

MINUTES OF May 24, 2011

COMMISSION CONFERENCE

COMMENCED: 9:35 pm
RECESSED: 10:09 am
RECONVENED: 1:36 pm
RECESSED: 3:40 pm
RECONVENED: 3:53 pm
RECESSED: 5:14 pm
RECONVENED: 5:33 pm
RECESSED: 6:34 pm
RECONVENED: 7:08 pm
RECESSED: 8:55 pm
RECONVENED: 9:07 pm
ADJOURNED: 10:41 pm

COMMISSIONERS PARTICIPATING: Chairman Graham
Commissioner Edgar
Commissioner Brisé
Commissioner Balbis
Commissioner Brown

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

1

Organizational Matters

DECISION: Motion to accept Timothy J. Devlin's resignation was moved and seconded.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

2**

Consent Agenda

PAA

A) Application for Certificate to Provide Alternative Access Vendor Service.

DOCKET NO.

COMPANY NAME

110044-TA

Network Innovations, Inc.

PAA

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

DOCKET NO.

COMPANY NAME

110084-TX

AireWire, Inc.

110081-TX

Advanced Communications Southeast, Inc.

110124-TX

Access Media 3, Inc.

110055-TX

Network Billing Systems, L.L.C.

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

DECISION: The recommendation was approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

3**

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): July 1, 2011 - Effective date of FTRI budget. Notification of any change in the TASA surcharge must be made to carriers prior to July 1, 2011.

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RAD: Casey, Kennedy

GCL: Miller

Issue 1: Should the Commission approve FTRI's proposed budget as outlined in Attachment A of staff's memorandum dated May 12, 2011, for the fiscal year 2011-2012, effective July 1, 2011, and should the Commission maintain the current Telecommunications Relay Service (TRS) surcharge of \$0.11 per month?

Recommendation: Staff recommends that the Commission approve FTRI's proposed budget operating revenue of \$9,638,400, and proposed budget expenses of \$13,985,908 as outlined in Attachment A for the fiscal year 2011-2012, effective July 1, 2011, with one exception. Staff recommends an increase of \$7,634 in Relay Provider Services. Staff also recommends that the TRS surcharge be maintained at \$0.11 per month for the fiscal year 2011-2012, effective July 1, 2011. The Commission should order the incumbent local exchange companies, competitive local exchange companies, and shared tenant providers to continue to bill the \$0.11 surcharge for the fiscal year 2011-2012, effective July 1, 2011.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open for the duration of the contract period with Sprint as the relay provider. This docket is used to monitor relay and contract issues that arise during the contract term.

DECISION: The recommendations were approved as amended to reduce the budget amount as discussed in the Commission Conference. The surcharge will remain the same. FTRI shall have the flexibility to make adjustments as needed.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

4

Docket No. 090539-GU – Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham

Staff: GCL: Williams, Brown

ECR: Kummer, Bulecza-Banks, Cicchetti, Draper, Gardner, Maurey, McNulty, Ollila, Roberts, Salnova, Slemkewicz, Thompson

(Motion for Summary Final Order - Oral Argument Requested.)

Issue 1: Should the Commission grant Miami-Dade Water Sewer Department's (MDWASD) Request for Oral Argument?

Recommendation: No. The Commission should not grant MDWASD's Request for Oral Argument. The Commissioners would not benefit from oral argument because the pleadings are clear on their face.

Issue 2: Should the Commission grant MDWASD's Motion for Summary Final Order?

Recommendation: No. The Commission should deny MDWASD's Motion and decline to enter a summary final order approving the 2008 Agreement because MDWASD has failed to show that there is no genuine issue of material fact or that it is entitled to judgment as a matter of law. The Commission should also decline to impose sanctions on FCG or award attorney's fees and costs to MDWASD because there is no legal or factual basis for doing so.

Issue 3: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 2, the docket should remain open and proceed to hearing as scheduled.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

5**

Docket No. 100340-TP – Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunication carrier, and universal service requirements.

Docket No. 110082-TP – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders. (Deferred from the April 5, 2011 Commission Conference, new recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham (100340-TP)

Administrative (110082-TP)

Staff: GCL: Harris, Teitzman

RAD: Kennedy, Salak

Issue 1: Should the Commission accept Associated Telephone Management Services' Offer of Settlement to resolve apparent violations of Florida Statutes and Commission Rules?

Recommendation: Yes, the Commission should accept Associated Telephone Management Services Offer of Settlement to resolve apparent violations of Florida Statutes and Commission Rules.

Issue 2: Should these Dockets be closed?

Recommendation: If the Commission approves staff's recommendation on Issue 1, Docket Number 100340-TP should be closed, while Docket Number 110082-TP should remain open to process the quarterly settlement payments as well as to monitor ongoing compliance with the Settlement Agreement during the four year period of the agreement.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

6**PAA

Docket No. 100468-TI – Acknowledgment of registration as intrastate interexchange telecommunications company by Netline Communications Corp. d/b/a clubip.com.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Curry

GCL: McKay, Evans

Issue 1: Should the Commission accept the settlement offer proposed by Netline Communications Corp. d/b/a clubip.com and acknowledge the company as a registered interexchange telecommunications company as provided by Rule 25-24.470, Florida Administrative Code, Registration Required?

Recommendation: Yes, the Commission should accept the settlement offer proposed by Netline Communications Corp. d/b/a clubip.com and acknowledge the company as a registered interexchange telecommunications company as provided by Rule 25-24.470, Florida Administrative Code (F.A.C.), Registration Required.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating order, unless a person whose substantial interest are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), F.S., any issues not in dispute shall be deemed stipulated.

Netline Communications Corp. d/b/a clubip.com shall submit the settlement payment in the amount of \$3,500 within 14 calendar days after the issuance of the Consummating Order. The payment should be made payable to the Florida Public Service Commission and should identify the docket number and the company's name. Upon receipt of the payment, the Commission shall forward it to the Division of Financial Services for \$3,300, in penalties, to be deposited into the General Revenue Fund and \$200, in collection costs, to be deposited into the Public Service Commission Regulatory Trust Fund.

ITEM NO.

CASE

6**PAA

Docket No. 100468-TI – Acknowledgment of registration as intrastate interexchange telecommunications company by Netline Communications Corp. d/b/a clubip.com.

(Continued from previous page)

This docket should remain open until staff has verified that the company has fully complied with the settlement offer. If Netline Communications Corp. d/b/a clubip.com fails to submit the settlement payment within 14 calendar days after the issuance of the Consummating Order, Netline's IXC Registration No. TK315 and tariff shall be cancelled. This docket shall be closed administratively upon receipt of the settlement payment or no earlier than 14 calendar days after issuance of the Consummating Order if the settlement payment is not received.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

7**PAA

Docket No. 110047-EQ – Petition for approval of negotiated purchase power contract with Trans World Energy LLC by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: RAD: Ma, Matthews

ECR: Franklin

GCL: Brown

Issue 1: Should the Commission approve the Petition submitted by PEF requesting approval of a negotiated contract with the qualifying facility, Trans World Energy LLC?

Recommendation: Yes. The Negotiated Contract between PEF and Trans World provides PEF with a viable source of electric capacity and energy that meets all requirements and rules governing renewable energy producers. Payments for energy and capacity are expected to produce savings between \$61.6 million and \$28.5 million over the term of the contract. The performance security required in the contract sufficiently protects ratepayers in the event of default.

Issue 2: 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: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

8**

Docket No. 110031-EG – Petition for approval of residential service dynamic price response pilot rate by Florida Power & Light Company.

Critical Date(s): 09/14/11 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: A. Roberts, Draper

GCL: Young

RAD: Garl

Issue 1: Should the Commission approve FPL's petition for its proposed Residential Service Dynamic Price Response Pilot Rate program and associated tariff sheet Nos. 8.220 and 8.030.2?

Recommendation: Yes. Staff has reviewed the petition and all supporting information provided by FPL detailing the Project and the proposed Pilot Rate, and staff believes the program and its proposed charges are appropriate and recommends the Commission approve FPL's request to implement the Pilot Rate and its associated tariffs.

Issue 2: Should the Commission approve FPL's proposal to administer the Pilot Rate through the Energy Conservation Cost Recovery (ECCR) clause?

Recommendation: Yes. The Commission should approve FPL administering the Pilot Rate through changes to the ECCR factor. However, FPL should not be permitted to recover any costs of the program via the ECCR clause.

Issue 3: What is the appropriate effective date for the proposed Pilot Rate and its associated tariffs?

Recommendation: The appropriate effective date for the proposed Pilot Rate and its associated tariffs is May 24, 2011.

Issue 4: Should this docket be closed?

Recommendation: Yes. If Issues 1 through 3 are approved, the docket should be closed if no person whose interests are substantially affected by the Commission's decision files a protest within the 21-day protest period. If a protest is filed the tariffs should remain in effect pending resolution of the protest, with revenues held subject to refund. If no timely protest is filed, this docket should be closed upon issuance of the consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

9**PAA

Docket No. 110063-EU – Petition for variance from or waiver of individual metering requirements of Rule 25-6.049(5)(a), FAC, by Destin Gulfgate Owners Association, Inc.

Critical Date(s): 06/20/11 - 90-day Rule Waiver Deadline

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: ECR: Draper, A. Roberts

GCL: Gervasi

Issue 1: Should the Commission grant DGOA’s request for waiver of the requirements of Rule 25-6.049(5), F.A.C.?

Recommendation: Yes. Staff recommends that the requested rule waiver be granted, provided that: 1) DGOA allocates the cost of electricity to the individual condominium unit owners using a reasonable apportionment method, consistent with Rule 25-6.049(9)(a), F.A.C.; 2) DGOA is responsible for all of the costs associated with the conversion from individual metering to master metering, consistent with Rule 25-6.049(7), F.A.C.; and 3) the waiver is effective for only so long as all or substantially all of the units are operated on a transient basis and the condominium is operated and licensed as a transient occupancy facility. At such time the condominium is no longer so operated and licensed, DGOA must inform Gulf Power Company (Gulf or utility) within 10 days and request Gulf to install individual meters on all the occupancy units. In the event such a conversion to individual metering is required, DGOA will be solely responsible for the cost of such conversion, consistent with Rule 25-6.049(7), F.A.C.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

10**

Docket No. 110094-EI – Petition for approval of revised underground residential and commercial differential tariffs, by Florida Power & Light Company.

Critical Date(s): 05/30/11 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: A. Roberts, Draper

GCL: Jaeger

Issue 1: Should the Commission suspend FPL's proposed tariff sheets Nos. 6.090, 6.095, 6.100, 6.110, 6.115, 6.120, 6.130, and 9.715, regarding construction of underground residential development?

Recommendation: Yes. Staff recommends that the tariffs be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposal.

Issue 2: Should the Commission suspend FPL's proposed tariff sheets Nos. 6.520, 6.530, and 6.540, regarding construction of underground commercial/industrial facilities?

Recommendation: Yes. Staff recommends that the tariff be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed decision.

Issue 3: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

11**

Docket No. 110097-EI – Petition by Gulf Power Company to approve revisions to tariff sheet Nos. 6.75, 6.76, and 6.77, Rate Schedule RSVP - Residential Service Variable Pricing.

