve reopening the record and admitted into evidence PEF's Corrected Supplemental Response to Staff's Seventh Set of Interrogatories, No. 66.

Staff modified its recommendation as to Issue 4 to deny in part and grant in part the motion for reconsideration. Denied with respect to Progress's first argument, which is that the goals are based on programs that are technically possible rather than using the savings goals based on programs that are achievable for Progress, but granted the motion for reconsideration with respect to measures that were double counted. The Commission voted to approve revised residential goals identified in the presented table titled "Revised Commission-Approved Conservation Goals for PEF."

The amended recommendation was approved.

ITEM NO.

CASE

21

Docket No. 080407-EG – Commission review of numeric conservation goals (Florida Power & Light Company).

Docket No. 080408-EG – Commission review of numeric conservation goals (Progress Energy Florida, Inc.).

Docket No. 080409-EG – Commission review of numeric conservation goals (Tampa Electric Company).

Docket No. 080410-EG – Commission review of numeric conservation goals (Gulf Power Company).

Docket No. 080411-EG – Commission review of numeric conservation goals (Florida Public Utilities Company).

Docket No. 080412-EG – Commission review of numeric conservation goals (Orlando Utilities Commission).

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA).

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Issue 5: Should Gulf Power Company's Motion for Reconsideration be granted?

Recommendation: No. Gulf's Motion for Reconsideration fails to identify any point of fact or law that the Commission overlooked or failed to consider in rendering its Order.

DECISION: The recommendation was approved.

Issue 6: Should NRDC/SACE's Motion for Reconsideration be granted?

Recommendation: No. NRDC/SACE's motion for reconsideration fails to identify any point of fact or law that the Commission overlooked or failed to consider in rendering its Order.

DECISION: The recommendation was approved.

Issue 7: Should these dockets be closed?

Recommendation: Yes. These dockets should be closed after the time for filing an appeal has run.

DECISION: The recommendation was approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement

ITEM NO.

CASE

22**

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: Edgar, Skop, Klement

Prehearing Officer: Klement

Staff: GCL: Jaeger

ECR: Kummer

SSC: Hicks

Issue 1: Should the Commission acknowledge Sun City Center Community Association, Inc.'s (SCCCA's) Revised Notice of Voluntary Withdrawal of Complaint?

Recommendation: Yes, the Commission should acknowledge SCCCA's voluntary withdrawal of its complaint. With this withdrawal of the complaint, the Commission is divested of jurisdiction and the Proposed Agency Action Order No. PSC-09-0661-PAA-GU is a nullity.

Issue 2: Should this docket be closed?

Recommendation: Yes. There are no further actions required in this docket and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, Skop, Klement