

MINUTES OF November 13, 2008

COMMISSION CONFERENCE

COMMENCED: 9:35 am
RECESSED: 10:40 am
RECONVENED: 10:50 am
RECESSED: 12:16 pm
RECONVENED: 12:35 pm
ADJOURNED: 12:45 pm

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

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

1

Approval of Minutes
September 29, 2008 Regular Commission Conference

DECISION: The minutes were approved.

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

ITEM NO.

CASE

2**

Consent Agenda

PAA

A) Request for cancellation of a competitive local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
080607-TX	AmeriMex Communications Corp.	9/25/2008

B) Docket No. 080633-EI – Application by Gulf Power Company (“Company”) for authority to: receive equity funds from and/or 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 2009. The maximum amount of common equity contributions received from and common equity issued to Southern, the maximum amount of equity securities issued and the maximum principal amount of long-term debt securities issued will total not more than \$750 million. The maximum principal amount of short-term debt at any one time will total not more than \$250 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, 2010, to allow the Company time to file the required Consummation Report.

ITEM NO.

CASE

2**

Consent Agenda

(Continued from previous page)

- C) Docket No. 080634-GU – 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 2009. Florida City Gas is a division of Pivotal Utility Holdings, Inc., which is a wholly-owned subsidiary of AGLR. The maximum aggregate borrowings by Pivotal Utility Holdings, Inc.’s three utilities from the Utility Money Pool during 2009 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, 2010, to allow the Company time to file the required Consummation Report.

- D) Docket No. 080635-GU – Chesapeake Utilities Corporation (Chesapeake or Company) seeks authority to issue common stock, preferred stock and secured and/or unsecured debt, and to enter into agreements for interest rate swap products, equity products and other financial derivatives, and to issue short-term borrowings in 2009.

The Company seeks authority to issue during calendar year 2009 up to 5,000,000 shares of Chesapeake common stock; up to 1,000,000 shares of Chesapeake preferred stock; up to \$80 million in secured and/or unsecured debt; to enter into agreements up to \$40 million in Interest Rate Swap Products, Equity Products and other Financial Derivatives; and to issue short-term obligations during 2009, in an amount not to exceed \$100 million.

Chesapeake Utilities Corporation allocates funds to the Florida Division on an as-needed basis, although in no event would such allocations exceed 75 percent of the proposed equity securities (common stock and preferred stock), long-term debt, short-term debt, Interest Rate Swap Products, Equity Products and Financial Derivatives.

For monitoring purposes, this docket should remain open until April 28, 2010, to allow the Company time to file the required Consummation Report.

- E) Docket No. 080640-EI – Application of Progress Energy Florida, Inc. (“Company”) for authority to issue, sell or otherwise incur during 2009 up to \$2.0 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 2009 and 2010 up to \$2.0 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.

ITEM NO.

CASE

2**

Consent Agenda

(Continued from previous page)

For monitoring purposes, this docket should remain open until April 28, 2010, 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 Docket 080607-TX. Dockets 080633-EI, 080634-GU, 080635-GU, and 080640-EI must remain open for monitoring purposes.

DECISION: The recommendation was approved for the action requested in the dockets referenced above and to close Docket number 080607TX. Docket numbers 080633-EI, 080634-GU, 080635-GU, and 080640-EI are to remain open for monitoring purposes.

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

ITEM NO.

CASE

3**

Docket No. 080641-TP – Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications.

Critical Date(s):	None
Rule Status:	Proposed
Commissioners Assigned:	All Commissioners
Prehearing Officer:	Skop
Staff:	GCL: Cowdery, Miller RCP: Harvey, Mailhot, Salak, Simmons ECR: Hewitt SSC: Moses

Issue 1: Should the Commission propose the amendment of Rules 25-4.020, 25-4.022, 25-4.034, 25-4.115, 25-4.117, 25-9.001, 25-9.002, 25-9.005, 25-9.009, 25-9.022, 25-9.027, and 25-9.029, F.A.C.?

Recommendation: Yes, the Commission should propose the amendment of these rules as set forth in Attachment A of staff’s memorandum dated October 30, 2008. Staff also recommends that the notice of rulemaking contain language stating that none of the rule amendments are intended to impact in any way wholesale service or the SEEM (Self-Effectuating Enforcement Mechanism) plan, the SEEM metrics or payments, or the type of data that must be collected and analyzed for purposes of the SEEM plan.

Issue 2: Should the Commission propose the repeal of Rules 25-4.019, 25-4.069, 25-4.112, 25-4.200, 25-9.008, and 25-9.032, F.A.C.?

Recommendation: Yes, the Commission should propose the repeal of these rules as set forth in Attachment B of staff’s memorandum dated October 30, 2008. Staff also recommends that the notice of rulemaking contain language stating that none of the rule repeals are intended to impact in any way wholesale service or the SEEM (Self-Effectuating Enforcement Mechanism) plan, the SEEM metrics or payments, or the type of data that must be collected and analyzed for purposes of the SEEM plan.

Issue 3: Should this docket be closed?

Recommendation: No, this docket should not be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4

Docket No. 070699-TP – Petition by Intrado Communications, Inc. for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with Embarq Florida, Inc., pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Section 364.162, F.S. (Deferred from the October 28, 2008 Commission Conference.)

Critical Date(s):	None
Commissioners Assigned:	All Commissioners
Prehearing Officer:	Edgar
Staff:	GCL: Tan RCP: Barrett, King ECR: Dowds

Issue 1(a): What services does Intrado Comm currently provide or intend to provide in Florida?

Recommendation: Intrado Comm currently provides or intends to provide 911/E911 service to Public Safety Answering Points in Florida. This service does not meet the definition of “telephone exchange service,” pursuant to 47 U.S.C. 153(47) because it will not provide the ability both to originate and terminate calls.

Issue 1(b): Of the services identified in Issue 1(a), for which, if any, is Embarq required to offer interconnection under Section 251(c) of the Telecommunications Act of 1996?

Recommendation: If the Commission approves staff’s recommendation in Issue 1(a) and finds that Intrado Comm’s 911/E911 service does not meet the definition of “telephone exchange service,” then staff recommends that the Commission find that Embarq is not required to provide interconnection pursuant to the provisions set forth in §251(c). Moreover, staff recommends that since any resulting agreement between the parties is not pursuant to §251(c), the Commission need not address the remaining 22 issues identified in the Prehearing Order, Order No. PSC-08-0401-PHO-TP.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff’s recommendations in Issues 1(a) and 1(b), then this docket should be closed and the parties may negotiate a commercial agreement pursuant to §251(a). If the Commission denies staff’s recommendations in Issues 1(a) and 1(b), then the docket should remain open for resolution of the remaining 9 issues. Apart from the consideration of Issues 1(a) and 1(b), staff has become aware of several public policy matters that may warrant examination with the emergence of competitive 911/E911 providers. As such, staff recommends that the Commission direct staff to further explore these matters.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5

Docket No. 070736-TP – Petition by Intrado Communications, Inc. for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with BellSouth Telecommunications, Inc. d/b/a AT&T Florida, pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Sections 120.80(13), 120.57(1), 364.15, 364.16, 364.161, and 364.162, F.S., and Rule 28-106.201, F.A.C. (Deferred from the October 28, 2008 Commission Conference.)

Critical Date(s):	None	
Commissioners Assigned:	All Commissioners	
Prehearing Officer:	Edgar	
Staff:	GCL: Tan RCP: Barrett, King ECR: Dowds	

Issue 1(a): What service(s) does Intrado Comm currently provide or intend to provide in Florida?

Recommendation: Intrado Comm currently provides or intends to provide 911/E911 service to Public Safety Answering Points in Florida. This service does not meet the definition of “telephone exchange service,” pursuant to 47 U.S.C. 153 (47) because it will not provide the ability both to originate and terminate calls.

Issue 1(b): Of the services identified in Issue 1(a), for which, if any, is AT&T required to offer interconnection under §251(c) of the Telecommunications Act of 1996?

Recommendation: If the Commission approves staff’s recommendation in Issue 1(a) and finds that Intrado Comm’s 911/E911 service does not meet the definition of “telephone exchange service,” then staff recommends that the Commission find that AT&T is not required to provide interconnection pursuant to the provisions set forth in §251(c). Moreover, staff recommends that since any resulting agreement between the parties is not pursuant to §251(c), the Commission need not address the remaining 22 issues identified in the Prehearing Order, Order No. PSC-08-0400-PHO-TP.

ITEM NO.

CASE

5

Docket No. 070736-TP – Petition by Intrado Communications, Inc. for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with BellSouth Telecommunications, Inc. d/b/a AT&T Florida, pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Sections 120.80(13), 120.57(1), 364.15, 364.16, 364.161, and 364.162, F.S., and Rule 28-106.201, F.A.C.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendations in Issues 1(a) and 1(b), then this docket should be closed. The parties may negotiate a commercial agreement pursuant to §251(a). If the Commission denies staff's recommendations in Issues 1(a) and 1(b), then the docket should remain open for resolution of the remaining 22 issues. Apart from the consideration of Issues 1(a) and 1(b), staff has become aware of several public policy matters that may warrant examination with the emergence of competitive 911/E911 providers. As such, staff recommends that the Commission direct staff to further explore these matters.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

6**PAA

Docket No. 080450-TX – Compliance investigation of Tristar Communications Corp. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Critical Date(s):	None	
Commissioners Assigned:	All Commissioners	
Prehearing Officer:	Administrative	
Staff:	RCP: Watts GCL: Tan SGA: Hunter, Shafer	

Issue 1: Should the Commission accept Tristar Communications Corp.’s settlement offer to voluntarily contribute \$3,500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), F.S.?

Recommendation: Yes. The Commission should accept the company’s settlement offer to voluntarily contribute \$3,500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order.

Issue 2: Should this docket be closed?

Recommendation: If no person, whose substantial interests are affected by the proposed actions files a protest of the Commission’s decision on Issue 1 within the 21 day protest period, the Commission’s Order will become final upon issuance of the Consummating Order. If the Commission’s Order is not protested and TCC complies with its settlement offer, this docket should be closed administratively. If TCC fails to remit the voluntary contribution of \$3,500 to the Commission within 30 days of the issuance of the Consummating Order, Certificate No. 8656 should be canceled as set forth in PAA Order No. PSC-08-0628-PAA-TX, and this docket should be closed administratively. If TCC’s certificate is canceled, TCC should be required to immediately cease and desist providing telecommunications service in Florida.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 080451-TX – Compliance investigation of Tele Circuit Network Corporation for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Critical Date(s):	None	
Commissioners Assigned:	All Commissioners	
Prehearing Officer:	Administrative	
Staff:	RCP: Watts GCL: Tan SGA: Hunter, Shafer	

Issue 1: Should the Commission accept Tele Circuit Network Corporation’s settlement offer to voluntarily contribute \$3,500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), F.S.?

Recommendation: Yes. The Commission should accept the company’s settlement offer to voluntarily contribute \$3,500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order

Issue 2: Should this docket be closed?

Recommendation: If no person, whose substantial interests are affected by the proposed actions files a protest of the Commission’s decision on Issue 1 within the 21 day protest period, the Commission’s Order will become final upon issuance of the Consummating Order. If the Commission’s Order is not protested and TCNC complies with its settlement offer, this docket should be closed administratively. If TCNC fails to remit the voluntary contribution of \$3,500 to the Commission within 30 days of the issuance of the Consummating Order, Certificate No. 8573 should be canceled as set forth in PAA Order No. PSC-08-0628-PAA-TX, and this docket should be closed administratively. If TCNC’s certificate is canceled, TCNC should be required to immediately cease and desist providing telecommunications service in Florida.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

8**PAA

Docket No. 080652-TL – Review of tariff filing (T-080639) by Verizon Florida LLC to establish bill credit trial.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Bates, Simmons

GCL: Morrow

Issue 1: What action, if any, should the Commission take with respect to Verizon's Tariff Filing (T-08-0639) to establish a bill credit trial?

Recommendation: Staff recommends that Verizon's tariff filing (T-080639) to establish a bill credit trial be approved, pursuant to Section 364.057(1), Florida Statutes, for the period September 15, 2008 through March 12, 2009. If the Commission finds to the contrary and determines that the tariff should be canceled, Verizon should be required to issue bill credits to 100% of the residential customers who experience three or more NDT conditions or two or more repair issues within 30 days of a new, change, or move order, over the pendency of the tariff.

Issue 2: Should this docket be closed?

Recommendation: Yes. The order issued from this recommendation will be a proposed agency action. Thus, the order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of this Order. In the event of a timely protest, the tariff should remain in effect pending the outcome of further proceedings.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**PAA

Docket No. 080430-TP – Bankruptcy cancellation by Florida Public Service Commission of CLEC Certificate No. 7160 and IXC Registration No. TJ276, issued to CAT Communications International, Inc., effective June 30, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: Brooks

Issue 1: Should the Commission grant CAT Communications International, Inc., as listed in Attachment A of staff's memorandum dated October 30, 2008, cancellation of its CLEC Certificate No. 7160 and IXC tariff and remove its name from the register with an effective date of June 30, 2008, due to bankruptcy; notify the Division of Administrative Services that any unpaid Regulatory Assessment Fees, including statutory late payment charges, should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the company to immediately cease and desist providing telecommunications service in Florida?

Recommendation: Yes, the company should be granted a bankruptcy cancellation of its CLEC Certificate No. 7160 and IXC tariff and Registration No. TJ276 with an effective date of June 30, 2008.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**PAA

Docket No. 080349-TI – Compliance investigation of IXC Registration No. TJ008, issued to Executive Business Centers, Inc., for apparent fourth-time violation of Section 364.336, F.S. and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: Brooks

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$4,000, or cancel the Intrastate Interexchange Carrier (IXC) tariff and remove Executive Business Centers, Inc., TJ008, from the register for an apparent fourth violation of Section 364.336, Florida Statutes, and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes, Executive Business Centers, Inc. should pay a penalty and a cost of collection, together totaling \$4,000, or have its IXC tariff cancelled and its name removed from the register, as listed on Attachment A of staff's memorandum dated October 30, 2008.

ITEM NO.

CASE

10**PAA

Docket No. 080349-TI – Compliance investigation of IXC Registration No. TJ008, issued to Executive Business Centers, Inc., for apparent fourth-time violation of Section 364.336, F.S. and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If the company fails to pay the penalty and cost of collection, together totaling \$4,000, and Regulatory Assessment Fee, including statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's IXC tariff should be cancelled administratively and its name removed from the register, and the collection of the past due Regulatory Assessment Fee, including any accrued statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If the company's IXC tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fee, including accrued statutory late payment charges, or upon cancellation of the company's IXC tariff and removal of its name from the register.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

11**PAA

Docket No. 080619-TP – Joint petition of Progress Telecom LLC and Level 3 Communications, LLC for waiver of Rule 25-4.118, F.A.C., to allow transfer of Progress' customers to Level 3, request for cancellation of Progress' CLEC Certificate No. 7448, and for acknowledgment of cancellation of IXC Registration No. TJ639, effective December 31, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Watts

GCL: Brooks

Issue 1: Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of Progress Telecom LLC's private line services customers to Level 3 Communications, LLC?

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 order should become final upon issuance of a consummating order. This docket should remain open pending the cancellation of Progress' CLEC Certificate No. 7448 and IXC Registration No. TJ639. Upon completion of these actions, this docket should be closed administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

12**PAA

Docket No. 080395-EG – Petition for approval of modifications to demand-side management plan by Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Garl, Ellis

GCL: Fleming

Issue 1: Should the Commission approve Gulf's petition to add the proposed Solar Thermal Water Heating Pilot Program to its DSM Plan?

Recommendation: Yes. However, the pilot program should only be approved through December 31, 2009. The Commission is scheduled to establish new conservation goals, based on new statutory direction, by January 1, 2010. Therefore, Gulf's Solar Thermal Water Heating Pilot Program should be reevaluated when new conservation goals go into effect on January 1, 2010. Initial cost-effectiveness test results provide little assurance that the program will be cost-effective. Expenditures for the pilot program, reduced to one year, should be capped at \$517,000, the first year of Gulf's three-year estimate. Gulf will use the data collected to perform a cost-effectiveness analysis and the Commission can revisit continuation of this program in 2010 when Gulf files its DSM program to meet its new goals. Upon a showing by Gulf that expenses for the Solar Thermal Water Heating Pilot Program were reasonable and prudently incurred, the company should be permitted to recover those costs through the ECCR clause.

Issue 2: Should the Commission approve Gulf's petition to add the proposed Energy Education Program to its DSM Plan?

Recommendation: Gulf should be allowed to initiate the Energy Education Program as a pilot program for one year, with expenditures capped at \$1,010,000. Gulf should also ensure that advertising is not image enhancing and be fuel neutral. Gulf can revisit the continuation of this program after new DSM goals take effect in 2010. Furthermore, upon a showing by Gulf that expenses for the Energy Education Program are reasonable and prudently incurred, the company should be permitted to recover those costs, through the ECCR clause.

ITEM NO.

CASE

12**PAA

Docket No. 080395-EG – Petition for approval of modifications to demand-side management plan by Gulf Power Company.

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: Yes. If Issues 1 and 2 are approved, the program modifications should become effective December 29, 2008. If a protest is filed within 21 days of the issuance of the proposed agency action order, the modifications should not be implemented until after resolution of the protest. If no timely protest is filed, the docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

13**

Docket No. 080621-EI – Application for authority to issue and sell securities during calendar year 2009 pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Springer, Livingston

GCL: Fleming

Issue 1: Should the Commission approve FPL's request for authority to issue and sell and/or exchange any combination of the long-term debt and equity securities and/or assume liabilities or obligations as guarantor, endorser or surety in an aggregate amount not to exceed \$6.1 billion during calendar year 2009 and have outstanding the aggregate principal amount not to exceed \$3.0 billion of short-term securities during calendar years 2009 and 2010?

Recommendation: Yes.

DECISION: The recommendation modified. The Florida portion of the FPL financing application in the aggregate amount not to exceed 6.1 billion dollars was approved and consideration of the authority to finance construction expenditures of approximately 30 million dollars for the planned Seabrook Substation Reliability Improvement Project in the State of New Hampshire was deferred to the December 2, 2008 Agenda Conference.

Issue 2: Should this docket be closed?

Recommendation: No.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

14**

Docket No. 070231-EI – Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company.

Critical Date(s): 8-Month clock expires December 2, 2008

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: ECR: Kummer

GCL: Jaeger

SGA: Ellis

Issue 1: Should the Commission approve FPL's proposed underground residential distribution (URD) tariffs and their associated charges as modified?

Recommendation: Yes.

Issue 2: Should the Commission approve FPL's revised tariff sheets and charges associated with the installation of underground commercial/industrial distribution (UCD) facilities?

Recommendation: Yes.

Issue 3: What action should be taken on MUUC, the City of Coconut Creek, and the City of South Daytona's protests of Order No. PSC-07-0835-TRF-EI, which proposed to approve FPL's April 2, 2007, URD and UDC tariffs?

Recommendation: No action is needed.

Issue 4: Should this docket be closed?

Recommendation: Yes. If Issues 1, 2 and 3 are approved, the tariffs should become effective on November 13, 2008. If a protest is filed by a substantially affected person 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 recommendations were approved.

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

ITEM NO.

CASE

15**

Docket No. 080244-EI – Petition for approval of underground conversion tariff revisions, by Florida Power & Light Company.

Critical Date(s): 12/30/08 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Draper, Kummer, Springer

GCL: Jaeger, Saylor

Issue 1: Should the Commission approve FPL's proposed revisions to its underground conversion tariff (Tariff Sheet Nos. 6.300, 9.720, 9.721, and 9.722)?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on November 13, 2008. If a protest is filed by a substantially affected person within 21 days of the issuance of the order, this tariff 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 recommendations were approved.

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

ITEM NO.

CASE

16**

Docket No. 080186-EI – Petition for approval of revised underground residential distribution tariffs, by Progress Energy Florida, Inc.

Critical Date(s): 12/01/08 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Draper, Springer

GCL: Brown

SGA: Garl

Issue 1: Should the Commission approve PEF's proposed underground residential distribution (URD) tariffs and associated charges?

Recommendation: Yes, the proposed URD tariffs and associated charges should be approved. Staff further recommends that if the Commission approves at its November 13, 2008, Agenda Conference, the inclusion of lost pole rental revenues in the calculation of the non-storm operational cost differential for Florida Power & Light Company (FPL) in Dockets Nos. 070231-EI and 080244-EI, PEF should refile its URD tariff by April 1, 2009, consistent with the Commission vote in the FPL dockets.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on November 13, 2008. If a protest is filed within 21 days of the issuance of the order, this tariff 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 recommendations were approved.

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

ITEM NO.

CASE

17**

Docket No. 080197-WU – Application for approval of a new bulk raw water classification of service and approval of revised service availability policy and charges in Baker and Union Counties by B & C Water Resources, L.L.C.

Critical Date(s): 11/28/08 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Hudson, Bulecza-Banks, Fletcher, Mouring

GCL: Young

Issue 1: Should B & C's proposed tariff sheets to establish bulk raw water rate be approved as filed?

Recommendation: Yes. The First Revised Sheet No. 14.0, filed on April 2, 2008, to establish a bulk raw water rate should be approved as filed. B & C should file a proposed notice to reflect the Commission's decision for staff's approval. The approved tariffs should be effective for services rendered on or after the stamped approval date provided the Utility has issued notices to all persons who have filed a written request for bulk raw water service or who have been provided a written estimate for bulk raw water service within the 12 calendar months prior to the month B & C filed its petition. The Utility should provide proof that those persons have received notice within 10 days after the date that the notice was sent.

Issue 2: Should B & C's proposed tariff sheets to establish a service availability charge for bulk raw water service and update its service availability policy be approved as filed?

Recommendation: Yes. First Revised Sheet No. 18.0 and First Revised Sheet No. 25.0 filed on April 2, 2008, to establish a service availability charge for bulk raw water service and update its service availability policy should be approved as filed. B & C should file a proposed notice to reflect the Commission's decision for staff's approval. The approved tariffs should be effective for services rendered on or after the stamped approval date provided the Utility has issued notices to all persons who have filed a written request for bulk raw water service or who have been provided a written estimate for bulk raw water service within the 12 calendar months prior to the month B & C filed its petition. The Utility should provide proof that those persons have received notice within 10 days after the date that the notice was sent.

ITEM NO.

CASE

17**

Docket No. 080197-WU – Application for approval of a new bulk raw water classification of service and approval of revised service availability policy and charges in Baker and Union Counties by B & C Water Resources, L.L.C.

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: If no protest is filed by a person whose interest are substantially affected within 21 days of the issuance of the Order, the Tariff Order will become final upon the issuance of a Consummating Order and the docket should be closed. If a protest is filed within 21 days of the issuance of the Order, the tariff should remain in effect pending the resolution of the protest, and the docket should remain open.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

18**

Docket No. 080606-WU – Application for amendment of water tariff to implement Florida Department of Environmental Protection’s requirement under Rule 62-555.360, F.A.C., that backflow prevention devices be tested on an annual basis, by O&S Water Company Inc.

Critical Date(s): 11/24/08 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Walden

GCL: Hartman

Issue 1: Should the Utility’s proposed tariff page requiring that all backflow prevention devices be inspected on an annual basis be suspended?

Recommendation: Yes, O&S’s proposed tariff page requiring that all backflow prevention devices be inspected on an annual basis should be suspended pending further investigation by staff.

Issue 2: Should the docket be closed?

Recommendation: No. The docket should remain open pending the Commission’s final action on the Utility’s requested tariff filing that all backflow prevention devices be inspected on an annual basis.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

19**PAA

Docket No. 070695-WS – Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

Critical Date(s): 5-Month Effective Date Waived Through 11/13/08

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Bulecza-Banks, Bruce, Deason, Fletcher, Rieger

GCL: Hartman

(Proposed Agency Action Except Issues Nos. 20 and 21)

Issue 1: Is the quality of service provided by Miles Grant Water and Sewer Company satisfactory?

Recommendation: Yes. The overall quality of service provided by Miles Grant Water and Sewer Company is satisfactory

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

Recommendation: Yes. Based on audit adjustments agreed to by the Utility and staff, contributions in aid of construction (CIAC) should be increased by \$46,867 for water and increased by \$32,734 for wastewater and accumulated amortization of CIAC should be increased by \$221,492 for water, and \$176,494 for wastewater, respectively. Plant in service should be decreased by \$3,120 for water, and accumulated depreciation should be decreased by \$282 for water.

Issue 3: Should any adjustment be made to rate base allocations for Miles Grant?

Recommendation: Yes. Rate Base should be reduced by \$3,642 and \$3,429 for water and wastewater, respectively. The appropriate net rate base allocation for Miles Grant is \$63,176 for water and \$70,390 for wastewater.

Issue 4: Should any additional adjustments be made to the Utility's test year Plant in Service balance and test year expenses?

Recommendation: Yes. Based on Staff's recalculation of the Utility's plant in service, plant in service should be reduced by \$110,396 and \$340,165 for water and wastewater, respectively. Corresponding adjustments should be made to increase ~~decrease~~ accumulated depreciation by \$478,382 and \$473,073 for water and wastewater, respectively. Depreciation expense should be decreased by \$18,344 for water and increased by \$6,621 for wastewater. Operational and Maintenance (O&M) expense should be increased by \$1,197 for water.

Issue 5: Should adjustments be made to the Utility's pro forma plant additions and associated expenses?

Recommendation: Yes. The Utility's pro forma plant additions should be increased by \$11,625 for water. Accordingly, accumulated depreciation should be increased by \$413 for water and depreciation expense should be decreased by \$1,107 for water. Based on those adjustments the total pro forma plant additions should be \$159,145 for water and \$71,780 for wastewater.

ITEM NO.

CASE

19**PAA

Docket No. 070695-WS – Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

(Continued from previous page)

Issue 6: What are the used and useful percentages of the Utility's water and wastewater systems?

Recommendation: The water treatment plant, storage, and distribution system, as well as the wastewater treatment plant and collection system should be considered 100 percent used and useful.

Issue 7: What is the appropriate working capital allowance?

Recommendation: The appropriate amount of working capital is \$34,347 for water and \$43,720 for wastewater.

Issue 8: What is the appropriate rate base for the June 30, 2007, test year?

Recommendation: Consistent with other recommended adjustments, the appropriate simple average rate base for the test year ending December 30, 2007, is \$745,532 for water and \$919,029 for wastewater.

Issue 9: What is the appropriate return on common equity?

Recommendation: The appropriate return on common equity is 11.73 percent based on the Commission's leverage formula currently in effect. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

Issue 10: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ended June 30, 2007?

Recommendation: The appropriate weighted average cost of capital for the test year ended June 30, 2007, is 6.08 percent.

Issue 11: Should any changes be made to pro forma expenses?

Recommendation: Yes. Pro forma expenses should be reduced by \$4,981 for water and \$4,691 for wastewater.

Issue 12: What is the appropriate amount of rate case expense?

Recommendation: The appropriate rate case expense is \$127,973. This expense should be recovered over four years for an annual expense of \$31,993. Thus, rate case expense should be reduced by \$6,171 for water and \$5,811 for wastewater, respectively.

Issue 13: What is the test year water and wastewater operating loss before any revenue increase?

Recommendation: Based on the adjustments discussed in previous issues, the test year operating losses are \$24,531 for water and \$85,983 for wastewater.

ITEM NO.

CASE

19**PAA

Docket No. 070695-WS – Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

(Continued from previous page)

Issue 14: What is the appropriate revenue requirement for the June 30, 2007 test year?

Recommendation: The following revenue requirement should be approved.

	<u>Test</u>		<u>Revenue</u>	
	<u>Year Revenues</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
Water	\$314,961	\$117,251	\$432,213	37.23%
Wastewater	\$330,593	\$238,124	\$568,717	72.03%

Issue 15: What are the appropriate rate structures for the Utility’s water and wastewater systems?

Recommendation: The appropriate rate structure for the water system’s residential class is a two-tier inclining block rate structure. The usage blocks should be set for consumption at: a) 0-3 kgal; b) usage in excess of 3 kgal, with appropriate usage block rate factors of 1.0 and 1.50, respectively. The appropriate rate structure for the water system’s non-residential class is a traditional base facility charge (BFC)/uniform gallonage charge rate structure. The water system’s BFC cost recovery percentage should be set at 50 percent. The appropriate rate structure for the wastewater system’s residential and non-residential class is a BFC/uniform gallonage charge rate structure. The non-residential class should be 1.2 times greater than the corresponding residential gallonage charge, and the BFC cost recovery percentage should be set at 50 percent. The appropriate residential wastewater gallonage cap should be set at 6 kgal per month.

Issue 16: Are repression adjustments appropriate in this case, and, if so, what are the appropriate adjustments to make for this utility, what are the corresponding expense adjustments, and what are the final revenue requirements for the respective water and wastewater systems?

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 quarterly 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.

ITEM NO.

CASE

19**PAA

Docket No. 070695-WS – Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

(Continued from previous page)

Issue 17: What are the appropriate monthly rates for the water and wastewater systems for the Utility?

Recommendation: The appropriate monthly water and wastewater rates are shown on Schedule Nos. 4-A and 4-B of staff’s memorandum dated October 30, 2008, respectively. The recommended rates should be designed to produce revenues of \$432,213 for water and \$568,717 for wastewater, excluding miscellaneous service charges. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 18: Should the Utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

Recommendation: Yes. Miles Grant should be authorized to revise its miscellaneous service charges. 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, Miles Grant should be required to provide notice of the tariff changes to all customers. The Utility should provide proof the customers have received notice within 10 days after the date that the notice was sent. The appropriate charges are reflected below.

Water and Wastewater Miscellaneous Service Charges

	<u>Water</u>		<u>Wastewater</u>	
	<u>Normal</u>	<u>After Hrs</u>	<u>Normal Hrs</u>	<u>After Hrs</u>
Initial Connection	\$21	N/A	\$21	N/A
Normal Reconnection	\$21	\$42	\$21	\$42
Violation Reconnection	\$21	\$42	Actual Cost	Actual Cost
Premises Visit (in lieu of disconnection)	N/A	N/A	N/A	N/A
Premises Visit	\$21	\$42	\$21	\$42

ITEM NO.

CASE

19**PAA

Docket No. 070695-WS – Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

(Continued from previous page)

Issue 19: In determining whether any portion of the water and wastewater 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, no water refunds are required. However, the Utility should be required to refund 1.66 percent of wastewater 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. Further, the corporate undertaking should be released upon staff's verification that the required refunds have been made.

Issue 20: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

Recommendation: The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B of staff's memorandum dated October 30, 2008, to remove \$18,287 of water and \$17,222 of wastewater rate case expense, grossed up for regulatory assessment fees, which is being 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 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. Miles Grant should provide proof of the date notice was given no less than 10 days after the date of the notice.

ITEM NO.

CASE

19**PAA

Docket No. 070695-WS – Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

(Continued from previous page)

Issue 21: Should the Utility be required to provide proof, within 90 days of the final order issued in this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) primary accounts associated with the Commission-approved adjustments?

Recommendation: Yes. To ensure that the Utility adjusts its books in accordance with the Commission decision, Miles Grant should provide proof, within 90 days of the final order issued in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Issue 22: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and that the interim refund has been completed and verified by staff. Once these actions are complete, this docket should be closed administratively, and the corporate undertaking should be released.

DECISION: The recommendations were approved. Items 4 and 15 were orally modified at the Commission Conference as noted.

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

