

MINUTES OF September 14, 2010

COMMISSION CONFERENCE

COMMENCED: 9:34 am
RECESSED: 11:05 am
RECONVENED: 11:17 am
RECESSED: 12:44 pm
RECONVENED: 1:00 pm
ADJOURNED: 1:29 pm

COMMISSIONERS PARTICIPATING: Chairman Argenziano
Commissioner Edgar
Commissioner Skop
Commissioner Graham
Commissioner Brisé

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

1

Approval of Minutes
August 3, 2010 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

2**

Consent Agenda

PAA

A) Application for Certificate to Provide Competitive Local Exchange Telecommunications Service.

DOCKET NO.

COMPANY NAME

100389-TX

North County Communications Corporation

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

DECISION: The recommendation was approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

3**PAA

Docket No. 100336-EU – Joint petition for approval to extend territorial settlement agreement by Progress Energy Florida, Inc., Tampa Electric Company, and The Mosaic Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham

Staff: GCL: Sayler

ECR: Draper, Rieger, J. Williams

Issue 1: Should the Commission approve extending the current Settlement Agreement, effective October 17, 2010, for an additional five years?

Recommendation: Yes. The Commission should approve extending the current Settlement Agreement, effective October 17, 2010, for an additional five years.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order. If a protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order approving this extension to the current Settlement Agreement, the current Settlement Agreement should remain in effect pending resolution of the protest and the docket should remain open.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

4**

Docket No. 100338-WS – Initiation of rulemaking to amend Rule 25-30.0371, F.A.C., pertaining to Acquisition Adjustments for water and wastewater utilities.

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham

Staff: GCL: C. Miller, Sayler

ECR: Chase, Daniel, Hewitt

RAD: J. Miller, Shafer

Issue 1: Should the Commission propose the amendment of Rule 25-30.0371, F.A.C.?

Recommendation: Yes, the Commission should propose the amendment of this rule as set forth in Attachment A of staff's memorandum dated September 1, 2010.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rule may be filed with the Secretary of State and this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

5**PAA

Docket No. 100327-TL – Petition by Verizon Florida LLC for waiver of Rule 25-4.040(2), F.A.C.

Critical Date(s): Statutory Deadline 10/13/10

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Trueblood

GCL: Teitzman

PIF: Muir, DeMello

Issue 1: Should the Commission approve Verizon’s request for a permanent waiver of the residential directory requirement of Rule 25-4.040(2) F.A.C.?

Recommendation: No. The Commission should deny Verizon’s request for a permanent waiver of the residential directory requirement of Rule 25-4.040(2), F.A.C., and instead grant a temporary waiver for two years. During the two years while the waiver is in effect, the Commission should require Verizon and staff to solicit feedback from Florida consumers to determine how they feel about the discontinuance of an up-front copy of the residential white pages directory.

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves staff’s recommendation, the resulting Order will be issued as a Proposed Agency Action. The Order will become final upon issuance of a Consummating Order, if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. This docket should remain open pending the implementation of the Commission’s decision and for purposes of soliciting and reviewing consumer feedback.

DECISION: The recommendations were approved with the understanding that staff will work with Verizon on Attachments A and B (on pages 8 and 9) of the recommendation (dated September 1, 2010).

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

6**PAA

Docket No. 100155-EG – Petition for approval of demand-side management plan of Florida Power & Light 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: 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

6**PAA

Docket No. 100155-EG – Petition for approval of demand-side management plan of Florida Power & Light Company. (Deferred from the August 31, 2010, Commission Conference, revised recommendation filed.)

(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 a later Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

7**PAA

Docket No. 100160-EG – Petition for approval of demand-side management plan of Progress Energy Florida, Inc. (Deferred from the August 31, 2010, Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Lewis, Brown, Garl, Webb

GCL: Fleming, Saylor

Issue 1: Does PEF's proposed Demand-Side Management (DSM) Plan satisfy the Company's numeric conservation goals set by the Commission in Order No. PSC-09-0855-FOF-EG and subsequently revised in Order No. PSC-10-0198-FOF-EG?