Critical Date(s): 06/06/11 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper

GCL: Klancke

Issue 1: Should the Commission approve Gulf's petition to modify the RSVP rate and associated tariff sheets to facilitate the implementation of EnergySelect® LITE?

Recommendation: Yes.

DECISION: The recommendation was approved.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the tariffs should become effective on ~~May 24~~, the first billing cycle of July 2011. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendation was approved with noted modification.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

12**

Docket No. 090346-WU – Application for staff-assisted rate case in Lake County by BRENDENWOOD WATER SYSTEM, INC.

Critical Date(s): 04/16/11 (Complete Pro Forma Plant)

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham

Staff: ECR: Roberts, Fletcher, Hudson, Maurey, Simpson

GCL: Williams, Crawford

Issue 1: Should the Utility's request for an extension of time to complete the required pro forma plant addition be approved?

Recommendation: Yes. The Utility's request for an extension to complete the required pro forma plant addition should be approved. The pro forma plant addition should be completed by April 30, 2012. The Utility should be allowed to implement the Phase II rates once the pro forma plant addition has been completed and verified by staff. Once verified, the 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), Florida Administrative Code (F.A.C.). The rates should not be implemented until notice has been received by the customers. Brendenwood should be required to provide proof of the date notice was given within ten days after the date of the notice. If the Utility encounters any unforeseen events that will impede the completion of the pro forma addition, the Utility should immediately notify the Commission.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open to allow the Utility additional time to complete the pro forma plant addition to the water system. If the Utility completes the plant addition by April 30, 2012, the docket should be closed administratively upon staff verifying that the plant addition is complete.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

13**

Docket No. 100398-SU – Application for amendment of Certificate No. 164-S to extend territory in Duval County by Commercial Utilities, Division of Grace and Company, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: Simpson

GCL: Young

Issue 1: Should Commercial be required to show cause, in writing, within 21 days why it should not be fined for its apparent violation of Section 367.045, Florida Statutes?

Recommendation: No. A show cause proceeding should not be initiated.

Issue 2: Should the Commission approve Commercial’s application for amendment of Certificate No. 164-S?

Recommendation: Yes. The Commission should approve Commercial’s application for amendment of Certificate No. 164-S to include territory as reflected in Attachment A of staff’s memorandum dated May 12, 2011. The resultant order should serve as Commercial’s amended certificate and should be retained by the Utility. Pursuant to Rule 25-9.044(1), Florida Administrative Code (F.A.C.), the Utility should charge the customers in the territory added herein the rates and charges contained in its current tariff until authorized to be changed by the Commission.

Issue 3: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff’s recommendation in Issues 1 and 2, no further action will be necessary, and this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

14**

Docket No. 100104-WU – Application for increase in water rates in Franklin County by Water Management Services, Inc.

Critical Date(s): None

Commissioners Assigned: Graham, Edgar, Brown

Prehearing Officer: Graham

Staff: GCL: Jaeger

ECR: Hudson, Fletcher, Maurey

Issue 1: What actions should the Commission take concerning the response of Water Management Services, Inc. (WMSI) to the requirement to show cause why it should not be fined \$1,000 for its apparent failure to timely comply with the requirements of Order No. PSC-94-1383-FOF-WU?

Recommendation: Staff believes that WMSI has made a good faith effort to comply with the 1994 Order, and has substantially complied with the explicit directions of the 1994 Order to keep accurate mileage records. Therefore, staff recommends that the Commission take no further action in regards to any show cause proceeding in this docket.

Issue 2: Should this docket be closed?

Recommendation: No, this docket should remain open until the appeal is completed and staff confirms that the appropriate refunds of the interim increase have been made. Upon this being accomplished and verified by staff, the docket may be closed administratively pursuant to Order No. PSC-11-0010-SC-WU.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brown

ITEM NO.

CASE

15**PAA

Docket No. 100160-EG – Petition for approval of demand-side management plan of Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Lewis, Brown, Clemence, Ellis, Garl, Gilbert, Harlow
GCL: Harris, Tan

Issue 1: Should the Commission approve the Compliance Plan filed by PEF on November 29, 2010?

Recommendation: No. The Commission should not approve the Compliance Plan because it is estimated to have an undue rate impact through the Energy Conservation Cost Recovery (ECCR) clause.

Issue 2: Should the Commission approve the Rate Mitigation Plan filed by PEF on November 29, 2010?

Recommendation: Yes. The Commission should approve the Rate Mitigation Plan with the clarification that approval does not constitute a revision of the goals the Commission previously set for PEF in Order No. PSC-10-0198-FOF-EG. While the Rate Mitigation Plan is not projected to meet all the numeric conservation goals set by the Commission, the reduction in rate impact compared to the Compliance Plan is considerable. PEF should strive to meet the original goals set by the Commission through the implementation of the programs described in staff's memorandum dated May 12, 2011, and through education and diligent monitoring and analysis of program participation and results on an ongoing basis. Pursuant to Section 366.82(8), F.S., PEF may be eligible for a financial reward should it exceed the Commission's established goals. However, for purposes of determining financial penalties, PEF's achievements should be evaluated against the demand and energy savings projections contained in the Rate Mitigation Plan.

Commission approval of PEF's Rate Mitigation Plan will allow PEF to file for cost recovery. However, PEF must still demonstrate, during the Energy Conservation Cost Recovery clause proceeding, that expenditures in implementing its DSM programs are reasonable and prudent. PEF should be required to file program standards for administrative approval within 30 days of the Consummating Order in this docket.

ITEM NO.

CASE

15**PAA

Docket No. 100160-EG – Petition for approval of demand-side management plan of Progress Energy Florida, Inc.

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action issue files a protest within 21 days of the issuance of the Order, a Consummating Order will be issued. If the Commission approves any programs, the programs should become effective on the date of the Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the programs should not be implemented until after the resolution of the protest. However, the docket should remain open for staff's verification that the program standards have been filed by the Utility and approved by staff. When the PAA issues are final and the program standards have been approved, this docket may be closed administratively.

DECISION: This item was deferred to the June 14, 2011, Commission Conference.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

16**PAA

Docket No. 100155-EG – Petition for approval of demand-side management plan of Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Garl, Brown, Harlow, Lewis

GCL: Harris

Issue 1: Does FPL's Modified Demand-Side Management Plan satisfy the Company's numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG?

Recommendation: Yes. The Commission should approve FPL's Modified Plan because it is projected to achieve all goals, is cost-effective, and it does not create an undue rate impact. As such, there is no need to consider the Alternate Plan which fails to meet most goals. FPL should file its program standards for all its programs within 30 days of the Commission's Order in this docket.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action issue files a protest within 21 days of the issuance of the Order, a Consummating Order will be issued. If the Commission approves any programs, the programs should become effective on the date of the Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the programs should not be implemented until after the resolution of the protest. However, the docket should remain open for staff's verification that the program standards have been filed by the Utility and approved by staff. When the PAA issues are final and the program standards have been approved, this docket may be closed administratively.

DECISION: This item was deferred to the June 14, 2011, Commission Conference.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

17**PAA

Docket No. 100330-WS – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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): 5-Month Effective Date Waived through 05/24/11

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham (100330-WS)
Edgar (080121-WS)

Staff: ECR: Mouring, Cicchetti, Daniel, Deason, Fletcher, Golden, Hudson, Jones-Alexis, Lingo, Linn, Maurey, Rieger, Salnova, Simpson, Springer, Stallcup, Thompson, Walden, Williams

GCL: Jaeger, Bennett, Klancke

(This item will be taken up at 1:30 p.m. Proposed Agency Action for all Issues Except 44, 46, and 48.)

Issue 1: Is the quality of service provided by the Utility satisfactory, and, if not, what action should be taken by the Commission?

Recommendation: Yes. Based on the results of the Phase II Monitoring Plan in Docket No. 080121-WS and staff's evaluation in the instant rate case proceeding, the overall quality of service provided by AUF for all systems, including Chuluota, is satisfactory.

DECISION: The recommendation was denied. The quality of service provided by the Utility is marginal. Staff was directed to meet with the Utility, OPC, and the Intervenors to develop a Phase III monitoring plan (following the matrix of the Phase II monitoring plan), and submit the new plan; close the earlier docket concerning the Phase II monitoring plan.

Issue 2: Should the audit adjustments to rate base and operating expenses to which the Utility agrees, be made?

Recommendation: Yes. Based on audit adjustments agreed to by the Utility, staff recommends that land and working capital be increased by \$160,093 and \$79,006, respectively, and operation & maintenance (O&M) expenses be decreased by \$255,390.

DECISION: The recommendation was approved.

ITEM NO.

CASE

17**PAA

Docket No. 100330-WS – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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 3: Should adjustments be made to the Utility's pro forma plant additions?

Recommendation: Yes. The Utility's pro-forma plant additions should be decreased by \$410,693 for water and by \$658,663 for wastewater. Accordingly, accumulated depreciation should be decreased ~~increased~~ by \$56,399 ~~\$52,928~~ for water and decreased \$82,647 ~~\$190,360~~ for wastewater, and depreciation expense should be decreased by \$31,597 ~~\$29,982~~ for water and \$38,599 ~~\$56,929~~ for wastewater. Moreover, the Utility's property taxes should be decreased by \$11,343 ~~\$33,837~~ for water and \$13,581 ~~\$40,974~~ for wastewater. The specific rate band and system adjustments are set forth in the analysis portion of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved with noted modifications.

Issue 4: Do any water systems have excessive unaccounted for water, and, if so, what adjustments are necessary?

Recommendation: Yes. The percentages for excessive unaccounted for water (EUW) and the adjustments staff recommends be made to Purchased Power, Chemicals, and Purchased Water expenses for each water rate band and stand-alone system are shown in Table 4-1 of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved.

ITEM NO.

CASE

17**PAA

Docket No. 100330-WS – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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 5: What are the appropriate used and useful percentages for the water treatment and related facilities of each water system?

Recommendation: All of the AUF water treatment plants should be considered 100 percent used and useful (U&U), with the exception of Carlton Village (95 percent), Gibsonia Estates (61 percent), Hermits Cove/St. Johns Highland (31 percent), Lake Josephine/Sebring Lakes (86 percent), Picciola Island (75 percent), Silver Lake Estates/Western Shores (94 percent), Sunny Hills (91 percent), Venetian Village (74 percent), and Welaka (80 percent). Attachment 4A of staff's memorandum dated May 12, 2011 contains the composite U&U percentages for the four rate bands, as well as the individual U&U percentages for Breeze Hill, Fairways, and Peace River. Further, the rate base adjustments are shown on Schedule 3-C, and the depreciation expense and property tax adjustments are shown on Schedule 4-C of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved.

Issue 6: What are the appropriate used and useful percentages for the storage tanks?

Recommendation: All of the AUF storage tanks should be considered 100 percent U&U.

DECISION: The recommendation was approved.

ITEM NO.

CASE

17**PAA

Docket No. 100330-WS – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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.

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Issue 7: What are the appropriate used and useful percentages for the water distribution systems?

Recommendation: All of the AUF water distribution systems are 100 percent U&U, with the exception of 48 Estates (85 percent), Arredondo Farms (88 percent), Carlton Village (47 percent), Hermits Cove/St. Johns Highlands (80 percent), Holiday Haven (76 percent), Interlachen/Park Manor (83 percent), Lake Josephine/Sebring Lakes (55 percent), Leisure Lakes (84 percent), Palms Mobile Home Park (88 percent), Picciola Island (80 percent), Pomona Park (51 percent), Silver Lake Oaks (87 percent), Stone Mountain (54 percent), Sunny Hills (13 percent), Tangerine (60 percent), The Woods (76 percent), Venetian Village (85 percent), Welaka (52 percent), and Wootens (66 percent). Attachment 5 of staff's memorandum dated May 12, 2011 contains the composite U&U percentages for the water rate bands, as well as the individual U&U percentages for Breeze Hill, Fairways, and Peace River. Further, the rate base adjustments are shown on Schedule 3-C, and the depreciation expense and property tax adjustments are shown on Schedule 4-C of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved.

Issue 8: Do any wastewater systems have excessive infiltration and inflow and, if so, what adjustments are necessary?

Recommendation: Yes. The appropriate percentages for excessive Infiltration and Inflow (I&I) and the adjustments that should be made to Purchased Power, Chemicals, and Purchased Wastewater expenses are shown in Table 8-1 of staff's memorandum dated May 12, 2011, for each wastewater rate band and stand-alone system.

DECISION: The recommendation was approved.

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Issue 9: What are the appropriate used and useful percentages for the wastewater treatment and related facilities of each wastewater system?

Recommendation: All of the AUF wastewater treatment plants should be considered 100 percent U&U, with the exception of Breeze Hill (56 percent), Holiday Haven (75 percent), Leisure Lakes (39 percent), Palm Port (58 percent), Silver Lake Oaks (42 percent), Sunny Hills (49 percent), and Village Water (79 percent). Attachment 7A of staff's memorandum dated May 12, 2011, contains the composite U&U percentages for the wastewater rate bands, as well as the individual U&U percentages for Breeze Hill, Fairways, and Peace River. Further, the rate base adjustments are shown on Schedule 3-C, and the depreciation expense and property tax adjustments are shown on Schedule 4-C of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved with an oral modification by staff to the analysis portion of staff's recommendation.

Issue 10: What are the appropriate used and useful percentages for the wastewater collection systems?

Recommendation: All of the AUF wastewater collection systems are 100 percent U&U, with the exception of Holiday Haven (75 percent), Leisure Lakes (85 percent), Palm Port (91 percent), Silver Lake Oaks (87 percent), Sunny Hills (55 percent), The Woods (71 percent), and Village Water (58 percent). Attachment 8 of staff's memorandum dated May 12, 2011 contains the composite U&U percentages for the wastewater rate bands, as well as the individual U&U percentages for Breeze Hill, Fairways, and Peace River. Further, the rate base adjustments are shown on Schedule 3-C, and the depreciation expense and property tax adjustments are shown on Schedule 4-C of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved.

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Issue 11: Should any further adjustment be made to Other Deferred Debits?

Recommendation: Yes. Other Deferred Debits should be increased further by \$14,042 for the jurisdictional systems to reflect the appropriate 13-month average balance.

DECISION: The recommendation was approved with an oral modification by staff to the table in staff's recommendation.

Issue 12: Should any adjustments be made to Accrued Taxes?

Recommendation: Yes. Consistent with the Commission's decision in the Utility's last rate case, Accrued Taxes should be reduced by \$1,917,134 on a total company basis to normalize the test year Accrued Tax balance for purposes of setting rates. The reduction of \$1,917,134 represents the total for AUF. The Commission only has jurisdiction over 60.17 percent of the total AUF systems. This would be a reduction of \$1,153,548 for the jurisdictional systems.

DECISION: The recommendation was approved.

Issue 13: Should any adjustments be made to Deferred Rate Case expense?

Recommendation: Yes. Consistent with the annual amortization amount approved in the Utility's last rate case and Commission practice, Deferred Rate Case expense should be increased by \$107,880.

DECISION: The recommendation was approved with an oral modification by staff to the analysis portion of staff's recommendation.

Issue 14: What is the appropriate Working Capital allowance?

Recommendation: The appropriate jurisdictional Working Capital allowance is \$2,512,609. As such, Working Capital should be decreased by \$952,621. The specific rate band and system adjustments are set forth in the analysis portion of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved.

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Issue 15: What is the appropriate rate base for the April 30, 2010, test year?

Recommendation: Consistent with other recommended adjustments, the appropriate 13-month average rate base is \$20,242,872 ~~\$20,250,529~~ for water and \$13,781,735 ~~\$12,947,459~~ for wastewater.

DECISION: The recommendation was approved with noted modification.

Issue 16: What is the appropriate capital structure to use for rate setting purposes?

Recommendation: The appropriate capital structure to use for rate setting purposes is based on the capital structure of AUF.

DECISION: The recommendation was approved.

Issue 17: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?

Recommendation: The appropriate amount of accumulated deferred income taxes to include in the capital structure is \$2,192,385 ~~\$2,201,374~~. This represents an increase of \$735,913 ~~\$744,899~~ over the amount reflected in the Utility's filing.

DECISION: The recommendation was approved with noted modification.

Issue 18: What are the appropriate cost rates for short and long-term debt for the test year?

Recommendation: There is no short-term debt in AUF's capital structure. The appropriate cost rate for long-term debt for the test year is 5.10 percent.

DECISION: The recommendation was approved.

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Issue 19: What is the appropriate return on equity (ROE) for the test year?

Recommendation: The appropriate return on common equity is 9.67 percent based on the Commission leverage formula currently in effect. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

DECISION: The recommendation was modified to reduce by 25 basis points to reflect the decision on Issue 1; staff was directed to make administrative adjustments as needed; and with noted oral modification to the analysis portion of staff's recommendation.

Issue 20: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?

