

MINUTES OF October 14, 2008

COMMISSION CONFERENCE

COMMENCED: 9:38 am

RECESSED: 10:12 am

RECONVENED: 10:33 am

RECESSED: 1:33 pm

RECONVENED: 2:45 pm

ADJOURNED: 3:48 pm

COMMISSIONERS PARTICIPATING: Chairman Carter
Commissioner Edgar
Commissioner McMurrian (via telephone)
Commissioner Argenziano
Commissioner Skop

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

1

Approval of Minutes

September 4, 2008 Regular Commission Conference

September 16, 2008 Regular Commission Conference

DECISION: The minutes were approved.

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

ITEM NO.

CASE

2**

Docket No. 080414-WS – Proposed amendment of Rules 25-30.455, F.A.C., Staff Assistance in Rate Cases, 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting, and 25-30.457, F.A.C., Limited Alternative Increase for all water and wastewater utilities.

Critical Date(s): None (Proposal may be deferred)

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Gervasi

ECR: Bulecza-Banks, Hewitt, Willis

Issue 1: Should the Commission propose amendments to Rules 25-30.455, 25-30.456 and 25-30.457, F.A.C.?

Recommendation: Yes. The Commission should propose the amendments to Rules 25-30.455, 25-30.456 and 25-30.457, F.A.C., as set forth in Attachment A of staff's memorandum dated October 2, 2008.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rule amendments as proposed 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, McMurrian, Argenziano, Skop

ITEM NO.

CASE

3**

Docket No. 080503-EI – Establishment of rule on renewable portfolio standard.

Critical Date(s): 02/01/09 (Section 366.92(3), F.S., requires the Commission to provide a rule to the Legislature by 2/1/2009.)

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: GCL: Miller, Cibula

ECR: Hewitt

SGA: Chase, Harlow, Futrell, Trapp

Issue 1: Should the Commission propose the adoption of Rule 25-17.400, F.A.C., entitled "Florida Renewable Portfolio Standard"?

Recommendation: Yes, the Commission should propose the adoption of the rule as set forth in Attachment A of staff's memorandum dated October 2, 2008. Rule 25-17.400, F.A.C., establishes an RPS for Florida's investor-owned utilities that offers a balanced approach to encouraging the development of renewable resources in Florida, while providing sufficient ratepayer safeguards. The rule establishes reasonable initial standards that increase over time to 20 percent of each IOU's retail sales. The rule contains two primary components to protect ratepayers from high rate impacts: (1) a procedure for the Commission to review at least every five years and modify the standards, if appropriate, and (2) a cost cap based on two percent of each IOU's annual revenues from retail electric sales. The rule is consistent with the requirements of Section 366.92, F.S.

DECISION: The recommendation was Modified. Staff was directed to further evaluate and gather data and bring back to a December 3rd workshop in preparation for a January 9, 2009, Special Commission Conference.

Issue 2: Should the Commission propose the adoption of Rule 25-17.410, F.A.C., entitled "Florida Renewable Energy Credit Market"?

Recommendation: Yes, the Commission should propose the adoption of the rule as set forth in Attachment A of staff's memorandum dated October 2, 2008. The rule contains appropriate procedures for the establishment and administration of a Florida REC market consistent with Section 366.92(3)(b)7, F.S.

DECISION: The recommendation was Modified. Staff was directed to further evaluate and gather data and bring back to a December 3rd workshop in preparation for a January 9, 2009, Special Commission Conference.

ITEM NO.

CASE

3**

Docket No. 080503-EI – Establishment of rule on renewable portfolio standard.

(Continued from previous page)

Issue 3: Should the Commission propose the adoption of Rule 25-17.420, F.A.C., entitled “Municipal Electric Utility and Rural Electric Cooperative Renewable Energy Reporting”?

Recommendation: Yes, the Commission should propose the adoption of the rule as set forth in Attachment A of staff’s memorandum dated October 2, 2008. The rule sets forth the appropriate annual reporting requirements for each municipal and cooperative electric utility as required by Section 366.92(5), F.S. The information contained in this annual report will facilitate the Commission’s efforts to track municipal and cooperative policies regarding renewable energy and energy efficiency, as well as any resulting increase in statewide renewable resources in Florida.

DECISION: The recommendation was Modified. Staff was directed to further evaluate and gather data and bring back to a December 3rd workshop in preparation for a January 9, 2009, Special Commission Conference.

Issue 4: Should this docket be closed?

Recommendation: No. This docket should remain open to proceed to the rule hearing, scheduled for December 3, 2008.

DECISION: The recommendation was Modified. Staff was directed to conduct further analysis and data gathering and bring back to a December 3rd workshop rather than a rule hearing.

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

ITEM NO.

CASE

4**PAA

Docket No. 080218-TP – Request for cancellation of CLEC Certificate No. 8380, and for acknowledgment of cancellation of IXC Registration No. TJ812 held by ONS-Telecom, LLC, effective April 15, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: Brooks, McKay

Issue 1: Should the Commission deny ONS-Telecom, LLC, a voluntary cancellation of its CLEC Certificate No. 8380 and IXC Registration No. TJ812 and cancel the tariff and remove the company's name from the register on the Commission's own motion with an effective date of April 15, 2008?

Recommendation: Yes, the company should be denied voluntary cancellations as listed on Attachment A of staff's memorandum dated October 2, 2008.

ITEM NO.

CASE

4**PAA

Docket No. 080218-TP – Request for cancellation of CLEC Certificate No. 8380, and for acknowledgment of cancellation of IXC Registration No. TJ812 held by ONS-Telecom, LLC, effective April 15, 2008.

(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 pays the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff and the removal of its name from the register will be voluntary. If the company fails to pay the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff should be cancelled administratively and its name removed from the IXC register, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff are 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 telecommunications service in Florida. This docket should be closed administratively either upon receipt of payment of the Regulatory Assessment Fees, including applicable late payment charges, or upon cancellation of the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff and removal of its name from the register.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5**PAA

Docket No. 080220-TP – Request for cancellation of CLEC Certificate No. 5763, and for acknowledgment of cancellation of IXC Registration No. TJ799 held by Tallahassee Telephone Exchange, Inc. d/b/a TTE, effective April 16, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: McKay

Issue 1: Should the Commission deny Tallahassee Telephone Exchange, Inc. d/b/a TTE, a voluntary cancellation of its CLEC Certificate No. 5763 and IXC Registration No. TJ799 and cancel the tariff and remove the company's name from the register on the Commission's own motion with an effective date of April 16, 2008?

Recommendation: Yes, the company should be denied voluntary cancellations as listed on Attachment A of staff's memorandum dated October 2, 2008.

ITEM NO.

CASE

5**PAA

Docket No. 080220-TP – Request for cancellation of CLEC Certificate No. 5763, and for acknowledgment of cancellation of IXC Registration No. TJ799 held by Tallahassee Telephone Exchange, Inc. d/b/a TTE, effective April 16, 2008.

(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 pays the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff and the removal of its name from the register will be voluntary. If the company fails to pay the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff should be cancelled administratively and its name removed from the IXC register, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff are 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 telecommunications service in Florida. This docket should be closed administratively either upon receipt of payment of the Regulatory Assessment Fees, including applicable late payment charges, or upon cancellation of the company's competitive local exchange telecommunications certificate and intrastate interexchange carrier tariff and removal of its name from the register.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

6**PAA

Docket No. 080238-TX – Request for cancellation of CLEC Certificate No. 5334 by Burno, Inc. d/b/a Citywide-Tel, effective April 28, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: McKay

Issue 1: Should the Commission deny Burno, Inc. d/b/a Citywide-Tel, a voluntary cancellation of its competitive local exchange telecommunications company (CLEC) Certificate No. 5334 and cancel the certificate on the Commission's own motion with an effective date of April 28, 2008?

Recommendation: Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff's memorandum dated October 2, 2008.

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 pays the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's CLEC certificate will be voluntary. If the company fails to pay the Regulatory Assessment Fees, including applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's CLEC certificate should be cancelled administratively, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's CLEC certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees, including applicable late payment charges, or upon cancellation of the company's CLEC certificate.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 080543-EI – Request for approval to begin depreciating new technology solar photovoltaic plant sites for DeSoto and Space Coast Solar Energy Centers over a 30-year period, effective with in-service dates of units, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Marsh

GCL: Brown

Issue 1: Should the Commission establish subaccounts with depreciation rates for the solar installations?

Recommendation: Yes. The Commission should establish the subaccounts shown in the analysis portion of staff's memorandum dated October 2, 2008, with a 30-year life and a whole life depreciation rate of 3.3 percent.

Issue 2: What should be the effective date for the implementation of the new depreciation rate for the DeSoto and Space Coast Solar Energy Centers?

Recommendation: The effective date for the implementation of the new depreciation rate for the DeSoto and Space Coast Solar Energy Centers should be January 1, 2009.

Issue 3: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

8**

Docket No. 080547-GU – Petition for permanent waiver of requirements of Rules 25-7.084(2) and 25-7.085(4), F.A.C., to fully recognize the accuracy and efficiency benefits of automatic meter readings, by Florida Division of Chesapeake Utilities Corporation.

Critical Date(s): 11/13/08 - Statutory deadline to take action on waiver petition

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Kummer

GCL: Brown

Issue 1: Should the Commission grant Chesapeake’s petition for a waiver of Rules 25-7.084(2) and 25-7.085(4) and (5), F.A.C.?

Recommendation: Yes. The Commission should grant Chesapeake’s petition for a waiver of Rules 25-7.084(2) and 25-7.085(4) and (5), F.A.C., to the extent that the rules require an actual reading of the mechanical counter of a customer’s meter.

DECISION: The recommendation was approved with the understanding that the Company will physically read the meter once a year during the annual inspection.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose interests are substantially affected files a protest within 21 days of the issuance of this Proposed Agency Action Order, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

9**

Docket No. 080561-GP – Petition for approval of natural gas transmission pipeline tariff by SeaCoast Gas Transmission, LLC.

Critical Date(s): 10/18/08 (60-day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper

GCL: Brown

Issue 1: Should the Commission suspend Seacoast's proposed natural gas transmission pipeline tariff, Original Volume No. 1?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: No.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**

Docket No. 080554-GU – Petition for approval of transportation cost recovery factors by Florida Division of Chesapeake Utilities Corporation.

Critical Date(s): 60-day suspension date: 10/17/2008

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper

GCL: Fleming

Issue 1: Should the Commission approve Chesapeake's proposed Transportation Cost Recovery (TCR) Adjustment tariff (Original Sheet No. 103.1)?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on January 1, 2009. 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

11

Docket No. 080009-EI – Nuclear cost recovery clause.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrian

Staff: ECR: Breman, Hinton, Laux, Slemkewicz

GCL: Bennett, Brubaker, Young

(Participation is Limited to Commissioners and Staff.)

Issue 1A: Should Progress Energy Florida, Inc. and Florida Power & Light Company be allowed to recover through the Nuclear Cost Recovery Clause revenue requirements for a phase or portion of a system associated with a power plant, after such phases or portion of the project has been placed into commercial service, or should such phases or portion of the project be recovered through base rates?

Recommendation: PEF and FPL should be allowed to recover through the NCRC associated revenue requirements for a phase or portion of a system placed into commercial service during a projected recovery period. The revenue requirement should be removed from the NCRC at the end of that period. Any difference in recoverable costs due to timing (projected versus actual placement in service) should be reconciled through the true-up provision.

Issue 1B: If recovery of costs for a phase or portion of a system associated with a power plant that is in commercial service continues through the Nuclear Cost Recovery Clause, how should the revenue requirements for that phase or portion be determined?

Recommendation: If cost recovery is allowed in Issue 1A, then the revenue requirements collected through the NCRC should be determined according to current rate setting standards consistent with Section 366.93(4), F.S., and Rule 25-6.0423(7), F.A.C. This issue is moot if, in Issue 1A, the Commission does not allow recovery of costs for a phase or portion of a system associated with a power plant that is in commercial service to occur through the Nuclear Cost Recovery Clause.

Issue 1C: How should the completion of site clearing work be determined for purposes of distinguishing between preconstruction and construction costs for recovery under the clause?

Recommendation: In general, site clearing work is complete when the property has been prepared to a condition that can allow the initiation of the first construction activity. Distinguishing between preconstruction and construction costs should be considered on a case-by-case basis.

ITEM NO.

CASE

11

Docket No. 080009-EI – Nuclear cost recovery clause.

(Continued from previous page)

Issue 3A: Should the Commission find that for the year 2007, PEF's project management, contracting, and oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

Recommendation: Staff recommends the Commission find PEF's 2007 project management, contracting, and oversight controls were reasonable and prudent for the CR3 Uprate project. Consistent with the agreement between OPC and PEF, staff recommends the Commission defer making a determination regarding the prudence of PEF's Levy 1 & 2 2007 project management, contracting, and oversight controls.

Issue 3B: Should the Commission find that for the year 2007, PEF's accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

Recommendation: Staff recommends the Commission find PEF's 2007 accounting and costs oversight controls were reasonable and prudent for the CR3 Uprate project. Pursuant to the approved partial stipulations, staff recommends the Commission defer making a determination of prudence for PEF's Levy 1 & 2 2007 accounting and costs oversight controls. A determination on the appropriate method for valuing land held for future use at Levy Units 1 & 2 will be a part of the 2009 NCRC proceeding.

Issue 7E: What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as prudent an amount of \$38,520,916 (gross system) as final 2007 CR3 Uprate project construction costs. The amount net of participant credits is \$34,278,183 system (\$33,136,826 jurisdictional).

Issue 7F: What amount should the Commission approve as carrying charges on PEF's prudently incurred 2007 construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve the amount of \$925,842 as the carrying charges on prudently incurred 2007 construction costs for the CR3 Uprate project.

Issue 7G: What total amount should the Commission approve as PEF's final 2007 true-up to be recovered for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as prudent the amount of \$928,896 as final 2007 true-up to be recovered for the CR3 Uprate project

Issue 9E: What amount should the Commission approve as PEF's 2008 actual and estimated construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$67,615,770 (gross system) as 2008 actual and estimated construction costs for the CR3 Uprate project. The amount net of participant credits and other adjustments is \$63,157,440 system (\$49,836,695 jurisdictional).

ITEM NO.

CASE

11

Docket No. 080009-EI – Nuclear cost recovery clause.

(Continued from previous page)

Issue 9F: What amount should the Commission approve as carrying charges on PEF's 2008 actual and estimated construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$6,006,106 as carrying charges on 2008 actual and estimated construction costs for the CR3 Uprate project.

Issue 9G: What total amount should the Commission approve as PEF's 2008 actual and estimated costs to be recovered for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$7,512,933 as 2008 recoverable actual and estimated costs for the CR3 Uprate project. However, if the Commission does not approve staff's recommendation on Issue 1A, the jurisdictional amount should be reduced by \$1,181,823 for a total of \$6,331,110.

Issue 11E: What amount should the Commission approve as PEF's 2009 projected construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$107,067,528 (gross system) as projected 2009 construction costs for the CR3 Uprate project. The amount net of participant credits and other adjustments is \$95,232,688 system (\$89,283,502 jurisdictional).

Issue 11F: What amount should the Commission approve as carrying charges on PEF's 2009 projected construction costs for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable an amount of \$14,587,810 as carrying charges on projected 2009 construction cost for the CR3 Uprate project.

Issue 11G: What total amount should the Commission approve as PEF's 2009 projected costs to be recovered for the Crystal River 3 Uprate project?

Recommendation: The Commission should approve as reasonable a total amount of \$15,224,693 for projected 2009 recoverable costs for the CR3 Uprate project.

Issue 5B: What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred site selection costs for the Levy Units 1 & 2 Project?

Recommendation: The Commission should approve as reasonable an amount of \$18,069,252 as final true-up of 2007 site selection costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties.

Issue 7B: What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$61,471,684 system (\$55,651,072 jurisdictional) as final true-up of 2007 construction costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties.

ITEM NO.

CASE

11

Docket No. 080009-EI – Nuclear cost recovery clause.

(Continued from previous page)

Issue 7C: What amount should the Commission approve as carrying charges on PEF's prudently incurred 2007 construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$1,713,284 for carrying charges on 2007 construction costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties.

Issue 7D: What total amount should the Commission approve as PEF's final 2007 true-up to be recovered for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$1,711,443 as final 2007 true-up amount for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties.

Issue 5C: What amount should the Commission approve as PEF's actual 2008 site selection costs for the Levy Units 1 & 2 Project?

Recommendation: The Commission should approve as reasonable an amount of \$19,819,137 as actual 2008 site selection costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties.

Issue 9A: What amount should the Commission approve as PEF's 2008 actual and estimated preconstruction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$213,870,278 (gross system) as actual and estimated 2008 reconstruction costs for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$201,571,563 (\$186,571,563 jurisdictional). A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties as identified in Issues 3A and 3B.

Issue 9B: What amount should the Commission approve as PEF's 2008 actual and estimated construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$13,987,139 (gross system) as actual and estimated 2008 construction cost for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$8,626,151 system (\$7,361,929 jurisdictional). A determination of prudence should be deferred until the 2009 nuclear cost recovery clause proceeding consistent with the agreement and stipulation of the parties.

ITEM NO.

CASE

11

Docket No. 080009-EI – Nuclear cost recovery clause.

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Issue 9C: What amount should the Commission approve as carrying charges on PEF's 2008 actual and estimated construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$7,551,759 as carrying charges on actual and estimated 2008 construction cost for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties.

Issue 9D: What total amount should the Commission approve as PEF's 2008 actual and estimated costs to be recovered for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$207,137,326 as the total actual and estimated 2008 recoverable costs for the Levy Units 1 & 2 project. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the agreement and stipulation of the parties.

Issue 11A: What amount should the Commission approve as PEF's 2009 projected preconstruction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$118,751,900 (gross system) as projected 2009 preconstruction cost for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$111,414,704 system (\$97,084,049 jurisdictional).

Issue 11B: What amount should the Commission approve as PEF's 2009 projected construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$565,605,000 (gross system) as projected 2009 construction cost for the Levy Units 1 & 2 project. The amount net of non-cash adjustments is \$470,254,055 system (\$412,101,692 jurisdictional).

Issue 11C: What amount should the Commission approve as carrying charges on PEF's 2009 projected construction costs for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$30,217,903 for carrying charges on projected 2009 construction costs for the Levy Units 1 & 2 project.

Issue 11D: What total amount should the Commission approve as PEF's 2009 projected costs to be recovered for the Levy Units 1 & 2 project?

Recommendation: The Commission should approve as reasonable an amount of \$147,907,456 as total projected 2009 costs to be recovered for the Levy Units 1 & 2 project.

Issue 13: What total amount should the Commission approve for the Nuclear Cost Recovery Clause to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor?

ITEM NO.

CASE

11

Docket No. 080009-EI – Nuclear cost recovery clause.

(Continued from previous page)

Recommendation: The Commission should approve \$418,311,136 as the total amount to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor. If the Commission approves the positions presented by the interveners in Issue 1A the amount should be \$417,129,313.

Issue 2A: Should the Commission find that for the year 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the Extended Power Uprate (EPU) project?

Recommendation: Staff recommends the Commission find FPL's 2007 project management, contracting, and oversight controls were reasonable and prudent for the EPU project. Pursuant to the approved partial stipulations, staff recommends the Commission not make a finding regarding the prudence of FPL's 2007 project management, contracting, and oversight controls for the Turkey Point 6 & 7 project. Prospectively, FPL should increase its documentation and support for single source and sole source contracts for the EPU project and the Turkey Point 6 & 7 project.

Issue 2B: Should the Commission find that for the year 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the EPU project?

Recommendation: Staff recommends the Commission find FPL's 2007 accounting and cost oversight controls were reasonable and prudent for the EPU project. Pursuant to the approved partial stipulations, staff recommends the Commission not make a finding regarding the prudence of FPL's 2007 accounting and costs oversight controls for the Turkey Point 6 & 7 project.

Issue 6C: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred construction costs for the EPU project?

Recommendation: The Commission should approve as prudent the amount of \$8,624,516 (gross system) as final 2007 construction costs for the EPU project. The amount net of participant credits and non-cash adjustments is \$8,271,172 system (\$8,236,653 jurisdictional).

Issue 6D: What amount should the Commission approve as carrying charges on FPL's prudently incurred 2007 construction costs for the EPU project?

Recommendation: The Commission should approve \$0 as the carrying charge amount on FPL's prudently incurred 2007 construction costs for the EPU project. FPL did not accrue carrying charges for the EPU project during 2007.

Issue 8C: What amount should the Commission approve as FPL's 2008 actual and estimated construction costs for the EPU project?

Recommendation: The Commission should approve as reasonable the amount of \$79,030,565 (gross system) as 2008 actual and estimated construction costs for the EPU project. The amount net of participant credits and non-cash adjustments is \$74,879,154 system (\$74,566,646 jurisdictional).

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Issue 8D: What amount should the Commission approve as carrying charges on FPL's 2008 actual and estimated construction costs for the EPU project?

Recommendation: The Commission should approve as reasonable an amount of \$3,740,411 as carrying charges on 2008 actual and estimated construction costs for the EPU project.

Issue 8E: What total amount should the Commission approve as FPL's 2008 actual and estimated costs to be recovered for the EPU project?

Recommendation: The Commission should approve as reasonable the amount of \$3,733,003 as the total 2008 actual and estimated costs for the EPU project.

Issue 10C: What amount should the Commission approve as FPL's 2009 projected construction costs for the EPU project?

Recommendation: The Commission should approve as reasonable the amount of \$240,845,910 (gross system) as projected 2009 construction costs for the EPU project. The amount net of participant credits and non-cash adjustments is \$234,272,148 system (\$233,294,413 jurisdictional).

Issue 10D: What amount should the Commission approve as carrying charges on FPL's 2009 projected construction costs for the EPU project?

Recommendation: The Commission should approve as reasonable the carrying charge amount of \$16,564,497 on projected 2009 construction costs for the EPU project.

Issue 10E: What total amount should the Commission approve as FPL's 2009 projected costs to be recovered for the EPU project?

Recommendation: The Commission should approve as reasonable the amount of \$16,553,019 as total 2009 projected costs for the EPU project.

Issue 4B: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred site selection costs for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$6,539,167 as final 2007 site selection costs for the Turkey Point Units 6 & 7 project. Any finding of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties' stipulation.

Issue 6A: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred preconstruction costs for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$2,533,265 gross system (\$2,522,692 jurisdictional) as final 2007 preconstruction costs for the Turkey Point Units 6 & 7 project. The amount net of non-cash adjustments is \$1,960,481 system (\$1,952,300 jurisdictional). Any finding of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties' stipulation.

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Issue 6B: What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$9,082,406 as the final 2007 true-up amount for the Turkey Point Units 6 & 7 project. Any finding of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties' stipulation.

Issue 8A: What amount should the Commission approve as FPL's 2008 actual and estimated preconstruction costs for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$70,000,000 system (\$67,707,855 jurisdictional) as 2008 actual and estimated preconstruction costs for the Turkey Point Units 6 & 7 project.

Issue 8B: What total amount should the Commission approve as FPL's 2008 actual and estimated costs to be recovered for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$73,766,037 as total 2008 actual and estimated costs to be recovered for the Turkey Point Units 6 & 7 project.

Issue 10A: What amount should the Commission approve as FPL's 2009 projected preconstruction costs for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$110,000,000 system (\$109,540,915 jurisdictional) as 2009 projected preconstruction costs for the Turkey Point Units 6 & 7 project. FPL did not project non-cash adjustments for 2009 preconstruction costs.

Issue 10B: What total amount should the Commission approve as FPL's 2009 projected costs to be recovered for the Turkey Point Units 6 & 7 project?

Recommendation: The Commission should approve as reasonable the amount of \$117,394,778 as the total 2009 projected costs to be recovered for the Turkey Point Units 6 & 7 project.

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Issue 12: What total amount should the Commission approve for the Nuclear Cost Recovery Clause to be included in establishing FPL's 2009 Capacity Cost Recovery Clause factor?

Recommendation: The Commission should approve \$220,529,243 as the total amount to be included in establishing FPL's 2009 Capacity Cost Recovery Clause factor. A determination of prudence should be deferred until the 2009 nuclear cost recovery cycle consistent with the parties' stipulation.

FULLY STIPULATED ISSUES

ISSUE 1D: Should a utility be required to inform the Commission of any change in ownership or control of any asset which was afforded cost recovery under the Nuclear Cost Recovery Clause?

FULLY STIPULATED POSITION: Yes, timely notification to the Commission and parties to the NCRC docket at the time of filing the notice will allow the Commission to make any required adjustments within or outside of the Nuclear Cost Recovery Clause. Staff will conduct workshops on the administrative procedures to be used by the Commission to make such adjustments.

ISSUE 4A: Should the Commission grant FPL's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Turkey Point Unit 6 & 7 project?

FULLY STIPULATED POSITION: Yes. The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 5A: Should the Commission grant PEF's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Levy Units 1 & 2 project?

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FULLY STIPULATED POSITION: Yes. OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, construction, and calculation of carrying costs in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

ISSUE 6E: What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the EPU project?

FULLY STIPULATED POSITION: As stated in its position on Issue 6D, FPL did not accrue carrying charges on construction costs during 2007. Therefore, there are no costs to be recovered.

ISSUE 6F: Has FPL demonstrated that the uprate costs it seeks to recover in this docket are separate and apart from those it would incur in conjunction with providing safe and reliable service, had there been no uprate project?

FULLY STIPULATED POSITION: OPC and FPL stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and FPL will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of FPL's 2007 uprate costs on the "separate and apart" issue. OPC's position for the 2007 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any FPL uprate costs incurred subsequent to 2007.

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ISSUE 7A: What amount should the Commission approve as PEF’s final 2007 true-up of prudently incurred preconstruction costs for the Levy Units 1 & 2 project?

FULLY STIPULATED POSITION: There are no 2007 preconstruction costs for PEF’s Levy Units 1 & 2 project.

ISSUE 7H: Has PEF demonstrated that the uprate costs it seeks to recover in this docket are separate and apart from those it would incur in conjunction with providing safe and reliable service, had there been no uprate project?

FULLY STIPULATED POSITION: OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings OPC will not challenge the prudence of PEF’s 2006 and 2007 CR3 Uprate costs on the “separate and apart” issue. OPC’s position for the 2006 and 2007 CR3 Uprate costs, however, does not prevent OPC from raising the “separate and apart” issue for any CR3 Uprate costs incurred subsequent to 2007.

ISSUE 14: Should Docket No. 080149-EI, be closed?

FULLY STIPULATED POSITION: Yes.

PARTIALLY STIPULATED ISSUES

ISSUE 2A: Should the Commission find that for the year 2007, FPL’s project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the Extended Power Uprate (EPU) project?

PARTIALLY STIPULATED POSITION: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL’s request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination

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that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 2B: Should the Commission find that for the year 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the EPU project?

PARTIALLY STIPULATED POSITION: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 3B: Should the Commission find that for the year 2007, PEF's accounting and costs oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

PARTIALLY STIPULATED POSITION: Commission staff witness Jeffery Small provided testimony offering alternatives to the method PEF witness Will Garrett used in valuing the Lybass parcel of land used for Levy Units 1 & 2. Staff and PEF agree that the consideration of alternative methods is appropriately considered during a prudence review. If the Commission approves the stipulation between PEF and OPC then the testimony of witness Jeffery Small should also be considered at the time of the prudence review. The Commission may include the costs as calculated by Will Garrett as reasonable in the 2008 proceeding. PEF agrees that should the Commission find that PEF's method for valuing the Lybass parcel used for Levy Units 1 & 2 is imprudent, then PEF will refund that amount deemed imprudent.

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ISSUE 6A: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred preconstruction costs for the Turkey Point Units 6 & 7 project?

PARTIALLY STIPULATED POSITION: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 6B: What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the Turkey Point Units 6 & 7 project?

PARTIALLY STIPULATED POSITION: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

DECISION: The recommendations were approved with noted modifications made orally by staff at the Conference. All fully or partially stipulated items were accepted.

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

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Docket No. 080562-WU – Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems Inc.

Critical Date(s): 10/18/08 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Hudson, Redemann, Bulecza-Banks, Daniel, Fletcher

GCL: Bennett

Issue 1: Should East Marion’s proposed tariff sheets to amend its connection/transfer sheet, increase its returned check charge, amend its miscellaneous service charges, increase its meter installation charges and impose a new tap-in fee be suspended?

Recommendation: Yes. East Marion’s proposed tariff sheets to amend its connection/transfer sheet, increase its returned check charge, amend its miscellaneous service charges, increase its meter installation charges, and impose a new tap-in fee 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 amend its connection/transfer sheet, increase its returned check charge, amend its miscellaneous service charges, increase its meter installation charges and impose a new tap-in fee.

DECISION: The recommendations were approved.

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