Recommendation: No. PEF's proposed DSM Plan fails to meet its annual residential goals in any category for the first six years. Similarly, the Company's Plan does not meet all the annual commercial/industrial goals by as early as 2010. PEF'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., PEF should file specific program modifications or additions that are needed in order for the 2010 DSM Plan to be in compliance with Order No. PSC-10-0198-FOF-EG within 30 days of the Commission's Order in this docket. The compliance filing should ~~not~~ include savings associated with PEF's solar pilot programs.

DECISION: The recommendation was approved with noted modification.

Issue 2: Are the programs contained in PEF'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 PEF'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. Staff recommends that PEF should be required to file program standards within 30 days of the Commission's Order in this docket. However, as discussed in Issue 4, for some programs, PEF has not justified the level of incentives assumed at this time and should not be authorized to recover incentives that exceed the cost of program measures.

ITEM NO.

CASE

7**PAA

Docket No. 100160-EG – Petition for approval of demand-side management plan of Progress Energy Florida, Inc. (Deferred from the August 31, 2010, Commission Conference, revised recommendation filed.)

(Continued from previous page)

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

DECISION: The recommendation was denied and the program was not approved. Staff to communication with the Utility regarding the programs. Parties to re-file the plan within 30 days of the Commission's order in this docket.

Issue 3: Does PEF'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 \$6,467,592 as 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.

DECISION: The recommendation was approved with the understanding that there will be a workshop to better reach an understanding of how the solar dollars would be spent.

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

Recommendation: No. The proposed programs costs are not undue because the increase in program costs correlates with the increase in goals. However, inappropriate incentive levels for certain measures may be contributing to higher than necessary costs in some programs. Because PEF has not justified the level of incentives assumed at this time, staff recommends that PEF should not be authorized to recover the costs of such incentives. The Commission should evaluate the Company's compliance filing and make a final determination in the ECCR clause proceedings regarding the appropriateness of incentive levels.

ITEM NO.

CASE

7**PAA

Docket No. 100160-EG – Petition for approval of demand-side management plan of Progress Energy Florida, Inc. (Deferred from the August 31, 2010, Commission Conference, revised recommendation filed.)

(Continued from previous page)

DECISION: This item was rendered moot as result of the vote on Issue 4.

Issue 5: Should this docket be closed?

Recommendation: No. This docket should remain open in order for PEF 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: The recommendation was approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

8**PAA

Docket No. 100154-EG – Petition for approval of demand-side management plan of Gulf Power 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: Graves, Brown, Crawford, Garl, Lewis, Ma

GCL: Fleming, Saylor

Issue 1: Does Gulf's proposed 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. Gulf's DSM plan fails to meet its residential and commercial/industrial goals for multiple years during the ten-year period. Gulf'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 Gulf file specific program modifications or additions that are needed in order 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 Gulf's solar pilot programs.

DECISION: The recommendation was approved with noted modification. The oral modification, Document Number 07611-10, made by staff to tables 1 and 3 was also approved.

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

Recommendation: Yes. All programs in Gulf'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. Gulf should be required to file program standards within 30 days of the Commission's Order in this docket.

ITEM NO.

CASE

8**PAA

Docket No. 100154-EG – Petition for approval of demand-side management plan of Gulf Power Company. (Deferred from the August 31, 2010, Commission Conference, revised recommendation filed.)

(Continued from previous page)

The Commission should approve cost-effective programs to allow Gulf to file for cost recovery. However, Gulf 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 Gulf's compliance filing and make a final determination at that time regarding the cost-effectiveness of any modified or new programs.

DECISION: The recommendation was denied and the program not approved. Staff to communication with the Utility regarding the programs. Parties to re-file the plan within 30 days of the Commission's order in this docket.

Issue 3: Does Gulf's proposed Demand-Side Management 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 \$900,338 as specified in 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.

DECISION: The recommendation was approved with the understanding that there will be a workshop to better reach an understanding of how the solar dollars would be spent.

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

Recommendation: No. The proposed programs 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 clause proceedings regarding the appropriateness of incentive levels.

DECISION: This item was rendered moot as result of the vote on Issue 4.

