

**MINUTES OF October 6, 2009**  
**COMMISSION CONFERENCE**  
**COMMENCED: 9:30 am**  
**RECESSED: 9:57 am**  
**RECONVENED: 10:07 am**  
**RECESSED: 11:26 am**  
**RECONVENED: 11:45 am**  
**RECESSED: 12:54 pm**  
**RECONVENED: 1:10 pm**  
**RECESSED: 1:10 pm**  
**RECONVENED: 2:33 pm**  
**ADJOURNED: 4:06 pm**

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

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

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1

**Approval of Minutes**  
August 18, 2009 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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2\*\*

**Consent Agenda**

- A) Docket No. 090425-EI – Application for authority to issue and sell securities pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Florida Public Utilities Company.

Application by Florida Public Utilities Company (Company) for authority to issue and sell and/or exchange any combination of long-term debt, short-term notes and equity securities and/or to assume liabilities or obligations as guarantor, endorser or surety in an incremental amount not to exceed \$45 million, excluding retained earnings during calendar year 2010. Included in this \$45 million amount is the Company's request for authority to issue up to \$25 million in short-term notes during calendar year 2010. The Company states that its regulated share of this financing will not exceed 90 percent, or \$40.5 million.

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

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2\*\*

Consent Agenda

(Continued from previous page)

B) Docket No. 090439-EI – Application for authority to issue and sell securities for 12 months ending December 31, 2010, by Tampa Electric Company.

Tampa Electric Company (“Company”) seeks the authority to issue, sell and/or exchange equity securities and issue, sell, exchange and/or assume long-term or short-term debt securities and/or to assume liabilities or obligations as guarantor, endorser, or surety during calendar year 2010. The Company also seeks authority to enter into interest rate swaps or other derivative instruments related to debt securities during calendar year 2010.

The amount of all equity and long-term debt securities issued, sold, exchanged or assumed and liabilities and obligations assumed or guaranteed as guarantor, endorser, or surety will not exceed in the aggregate \$950 million during calendar year 2010, including any amounts issued to retire existing long-term debt securities. The maximum amount of short-term debt outstanding at any one time will be \$900 million during calendar year 2010. This application is for both Tampa Electric Company and its local gas distribution division, Peoples Gas System.

In connection with this application, Tampa Electric confirms that the capital raised pursuant to this application will be used in connection with the activities of the Company’s regulated electric and gas divisions and not the unregulated activities of the utilities or 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 the dockets must remain open for monitor purposes.

DECISION: The recommendation was approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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3\*\*

**Docket No. 060476-TL** – Petition to initiate rulemaking to amend Rules 25-24.630(1) and 25-24.516(1), F.A.C., by BellSouth Telecommunications, Inc.

**Rule Status:** Proposed – May be deferred

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrian

**Staff:** GCL: Bellak  
RCP: Kennedy  
ECR: Hewitt  
SSC: Moses

**Issue 1:** Should the Commission propose amendments to Rule 25-24.630, F.A.C., Rate and Billing Requirements, and Rule 25-24.516, F.A.C., Pay Telephone Rate Caps?

**Recommendation:** Yes, the Commission should amend Rule 25-24.630, F.A.C., and Rule 25-24.516, F.A.C., as set forth in Attachment A of staff's memorandum dated September 24, 2009.

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

**Recommendation:** Yes, if no requests for hearing or comments are filed, the rule amendments as proposed in Issue 1, should be filed for adoption with the Secretary of State and the docket should be closed.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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4\*\*

**Docket No. 090396-GU** – Initiation of rulemaking to amend rules in Chapter 25-12, F.A.C., pertaining to safety of gas transportation by pipeline.

**Rule Status:** Proposed - May be deferred

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Cowdery, Cibula  
ECR: Hewitt  
SSC: Fletcher, Mills

**Issue 1:** Should the Commission propose the amendment of Rules 25-12.004, 25-12.005, 25-12.008, 25-12.022, 25-12.027, 25-12.040, 25-12.041, 25-12.080, 25-12.084, and 25-12.085, 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 September 24, 2009.

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

**Recommendation:** Yes.

DECISION: The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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5\*\*PAA

**Docket No. 090122-EG** – Petition for approval of modifications to approved energy conservation programs, by Associated Gas Distributors of Florida. (Deferred from the September 15, 2009 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrian

**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 October 27, 2009, Commission Conference.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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6\*\*

**Docket No. 090162-EQ** – Petition for approval of amended standard offer contract and retirement of COG-2 rate schedule, by Progress Energy Florida.

**Critical Date(s):** 12/01/09 (8-Month Effective Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** SGA: Ellis

GCL: Hartman

**Issue 1:** Should the amended standard offer contract filed by Progress Energy Florida as revised on August 21, 2009, be approved?

**Recommendation:** Yes. The standard offer contract and related tariff, as revised on August 21, 2009, complies with Rules 25-17.200 through 25-17.310, F.A.C., and Order No. PSC-09-0643-FOF-EI.

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

**Recommendation:** Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract filed by PEF, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 090162-EQ should be closed, and the standard offer contract filed by PEF should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that PEF's tariffs and standard offer contract may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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6A                    **Docket No. 090172-EI** – Petition to determine need for Florida EnergySecure Pipeline by Florida Power & Light Company.

**Critical Date(s):** Deadlines pursuant to Section 403.9422, Florida Statutes, have been waived by Florida Power & Light Company until October 6, 2009.

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Brown  
          ECR: Bulecza-Banks  
          SGA: Ballinger

**(Oral Argument not requested)**

**Issue 1:** Should the Commission deny FGT’s Motion to Terminate Case or, in the Alternative, Motion to Transfer?

**Recommendation:** Yes. FGT has not demonstrated any good cause or substantive material grounds to terminate or transfer the case. The Commission should consider and decide on staff’s post-hearing recommendation in this matter.

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

**Recommendation:** No. This docket should remain open.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop



**ITEM NO.**

**CASE**

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7

**Docket No. 090172-EI** – Petition to determine need for Florida EnergySecure Pipeline by Florida Power & Light Company.

**Critical Date(s):** Deadlines, pursuant to Section 403.9422, Florida Statutes, have been waived by Florida Power & Light Company until October 6, 2009.

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** SGA: Graves, Matthews, Ballinger, Trapp

ECR: Bulecza-Banks, Chase, Hewitt, Lester, Maurey, Springer, Stallcup

GCL: Brown, Arnold, Williams

SSC: Fletcher, Mills

**(Participation is Limited to Commissioners and Staff. The Commission should vote on issues in the following order: Issues 1, 2, 4, 7, 8, 9, 10, 3, 6, 5, 14, 11, and 13 combined, 15, 16, and 17. Issue 12 was stipulated by the parties at the Prehearing Conference.)**

**Issue 1:** Is FPL's forecast of future natural gas pipeline transmission capacity requirements reasonable for planning purposes?

**Recommendation:** Yes.

DECISION: No vote.

**Issue 2:** Do existing transmission pipelines in Florida have sufficient excess capacity to fulfill the forecasted need for transmission capacity?

**Recommendation:** No. Although up to 214 MMcf/d of capacity may be available from the existing FGT system, incremental additions would still be required to supply the full forecasted need of 400 MMcf/d by 2014.

DECISION: No vote.

**Issue 3:** Is the proposed Florida EnergySecure Pipeline needed to improve or maintain natural gas delivery reliability and integrity within Florida?

**Primary Recommendation:** Yes. The proposed Florida EnergySecure Pipeline is necessary to improve natural gas delivery reliability and integrity to FPL's Cape Canaveral Energy Center and Riviera Beach Energy Center as well as long term natural gas delivery and integrity of FPL's future generation expansion plans.

**Alternative Recommendation:** No. The proposed Florida EnergySecure Pipeline is not needed to maintain natural gas delivery reliability and integrity within Florida. Further, the Florida EnergySecure Pipeline will not improve reliability and integrity within Florida.

DECISION: No vote.

**ITEM NO.**

**CASE**

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7

**Docket No. 090172-EI** – Petition to determine need for Florida EnergySecure Pipeline by Florida Power & Light Company.

(Continued from previous page)

**Issue 4:** Does the planned construction and operation of the proposed Florida EnergySecure Pipeline meet industry and government standards for safety?

**Recommendation:** Yes. The construction and operation of the Florida EnergySecure Pipeline will meet industry and government standards for safety.

DECISION: No vote.

**Issue 5:** Will the proposed Florida EnergySecure Pipeline improve the economics of natural gas transmission within Florida to assure the economic well-being of the public?

**Primary Recommendation:** Yes. FPL is Florida’s largest electric utility as well as the state’s largest natural gas consumer. FPL’s ownership of a third pipeline into the state is likely to improve the economics of natural gas alternatives available to FPL in the future.

**Alternative Recommendation:** No. The Florida EnergySecure Pipeline, as designed, will not improve the economics of gas transmission within Florida to assure the economic well-being of the public.

DECISION: No vote.

**Issue 6:** Are the commencement and terminus of FPL’s proposed facilities and laterals appropriate to serve the need identified in Issue 1?

**Recommendation:** Yes. The proposed commencement near FGT Station 16, in Bradford County, Florida, will allow for connection with “Company E’s” proposed interstate pipeline which will originate at Transco 85, in Choctaw County, Alabama. The proposed terminus of the Florida EnergySecure Pipeline, near FPL’s Martin Plant, will allow for FPL to use an existing lateral to deliver fuel to the company’s Riviera Beach Energy Center. FPL is also proposing two new laterals, one which will facilitate natural gas delivery to FPL’s Cape Canaveral Energy Center and one that will connect the Riviera Beach Energy Center with an existing FGT mainline.

DECISION: No vote.

**Issue 7:** Are FPL’s construction cost estimates reasonable for planning purposes?

**Recommendation:** Yes. FPL relied on a major pipeline engineering consultant to produce a preliminary scope and project cost estimate.

DECISION: No vote.

**ITEM NO.**

**CASE**

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7

**Docket No. 090172-EI** – Petition to determine need for Florida EnergySecure Pipeline by Florida Power & Light Company.

(Continued from previous page)

**Issue 8:** Are FPL’s economic assumptions reasonable for planning purposes?

**Recommendation:** No. The updated long-term financial assumptions used in FPL’s economic analysis are not reasonable for planning purposes. However, the long-term financial assumptions included in the Company’s original filing are reasonable.

DECISION: No vote.

**Issue 9:** Are the fuel supply and transport costs used by FPL reasonable for planning purposes?

**Recommendation:** Yes.

DECISION: No vote.

**Issue 10:** Will the proposed Florida EnergySecure Pipeline, including its connection with the upstream pipeline, provide the most cost-effective and reliable source of natural gas supply, transport, and delivery?

**Primary Recommendation:** Yes. FPL’s economic life-cycle analysis shows that the Florida EnergySecure Pipeline is the most cost-effective alternative, under a variety of assumptions, to meet the future natural-gas transmission needs of its customers.

DECISION: The recommendation was denied.

**Alternative Recommendation:** FPL has not shown by a preponderance of the evidence that the proposed Florida EnergySecure Pipeline is the most cost-effective and reliable source of natural gas supply, transport, and delivery. Accordingly, as a prudent course of action, staff recommends that FPL be required to rebid the project consistent with the discussion in staff’s memorandum dated September 24, 2009.

DECISION: The recommendation was approved.

**Issue 11:** Is it appropriate for FPL to recover the costs associated with its proposed Florida EnergySecure Pipeline through its electric utility rate base?

**Primary Recommendation:** No. The costs associated with the proposed Florida EnergySecure Pipeline should not be included in FPL’s rate base.

**Alternative Recommendation:** Yes. As addressed in Issue 14, the primary purpose of the Florida EnergySecure Pipeline is to provide natural gas to FPL’s electric generation plant. As such, it is appropriate for FPL to recover the costs associated with the project as part of its electric rates pursuant to the Commission’s ratemaking jurisdiction under Chapter 366, F.S. FPL should be required to develop and maintain the appropriate books,

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**CASE**

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7

**Docket No. 090172-EI** – Petition to determine need for Florida EnergySecure Pipeline by Florida Power & Light Company.

(Continued from previous page)

records, and sub-accounts to be able to determine and calculate the fully allocated cost of the Florida EnergySecure Pipeline. The methodology for determining fully allocated costs should be reviewed by the Commission as part of any docket requesting cost recovery for the Florida EnergySecure Pipeline.

DECISION: No vote.

**Issue 12**: Should FPL be required to file a post-construction report that details the final cost of the Florida EnergySecure Pipeline within 90 days of completion?

**Recommendation**: This issue was stipulated at the Prehearing.

DECISION: No vote.

**Issue 13**: Should a separate entity be established to own and operate the pipeline?

**Primary Recommendation**: Yes. Consistent with prior Commission practice, FPL should establish a separate entity to own and operate the Florida EnergySecure Pipeline.

**Alternative Recommendation**: No. A separate entity is not needed to protect ratepayers. As discussed in Issue 11, however, FPL should be required to establish and maintain the books, records, and sub-accounts necessary for the Commission to determine the fully allocated cost of the Florida EnergySecure Pipeline used to make third-party transportation sales.

DECISION: No vote.

**Issue 14**: If FPL owns and operates the Florida EnergySecure Pipeline as proposed, will it be subject to the Commission's jurisdiction as an intrastate pipeline company, pursuant to Chapter 368, F.S.?

**Primary Recommendation**: Yes. FPL has indicated that it intends to provide excess capacity on its proposed Florida EnergySecure Pipeline to third parties for compensation. Because it intends to provide excess capacity for compensation, the plain language of Section 368.103, F.S., indicates that FPL will be a natural gas transmission pipeline company subject to Commission regulation under Part II of Chapter 368, F.S.

**ITEM NO.**

**CASE**

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7

**Docket No. 090172-EI** – Petition to determine need for Florida EnergySecure Pipeline by Florida Power & Light Company.

(Continued from previous page)

**Alternative Recommendation:** No. The primary purpose of the Florida EnergySecure Pipeline is to provide natural gas to FPL’s electric generation plant. As such, it is appropriate for FPL to recover the costs associated with the project as part of its electric rates pursuant to the Commission’s ratemaking jurisdiction under Chapter 366, F.S. Whether FPL should establish a separate Commission regulated subsidiary to own and operate the Florida EnergySecure Pipeline is addressed in Issue 13.

DECISION: No vote.

**Issue 15:** If FPL owns and operates the Florida EnergySecure Pipeline as proposed, will it “provide transmission access, subject to available capacity, on a basis that is not unreasonably preferential, prejudicial, or unduly discriminatory,” as Section 368.105(6) requires?

**Primary Recommendation:** Yes. FPL has indicated that when it provides transmission capacity for compensation to third parties, it will file tariffs with the Commission, post its available capacity on an open access bulletin board, and sell the capacity at rates that: “would be regulated by the Commission, pursuant to Section 368.105(2), F.S. which requires the Commission ‘to ensure that all rates and services made, demanded, or received by any natural gas transmission company are just and reasonable and are not unreasonable preferential, prejudicial, or unduly discriminatory.’” The Commission will have jurisdiction to ensure compliance with this provision.

**Alternative Recommendation:** Yes. The Florida EnergySecure Pipeline will primarily be used to supply natural gas to FPL’s electric generating plant. To the extent that FPL derives revenues from the release or short term sale of gas transportation, such sales will be made pursuant to established FERC regulated non-discriminatory markets and the revenues derived from such sales will be credited to FPL’s ratepayers in the Fuel and Purchased Power Cost Recovery Clause.

DECISION: No vote.

**Issue 16:** Based on the resolution of the previous issues, should FPL’s petition for determination of need for the Florida EnergySecure Pipeline, a natural gas transmission pipeline as defined in Section 403.9403(16), F.S., be approved?

**Primary Recommendation:** Yes.

**Alternative Recommendation:** No.

DECISION: No vote.

**ITEM NO.**

**CASE**

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7

**Docket No. 090172-EI** – Petition to determine need for Florida EnergySecure Pipeline by Florida Power & Light Company.

(Continued from previous page)

**Issue 17:** Should this docket be closed?

**Recommendation:** Yes. Whatever decisions the Commission makes on the substantive issues and alternatives presented in this recommendation, this docket should be closed upon the expiration of the time for appeal.

**DECISION:** The recommendation was approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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8\*\*PAA

**Docket No. 090072-WU** – Application for staff-assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc.

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

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Hudson, Bulecza-Banks, Daniel, Fletcher, Rieger, Bruce  
GCL: Klancke

**(Proposed Agency Action Except for Issues 13, 14, and 15.)**

**Issue 1:** Is the quality of service provided by Keen or Utility satisfactory?

**Recommendation:** Yes. The quality of service provided by Keen Sales, Rentals and Utilities is satisfactory.

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

**Recommendation:** The treatment plant and distribution system should be considered 100 percent used and useful.

**Issue 3:** What is the appropriate allocation of common costs from Keen to the Subdivisions?

**Recommendation:** The appropriate allocation of common costs from Keen to the Subdivisions is 55 percent.

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

**Recommendation:** The appropriate average test year rate base for Keen is \$53,840.

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

**Recommendation:** The appropriate return on equity (ROE) is 11.30 percent with a range of 10.30 percent–12.30 percent. The appropriate overall rate of return is 7.39 percent.

**Issue 6:** What are the appropriate amount of test year revenues?

**Recommendation:** The appropriate test year revenue for this Utility is \$41,536.

**Issue 7:** What are the appropriate operating expenses?

**Recommendation:** The appropriate amount of operating expenses for Keen is \$65,859.

**Issue 8:** What is the appropriate revenue requirement?

**Recommendation:** The appropriate revenue requirement is \$69,837 for water.

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

**Recommendation:** Yes. The Utility's current water system rate structure, which includes a 1,000 (1 kgal) allotment, should be changed to a three-tier inclining block rate structure. The usage blocks should be set for consumption at: a) 0-6 kgals; b) 6-12 kgals; c) usage in excess of 12 kgals, with appropriate usage block rate factors of 1.00; 1.50; and 2.00, respectively. The BFC cost recovery should be set at 35 percent.

**ITEM NO.**

**CASE**

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8\*\*PAA

**Docket No. 090072-WU** – Application for staff-assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc.

(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 15.6 percent, resulting in a consumption reduction of approximately 1,690 kgals. Purchased power expense should be reduced by \$302, chemical expense should be reduced by \$125, and regulatory assessment fees (RAFS) should be reduced by \$20. The final post-repression revenue requirement for the water system should be \$69,391.

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 4-A of staff's memorandum dated September 24, 2009. The recommended rates should be designed to produce revenue \$69,391 for water, excluding miscellaneous service charges. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.



**ITEM NO.**

**CASE**

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8\*\*PAA

**Docket No. 090072-WU** – Application for staff-assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc.

(Continued from previous page)

**Issue 12:** Should the Commission approve pro forma plant and expenses for the Utility, and if so, what is the appropriate return on equity, overall rate of return, revenue requirement and date for implementing the new rates?

**Recommendation:** Yes. The Commission should approve a Phase II revenue requirement associated with pro forma plant additions. With the pro forma items, Keen's appropriate return on equity should be 11.30 percent with a range of 10.30–12.30 percent. The appropriate overall rate of return is 7.39 percent. The Utility's revenue requirement should be \$71,167. Keen should complete the pro forma additions within 12 months of the issuance of the consummating order. The Utility should be allowed to implement the resulting rates once the pro forma additions have been completed and verified by staff. Once verified, the rates should be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until notice has been received by the customers. Keen 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 pro forma additions, the Utility should immediately notify the Commission.

**Issue 13:** What is the appropriate amount 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 September 24, 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. Keen should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

**ITEM NO.**

**CASE**

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8\*\*PAA

**Docket No. 090072-WU** – Application for staff-assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc.

(Continued from previous page)

**Issue 14:** 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 Keen?

**Recommendation:** Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility. Prior to implementation of any temporary rates, Keen should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum dated September 24, 2009. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., Keen 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 15:** Should the Utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission-approved adjustments?

**Recommendation:** Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, Keen 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 16:** Should this docket be closed?

**Recommendation:** No. If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional 12 months from the date of the Consummating Order to allow staff to verify completion of pro forma plant items described in Issue No. 12. Once staff has verified that the pro forma items have been completed, the docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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9\*\*

**Docket No. 090429-WU** – Request for approval of imposition of miscellaneous service charges, delinquent payment charge and meter tampering charge in Lake County, by Pine Harbour Water Utilities, LLC.

**Critical Date(s):** 10/06/09 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Deason, Bulecza-Banks, Fletcher

GCL: Klancke

**Issue 1:** Should Pine Harbour’s proposed tariff sheets to establish its miscellaneous service charges, delinquent payment charge, and meter tampering charge be suspended?

**Recommendation:** Yes. Pine Harbour’s proposed tariff sheets to establish its miscellaneous service charges, delinquent payment charge, and meter tampering charge should be suspended pending further investigation by staff.

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

**Recommendation:** No. The docket should remain open pending the Commission’s final action on the Utility’s requested approval to establish its miscellaneous service charges, delinquent payment charge, and meter tampering charge.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 090227-SU** – Application for partial transfer of wastewater facility to City of Sebring, and amendment of Certificate No. 361-S, by Highlands Utilities Corporation, in Highlands County.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Clapp, Kaproth

GCL: Brown

**Issue 1:** Should the transfer of a portion of Highlands Utilities Corporation wastewater territory to the City of Sebring be acknowledged as a matter of right and should Certificate No. 361-S be amended to reflect the deletion of territory?

**Recommendation:** Yes. The transfer of a portion of HUC's wastewater territory to the City of Sebring should be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 361-S should be amended to reflect the territory deletion effective November 20, 2008, which was the closing date of the sale. A description of the territory remaining after the partial transfer is appended to staff's memorandum dated September 24, 2009, as Attachment A. The resultant order should serve as HUC's wastewater certificate and should be retained by HUC.

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

**Recommendation:** Yes. If the Commission approves staff's recommendations in Issue 1, this docket should be closed because no further action is necessary.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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11\*\*

**Docket No. 090390-SU** – Application for transfer of wastewater facilities to Florida Keys Aqueduct Authority in Monroe County, and cancellation of Certificate No. 205-S, by Key Haven Utility Corporation. (Deferred from the September 15, 2009 Commission Conference, revised recommendation filed.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Clapp, Kaproth

GCL: Hartman

**Issue 1:** Should the transfer be approved?

**Recommendation:** Yes. The transfer of Key Haven Utility Corporation wastewater facilities to Florida Keys Aqueduct Authority should be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 205-S should be cancelled effective ~~August 25~~ September 17, 2009. Key Haven should be required to file its actual regulatory assessment fee (RAF) return and pay any additional RAFs owed for July 1, 2009, through September 17, 2009, by January 30, 2010.

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

**Recommendation:** Yes. This docket should be closed because no further action is necessary.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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12\*\*PAA

**Docket No. 090009-EI** – Nuclear cost recovery clause.

**Critical Date(s):** October 29, 2009 (Rule Waiver Deadline)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrin

**Staff:** ECR: Breman, Hinton, Laux

GCL: Young, Bennett, Williams

**Issue 1:** Should the Commission approve the request for a waiver of the filing deadlines of Rule 25-6.0423(5)(c)4, Florida Administrative Code, by Progress Energy Florida, Inc. and Florida Power and Light Company?

**Recommendation:** Yes, the Commission should approve the request for waiver of the filing deadlines of Rule 25-6.0423(5)(c)4, Florida Administrative Code.

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

**Recommendation:** No. If no timely protest is received to the proposed agency action on PEF and FPL's request for waiver in Docket No. 090009-EI, the Order granting the rule waiver will become final upon the issuance of Consummating Order. Docket No. 090009-EI should remain open pending the Commission's decision on PEF and FPL's petitions in the NCRC.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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13\*\*

**Docket No. 090407-EI** – Petition for approval of revisions to long-term rental agreement for distribution substation facilities by Florida Power & Light Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Thompson, Kummer

GCL: Brubaker

**Issue 1:** Should FPL be allowed to revise its Long-Term Rental Agreement for Distribution Substation Facilities?

**Recommendation:** Yes.

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

**Recommendation:** Yes, if the Commission approves staff's recommendation to approve the revisions to the Long-Term Rental Agreement, as requested by FPL, and no person whose substantial interests are affected requests a hearing to address this matter, then this docket should be closed upon issuance of a consummating order. If a protest is filed within 21 days of the issuance of the Commission's order, the proposed term modification should remain in effect pending resolution of the protest.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, Argenziano, Skop

**ITEM NO.**

**CASE**

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14\*\*

**Docket No. 080249-WS** – Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.

**Critical Date(s):** 8-Month Effective Date Waived Through 4/6/10

**Commissioners Assigned:** McMurrian, Edgar, Argenziano  
**Prehearing Officer:** Argenziano

**Staff:** ECR: Mouring, Bulecza-Banks, Fletcher, Lingo  
GCL: Jaeger

**Issue 1:** Should the Commission approve the Joint Motion Requesting Commission Approval of Settlement Agreement?

**Recommendation:** Yes. The Joint Motion and Settlement Agreement should be approved. The Utility should file a proposed customer notice and revised tariff sheets within 15 days of the Commission vote, which is consistent with the Commission's decision. The approved rates 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., after staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. The Utility should provide proof that the customers have received notice within 10 days after the date of the notice.

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

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the final order approving the Parties' Settlement Agreement. Further, upon the issuance of the final order approving the Parties' Settlement Agreement, staff recommends the corporate undertaking amount approved by the Commission for interim rates should be released.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, Argenziano