

MINUTES OF October 26, 2010
COMMISSION CONFERENCE
COMMENCED: 9:30 am
RECESSED: 11:16 am
RECONVENED: 11:26 am
ADJOURNED: 12:18 pm

COMMISSIONERS PARTICIPATING: Chairman Graham
Commissioner Edgar
Commissioner Skop
Commissioner Brisé

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

1

Election of Commission Chairman

DECISION: On a motion by Commissioner Edgar and seconded by Commissioner Brisé, Commissioner Graham was elected by a 3 to 1 vote to serve as Chairman to complete the unexpired Chairmanship term ending January 1, 2012. Commissioner Skop dissented.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

2**

Consent Agenda

PAA

A) Requests for Cancellation of Competitive Local Exchange Telecommunications Certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
100174-TP	Comtel Telecom Assets LP d/b/a VarTec Telecom	8/02/2010
	Comtel Telecom Assets LP d/b/a VarTec Solutions	8/02/2010
	Comtel Telecom Assets LP d/b/a Excel Telecommunications	8/02/2010
100394-TP	Sage Spectrum, LLC	9/07/2010

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

DECISION: The recommendation was approved.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

3

Docket No. 090505-EI – Review of replacement fuel costs associated with the February 26, 2008 outage on Florida Power & Light Company's electrical system. (Deferred from the October 12, 2010 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Bennett

ECR: Lee, Roberts

RAD: Graves, Matthews

(Oral Argument Not Requested - Participation at the Discretion of the Commission. Motion for Reconsideration - Only Commissioners who voted on the final order may vote on reconsideration.)

Issue 1: Should the Commission reconsider its decision to credit FPL with 27 hours of time associated with the repair of the rod position indication system at Turkey Point Unit 3?

Recommendation: No. The Commission considered and evaluated all the record evidence in reaching its conclusion that the incremental time associated with the repair of the rod position indication system was 27 hours and not 126 hours. Because the Commission did not overlook or fail to consider the evidence in the record, FPL's motion for reconsideration should be denied.

Issue 2: Should the Commission reconsider its decision to require Florida Power & Light Company to refund the full 107 hours of outage at Turkey Point Unit 4, without giving credit for the time required to replace and test a malfunctioning relay in at the reverse power protection system?

Recommendation: No. The Commission did not overlook or fail to consider Order No. 23232, issued July 20, 1990, in Docket No. 090001-EI (Order No. 23232), in requiring a refund for the full outage time at Turkey Point Unit 4. The repair for the relay was not a planned outage. In Order No. 23232, a portion of the outage coincided with a planned outage.

Issue 3: Should the Commission make any corrections to the refund amount established in Order No. PSC-10-0381-FOF-EI?

Recommendation: No. The Commission did not overlook or fail to consider the factual and legal issues raised by FPL in reaching the Commission's decision to require a refund of \$13,854,054 to ratepayers as a result of the February 26, 2008 outage.

ITEM NO.

CASE

3

Docket No. 090505-EI – Review of replacement fuel costs associated with the February 26, 2008 outage on Florida Power & Light's electrical system. (Deferred from the October 12, 2010 Commission Conference, revised recommendation filed.)

(Continued from previous page)

Issue 4: Should this docket be closed?

Recommendation: Yes. Upon expiration of the time for appeal, if no appeal has been taken, this docket should be closed.

DECISION: This item was deferred to the November 9, 2010, Commission Conference.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

4**

Docket No. 100175-TL – Complaint against AT&T d/b/a BellSouth for alleged violations of various sections of Florida Administrative Code, Florida Statutes, and AT&T regulations pertaining to billing of charges and collection of charges, fees, and taxes.

Docket No. 100312-EI – Complaint against Florida Power & Light Company for alleged violations of various sections of Florida Administrative Code, Florida Statutes, and FPL tariffs pertaining to billing of charges and collection of charges, fees, and taxes. (Deferred from the October 12, 2010 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar (100175-TL)
Skop (100312-EI)

Staff: GCL: Teitzman
ECR: Kummer
RAD: Beard

Issue 1: Should AT&T's Motion to Dismiss be Granted?

Recommendation: Yes. Petitioner's Complaint fails to state a claim upon which this Commission can grant relief. Accordingly, the Complaint should be dismissed with prejudice.

Issue 2: Should Florida Power & Light Company's Motion to Dismiss be Granted?

Recommendation: Yes. Petitioner's Complaint fails to state a claim upon which this Commission can grant relief. Accordingly, the Complaint should be dismissed with prejudice.

Issue 3: Should these dockets be closed?

Recommendation: If the Commission agrees with staff in Issues 1 and 2, then Petitioner's Complaints should be dismissed with prejudice, and these dockets should be closed.

DECISION: This item was deferred to a later Commission Conference.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

5**PAA

Docket No. 100155-EG – Petition for approval of demand-side management plan of Florida Power & Light Company. (Deferred from the October 12, 2010 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Garl, Brown, Harlow, Lewis

GCL: Fleming, Saylor

Issue 1: Does FPL's proposed 2010 Demand-Side Management (DSM) Plan satisfy the Company's numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG?

Recommendation: No. FPL's proposed DSM Plan fails to meet its residential goals in at least one category for eight years. Similarly, the Company's Plan does not meet all the annual commercial/industrial goals for eight years of the ten-year period. FPL's failure to meet its annual conservation goals may result in financial penalties or other appropriate action.

Consistent with Section 366.82(7), F.S., staff recommends that FPL file specific program modifications or additions that are needed for the 2010 DSM Plan to be in compliance with Order No. PSC-09-0855-FOF-EG within 30 days of the Commission's Order in this docket. The compliance filing should not include savings associated with FPL's solar pilot programs.

Issue 2: Are the programs contained in FPL's proposed 2010 DSM Plan cost-effective as this criterion is used in Commission Order No. PSC-09-0855-FOF-EG?

Recommendation: Yes. All programs in FPL's proposed 2010 DSM Plan pass the E-TRC and Participants tests. Audits, Pilot Programs, and Research & Development Programs are not included in this evaluation because they are not required to pass cost-effectiveness testing. FPL should be required to file program standards within 30 days of the Commission's Order in this docket.

The Commission should approve cost-effective programs to allow FPL to file for cost recovery. However, FPL must still demonstrate, during the cost recovery proceeding, that expenditures in executing its DSM Plan were reasonable and prudent. In addition, the Commission will evaluate FPL's compliance filing and make a final determination at that time regarding the cost-effectiveness of any modified or new programs.

ITEM NO.

CASE

5**PAA

Docket No. 100155-EG – Petition for approval of demand-side management plan of Florida Power & Light Company. (Deferred from the October 12, 2010 Commission Conference.)

(Continued from previous page)

Issue 3: Does FPL’s proposed 2010 DSM Plan include pilot programs that encourage the development of solar water heating and solar PV technologies consistent with Commission Order No. PSC-09-0855-FOF-EG?

Recommendation: Yes. The cost of the proposed pilot programs is within the annual expenditure cap of \$15,536,870 specified by Commission Order No. PSC-09-0855-FOF-EG. However, the allocation of funds to: (1) solar thermal vs. solar PV, (2) private customers vs. public institutions, and (3) low-income residential varies widely among the investor-owned utilities. If the Commission desires to have more uniformity among the IOUs’ programs, then the Commission should initiate public workshops to explore that issue further.

Issue 4: Do any of the programs in FPL’s proposed Demand-Side Management Plan have an undue impact on the costs passed on to customers?

Recommendation: No. The proposed program costs are not undue because the increase in program costs correlates with the increase in goals. The Commission should evaluate the Company’s compliance filing and make a final determination in the ECCR proceedings regarding the appropriateness of incentive levels.

Issue 5: Should this docket be closed?

Recommendation: No. This docket should remain open for FPL to refile its demand-side management plan within 30 days from the date of this Order. In addition, if the Commission approves any programs, the programs should become effective on the date of the Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the programs should not be implemented until after the resolution of the protest.

DECISION: This item was deferred to the November 9, 2010, Commission Conference.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

6**PAA

Docket No. 100158-EG – Petition for approval of demand-side management plan of Florida Public Utilities Company. (Deferred from the August 31, 2010 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Matthews, Brown, Garl, Lewis, Marr

GCL: Fleming, Saylor

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

Recommendation: Yes. The 2010 Demand-Side Management Plan submitted by FPUC on September 24, 2010, shows estimated conservation achievements for both peak demand and energy reduction which exceed those approved by the Commission in Order No. PSC-09-0855-FOF-EG.

Issue 2: Are the programs contained in FPUC's proposed DSM Plan cost-effective as this criterion is used in Commission Order No. PSC-09-0855-FOF-EG?

Recommendation: Yes. All of the programs proposed in FPUC's 2010 DSM Plan filed September 24, 2010, pass the E-TRC Test, and all of the programs pass the Participants Test. Audits, Pilot Programs, and Research & Development programs are not included in this evaluation because they are not required to pass cost-effectiveness testing. Staff recommends that FPUC should be required to file program standards for all programs as well as a detailed verification methodology for its audit programs within 30 days of the Commission's Order in this docket.

The Commission should approve cost-effective programs to allow FPUC to file for cost recovery. However, staff recommends that FPUC must still demonstrate, during the cost recovery proceeding, that expenditures in executing its DSM Plan were reasonable and prudent. A final determination will be made at that time regarding the cost-effectiveness of any modified or new programs.

Issue 3: Does FPUC's proposed DSM Plan include pilot programs that encourage the development of solar water heating and solar PV technologies consistent with Commission Order No. PSC-09-0855-FOF-EG?

Recommendation: Yes. The cost of the proposed pilot programs is within the annual expenditure cap of \$47,233 as specified by Commission Order No. PSC-09-0855-FOF-EG.

Issue 4: Do any of the programs in FPUC's proposed DSM Plan have an undue impact on the costs passed on to customers?

Recommendation: No. The proposed program costs are not undue because the increase in program costs correlates with the increase in goals.

ITEM NO.

CASE

6**PAA

Docket No. 100158-EG – Petition for approval of demand-side management plan of Florida Public Utilities Company. (Deferred from the August 31, 2010 Commission Conference, revised recommendation filed.)

(Continued from previous page)

Issue 5: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

7**PAA

Docket No. 100399-TP – Request for expedited waiver of carrier selection requirements of Rule 25-4.118, FAC, due to transfer of all assets and customers from American Fiber Network, Inc. and CloseCall America, Inc. to Birch Telecom of the South, Inc. d/b/a Birch Telecom d/b/a Birch Communications and Birch Communications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: M. Watts

GCL: P. Evans

Issue 1: Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C., in the transfer of local and long distance customers to Birch Telecom of the South, Inc. d/b/a Birch Telecom d/b/a Birch Communications from American Fiber Network, Inc. and CloseCall America, Inc.?

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

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

8

Docket No. 000121A-TP – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (AT&T FLORIDA TRACK)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: APA: Harvey, Hallenstein

GCL: Teitzman, Evans

(Oral Argument Not Requested)

Issue 1: Should the Commission approve FCTA's Motion to Clarify Order No. PSC-10-0545-PAA-TP or its request for the issuance of an amendatory order?

Recommendation: No. The Commission should deny FCTA's Motion to Clarify Order No. PSC-10-0545-PAA-TP and its request for the issuance of an amendatory order.

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation, the resulting Order will be issued as a procedural final order. This docket should remain open for purposes of future performance measure monitoring.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

9**PAA

Docket No. 100368-EI – Request for approval to initiate depreciation of a Landfill Gas to Energy Facility in Escambia County by Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Ollila

GCL: K. Fleming

Issue 1: Should a depreciation rate be approved for Gulf's Perdido Landfill Gas to Energy Facility?

Recommendation: Yes. The whole life depreciation rate of five percent, contained in Table 1-1 in staff's memorandum dated October 14, 2010, should be approved for the Perdido Landfill Gas to Energy Facility.

Issue 2: What should be the implementation date for the depreciation rate for the Perdido Landfill Gas to Energy Facility?

Recommendation: Staff recommends that the depreciation rate should be implemented effective with the in-service date of the Perdido Landfill Gas to Energy Facility.

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 the issuance of a consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

10**PAA

Docket No. 100262-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Progress Energy Florida, Inc.

Docket No. 100263-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Tampa Electric Company.

Docket No. 100264-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Public Utilities Company.

Docket No. 100265-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Gulf Power Company.

Docket No. 100266-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Power & Light Company. (Deferred from the October 12, 2010 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: L'Amoreaux, Dowds

GCL: Bennett, Jackson

Issue 1: Should the Commission approve Progress Energy Florida, Inc.'s (PEF) updated 2010-2012 storm hardening plan?

Recommendation: Yes, the Commission should approve the updated storm hardening plan filed by Progress Energy Florida, Inc.

Issue 2: Should the Commission approve Tampa Electric Company's (TECO) updated 2010-2012 storm hardening plan?

Recommendation: Yes, the Commission should approve the updated storm hardening plan filed by Tampa Electric Company.

Issue 3: Should the Commission approve Florida Public Utilities Company's (FPUC) updated 2010-2012 storm hardening plan?

Recommendation: Yes, the Commission should approve the updated storm hardening plan filed by Florida Public Utilities Company.

Issue 4: Should the Commission approve Gulf Power Company's (Gulf) updated 2010-2012 storm hardening plan?

Recommendation: Yes, the Commission should approve the updated storm hardening plan filed by Gulf Power Company.

Issue 5: Should the Commission approve Florida Power & Light Company's (FPL) updated 2010-2012 storm hardening plan?

Recommendation: Yes, the Commission should approve the updated storm hardening plan filed by Florida Power & Light Company.

ITEM NO.

CASE

10**PAA

Docket No. 100262-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Progress Energy Florida, Inc.

Docket No. 100263-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Tampa Electric Company.

Docket No. 100264-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Public Utilities Company.

Docket No. 100265-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Gulf Power Company.

Docket No. 100266-EI – Review of 2010 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Power & Light Company. (Deferred from the October 12, 2010 Commission Conference, revised recommendation filed.)

(Continued from previous page)

Issue 6: Should these dockets be closed?

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

DECISION: The recommendations were approved for Issues 1-4. Issue No. 5 was deferred to the November 9, 2010, Commission Conference. Issue No. 6 was approved as modified, to reflect that Issue No. 5 was deferred.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

11**PAA

Docket No. 100404-EI – Petition by Florida Power & Light Company to recover Scherer Unit 4 Turbine Upgrade costs through environmental cost recovery clause or fuel cost recovery clause.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: Wu, Franklin

GCL: Brown, Bennett, Sayler

Issue 1: Is FPL's Scherer Unit 4 steam turbine upgrade project eligible for cost recovery through the ECRC?

Recommendation: No. The project does not meet established criteria for cost recovery through the ECRC.

Issue 2: Is FPL's Scherer Unit 4 steam turbine upgrade project eligible for cost recovery through the Fuel Clause?

Recommendation: No. The project does not meet established criteria for recovery through the Fuel Clause.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no person whose interests are substantially affected files a timely protest of the Commission's Proposed Agency Action, this docket may be closed upon issuance of a Consummating Order.

DECISION: This item was deferred to the November 9, 2010, Commission Conference.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

12

Docket No. 100009-EI – Nuclear cost recovery clause. (Deferred from the October 12, 2010 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Breman, Buys, Cicchetti, Davis, Hinton, Laux, Maurey
GCL: Young, Bennett, Jackson, Leveille, Williams
RAD: Garl

(Participation is Limited to Commissioners and Staff. Portions of the Recommendation are based on confidential material and access to the material is controlled.)

Issue 2: Do PEF's activities related to Levy Units 1 & 2 qualify as "siting, design, licensing, and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

Recommendation: Yes. Staff recommends the Commission find that PEF's activities related to Levy Units 1 & 2 qualify as "siting, design, licensing, and construction" of a nuclear power plant as contemplated by Section 366.93, F.S, because these activities satisfy the statutory definition for preconstruction cost as defined pursuant to the statute.

Issue 3A: Does the Commission have the authority to require a "risk sharing" mechanism that would provide an incentive for a utility to complete a project within an appropriate, established cost threshold? If so, what action, if any, should the Commission take?

Recommendation: Staff recommends that the Commission defer resolution of this issue until the 2011 NCRC. Resolution of this issue impacts both FPL and PEF. FPL has requested a stay of this proceeding in all matters that impact FPL and there are no urgent matters stemming from this issue that require resolution at this time.

Issue 4: Should the Commission find that for the year 2009, PEF's accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

Recommendation: Yes, the Commission should find that PEF's accounting and costs oversight controls employed during 2009 for Levy Units 1 & 2 and the Crystal River Unit 3 Uprate projects were reasonable and prudent.

ITEM NO.

CASE

12

Docket No. 100009-EI – Nuclear cost recovery clause. (Deferred from the October 12, 2010 Commission Conference.)

(Continued from previous page)

Issue 5: Should the Commission find that for the year 2009, PEF's project management, contracting, and oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

Recommendation: Staff recommends the Commission find that project management, contracting, and oversight controls employed by PEF during 2009 for the Levy Units 1 & 2 project were reasonable and prudent. Staff recommends that the Commission withhold making a finding concerning the prudence of the project management, contracting, and oversight controls employed by PEF during 2009 for the Crystal River Unit 3 Uprate project, especially as it relates to the LAR development process. A determination concerning the prudence of these controls and oversight activities should be included as an issue in the 2011 Nuclear Cost Recovery proceeding.

Issue 6: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

Recommendation: Yes. PEF presented evidence that it examined technical, regulatory, and economic factors impacting the long-term feasibility of the Levy Units 1 & 2 project which demonstrate that the project remains feasible. In addition, PEF provided the updated fuel and environmental forecasts, as well as an updated project cost estimate requested by the Commission.

Issue 7: Is PEF's decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Levy Units 1 & 2 reasonable? If not, what action, if any, should the Commission take?

Recommendation: Staff recommends the Commission find PEF's decision to continue pursuing a Combined Operating License for Levy Units I & 2 reasonable at this time.

Issue 8: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Crystal River Unit 3 Uprate project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

Recommendation: Staff recommends that the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Crystal River Unit 3 Uprate project. The Company presented evidence that it examined technical, regulatory, and economic factors impacting the long-term feasibility of the project.

ITEM NO.

CASE

12

Docket No. 100009-EI – Nuclear cost recovery clause. (Deferred from the October 12, 2010 Commission Conference.)

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Issue 9: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

Recommendation: Staff recommends that the Commission approve as reasonable the following Crystal River Unit 3 Uprate project final 2009 costs: capital costs in the amount of \$118,140,493 (\$87,458,545 jurisdictional), O&M expenses of \$821,773 (\$762,529 jurisdictional), carrying charge of \$14,351,595, and a base revenue requirement of \$396,018. The Commission should also approve as reasonable a final 2009 true-up amount of negative \$244,765 for use in determining the 2011 NCRC recovery amount. The final true-up amount is the summation of the following factors: \$9,999 over-projection of 2009 O&M expenses, \$122,005 under-projection of carrying charges, and a \$356,771 over-projection of other adjustments. Staff recommends the Commission find that there is not enough information in the record at this time to determine the prudence of PEF's 2009 CR3 Uprate costs. Therefore, staff recommends the Commission revisit the issue of PEF's prudence concerning 2009 CR3 Uprate costs during the 2011 NCRC proceeding.

Issue 10: What system and jurisdictional amounts should the Commission approve as PEF's reasonably estimated 2010 costs and estimated true-up amounts for the Crystal River Unit 3 Uprate project?

Recommendation: Staff recommends that the Commission approve as reasonable the following Crystal River Unit 3 Uprate project estimated 2010 costs: capital costs of \$66,334,227 (\$32,827,539 jurisdictional), O&M expenses of \$1,234,649 (\$1,109,484 jurisdictional), carrying charges of \$7,557,070, and a base revenue requirement of negative \$746,776. The Commission should also approve as reasonable an estimated 2010 true-up amount of \$2,379,874 for use in determining the 2011 NCRC recovery amount. The estimated true-up amount is the summation of the following factors: \$895,281 under-projection of 2010 O&M expenses, \$2,231,369 underprojection of carrying charges, and an over-projection of other adjustments in the amount of \$746,776.

Issue 11: What system and jurisdictional amounts should the Commission approve as PEF's reasonably projected 2011 costs for the Crystal River Unit 3 Uprate project?

Recommendation: Staff recommends that the Commission approve as reasonable the following project 2011 costs for Crystal River Unit 3 Uprate project: capital cost of \$67,829,699 (\$52,297,867 jurisdictional), \$481,102 (\$423,093 jurisdictional), projected O&M expenses, carrying charges of \$10,023,829, and a base revenue requirement of \$3,424,764. The Commission should also approve as reasonable a projected 2011 amount of \$13,871,686 for use in determining the 2011 NCRC recovery amount.

ITEM NO.

CASE

12

Docket No. 100009-EI – Nuclear cost recovery clause. (Deferred from the October 12, 2010 Commission Conference.)

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Issue 12: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

Recommendation: Staff recommends the Commission approve as prudent the following Levy Units 1 & 2 project final 2009 costs: capital costs in the amount of [REDACTED] (\$255,963,530 jurisdictional), O&M expenses of \$4,500,975 (\$4,020,056 jurisdictional), carrying costs of \$36,124,710, and a base revenue requirement of \$7,619. The Commission should also approve as prudent a final 2009 true-up amount of \$4,192,819 for use in determining the 2011 NCRC recovery amount. The final true-up amount is the summation of the following factors: \$8,749,309 over-projection of 2009 pre-construction cost, \$911,232 over-projection of O&M expenses, \$13,845,741 under-projection of carrying costs, and a \$7,619 under-projection of other adjustments.

Issue 13: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2010 costs and estimated true-up amounts for PEF's Levy Units 1 & 2 project?

Recommendation: Staff recommends that the Commission approve as reasonable the following Levy Units 1 & 2 project 2010 estimated costs: capital costs of [REDACTED] (\$143,951,411 jurisdictional), O&M expenses of \$4,211,926 (\$3,687,427 jurisdictional), and carrying costs of \$50,652,578. The Commission should also approve as reasonable an estimated 2010 true-up amount of \$8,121,477 for use in determining the 2011 NCRC recovery amount. The estimated true-up amount is the summation of the following factors: \$11,835,352 under-projection of 2010 pre-construction costs, \$745,625 over-projection of O&M expenses, and an over-projection of carrying costs in the amount of \$2,968,249.

Issue 14 What system and jurisdictional amounts should the Commission approve as reasonably projected 2011 costs for PEF's Levy Units 1 & 2 project?

Recommendation: Staff recommends that the Commission approve as reasonable Levy Units 1 & 2 projected 2011 costs in the amount of \$75,259,568 for use in determining the 2011 NCRC recovery amount. The recommended amount, based on a projected 2011 capital cost [REDACTED] (\$48,464,396 jurisdictional), includes the following items: projected 2011 site selection and pre-construction costs in the amount of \$25,056,735, projected O&M expenses of \$4,343,901 (\$3,823,883 jurisdictional), and carrying costs of \$46,378,959.

ITEM NO.

CASE

12

Docket No. 100009-EI – Nuclear cost recovery clause. (Deferred from the October 12, 2010 Commission Conference.)

(Continued from previous page)

Issue 15: What is the total jurisdictional amount to be included in establishing PEF's 2011 Capacity Cost Recovery Clause factor?

Recommendation: Staff recommends the Commission approve a total jurisdictional amount of \$163,580,660 for the 2011 NCRC recovery amount. This amount should be used in establishing PEF's 2011 Capacity Cost Recovery Clause factor. The total 2011 recovery amount includes \$60,000,000 amortization of the rate management deferred balance.

DECISION: The recommendations were approved with the exception of Issue 3A. Issue 3A was deferred to a later Commission Conference.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

13**PAA

Docket No. 090531-WS – Application for staff-assisted rate case in Highlands County by Lake Placid Utilities, Inc.

Critical Date(s): 04/21/11 (15-Month Effective Date (SARC))

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

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

GCL: Young

(Proposed Agency Action except for Issues 13, 14, and 15)

Issue 1: Is the quality of service provided by Lake Placid satisfactory?

Recommendation: Yes. The overall quality of service provided by Lake Placid is satisfactory.

Issue 2: What are the used and useful percentages for the water treatment plant, the water distribution system, the wastewater treatment plant, and the wastewater collection system?

Recommendation: The Lake Placid water treatment plant, water distribution system, and wastewater collection system should be considered 100 percent used and useful (U&U). The wastewater treatment plant should be considered 44 percent U&U. A nine percent adjustment should be made to chemicals and electricity to reflect excessive unaccounted for water (EUW) in the distribution system. A five percent adjustment should be made to chemicals and electricity to reflect excessive infiltration and inflow (I&I) in the wastewater collection system.

Issue 3: Should any adjustments be made to the Utility's Project Phoenix Financial/Customer Care Billing System (Phoenix Project)?

Recommendation: Yes. Plant should be reduced by \$559 for water and \$873 for wastewater. In addition, accumulated depreciation and depreciation expense both should be reduced \$180 for water and \$281 for wastewater, respectively.

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

Recommendation: The appropriate average test year rate bases for the Utility are \$191,418 and \$164,885 for water and wastewater, respectively.

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 10.64 percent with an allowed range of plus or minus 100 basis points. The appropriate overall rate of return is 7.85 percent.

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

Recommendation: The appropriate test year revenues for this Utility is \$52,417 for water and \$81,128 for wastewater.

ITEM NO.

CASE

13**PAA

Docket No. 090531-WS – Application for staff-assisted rate case in Highlands County by Lake Placid Utilities, Inc.

(Continued from previous page)

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

Recommendation: The appropriate amount of operating expenses for the Utility is \$53,343 for water and \$82,079 for wastewater.

Issue 8: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$68,360 for water and \$95,014 for wastewater.

Issue 9: Should the Utility's current rate structures for the water and wastewater systems be changed, and, if so, what are the appropriate adjustments?

Recommendation: No. The Utility's current residential and non-residential water and wastewater rate structures, which consist of a monthly base facility (BFC)/uniform gallonage charge rate structures, should remain unchanged. The BFC cost recovery for the water system should be set at 54 percent. In addition, the bulk wastewater rate should continue to be based on a BFC/gallonage charge rate structure. The bulk customers' BFC should be based on 80 percent of the number of ERCs actually connected to the system. Also, the bulk customer's gallonage charge should be set at 80 percent of the general service gallonage charge. Finally, a flat rate structure should be implemented for the two unmetered residential wastewater customers. The BFC cost recovery for the wastewater system should be set at 50 percent.

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

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

ITEM NO.

CASE

13**PAA

Docket No. 090531-WS – Application for staff-assisted rate case in Highlands County by Lake Placid Utilities, Inc.

(Continued from previous page)

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

Recommendation: The appropriate monthly water and wastewater rates are shown on Schedules Nos. 4-A and 4-B, in staff’s memorandum dated October 14, 2010, respectively. The recommended rates should be designed to produce revenue \$68,360 for water and \$95,014 for wastewater, excluding miscellaneous service charges. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within no less than 10 days after the date of the notice.

Issue 12: Should the Utility's request for approval of a Non-Sufficient Funds fee be granted?

Recommendation: Yes. The Utility's request for a Non-Sufficient Funds (NSF) fee should be approved. The NSF fee should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given within 10 days after the date of the notice.

Issue 13: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

Recommendation: The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B in staff’s memorandum dated October 14, 2010, to remove rate case expense grossed-up for RAFs 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. Lake Placid 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

13**PAA

Docket No. 090531-WS – Application for staff-assisted rate case in Highlands County by Lake Placid 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 the Utility?

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, the Utility should provide appropriate security. If the recommended rate is approved on a temporary basis, the revenues collected by the Utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum dated October 14, 2010. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 15: Should the Utility be required to provide proof, within 90 days of an order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts (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, Lake Placid 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 person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively.

DECISION: This item was deferred to the November 9, 2010, Commission Conference.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

14**

Docket No. 100377-WU – Application for transfer of water facilities to Marion County, and amendment of Certificate No. 363-W, by Sunshine Utilities of Central Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Jones-Alexis, Brady, Simpson, Hillier, Kaproth
GCL: Klancke

Issue 1: Should the transfer of Sunshine’s Lake View Hills water system to Marion County be acknowledged as a matter of right, and should Certificate No. 363-W be amended to reflect the deletion of territory?

Recommendation: Yes. The transfer of Sunshine’s Lake View Hills water system to Marion County should be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S. Certificate No. 363-W should be amended to reflect the deletion of the Lake View Hills territory effective August 2, 2010, the effective date of the transfer. A description of the territory being deleted is appended to this recommendation as Attachment A in staff’s memorandum dated October 14, 2010. The resultant order should serve as Sunshine’s water certificate and should be retained by Sunshine.

Issue 2: Should this docket be closed?

Recommendation: Yes, if staff’s recommendation in Issue 1 is approved, the docket should be closed as no further action is required.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

15**PAA

Docket No. 090349-WS – Application for limited proceeding rate increase in Polk County by Cypress Lakes Utilities, Inc. (Deferred from the June 1, 2010 Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Mouring, Fletcher, Lingo, Maurey, Rieger, Salnova, Thompson
GCL: Klancke

(All Issues Proposed Agency Action Except Issues 8 and 9)

Issue 1: Is the Utility's request for a limited proceeding appropriate, pursuant to Section 367.0822, F.S. and Rule 25-30.445, F.A.C.?

Recommendation: Yes. Staff believes that the Utility's filing is appropriate, pursuant to Section 367.0822, F.S. and Rule 25-30.445, F.A.C. and thus recommends that the Commission grant the Utility's petition for a limited proceeding with adjustments as detailed in the following issues.

Issue 2: Is the quality of service provided by Cypress Lakes Utilities, Inc., satisfactory?

Recommendation: Yes. The quality of service provided by Cypress Lakes Utilities, Inc., should be considered satisfactory.

Issue 3: Should any adjustments be made to the Utility's Project Phoenix Financial/Customer Care Billing System (Phoenix Project)?

Recommendation: Yes. Plant should be increased by \$455 for water and \$418 for wastewater. In addition, accumulated depreciation should be reduced by \$3,977 for water and \$3,654 for wastewater and depreciation expense should be reduced by \$2,173 for water and \$1,996 for wastewater, respectively.

Issue 4: What is the appropriate amount of rate case expense?

Recommendation: The appropriate rate case expense is \$78,480. This expense should be recovered over four years for an annual expense of \$19,620. Thus, rate case expense should be reduced by \$1,274 for water and \$1,170 for wastewater, respectively.

Issue 5: What is the appropriate increase in revenues for this Utility?

Recommendation: The appropriate revenue increase is \$54,673 for water and \$181,814 for wastewater.

ITEM NO.

CASE

15**PAA

Docket No. 090349-WS – Application for limited proceeding rate increase in Polk County by Cypress Lakes Utilities, Inc. (Deferred from the June 1, 2010 Commission Conference, revised recommendation filed.)

(Continued from previous page)

Issue 6: What are the appropriate rate structures for the Utility’s water and wastewater systems?

Recommendation: The appropriate rate structure for the water system’s residential class is a continuation of its three-tier inclining-block rate structure approved in Cypress Lakes’ 2006 rate proceeding. The current usage blocks and usage block rate factors should also remain unchanged. The appropriate rate structure for the water system’s non-residential classes is a continuation of its base facility charge (BFC)/uniform gallonage charge rate structure. The appropriate rate structure for the wastewater system is a continuation of the BFC/gallonage charge rate structure. The residential wastewater gallonage cap should remain at 6,000 gallons (6 kgals), with no cap applied to general service gallons.

Issue 7: What are the appropriate monthly rates for the water and wastewater systems for the Utility?

Recommendation: The appropriate monthly water rates are shown on Schedule No. 1-A of staff’s memorandum dated October 14, 2010, and the appropriate monthly wastewater rates are shown on Schedule No. 1-B of staff’s memorandum dated October 14, 2010. Excluding miscellaneous service charges, the recommended water rate structure is designed to produce revenues of \$54,673. Excluding miscellaneous service, the recommended wastewater rate structure is designed to produce revenues of \$181,814. The Utility should file revised water and wastewater tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved water and wastewater rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved water and wastewater rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 8: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense?

Recommendation: The rates should be reduced, as shown on Schedule Nos. 1-A and 1-B in staff’s memorandum dated October 14, 2010, to remove \$10,805 from water rates and \$9,926 from wastewater rates for rate case expense, grossed-up for RAFs. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction.

ITEM NO.

CASE

15**PAA

Docket No. 090349-WS – Application for limited proceeding rate increase in Polk County by Cypress Lakes Utilities, Inc. (Deferred from the June 1, 2010 Commission Conference, revised recommendation filed.)

(Continued from previous page)

Issue 9: 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 substantially affected person or party other than Cypress Lakes?

Recommendation: Yes. 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 substantially affected person or party other than Cypress Lakes. Prior to implementation of any temporary rates, the Utility should provide appropriate security. UI's total guarantee should be in the amount of \$757,076. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

Issue 10: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action issues files a protest within 21 days of the issuance of the order, a Consummating Order will be issued. However, the docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. When the PAA issues are final and the tariff and notice actions are complete, this docket may be closed administratively.

DECISION: The recommendations were approved. Commissioner Skop dissented on Issue No. 9.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

16**PAA

Docket No. 100379-SU – Settlement proposal for possible overearnings by Mid-County Services, Inc. in Pinellas County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Fletcher, Maurey

GCL: Jaeger

Issue 1: Should the Commission accept the settlement offer proposed by Mid-County Services, Inc.?

Recommendation: Yes. Pursuant to the settlement proposal, Mid-County will make an across-the-board rate reduction of \$35,842 or 1.92 percent, as well as a refund of \$35,842. The Utility should file a proposed customer notice within 15 days of the Commission vote, which is consistent with its 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), Florida Administrative Code (F.A.C.), after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. 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: 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 to allow staff to verify completion of the refund discussed in Issue 1 and to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once staff has verified that the refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively.

DECISION: The recommendations were approved. Staff was directed to clarify in the order that the refund will be made with interest.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

17**

Docket No. 100388-WS – Application for transfer of water and wastewater facilities to Florida Governmental Utility Authority, and cancellation of Certificate Nos. 353-W and 247-S, by North Fort Myers Utility, Inc. in Lee County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Jones-Alexis, Brady, Hillier, Marsh

GCL: Fleming

Issue 1: Should the transfer of the water and wastewater facilities of North Fort Myers Utility to the Florida Governmental Utility Authority be acknowledged, as a matter of right, and Certificate Nos. 353-W and 247-S be cancelled?

Recommendation: Yes. The transfer of NFMU's water and wastewater facilities and territory to FGUA should be acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 353-W and 247-S should be cancelled effective July 29, 2010.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

18**PAA

Docket No. 090414-WU – Application for staff-assisted rate case in Polk County by Pinecrest Ranches, Inc.

Critical Date(s): 07/11/11 (15-Month Effective Date (SARC))

Commissioners Assigned: Edgar, Graham, Brisé

Prehearing Officer: Edgar

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

GCL: Jaeger

(Proposed Agency Action except for Issues 12, 13, and 14)

Issue 1: Is the quality of service provided by Pinecrest Ranches satisfactory?

Recommendation: Yes, the quality of service provided by Pinecrest Ranches is satisfactory.

Issue 2: What are the used and useful percentages of the water treatment plant and the distribution system?

Recommendation: The water treatment plant (WTP) and the distribution system should be considered 100 percent used and useful (U&U).

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

Recommendation: The appropriate average test year rate base for the Utility is \$66,022.

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

Recommendation: The appropriate return on equity (ROE) is 10.85 percent with an allowed range of plus or minus 100 basis points. The appropriate overall rate of return is 7.49 percent.

Issue 5: What is the appropriate amount of test year revenue?

Recommendation: The appropriate test year revenue for this Utility is \$51,730.

Issue 6: What is the appropriate amount of operating expenses?

Recommendation: The appropriate amount of operating expenses for the Utility is \$49,596.

Issue 7: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$54,541.

Issue 8: Should the Utility's current water system rate structure be changed, and, if so, what is the appropriate adjustment?

Recommendation: No. The Utility's current residential and non-residential water system rate structure, which consists of a monthly base facility charge (BFC)/uniform gallonage charge rate structure, should remain unchanged. The water system's BFC cost recovery should be set at 45 percent.

ITEM NO.

CASE

18**PAA

Docket No. 090414-WU – Application for staff-assisted rate case in Polk County by Pinecrest Ranches, Inc.

(Continued from previous page)

Issue 9: 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: No, a repression adjustment is not appropriate in this case. However, in order to monitor the effect of the change to 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 10: What are the appropriate rates for this Utility?

Recommendation: The appropriate monthly water rates are shown on Schedule No. 4 in staff's memorandum dated October 14, 2010. The recommended rates should be designed to produce revenues of \$54,541 for water, excluding miscellaneous service revenues. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

ITEM NO.

CASE

18**PAA

Docket No. 090414-WU – Application for staff-assisted rate case in Polk County by Pinecrest Ranches, Inc.

(Continued from previous page)

Issue 11: Should the Commission approve pro forma items 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 items. Pinecrest's appropriate return on equity, with the pro forma items, should be 10.85 percent with a range of 9.85 to 11.85 percent. The appropriate overall rate of return is 7.49 percent. The Utility's Phase II revenue requirement is \$58,668 which equates to an increase of 7.57 percent over Phase I revenue requirement. Pinecrest should complete the pro forma items within 12 months of the issuance of the consummating order. The Utility should be allowed to implement the resulting rates once the pro forma items have been completed and documentation provided showing that all improvements have been made to the system.

The Utility should be required to submit a copy of the final invoice and cancelled checks for the refurbishment of the hydropneumatic tank and the meter replacement program. In addition, the Utility should be required to submit documentation from a professional engineer indicating that the refurbishment was done in compliance with American Water Works Association (AWWA) standards.

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. Pinecrest 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 items, the Utility should immediately notify the Commission.

Issue 12: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

Recommendation: The water rate should be reduced, as shown on Schedule No. 4 in staff's memorandum dated October 14, 2010, to remove rate case expense grossed-up for the regulatory assessment fee and amortized over a four-year period. The rate decrease should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. Pinecrest should be required to file revised tariffs and a proposed customer notice setting forth the lower rate 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 rate due to the amortized rate case expense.

ITEM NO.

CASE

18**PAA

Docket No. 090414-WU – Application for staff-assisted rate case in Polk County by Pinecrest Ranches, Inc.

(Continued from previous page)

Issue 13: 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 Pinecrest?

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, Pinecrest should provide appropriate security. If the recommended rates are approved on a temporary basis, the revenues collected by the Utility should be subject to the refund provisions discussed in the analysis portion of staff’s memorandum dated October 14, 2010. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., Pinecrest 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 14: Should the Utility be required to provide proof, within 90 days of an order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts (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, Pinecrest 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 15: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff’s verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Also, the docket should remain open to allow staff to verify that the pro forma items have been completed and the Phase II rates properly implemented. Once these actions are complete, this docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, Graham, Brisé

ITEM NO.

CASE

19**

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

Critical Date(s): None

Commissioners Assigned: Skop, Graham, Brisé

Prehearing Officer: Skop

Staff: GCL: Williams, Brown, Leveille

ECR: Kummer, Bulecza-Banks, Cicchetti, Draper, Maurey, Roberts,
Slemkewicz, Thompson

Issue 1: Does the Commission have authority to approve the 2008 Agreement between Miami-Dade Water and Sewer Department (MDWASD) and Florida City Gas (FCG)?

Recommendation: Yes. The Commission has authority to approve the 2008 Agreement between MDWASD and FCG.

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves Issue 1, this docket should remain open for the Commission to conduct a hearing.

DECISION: The recommendations were approved.

Commissioners participating: Skop, Graham, Brisé

ITEM NO.

CASE

20

Docket No. 090372-EQ – Petition for approval of negotiated purchase power contract with FB Energy, LLC by Progress Energy Florida.

Critical Date(s): None

Commissioners Assigned: Edgar, Skop

Prehearing Officer: Skop

Staff: GCL: J. Crawford

RAD: S. Brown

(Oral argument not requested; participation is at the Commission's discretion)

Issue 1: Should the Commission grant Florida Biomass Energy, LLC's Motion to Dismiss?

Recommendation: Yes. For the reasons discussed in staff's memorandum dated October 14, 2010, staff believes that the allegations set forth in Funding Group's Petition fail to conclusively show why it has standing under the two-prong test required by Agrico, as required by Order No. PSC-10-0434-FOF-EQ. Accordingly, FB Energy's Motion to Dismiss should be granted, Funding Group's Amended Petition should be dismissed with prejudice, and Order No. PSC-09-0852-PAA-EQ should be made final and effective.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, Order No. PSC-09-0852-PAA-EQ should be considered final and this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Edgar, Skop

ITEM NO.

CASE

21**

Docket No. 080677-EI – Petition for increase in rates by Florida Power & Light Company.

Docket No. 090130-EI – 2009 depreciation and dismantlement study by Florida Power & Light Company. (Deferred from the October 12, 2010 Commission Conference)

Critical Date(s): None

Commissioners Assigned: Edgar, Skop

Prehearing Officer: Skop

Staff: ECR: Slemkewicz; Cicchetti, Draper, P. Lee, Lester

GCL: Kiser, Helton, Bennett

(Decision on Stipulation and Settlement)

Issue A: Should the Commission grant the Joint Petition to Assign Settlement Agreement to the Full Commission for Decision?

Recommendation: Yes. Pursuant to Section 350.01(6), Florida Statutes (F.S.), the full Commission should consider whether to approve the Stipulation and Settlement Agreement. The full Commission should also consider whether to approve Mr. Saporito's base rate petition.

Issue 1: Should the Commission approve the proposed Stipulation and Settlement?

Recommendation: Yes, the Commission should approve the proposed Stipulation and Settlement.

Issue 2: Should the Commission grant Thomas Saporito's Petition for Base Rate Proceeding?

Recommendation: No. The Commission should not grant the Petition for Base Rate Proceeding. The petition does not meet the requirements of Rule 28-106.201, F.A.C., because it fails to allege any material issue of disputed facts.

Issue 3: Should these dockets be closed?

Recommendation: Yes. These dockets should be closed upon the expiration of the time for appeal.

DECISION: This item was deferred to the November 9, 2010, Commission Conference.

Commissioners participating: Graham, Edgar, Skop, Brisé

ITEM NO.

CASE

22**PAA

Docket No. 100410-EI – Review of Florida Power & Light Company's earnings.
(Deferred from the October 12, 2010 Commission Conference)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Slemkewicz, Maurey, Cicchetti, Springer, Willis
GCL: Bennett

Issue 1: Should the Commission initiate a review of Florida Power & Light Company's earnings?

Recommendation: Yes.

Issue 2: Should the Commission order FPL to hold earnings, for the 12-month period ending March 31, 2011, in excess of the authorized 11.00 percent maximum of the ROE range subject to refund under bond or corporate undertaking?

Recommendation: Yes. The Commission should order FPL to hold earnings, for the 12-month period ending March 31, 2011, in excess of the authorized 11.00 percent maximum of the ROE range subject to refund under a corporate undertaking.

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open until staff has reviewed FPL's historical earnings data for the year ending March 31, 2011, and the Commission has determined the amount and appropriate disposition of overearnings.

DECISION: This item was deferred to the November 9, 2010, Commission Conference.

Commissioners participating: Graham, Edgar, Skop, Brisé