Recommendation: The appropriate weighted average cost of capital for AUF is 7.39 ~~7.37~~ percent.

DECISION: The recommendation was approved with noted modification.

Issue 21: Should any adjustments be made to disallow fines and penalties assessed to the Utility?

Recommendation: Yes. O&M expenses should be reduced by \$12,767 to remove expenses related to fines and penalties. The specific adjustments to each rate band and system are set forth in the analysis portion of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved.

Issue 22: Should any adjustments be made related to charges from affiliates?

Recommendation: Yes. Plant, Accumulated Depreciation, O&M expenses, and Depreciation expense should be reduced by \$148,278, \$61,819, \$65,187, and \$163,319, respectively. The specific adjustments to each rate band and system are set forth in the analysis portion of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved with an oral modification by staff to the analysis portion of staff's recommendation.

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Issue 23: Should any adjustments be made to Sludge Hauling, Contractual Services – Accounting, and Contractual Services - Legal expenses?

Recommendation: Yes. O&M expenses should be reduced by \$29,949 to reflect the appropriate Sludge Hauling, Contractual Services – Accounting, and Contractual Services – Legal expenses. The specific adjustments to each rate band and system are set forth in the analysis portion of staff’s memorandum dated May 12, 2011.

DECISION: The recommendation was approved.

~~**Issue 24:** Should any adjustments be made to lobbying expenses?~~

~~**Recommendation:** Yes. O&M expenses should be reduced by \$34,375 to remove charges related to lobbying efforts. The specific adjustments to each rate band and system are set forth in staff’s analysis below.~~

DECISION: Issue deleted by staff as reflected in the oral modification e-mail and errata sheet.

Issue 25: Should any adjustments be made for Director and Officers Liability insurance?

Recommendation: Yes. Consistent with Commission practice, O&M expenses should be reduced by \$5,289 for its jurisdictional systems to reflect a sharing of the cost of Director and Officers Liability (DOL) insurance between ratepayers and the Utility.

DECISION: The recommendation was approved. Commissioner Brown dissented.

Issue 26: Should any adjustments be made to Salaries and Wages - Employees expense?

Recommendation: Yes. Salaries and Wages - Employees expense should be reduced by \$51,579. Accordingly, a corresponding adjustment should be made to reduce Payroll Taxes by \$3,946. The specific adjustments to each rate band and system are set forth in the analysis portion of staff’s memorandum dated May 12, 2011.

DECISION: The recommendation was modified. There was no change to salaries and wages as a result of this rate case; staff was instructed to administratively calculate any adjustments.

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Issue 27: Should any adjustments be made to Bad Debt expense?

Recommendation: Yes. Bad Debt expense should be \$386,221. Accordingly, AUF's Bad Debt expense of \$389,420 should be reduced by \$3,199.

DECISION: The recommendation was approved.

Issue 28: What is the appropriate amount of rate case expense?

Recommendation: The appropriate amount of rate case expense is \$778,269. This expense should be recovered over four years for an annual expense of \$194,567. Thus, AUF's requested rate case expense of \$670,268 should be increased by \$27,000. The specific adjustments to each rate band and system are set forth in the analysis portion of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved.

Issue 29: Should an adjustment be made to the Utility's normalization adjustments?

Recommendation: Yes. O&M expenses should be decreased by \$33,748 for water and increased by \$1,768 for wastewater. The specific adjustments for each rate band and stand-alone system are set forth in the analysis portion of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved with an oral modification by staff to the analysis portion of staff's recommendation.

Issue 30: Should an adjustment be made to the Utility's pro forma expense adjustments?

Recommendation: Yes. O&M expenses should be increased by \$83,790 for water and decreased by \$431 for wastewater. In addition, staff recommends requiring AUF to file a report with the Commission detailing the outcome of the dispute with the City of Lake Worth Utilities, within 30 days of the resolution of the dispute.

DECISION: The recommendation was approved with an oral modification by staff to the analysis portion of staff's recommendation.

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Issue 31: Should an adjustment be made to O&M expense to remove the additional cost of mailing multiple bills to the same customers who have more than one class of service?

Recommendation: Yes. The costs of mailing 2,892 duplicate bills in the amount of \$14,142 should be removed from O&M expense for the Fairways water system.

DECISION: The recommendation was approved.

Issue 32: What is the test year pre-repression water and wastewater operating income or loss before any revenue increase?

Recommendation: The test year pre-repression water and wastewater operating incomes are \$306,074 ~~\$341,466~~ and \$451,682 ~~\$486,722~~, respectively.

DECISION: The recommendation was approved with noted modification.

Issue 33: What is the appropriate pre-repression revenue requirement for the April 30, 2010, test year?

Recommendation: The appropriate pre-repression revenue requirement for the April 30, 2010, test year is \$10,315,406 ~~\$10,253,458~~ for water and \$6,002,288 ~~\$5,835,689~~ for wastewater.

DECISION: The recommendation was approved with noted modification.

Issue 34: What, if any, limit should be imposed on the subsidies that could result if the Utility's rate bands and stand-alone systems are partially or fully consolidated?

Recommendation: Staff recommends that the appropriate subsidy limit for the water systems and the wastewater systems should be \$12.50. This recommended subsidy limit is applicable only to the residential class, and is based upon usage levels of 7 kgals per month for the water systems and 6 kgals per month for the wastewater systems.

DECISION: The recommendation was approved.

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Issue 35: If the Commission implements a capband rate consolidation method in Issues 37 or 38, what are the appropriate rate cap thresholds to be used to cap residential customer bills for the water and wastewater systems?

Recommendation: Staff recommends that the appropriate rate cap thresholds are \$66.50 ~~\$66.25~~ for the water systems and \$93.00 ~~\$90.00~~ for the wastewater systems. These rate cap thresholds are based upon residential customer bills with usage levels of 7 kgals per month for the water systems and 6 kgals per month for the wastewater systems.

DECISION: The recommendation was approved with noted modification.

Issue 36: What are the appropriate rate structures for the Utility’s water and wastewater systems?

Recommendation: Staff recommends that the appropriate rate structure for the Utility’s residential water customers is a three-tiered inclining block rate structure with usage blocks for monthly consumption of 0 to 6 kgals, 6.001 to 12 kgals, and all kgals in excess of 12 kgals. For those water systems for which no repression adjustment is made, the recommended usage block rate factors are 1.0, 1.5, and 2.0, respectively. For those water systems for which a repression adjustment is made, the appropriate rate factors are 1.000, 1.883, and 2.824 ~~1.866, and 2.798~~, respectively. The appropriate rate structure for the general service water customers is a continuation of the BFC/uniform gallonage charge rate structure, with the general service gallonage charge rate based on the overall average rate per kgal. The BFC allocation for the water systems should be set at 40 percent. However, if the Commission decides not to consolidate the Breeze Hill water system with another water system, staff recommends that the appropriate BFC allocation for the Breeze Hill system is 50 percent.

The appropriate rate structure for the Utility’s wastewater systems is a continuation of the current BFC/gallonage charge rate structure. Residential billed consumption should be capped at 6 kgals, and the general service kgal charge should be 1.2 times the corresponding residential kgal charge. The BFC cost recovery allocation for the wastewater system should be set at 50 percent.

DECISION: The recommendation was approved with noted modification.

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Issue 37: What is the appropriate level of rate consolidation for the water systems in this case?

Recommendation: Staff recommends that the appropriate level of rate consolidation for the water systems is to combine the current water Rate Band 1 and the Fairways water system into a single rate band (new Rate Band 1), and the current water Rate Bands 2, 3, and 4, and the Breeze Hill and Peace River water systems into a second single rate band (new Rate Band 2). The appropriate rate consolidation methodology is the capband rate consolidation methodology wherein the new Rate Band 1 is uncapped and the new Rate Band 2 is capped.

DECISION: The recommendation was approved with an oral modification by staff to the analysis portion of staff's recommendation.

Issue 38: What is the appropriate level of rate consolidation for the wastewater systems in this case?

Recommendation: Staff recommends that the appropriate level of rate consolidation for the wastewater systems is to keep current wastewater Rate Band 1 unchanged (new Rate Band 1), and combine current wastewater Rate Bands 2 and 3, plus the Breeze Hill, Fairway, and Peace River wastewater systems into a second single rate band (new Rate Band 2). Current Rate Band 4, consisting of two systems that serve general service customers only, should continue to have its own rate band (new Rate Band 3). The appropriate rate consolidation methodology is the capband rate consolidation methodology wherein the new Rate Band 1 is uncapped, the new Rate Band 2 is capped, and the new Rate Band 3 is treated as a separate stand-alone system.

DECISION: The recommendation was approved with an oral modification by staff to the analysis portion of staff's recommendation.

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Issue 39: Is a repression adjustment appropriate for this Utility, and, if so, what is the appropriate methodology to calculate a repression adjustment, and what are the appropriate resulting repression adjustments for this Utility?

Recommendation: Yes, a repression adjustment is appropriate for the uncapped water Rate Band 1. The appropriate methodology to calculate a repression adjustment is to apply a price elasticity factor of -0.4 to the uncapped system's residential discretionary water consumption (e.g., consumption greater than 6 kgal per month). The appropriate repression adjustments are shown below in Table 39-1.

Table 39-1			
Recommended Repression Adjustments Uncapped Water Systems (Rate Band 1)			
		Uncapped	Uncapped
<u>Water</u>			
	Number of Kgal Repressed	47,913	49,156
	Pre-repression Revenue Requirement	\$3,593,796	\$3,631,639
	Purchased Power Adjustment	(\$2,125)	(\$2,173)
	Chemicals Adjustment	(\$5,652)	(\$5,778)
	Purchased Water Adjustment	(\$22,617)	(\$23,123)
	Regulatory Assessment Fees Adjustment	(\$1,368)	(\$1,398)
	Post-repression Revenue Requirement (1)	\$3,561,531	\$3,599,166
(1)	May not sum to total due to rounding of individual expense adjustments.		

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In order to monitor the effect of the rate structure and rate changes, the Utility should be ordered to file reports detailing the number of bills rendered, the consumption billed and the revenues billed on a monthly basis. In addition, the reports should be prepared by rate band, customer class, usage block, and meter size. The reports should be filed with staff, on a semi-annual basis, for a period of two years beginning with the first billing period after the approved rates go into effect. To the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility should be ordered to file a revised monthly report for that month within 30 days of any revision.

DECISION: The recommendation was approved with noted modification.

Issue 40: What are the appropriate monthly rates for the water and wastewater systems for the Utility?

Recommendation: The appropriate monthly water rates are shown on Schedule 4-A and the appropriate monthly wastewater rates are shown on Schedule 4-B of staff's memorandum dated May 12, 2011. Excluding miscellaneous service charges, the recommended water rates produce revenues of \$10,010,973 ~~\$9,981,498~~, and the recommended wastewater rates produce revenues of \$6,001,265 ~~\$5,835,689~~. The Utility should file revised water and wastewater tariff sheets and a proposed customer notice to reflect the Commission-approved rates for the water and wastewater systems. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than ten days after the date of the notice.

DECISION: The recommendation was approved with noted modification. In this fallout issue, staff was given administrative authority to make any necessary adjustments.

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Issue 41: Should the Utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

Recommendation: Yes, AUF should be authorized to revise the Miscellaneous Service Charges for its Breeze Hill and Fairway systems. 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, AUF 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 the notice was sent. The appropriate charges are reflected below.

Water and Wastewater Miscellaneous Service Charges				
	Water		Wastewater	
	Normal Hrs	After Hrs	Normal Hrs	After Hrs
Initial Connection	\$22	\$33	\$22	\$33
Normal Reconnection	\$22	\$33	\$22	\$33
Violation Reconnection	\$35	\$55	Actual Cost	Actual Cost
Premises Visit	\$22	\$33	\$22	\$33
Late Payment Fees	\$5	N/A	\$5	N/A

DECISION: The recommendation was approved.

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Issue 42: What are the appropriate service availability charges and allowance for funds prudently invested charges for the Utility?

Recommendation: The Utility's previously-approved uniform meter installation, service installation, main extension, and plant capacity charges are appropriate for AUF's Breeze Hill, Fairways, and Peace River stand-alone systems. AUF's proposed uniform engineering fees are cost-based and appropriate. However, the Utility's proposed uniform field inspection fees should be denied for lack of support documentation in accordance with Section 367.091(6), F.S. In addition, consistent with the recommended non-used and useful plant, depreciation expense and property taxes, as well as the return on equity and overall cost of capital, the appropriate AFPI charges for Breeze Hills' wastewater treatment plant are set forth in Table 42-6 of the analysis portion of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved.

Issue 43: What are the appropriate customer deposits for the Utility?

Recommendation: The appropriate customer deposits should be the actual average two months bills of the Commission-approved rate structure and rates in this case. The Utility should submit revised tariff sheets to include a provision for customer deposits. Staff should be given authority to administratively approve these tariff sheets upon verification they are consistent with the Commission's decision. The revised tariff sheets should be implemented on or after the stamped approval date on the revised tariff sheet, pursuant to Rule 25-30.475(2), F.A.C., if no protest is filed and once the proposed customer notice has been approved by staff as adequate, and the customers have received the approved notice. The notice may be combined with the notice for the approved service rates.

DECISION: The recommendation was approved.

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Issue 44: What is the appropriate four-year rate case expense reduction for Docket No. 080121-WS?

Recommendation: The appropriate reductions for rate case expense approved in Docket No. 080121-WS are shown in the tables in the analysis portion of staff's memorandum dated May 12, 2011. 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 proposed customer notices for each system 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. The 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 notices were given within ten days of the date the notices were sent. 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 for the reduction in the rates due to the amortized rate case expense.

DECISION: The recommendation was approved with an oral modification by staff to the analysis portion of staff's recommendation.

Issue 45: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense not in effect during the interim period. The revised revenue requirements for the interim collection period should be compared to the amount of interim revenue requirement granted. Based on this calculation, the required interim refunds are set forth in the analysis portion of staff's memorandum dated May 12, 2011.

DECISION: The recommendation was approved with an oral modification by staff to Table 45-1 of the analysis portion of staff's recommendation.

ITEM NO.

CASE

17**PAA

Docket No. 100330-WS – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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.

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Issue 46: 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 for the instant case as required by Section 367.0816, F.S.?

Recommendation: The rates should be reduced as shown on Schedules 5-A and 5-B of staff's memorandum dated May 12, 2011, to remove the revenue impact of rate case expense for water and wastewater, respectively. This amount was calculated by taking the annual amount of rate case expense and the return on the provision included in working capital allowance by system, as well as the gross-up for regulatory assessment fees, which is \$167,285 for water and \$66,497 for wastewater.

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 proposed customer notices 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. The 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 notices were given within ten days of the date the notices were sent. 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 for the reduction in the rates due to the amortized rate case expense.

DECISION: The recommendation was approved.

ITEM NO.

CASE

17**PAA

Docket No. 100330-WS – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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.

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Issue 47: In accordance with Order No. PSC-10-0707-FOF-WS, what is the amount and who would have to pay the regulatory asset (or deferred interim revenues), if it is ultimately determined by the Commission that the Utility was entitled to those revenues when it first applied for interim rates?

Recommendation: Consistent with the recommended interim refunds discussed in Issue 45, the recommended rate bands and stand alone systems addressed in previous issues, and an estimated cessation date for the interim collection period of three weeks after the final order in this case, the total regulatory assets for water and wastewater are \$400,679 and \$218,140, respectively. Accordingly, the total annual amortization amount is \$200,339 and \$109,070 for water and wastewater, respectively. Staff recommends that each rate band or stand-alone system that generated the regulatory assets receive the reduction in annual amortization of their respective regulatory assets. Upon the expiration of the two-year amortization period, the respective band or systems' rates should be reduced across-the-board to remove the respective grossed up annual amortization of the regulatory assets. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than 30 days prior to the actual date of the required rate reduction. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-40.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. AUF should provide proof of the date notice was given within 10 days of the date the notice were sent. 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 for the reduction in the rates due to the amortized regulatory asset.

DECISION: The recommendation was approved.

ITEM NO.

CASE

17**PAA

Docket No. 100330-WS – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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.

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Issue 48: Should the Utility be required to provide proof that it has adjusted its books for all Commission-approved adjustments?

Recommendation: Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, AUF should provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts have been made.

DECISION: The recommendation was approved.

Issue 49: Should these dockets be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action (PAA) files a protest within 21 days of the issuance of the PAA Order, a consummating order will be issued. Docket No. 100330-WS 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, that the interim refund has been completed and verified by staff, and that the Utility has provided proof that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission-approved adjustments. Once these actions are complete, these dockets should be closed administratively. If there is a protest of the PAA Order, Docket No. 080121-WS should be closed and any issues concerning quality of service should be addressed in Docket No. 100330-WS.

DECISION: The recommendation was approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown