

MINUTES OF November 10, 2009

COMMISSION CONFERENCE

COMMENCED: 9:36 am
RECESSED: 10:38 am
RECONVENED: 10:48 am
RECESSED: 11:02 am
RECONVENED: 11:04 am
RECESSED: 11:06 am
RECONVENED: 11:19 am
RECESSED: 12:53 pm
RECONVENED: 1:12 pm
ADJOURNED: 1:35 pm

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

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

1

Approval of Minutes

September 15, 2009 Regular Commission Conference
October 6, 2009 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

ITEM NO.

CASE

2**

Consent Agenda

PAA

A) Application for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
090416-TX	International Integrated Solutions, LLC d/b/a International Network Solutions, LLC

B) Docket No. 090469-EI – Application for authority to issue and sell securities and to receive common equity contributions during 12 months ending December 31, 2010, pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Gulf Power Company.

Application by Gulf Power Company (“Company”) for authority to receive equity funds from and/or to issue common equity securities to its parent company, Southern Company (“Southern”); issue and sell long-term debt and equity securities; and issue and sell short-term debt securities during 2010. The amount of common equity contributions received from and issued to Southern, the amount of other equity securities issued, and the maximum principal amount of long-term debt securities issued will total not more than \$800 million. The maximum principal amount of short-term debt at any one time will total not more than \$300 million.

In connection with this application, the Company confirms that the capital raised pursuant to this application will be used in connection with the activities of Gulf Power Company and not the unregulated activities of its affiliates.

For monitoring purposes, this docket should remain open until April 28, 2011, to allow the Company time to file the required Consummation Report.

ITEM NO.

CASE

2**

Consent Agenda

(Continued from previous page)

- C) Docket No. 090472-GU – Application for authority to issue debt security during calendar year 2010, pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Florida City Gas.

Florida City Gas seeks authority to finance its on-going cash requirements through its participation and borrowings from and investments in AGL Resources Inc.'s ("AGLR") Utility Money Pool during 2010. Florida City Gas is a division of Pivotal Utility Holdings, Inc., which is a wholly-owned subsidiary of AGLR. The maximum aggregate short-term borrowings by Pivotal Utility Holdings, Inc.'s three utilities (Elizabethtown Gas, Elkton Gas, and Florida City Gas) from the Utility Money Pool during 2010 will not exceed \$800 million. Florida City Gas states that its share of these borrowings will not exceed \$250 million.

For monitoring purposes, this docket should remain open until April 28, 2011, to allow the Company time to file the required Consummation Report.

- D) Docket No. 090473-EI – Application for authority to issue and sell securities during 12 months ending December 31, 2010, by Progress Energy Florida, Inc.

Application of Progress Energy Florida, Inc. ("Company") for authority to issue, sell or otherwise incur during 2010 up to \$1.5 billion of any combination of equity securities, long-term debt securities and other long-term obligations. Additionally, the Company requests authority to issue, sell, or otherwise incur during 2010 and 2011 up to \$1.0 billion outstanding at any time of short-term debt securities and other obligations.

In connection with this application, the Company confirms that the capital raised pursuant to this application will be used in connection with the activities of Progress Energy Florida, Inc. and not the unregulated activities of its affiliates.

For monitoring purposes, this docket should remain open until April 28, 2011, to allow the Company time to file the required Consummation Report.

Recommendation: The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of Docket Nos. 090469-EI, 090472-GU, and 090473-EI, which must remain open for monitoring purposes.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3**

Docket No. 070691-TP – Complaint and request for emergency relief against Verizon Florida, LLC for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Bright House Networks Information Services (Florida), LLC, and its affiliate, Bright House Networks, LLC.

Docket No. 080036-TP – Complaint and request for emergency relief against Verizon Florida, L.L.C. for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Murphy, Morrow

RCP: Beard

SSC: Moses

Issue 1: Should these dockets be closed?

Recommendation: Yes. These dockets should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4**

Docket No. 080278-TL – Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

Docket No. 080234-TP – Implementation of Florida lifeline program involving bundled service packages and placement of additional enrollment requirements on customers.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Tan, Teitzman

RCP: Curry, Kennedy, Williams

Issue 1: Should the Commission accept the provisions of the joint Settlement Agreement between Verizon Florida LLC, the Attorney General Bill McCollum, the Citizens for the State of Florida, and AARP, whereby Verizon Florida LLC will issue credits totaling \$1.75 million to residential local exchange telecommunications service customers, will contribute \$250,000 to the General Revenue Fund, and will provide Lifeline discounts to all eligible customers who request the discount and receive regulated telecommunications service packages, to resolve the apparent violations of Rule 25-4.070, F.A.C., that occurred during 2007 and the first three quarters of 2008, and Issues 1 and 3 in Docket 080234-TP?

Recommendation: Yes, the Commission should accept the provisions of the joint Settlement Agreement between Verizon Florida LLC, the Attorney General Bill McCollum, the Citizens for the State of Florida, and AARP, whereby Verizon Florida LLC will issue credits totaling \$1.75 million to residential local exchange telecommunications service customers, will contribute \$250,000 to the General Revenue Fund, and will provide Lifeline discounts to all eligible customers who request the discount and receive regulated telecommunications service packages, to resolve the apparent violations of Rule 25-4.070, F.A.C., that occurred during 2007 and the first three quarters of 2008, and Issues 1 and 3 in Docket 080234-TP.

DECISION: The recommendation was approved with the modification that the parties agreed to allocate \$125,000 toward Lifeline and Link-Up programs to promote awareness in the Verizon territory and \$125,000 to General Revenue.

ITEM NO.

CASE

4**

Docket No. 080278-TL – Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

Docket No. 080234-TP – Implementation of Florida lifeline program involving bundled service packages and placement of additional enrollment requirements on customers.

(Continued from previous page)

Issue 2: Should these dockets be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1 Verizon will issue service credits within 90 days after the issuance of the Final Order in the amount of \$1.75 million to its residential local exchange telecommunications service customers. Verizon shall also provide a final report no later than May 15, 2010, verifying that the company has issued the customer credits. Verizon will also submit a payment in the amount of \$250,000 to the Commission within 90 days after the settlement becomes effective. Upon receipt of the payment, the Commission will forward the payment to the Department of Financial Services for deposit into the General Revenue Fund. If Verizon fails to demonstrate that it has complied with the provisions of the Commission's Order, Docket No. 080278-TL shall remain open pending further action. This Docket No. 080278-TL shall be closed administratively upon the submission of Verizon's final report verifying that the company issued the customer credits and upon receipt of the \$250,000 payment.

Verizon will begin providing the Lifeline discounts to all eligible customers who request the discount and receive regulated telecommunications service packages within 90 days after the settlement becomes effective, and Issues 1 and 3 in Docket No. 080234-TP will be dismissed without prejudice. Docket No. 080234-TP shall remain open pending further action.

DECISION: The recommendation was approved as modified in Issue 1, the parties agreed to allocate \$125,000 toward Lifeline and Link-Up programs to promote awareness in the Verizon territory and \$125,000 to General Revenue.

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

ITEM NO.

CASE

5**PAA

Docket No. 090060-WU – Application for staff-assisted rate case in Duval County by Neighborhood Utilities.

Critical Date(s): 06/28/10 (15-Month Effective Date (SARC))

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: RCP: Brown, Deamer

ECR: Bruce, Rieger

GCL: Brubaker

Issue 1: Is the quality of service provided by Neighborhood Utilities, Inc. satisfactory?

Recommendation: No. The overall quality of service provided by Neighborhood Utilities, Inc. is marginal. In order to monitor the customers' concerns about the precautionary "boil water" notices as required by the Department of Environmental Protection (DEP), it is recommended that the Utility provide the Commission with a copy of both the initial and rescinding boil water notifications for a period of one year after the Commission order concerning the rate case.

Issue 2: What are the used and useful percentages of the Utility's water system?

Recommendation: The treatment plant and distribution system is considered 100 percent used and useful.

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

Recommendation: The appropriate average test year rate base for the Utility is \$660 for water.

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

Recommendation: The appropriate return on equity is 11.30 percent with a range of 10.30 - 12.30 percent. The appropriate overall rate of return is 9.65 percent.

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

Recommendation: The appropriate test year revenue for this Utility is \$89,675 for water.

Issue 6: What is the appropriate amount of test year operating expense?

Recommendation: The appropriate amount of operating expense for the Utility is \$118,465 for water.

Issue 7: Should the Commission utilize the operating ratio methodology as an alternative means to calculate the revenue requirement for Neighborhood Utilities, Inc. and, if so, what is the appropriate margin?

Recommendation: Yes, the Commission should utilize the operating ratio methodology for calculating the revenue requirement for the Utility water system. The margin should be 10 percent of O&M expense.

ITEM NO.

CASE

5**PAA

Docket No. 090060-WU – Application for staff-assisted rate case in Duval County by Neighborhood Utilities.

(Continued from previous page)

Issue 8: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement using the operating ratio methodology for calculating the revenue requirement is \$131,988.

Issue 9: Should the Utility's current rate structure be changed, and if so, what is the appropriate rate structure for the Utility's water system?

Recommendation: Yes. The Utility's current base facility charge (BFC)/uniform gallonage charge rate structure, which is billed on a quarterly basis, should be changed to a monthly three-tier inclining block rate structure with usage blocks set at: a) 0-5 kgals; b) 5-10 kgals; c) usage in excess of 10 kgals, with appropriate usage block rate factors of 1.0, 1.5, 2.0 respectively for water system's residential class. The appropriate rate structure for the water system's non-residential class is a traditional BFC/uniform gallonage charge. The billing system should be changed to a monthly basis. The water system's BFC cost recovery should be set at 35%.

ITEM NO.

CASE

5**PAA

Docket No. 090060-WU – Application for staff-assisted rate case in Duval County by Neighborhood Utilities.

(Continued from previous page)

Issue 10: Is a repression adjustment appropriate in this case, and if so, what are the appropriate adjustments to make for this Utility, what are the appropriate corresponding expense adjustments to make, and what are the final revenue requirements?

Recommendation: Yes, a repression adjustment is appropriate for this Utility. Test year consumption should be reduced by 3,499 Kgals or 10.2 percent. Purchased power expense should be reduced by \$785, chemical expense should be reduced by \$350, and regulatory assessment fees (RAFs) should be reduced by \$53. The final post-repression revenue requirement for the water system should be \$130,799.

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

Issue 11: What are the appropriate rates for this Utility?

Recommendation: The appropriate monthly water rates are shown on Schedule No. 4 of staff's memorandum dated October 29, 2009. The recommended rates should be designed to produce revenue in the amount of \$130,799 for water, excluding miscellaneous service revenues. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

ITEM NO.

CASE

5**PAA

Docket No. 090060-WU – Application for staff-assisted rate case in Duval County by Neighborhood Utilities.

(Continued from previous page)

Issue 12: Should the Commission approve proforma plant and expenses for the Utility, and if so, what is the appropriate return on equity, overall rate of return, revenue requirement and when should the resulting rates be implemented?

Recommendation: Yes. The Commission should approve a Phase II revenue requirement associated with proforma plant improvements. The Utility's revenue requirement should be \$166,672. Neighborhood should complete the proforma improvements within no more than 12 months of the issuance of the consummating order. The Utility should be allowed to implement the resulting rates once the proforma improvements have been completed and verified by staff. However, Neighborhood should not implement the revised rates until it has submitted a revised tariff and a proposed customer notice reflecting the Commission-approved rates. 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), F.A.C. The rates should not be implemented until notice has been received by the customers. Neighborhood should provide proof of the date notice was given within 10 days after the date of the notice. If the Utility encounters any unforeseen events that will impede the completion of the proforma improvements, the Utility should notify the Commission immediately.

Issue 13: Should this docket be closed?

Recommendation: Yes, upon expiration of the protest period, if a timely protest is not received from a substantially affected person, this docket should be closed.

DECISION: This item was deferred to the December 1, 2009 Commission Conference.

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

ITEM NO.

CASE

6**PAA

Docket No. 090470-TI – Petition for waiver of Rule 25-4.118, F.A.C., to allow CIMCO Communications, Inc. to transfer certain assets and customer base to Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Watts
GCL: Morrow

Issue 1: Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C., in the transfer of CIMCO Communications, Inc.'s customers to Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone?

Recommendation: Yes, the Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C. Any waiver approved by the Commission should only apply to the specific set of customers identified in the petition. The petitioners should be required to provide the Commission notification of the actual date when the transaction is consummated. If for any reason the transaction is not consummated, any waiver approved by the Commission shall be null and void.

Issue 2: 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 administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 090430-TP – Amended petition for verified emergency injunctive relief and request to restrict or prohibit AT&T from implementing its CLEC OSS-related releases, by Saturn Telecommunication Services, Inc.

Critical Date(s): OSS Release - November 14, 2009

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: RCP: Harvey, Hallenstein

GCL: Brooks

(Issue 1 - Oral Argument Not Requested; Issue 2 - Proposed Agency Action)

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

Recommendation: Yes, in part. Staff believes that STS' request supported by s. 364.15, F.S. and request for costs should be dismissed. Staff believes that STS has incorrectly relied on s. 364.15, F.S. to support its request that the Commission stay AT&T's November OSS Release. Additionally, staff does not believe the Commission has subject matter jurisdiction to award costs as requested by STS.

However, staff believes that the Commission, in its continuing oversight role of AT&T's operations support systems (OSS) and its exclusive authority to prevent anticompetitive behavior amongst telecommunication providers, may at its discretion, require AT&T to stay its November 10, 2009 release in the form requested by STS.

Issue 2: Should the Commission grant STS' request to restrict or prohibit AT&T from implementing its OSS Release scheduled for implementation in Florida on November 14, 2009?

Recommendation: No. The Commission should not restrict or prohibit AT&T from implementing its OSS release scheduled for November 14, 2009, under the condition that staff is allowed to conduct a post implementation review. Additionally, AT&T should be required to run the existing OSS ordering interface (LENS) in parallel until completion of staff's review and any Commission decision on this matter.

ITEM NO.

CASE

7**PAA

Docket No. 090430-TP – Petition for verified emergency injunctive relief and request for stay of AT&T's CLEC OSS-related releases by Saturn Telecommunication Services, Inc.

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1 the resulting decision will be issued as a Final Agency Action.

If the Commission approves staff's recommendation in Issue 2, the resulting decision will be issued as a Proposed Agency Action. The decision will become final upon issuance of a Consummating Order, if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. Additionally, the remaining requests in STS' amended petition should be put in abeyance until staff brings a recommendation back to the Commission after completion of the review.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

8**PAA

Docket No. 090122-EG – Petition for approval of modifications to approved energy conservation programs, by Associated Gas Distributors of Florida. (Deferred from the October 27, 2009 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Klement

Staff: SGA: Ellis, Brown

GCL: Fleming

Issue 1: Should the Commission approve the Associated Gas Distributors of Florida's petition to add the proposed Conservation Demonstration and Development Program to their member's conservation programs?

Recommendation: Yes. The proposed Conservation Demonstration and Development Program will allow the members of AGDF to pursue opportunities for joint research and development of new natural gas conservation programs. Expenditures for the program should be capped at \$2,000,000 for a five year period starting October 29, 2009, with a project cap of \$400,000. AGDF should submit petitions for specific projects to the Commission before utilizing the funds established in this program.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the program modifications should become effective October 29, 2009. If a protest is filed within 21 days of the issuance of the proposed agency action order, the program modifications should not be implemented until after the resolution of the protest. If no timely protest is filed, the docket should be closed upon the issuance of a consummating order.

DECISION: This item was deferred to the December 1, 2009 Commission Conference.

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

ITEM NO.

CASE

9

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). (Deferred from the October 27, 2009 Commission Conference.)

Critical Date(s): Pursuant to Section 366.82(6) F.S., the Commission must review conservation goals at least every five years. New conservation goals must be set by January 1, 2010.

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: SGA: Brown, Clemence, Crawford, Ellis, Garl, Gilbert, Graves, Harlow, Lewis, Marr, Matthews

ECR: Dowds, Higgins

GCL: Fleming, Saylor

(Participations is Limited to Commissioners and Staff. Take up Issues 4 and 8 together.)

Issue 1: Did the Company provide an adequate assessment of the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems, pursuant to Section 366.82(3), F.S.?

Recommendation: Yes. The seven FEECA utilities and NRDC/SACE (the Collaborative) retained the consulting firm ITRON to perform a technical potential study. The ITRON study identified 58,616 GWs of annual energy, 14,375 MWs of summer system peak demand, and 8,883 MWs of winter system peak demand as the statewide technical potential of demand-side conservation and energy efficiency measures for Florida. A supply-side technical potential was not calculated.

ITEM NO.

CASE

9

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). (Deferred from the October 27, 2009 Commission Conference.)

(Continued from previous page)

Issue 2: Did the Company provide an adequate assessment of the achievable potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems?

Recommendation: Yes. Each FEECA utility utilized the Technical Potential Study performed by ITRON to develop a statewide achievable potential for energy efficiency and conservation. In coordination with ITRON, the FEECA utilities disclosed the necessary information and analysis required by statute.

Issue 3: Do the Company's proposed goals adequately reflect the costs and benefits to customers participating in the measure, pursuant to Section 366.82(3)(a), F.S.?

Recommendation: Yes. The utilities properly used the Participants Test in the screening of measures in order to determine the costs and benefits to customers that participate in DSM programs.

Issue 4: Do the Company's proposed goals adequately reflect the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant, pursuant to Section 366.82(3)(b), F.S.?

Recommendation: Yes. Staff believes that the Participants Test, RIM Test, and TRC Test should all be used to set goals.

Issue 5: Do the Company's proposed goals adequately reflect the costs imposed by state and federal regulations on the emission of greenhouse gases, pursuant to Section 366.82(3)(d), F.S.?

Recommendation: No. The FEECA utilities, in analyzing DSM measures for this proceeding, went beyond requirements of the statute by including potential CO₂ emission costs. The utilities' projections of potential CO₂ costs varied by over 100 percent, and, therefore, should not be relied upon in this goal setting process.

ITEM NO.

CASE

9

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

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

Docket No. 080413-EG – Commission review of numeric conservation goals (JEA). (Deferred from the October 27, 2009 Commission Conference.)

(Continued from previous page)

Issue 6: Should the Commission establish incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems?

Recommendation: No. Increasing rates in order to provide incentives to utilities is more appropriately addressed in a future limited scope proceeding as provided for in Section 366.82(9), F.S. Customers are already eligible to receive incentives through existing DSM programs.

Issue 7: In setting goals, what consideration should the Commission give to the impact on rates?

Recommendation: The Commission should give substantial consideration to the impact on rates when setting conservation goals. The legislative intent for public utility regulation is protection of the public welfare. Ensuring reasonable rates, among other issues, is an integral part of that protection.

Issue 8: What cost-effectiveness test or tests should the Commission use to set goals, pursuant to Section 366.82, F.S.?

Recommendation: As discussed in Issue 4, staff believes that the Participants Test, RIM Test, and TRC Test should all be used to set goals.

Issue 9: What residential summer and winter megawatt (MW) and annual Gigawatt-hour (GWh) goals should be established for the period 2010-2019?

Recommendation: The Commission should reject the residential goals proposed by the utilities, NRDC/SACE, FSC, and GDS for the various reasons discussed in staff's memorandum dated October 15, 2009. Staff recommends that residential goals be approved based on the FEECA utilities continuing to offer their existing programs consistent with their 2009 Ten-Year Site Plans and existing programs. In addition, the utilities should be required to expand their educational programs to include measures that failed the two-year payback screening and measures offering significant savings potential that passed the TRC Test, but failed the RIM Test.

ITEM NO.

CASE

9

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).

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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). (Deferred from the October 27, 2009 Commission Conference.)

(Continued from previous page)

Issue 10: What commercial/industrial summer and winter megawatt (MW) and annual Gigawatt hour (GWh) goals should be established for the period 2010-2019?

Recommendation: The Commission should reject the commercial/industrial goals proposed by the utilities, NRDC/SACE, FSC, and GDS for the various reasons discussed in staff's memorandum dated October 15, 2009. Staff recommends that commercial/industrial goals be approved based on the FEECA utilities continuing to offer their existing programs consistent with previous filings in the Ten-Year Site Plan and power plant need determinations. In addition, the utilities should be required to expand their educational programs to include measures that failed the two-year payback screening and measures offering significant saving potential that passed the TRC Test, but failed the RIM Test.

Issue 11: In addition to the MW and GWh goals established in Issues 9 and 10, should the Commission establish separate goals for demand-side renewable energy systems?

Recommendation: The Commission can meet the requirements of Section 366.82(2), F.S., while protecting ratepayers by requiring the IOUs to offer demand-side renewable programs that do not otherwise pass any of the cost-effectiveness tests, subject to an expenditure cap. Utilities should be required to file pilot programs focusing on encouraging solar water heating and solar PV technologies in the DSM program approval proceeding. Expenditures should be capped at 5 percent of the average annual recovery through the Energy Conservation Cost Recovery clause for the previous five years. Annual expenditures of 5 percent would result in total support for programs designed to encourage solar of approximately \$12.2 million per year for the IOUs.

ITEM NO.

CASE

9

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). (Deferred from the October 27, 2009 Commission Conference.)

(Continued from previous page)

Issue 12: In addition to the MW and GWh goals established in Issues 9 and 10, should the Commission establish additional goals for efficiency improvements in generation, transmission, and distribution?

Recommendation: No. Since the IOUs did not provide a technical potential of supply-side efficiency measures, goals for generation, transmission, and distribution cannot be established at this time. However, efficiency improvements for generation, transmission, and distribution are continually reviewed through the utilities' planning processes in an attempt to reduce the cost of providing electrical service to their customers.

Issue 13: In addition to the MW and GWh goals established in Issues 9 and 10, should the Commission establish separate goals for residential and commercial/industrial customer participation in utility energy audit programs for the period 2010-2019?

Recommendation: No. Separate goals for customer participation in energy audit programs are unnecessary and could be duplicative.

Issue 14: What action, if any, should the Commission take in this proceeding to encourage the efficient use of cogeneration?

Recommendation: No additional action is needed. The Commission has appropriately implemented legislative policy to encourage the development and compensation requirements of cogeneration.

ITEM NO.

CASE

9

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). (Deferred from the October 27, 2009 Commission Conference.)

(Continued from previous page)

Issue 15: Since the Commission has no rate-setting authority over OUC and JEA, can the Commission establish goals that puts upward pressure on their rates?

Recommendation: Staff recommends that the Commission has authority to adopt conservation goals for all electric utilities under the jurisdiction of FEECA. OUC and JEA come within the meaning of utility as defined by FEECA. Developing, establishing, and adopting conservation goals is a regulatory activity exclusively granted to the Commission by FEECA and is not ratemaking within the meaning of Chapter 366, F.S. Therefore, staff recommends that the Commission has the authority to develop, establish, and adopt conservation goals for OUC and JEA as required by Section 366.82, F.S.

Issue 16: Should this docket be closed?

Recommendation: Yes. These dockets should be closed after the time for filing an appeal has run. Within 90 days of the issuance of the final order, each utility shall file, as needed, a demand side management plan designed to meet the utility's approved goals.

DECISION: This item was deferred by the Commission, as discussed at the Commission Conference, with directions to staff to adopt more robust goals, as intended by the legislature, with specific directions to take a look at Issues 9, 10, 2, and 11.

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

ITEM NO.

CASE

10**PAA

Docket No. 090421-EI – Petition for Commission approval of base rate increase for costs associated with CR3 uprate project, pursuant to Section 366.93(4), F.S. and Rule 25-6.0423(7), F.A.C., by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Slemkewicz, Buys, Davis, Laux, Lee, Draper
GCL: Brown

Issue 1: Should the Commission approve PEF's request to increase its base rates by \$16,559,938 for the BOP phase of the CR3 Uprate project?

Recommendation: No. PEF's request to increase its base rates by \$16,559,938 for the BOP phase of the CR3 Uprate project should be reduced to \$16,175,437, a reduction of \$384,501. This approval should be subject to true-up and revision based on the final review of the 2009 BOP phase expenditures in Docket No. 090009-EI, Nuclear Cost Recovery Clause.

Issue 2: Should the Commission approve PEF's request to increase its base rates by \$756,338 for the 5-year amortization of the EPU assets that are being retired during 2009?

Recommendation: No. PEF's request to increase its base rates by \$756,338 for the 5-year amortization of the EPU assets that are being retired during 2009 should be reduced to \$637,168, a reduction of \$119,170.

Issue 3: Should the Commission approve PEF's proposal to add any revenue requirement increase approved in this docket to any approved revenue requirement increase in the pending base rate proceeding, Docket No. 090079-EI, for determining base rates?

Recommendation: Yes. PEF should file rates and tariff sheets for approval in compliance with final decisions related to revenue requirements, cost of service, billing determinants, rate design, and effective date made in Docket 090079-EI.

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: This item was deferred to a later Commission Conference.

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

ITEM NO.

CASE

11**PAA

Docket No. 090446-EI – Request for approval of change rate used to account for allowance funds used during construction (AFUDC) from 7.79% to 8.17%, effective May 1, 2009, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Slemkewicz, Salnova, Springer

GCL: Young

Issue 1: Should the Commission approve TECO's request to increase its AFUDC rate from 7.79 percent to 8.17 percent?

Recommendation: No. The appropriate AFUDC rate for TECO is 8.16 percent based on a 13-month average capital structure for the period ending April 30, 2009.

Issue 2: What is the appropriate monthly compounding rate to achieve the staff recommended 8.16 percent annual rate?

Recommendation: The appropriate monthly compounding rate to maintain an annual rate of 8.16 percent is 0.655820 percent.

Issue 3: Should the Commission approve TECO's requested effective date of May 1, 2009, for implementing the revised AFUDC rate?

Recommendation: Yes. The revised AFUDC should be effective as of May 1, 2009, for all purposes except for Rule 25-6.0423, F.A.C., Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery. For the purposes of Rule 25-6.0423, F.A.C., 7.79 percent is the appropriate AFUDC rate to be utilized for computing carrying costs for power plant need petitions submitted on or before December 31, 2010.

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: Carter, Edgar, Argenziano, Skop, Klement

ITEM NO.

CASE

12**PAA

Docket No. 090170-WU – Application for staff-assisted rate case in Lee County by Mobile Manor Water Company, Inc.

Critical Date(s): 09/07/10 (15-Month Effective Date (SARC))

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Smith, Bruce, Bulecza-Banks, Fletcher, Hudson, Simpson
GCL: Jaeger

(Proposed Agency Action Except for Issues 14, 16, and 17.)

Issue 1: Is the quality of service provided by Mobile Manor Water Company, Inc. satisfactory?

Recommendation: Yes, the overall quality of service provided by Mobile Manor should be considered satisfactory.

Issue 2: What is the used and useful percentage of the water distribution system?

Recommendation: The water distribution system is 100 percent used and useful.

Issue 3: Should an adjustment be made for excessive unaccounted for water?

Recommendation: Yes. Mobile Manor has 14.61 percent excessive unaccounted for water. The cost of purchased water should be reduced by \$3,507 to reflect excessive unaccounted for water.

Issue 4: What is the appropriate average test year rate base for the Utility?

Recommendation: The appropriate average test year rate base for Mobile Manor is \$11,905 for water.

Issue 5: What is the appropriate return of equity and overall rate of return for this Utility?

Recommendation: The appropriate return on equity (ROE) is 11.78 percent with a range of 10.78 percent to 12.78 percent. The appropriate overall rate of return is 5.25 percent.

Issue 6: What is the appropriate amount of test year revenue in this case?

Recommendation: The appropriate test year revenue for this Utility is \$59,068 for water.

Issue 7: What is the appropriate amount of test year operating expenses?

Recommendation: The appropriate amount of operating expenses for this Utility is \$58,289.

Issue 8: Should the Commission utilize the operating ratio methodology as an alternative means to calculate the revenue requirement for Mobile Manor, and if so, what is the appropriate margin?

Recommendation: Yes, the Commission should utilize the operating ratio methodology for calculating the revenue requirement for the Utility water system. The margin should be 10 percent of operation and maintenance expenses, excluding purchased water expense.

ITEM NO.

CASE

12**PAA

Docket No. 090170-WU – Application for staff-assisted rate case in Lee County by Mobile Manor Water Company, Inc.

(Continued from previous page)

Issue 9: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement using the operating ratio methodology for calculating the revenue requirement is \$61,792.

Issue 10: What is appropriate rate structure for this Utility?

Recommendation: The appropriate rate structure for the water systems' residential and non-residential class is a continuation of the base facility charge (BFC)/uniform gallonage charge rate structure. The water system's BFC cost recovery should be set at 44.41 percent.

Issue 11: Is a repression adjustment appropriate in this case, and if so, what is the appropriate adjustment to make for this utility? What are the corresponding expense adjustments, and what is the final revenue requirement for the respective water system?

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

Issue 12: What are the appropriate rates for this Utility?

Recommendation: The appropriate monthly water rates are shown on Schedule No. 4 of staff's memorandum dated October 29, 2009. The recommended rates should be designed to produce revenue of \$61,792 for water, excluding miscellaneous service charges. If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rate may be prorated. The old charge shall be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge shall be prorated based on the number of days in the billing cycle on and after the effective date of the new rates. In no event shall the rates be effective for service rendered prior to the stamped approval date. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

ITEM NO.

CASE

12**PAA

Docket No. 090170-WU – Application for staff-assisted rate case in Lee County by Mobile Manor Water Company, Inc.

(Continued from previous page)

Issue 13: 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 and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenue requirement granted. Based on this calculation, the Utility should be required to refund 17.40 percent of water revenues collected under interim rates. The refund should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports, pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC, pursuant to Rule 25-30.360(8), F.A.C.

Issue 14: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

Recommendation: The water rates should be reduced as shown on Schedule No. 4 of staff's memorandum dated October 29, 2009, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If Mobile Manor files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Issue 15: Should the Utility be authorized to collect customer deposits, and, if so, what are the appropriate charges?

Recommendation: Yes. Mobile Manor should be authorized to collect customer deposits. The appropriate customer deposit should be the recommended charge as specified in the analysis portion of staff's memorandum dated October 29, 2009. The Utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the customer deposit should become effective for connections made on or after the stamped approval date of the revised tariff sheets.

ITEM NO.

CASE

12**PAA

Docket No. 090170-WU – Application for staff-assisted rate case in Lee County by Mobile Manor Water Company, Inc.

(Continued from previous page)

Issue 16: Should the recommended rates be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than Mobile Manor?

Recommendation: Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than Mobile Manor. Prior to implementation of any temporary rates, the Utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by Mobile Manor should be subject to the refund provisions discussed in the analysis portion of staff's memorandum dated October 29, 2009. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month, indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 17: Should the Utility be required to maintain its books and records in conformance with the NARUC USOA?

Recommendation: Yes. The Utility should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA and submit a statement from its accountant by March 31, 2010, along with its 2009 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order.

Issue 18: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

13

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

Critical Date(s): 11/10/09 (60-day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Hudson, Bulecza-Banks, Fletcher

GCL: Saylor

(Participation is at the Discretion of the Commission.)

Issue 1: Should West Lakeland's request for interim wastewater rates be approved?

Recommendation: Yes, West Lakeland's request for interim wastewater rates should be approved. The Utility should be granted a 36.00 percent interim wastewater rate increase. If West Lakeland submits revised tariffs reflecting the Commission's decision on interim rates, staff should be given administrative authority to approve the tariffs. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), provided customers have received notice. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission's decision, the proposed customer notice is adequate, and the required security has been filed. The Utility should provide proof of the date notice was given within 10 days after the date the notice is provided to the customers.

Issue 2: What is the appropriate security to guarantee the interim rate increase?

Recommendation: The Utility should be required to file a bond, letter of credit, or escrow agreement as security to guarantee any potential refunds of revenues collected under interim conditions. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund as of the end of the proceeding month.

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open pending the final resolution of the company's staff-assisted rate case.

DECISION: The recommendations were approved.

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