ITEM NO.

CASE

8**PAA

Docket No. 100154-EG – Petition for approval of demand-side management plan of Gulf Power 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. This docket should remain open in order for Gulf 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: The recommendation was approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

9**PAA

Docket No. 100159-EG – Petition for approval of demand-side management plan of Tampa Electric 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: Ellis, Brown, Clemence, Garl, Lewis

GCL: Fleming, Saylor

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

Recommendation: No. TECO's proposed DSM Plan fails to meet its annual residential goals in each category for two or more years, starting in 2013. Similarly, the Company's Plan does not meet all the annual commercial/industrial energy goals by as early as 2014. TECO'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 TECO file specific program modifications or additions that are needed in order 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 TECO's solar pilot programs.

DECISION: The recommendation was approved with noted modification.

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

Recommendation: Yes. All programs in TECO'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. TECO should be required to file program standards within 30 days of the Commission's Order in this docket.

ITEM NO.

CASE

9**PAA

Docket No. 100159-EG – Petition for approval of demand-side management plan of Tampa Electric Company. (Deferred from the August 31, 2010, Commission Conference, revised recommendation filed.)

(Continued from previous page)

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

DECISION: The recommendation was denied and the program not approved. Staff to communication with the Utility regarding the programs. Parties to re-file the plan within 30 days of the Commission's order in this docket.

Issue 3: Does TECO'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 program is within the annual expenditure cap of \$1,531,018 that was 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.

DECISION: The recommendation was approved with the understanding that there will be a workshop to better reach an understanding of how the solar dollars would be spent.

Issue 4: Do any of the programs in TECO'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. The Commission should evaluate the Company's compliance filing and make a final determination in the ECCR clause proceedings regarding the appropriateness of incentive levels.

DECISION: This item was rendered moot as result of the vote on Issue 4.

ITEM NO.

CASE

9**PAA

Docket No. 100159-EG – Petition for approval of demand-side management plan of Tampa Electric 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. This docket should remain open in order for TECO 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: The recommendation was approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

10**PAA

Docket No. 100157-EG – Petition for approval of demand-side management plan of JEA. (Deferred from the August 31, 2010, Commission Conference, revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Garl, Brown, Gilbert, Lewis

GCL: Fleming, Saylor

Issue 1: Does JEA'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 and subsequently revised in Order No. PSC-10-0198-FOF-EG?

Recommendation: ~~Yes. JEA has proposed a DSM Plan that projects peak demand and energy savings that exceed the Commission approved residential and commercial/industrial goals.~~ No. However, JEA has proposed to continue its existing DSM programs consistent with Order Nos. PSC-09-0855-FOF-EG and PSC-10-0198-FOF-EG. The JEA Plan, therefore, should be approved.

Issue 2: Do any of the programs in JEA's proposed DSM Plan have an undue impact on the costs passed on to customers?

Recommendation: No. Since JEA is continuing existing programs, its customers should see no change in monthly bills due to additional DSM programs.

Issue 3: Should this docket 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, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

11**PAA

Docket No. 100134-EI – Review of Progress Energy Florida, Inc.'s current allowance for funds used during construction rate.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Donoho, Buys, Davis

GCL: Crawford

Issue 1: Should the Commission approve PEF's request to decrease its AFUDC rate from 8.848 percent to 7.44 percent?

Recommendation: Yes. The appropriate AFUDC rate for PEF is 7.44 percent based on a 13-month average capital structure for the period ended March 31, 2010.

Issue 2: What is the appropriate monthly compounding rate to achieve the requested 7.44 percent annual rate?

Recommendation: The appropriate monthly compounding rate to maintain an annual rate of 7.44 percent is 0.5995 percent.

Issue 3: Should the Commission approve PEF's requested effective date of April 1, 2010, for implementing the revised AFUDC rate?

Recommendation: Yes. The revised AFUDC rate should be effective as of April 1, 2010, for all purposes except for Rule 25-6.0423, F.A.C., Nuclear or Integrated Gasification Combined Cycle Power Plant Recovery. For the purposes of Rule 25-6.0423, F.A.C., 8.848 percent is the appropriate AFUDC rate to be utilized for compounding carrying costs for power plant need petitions submitted on or before December 31, 2010.

Issue 4: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

12**PAA

Docket No. 090447-WS – Application for staff-assisted rate case in Seminole County by CWS Communities d/b/a Palm Valley Utilities.

Critical Date(s): 03/11/11 (15-Month Effective Date (SARC))

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Hudson, Bruce, Daniel, Fletcher, Maurey, Simpson, Stallcup
GCL: Bennett

(Proposed Agency Action, except for Issues 11, 12, and 13.)

Issue 1: Is the quality of service provided by Palm Valley satisfactory?

Recommendation: Yes, the quality of service provided by Palm Valley is satisfactory.

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

Recommendation: The water treatment plant (WTP) should be considered 78 percent used and useful (U&U). The wastewater treatment plant (WWTP) should be considered 81 percent U&U. The distribution system, the two storage tanks, the collection system, and the reuse facilities should be considered 100 percent U&U. In addition, staff recommends that chemicals and electricity expense for the water system be adjusted by 3 percent to recognize excessive unaccounted for water (UFW), and chemicals and electricity expense for the wastewater system be adjusted by 19 percent to recognize excessive I&I.

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

Recommendation: The appropriate average test year rate base for the Utility is \$622,184 for water and \$1,466,407 for wastewater.

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 10.76 percent with a range of 9.76 – 11.76 percent. The appropriate overall rate of return is 7.65 percent.

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

Recommendation: The appropriate test year revenue for this Utility is \$165,229 for water and \$234,130 for wastewater.

Issue 6: What are the appropriate operating expenses?

Recommendation: The appropriate amount of operating expense for the Utility is \$126,373 for water and \$363,565 for wastewater.

Issue 7: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$173,970 for water and \$475,745 for wastewater.

ITEM NO.

CASE

12**PAA

Docket No. 090447-WS – Application for staff-assisted rate case in Seminole County by CWS Communities d/b/a Palm Valley Utilities.

(Continued from previous page)

Issue 8: 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 and non-residential class is a continuation of the monthly base facility charge (BFC)/uniform gallonage charge rate structure. The water system’s BFC cost recovery should remain at 56 percent. The appropriate rate structure for the wastewater system’s residential and non-residential class is a monthly BFC/uniform gallonage. The non-residential gallonage charge should be 1.2 times greater than the corresponding residential charge, and the BFC cost recovery percentage for the wastewater system should be set at 50 percent. The residential wastewater cap should remain set at 6,000 gallons (6 kgals). Also, staff recommends that the current reuse rate structure and rates remain unchanged.

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 for the respective water and wastewater systems?

Recommendation: No, a repression adjustment is not appropriate for this Utility. However, in order to monitor the effects resulting from the changes in revenues, the Utility should prepare monthly reports for the water system, detailing the number of bills rendered, the consumption billed and revenues billed. In addition, the reports should be prepared by customer class and meter size. The reports should be filed with staff, on a 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 and wastewater rates are shown on Schedule Nos. 4-A and 4-B of staff’s memorandum dated September 1, 2010, respectively. The recommended rates should be designed to produce revenue of \$173,970 for water and \$461,843 for wastewater, excluding miscellaneous service charges. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

ITEM NO.

CASE

12**PAA

Docket No. 090447-WS – Application for staff-assisted rate case in Seminole County by CWS Communities d/b/a Palm Valley Utilities.

(Continued from previous page)

Issue 11: 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 of staff's memorandum dated September 1, 2010, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. Palm Valley 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.

Issue 12: 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 Palm Valley?

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, Palm Valley should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., Palm Valley 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 13: Should the Utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable 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, Palm Valley 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.

ITEM NO.

CASE

12**PAA

Docket No. 090447-WS – Application for staff-assisted rate case in Seminole County by CWS Communities d/b/a Palm Valley Utilities.

(Continued from previous page)

Issue 14: Should this docket be closed?

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

DECISION: The recommendations were approved. Oral modification, Document Number 07610-10, made by staff to Schedule No. 4-A was also approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé