

**MINUTES OF September 4, 2008
COMMISSION CONFERENCE**

COMMENCED: 9:33 a.m.
RECESSED: 10:30 a.m.
RECONVENED: 10:44 a.m.
ADJOURNED: 11:54 a.m.

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

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

1 **Approval of Minutes**
July 15, 2008 Regular Commission Conference
July 29, 2008 Regular Commission Conference

DECISION: The minutes were approved.

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

ITEM NO.

CASE

2**

Consent Agenda

PAA

A) Application for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
080433-TX	General Computer Services, Inc. d/b/a BeCruising Telecom

PAA

B) Applications for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
080498-TX	Excelacom Light, LLC.
080504-TX	Vixxi Solutions Inc.
080507-TX	Sage Spectrum, LLC
080516-TX	Great America Networks, Inc.
080519-TX	ONE SOURCE NETWORKS CLEC LLC

PAA

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
080074-TX	FDN, LLC d/b/a FDN Communications	12/31/2007
080466-TX	InteraTel, LLC d/b/a InteraTone	7/9/2008

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

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3**

Docket No. 080159-TP – Joint petition to initiate rulemaking to adopt new rule in Chapter 25-24, F.A.C., amend and repeal Rules in Chapter 25-4, F.A.C., and amend rules in Chapter 25-9, F.A.C., by Verizon Florida LLC, BellSouth Telecommunications, Inc. d/b/a AT&T Florida, Embarq Florida, Inc., Quincy Telephone Company d/b/a TDS Telecom, and Windstream Florida, Inc. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrian

Staff: GCL: Miller, Cibula

RCP: Mailhot, Salak

ECR: Dickens

Issue 1: Should the Commission propose the amendment of Rules 25-4.003, 25-4.017, 25-4.0174, 25-4.0175, 25-4.0178, 25-4.040, 25-4.079, 25-4.215 and 25-14.001, F.A.C.?

Recommendation: Yes, the Commission should propose the amendment of these rules as set forth in Attachment A of staff's memorandum dated August 7, 2008.

DECISION: Modified. The language that was discussed at the Commission Conference is to be included in the proposed rule making.

Issue 2: Should the Commission propose the repeal of Rules 25-4.006, 25-4.007, 25-4.021, 25-4.024, 25-4.039, 25-4.077, and 25-4.116, F.A.C.?

Recommendation: Yes, the Commission should propose the repeal of these rules as set forth in Attachment B of staff's memorandum dated August 7, 2008.

DECISION: Modified. The language that was discussed at the Commission Conference is to be included in the proposed rule making.

Issue 3: Should this docket be closed?

Recommendation: No.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

4**PAA

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) (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: RCP: Harvey, Hallenstein

GCL: Teitzman

Issue 1: Should the Commission accept the stipulation “Agreement Regarding Audit of AT&T Florida’s April OSS Release”?

Recommendation: Yes. Upon review of the parties’ stipulation, staff recommends the Commission accept the stipulation regarding the audit of AT&T Florida’s April OSS Release as set forth in Attachment 1 of staff’s memorandum dated August 7, 2008.

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves staff’s recommendation in Issue 1, the resulting Order will be issued as 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 conclusion of the audit and for purpose of future performance measure monitoring.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5

Docket No. 070368-TP – Notice of adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P., by NPCR, Inc. d/b/a Nextel Partners.

Docket No. 070369-TP – Notice of adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P., by Nextel South Corp. and Nextel West Corp. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar (070368-TP)
Administrative (070369-TP)

Staff: RCP: Bates, Simmons
GCL: Tan

Issue 1: Can Nextel as a wireless entity avail itself of 47 U.S.C. Section 252(i) to adopt the Sprint ICA?

Recommendation: Staff recommends that Nextel's adoption of the Sprint ICA should be upheld as valid, pursuant to 47 U.S.C. §252(i) and the FCC's implementing rule, 47 C.F.R. §51.809.

Issue 2A: Does the Commission have jurisdiction over AT&T's FCC Merger Commitments?

Recommendation: If the Commission approves staff's recommendation in Issue 1, this issue is moot because the Commission will have approved the adoption, pursuant to §252(i) without reliance on application of the Merger Commitments.

Issue 2B: If so, do the Merger Commitments allow Nextel to adopt the Sprint ICA?

Recommendation: As discussed in Issue 2A, if the Commission approves staff's recommendation in Issue 1, this issue is moot.

Issue 3: If the answer to Issue 1 or Issue 2B is "yes," what should be the effective date of Nextel's adoption of the Sprint ICA?

Recommendation: If the answer to Issue 1 or Issue 2B is "yes," staff recommends the effective date of Nextel's adoption of the Sprint ICA should be June 8, 2007.

ITEM NO.

CASE

5 **PAA

Docket No. 070368-TP – Notice of adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P., by NPCR, Inc. d/b/a Nextel Partners.

Docket No. 070369-TP – Notice of adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P., by Nextel South Corp. and Nextel West Corp.

(Continued from previous page)

Issue 4: Should this docket be closed?

Recommendation: If the Commission approves Nextel's adoption of the Sprint ICA in Issue 1 or Issue 2B, Docket Nos. 070368-TP and 070369-TP should remain open pending the filing of the signed adoption between the parties, which should occur no later than 7 days following the Commission's vote. These dockets should be closed administratively upon issuance of a memo by staff acknowledging the Adoption of the Sprint – AT&T Interconnection Agreement.

If the Commission denies Nextel's adoption of the Sprint ICA in Issue 1 and Issue 2B, Docket Nos. 070368-TP and 070369-TP should be closed upon issuance of the Final Order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

6**PAA

Docket No. 080043-TX – Application for certification as an eligible telecommunications carrier by dPi Teleconnect, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: RCP: Polk, Casey

GCL: Tan

Issue 1: Should dPi be granted ETC status in the State of Florida?

Recommendation: Yes. Staff recommends that dPi be granted ETC status in the AT&T and Verizon wire centers shown in Attachment B of staff's memorandum dated August 21, 2008.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 070683-TX – Petition for designation as eligible telecommunications carrier (ETC) by FLATEL, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: RCP: Mann, Casey

GCL: Tan

Issue 1: Should FLATEL be granted ETC designation in the State of Florida?

Recommendation: Yes. Staff recommends that FLATEL be granted ETC designation status in the AT&T and Verizon wire centers listed in Attachment A of staff's memorandum dated August 21, 2008, of this recommendation.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

8**PAA

Docket No. 080449-TX – Compliance investigation of Grande Communications Networks, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

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

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

Docket No. 080452-TX – Compliance investigation of Dialtone & More, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Watts

SGA: Hunter, Shafer

GCL: Tan

Issue 1: Should the Commission impose a penalty in the amount of \$10,000 or cancel the respective certificate of each company listed in Attachment A of staff's memorandum dated August 21, 2008, for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

Recommendation: Yes, the Commission should impose a penalty in the amount of \$10,000 or cancel the respective certificate of each company listed in Attachment A of staff's memorandum dated August 21, 2008, for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

ITEM NO.

CASE

8**PAA

Docket No. 080449-TX – Compliance investigation of Grande Communications Networks, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

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

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

Docket No. 080452-TX – Compliance investigation of Dialtone & More, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

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Issue 2: Should these dockets be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision in a given docket files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any of the companies listed in Attachment A of staff's memorandum dated August 21, 2008, fails to timely file a protest in its respective docket and request a Section 120.57, Florida Statutes, hearing, the facts in that docket should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If any of the companies listed in A of staff's memorandum dated August 21, 2008, fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order, the company's CLEC certificate, as listed in Attachment A of staff's memorandum dated August 21 2008, should be canceled. If a company's certificate is canceled in accordance with the Commission's Order from this recommendation, that company should be required to immediately cease and desist providing telecommunications services in Florida. A protest in one docket should not prevent the action in a separate docket from becoming final. These dockets should remain open.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**PAA

Docket No. 080446-TX – Compliance investigation of Quality Telephone Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 080453-TX – Compliance investigation of WinSonic Digital Media Group, Ltd. Corp. for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 080454-TX – Compliance investigation of Astrocom Corporation for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 080455-TX – Compliance investigation of Tel West Communications, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Watts

SGA: Hunter, Shafer

GCL: Tan, McKay

Issue 1: Should the Commission impose a penalty in the amount of \$10,000 or cancel the respective certificate of each company listed in Attachment A of staff's memorandum dated August 21, 2008, for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

Recommendation: Yes, the Commission should impose a penalty in the amount of \$10,000 or cancel the respective certificate of each company listed in Attachment A of staff's memorandum dated August 21, 2008, for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

ITEM NO.

CASE

9**PAA

Docket No. 080446-TX – Compliance investigation of Quality Telephone Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 080453-TX – Compliance investigation of WinSonic Digital Media Group, Ltd. Corp. for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 080454-TX – Compliance investigation of Astrocom Corporation for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 080455-TX – Compliance investigation of Tel West Communications, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

Issue 2: Should these dockets be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision in a given docket files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any of the companies listed in Attachment A of staff's memorandum dated August 21, 2008, fails to timely file a protest in its respective docket and request a Section 120.57, Florida Statutes, hearing, the facts in that docket should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If any of the companies listed in Attachment A of staff's memorandum dated August 21, 2008, fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order, the company's CLEC certificate, as listed in Attachment A of staff's memorandum dated August 21, 2008, should be canceled. If a company's certificate is canceled in accordance with the Commission's Order from this recommendation, that company should be required to immediately cease and desist providing telecommunications services in Florida. A protest in one docket should not prevent the action in a separate docket from becoming final. These dockets should remain open.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**PAA

Docket No. 080542-TI – Joint request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., in transfer of long distance customers from Broadwing Communications, LLC to Telecom Management, Inc. d/b/a Pioneer Telephone, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Kennedy

GCL: Brooks, Tan

Issue 1: Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of Broadwing Communications, LLC's customers to Telecom Management, Inc. d/b/a Pioneer Telephone, Inc.?

Recommendation: Yes, the Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code. Any waiver approved by the Commission should only apply to customers identified by the petitioners as residential and small business customers. The petitioners should be required to provide the Commission notification of the actual dates when the transactions are consummated. If for any reason the transactions are 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: Carter, Edgar, McMurrian, Argenziano, Skop

ITEM NO.

CASE

11**PAA

Docket No. 080107-TX – Application for designation as an eligible telecommunications carrier by Affordable Phone Services, Inc. d/b/a High Tech Communications.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: RCP: Williams, Casey
GCL: Brooks

Issue 1: Should High Tech be granted ETC designation in the State of Florida?

Recommendation: No. Staff recommends that High Tech not be granted ETC designation in the State of Florida.

Issue 2: Should this docket be closed?

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

DECISION: Item 11 was withdrawn.

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

ITEM NO.

CASE

12**PAA

Docket No. 080087-TC – Request for cancellation of PATS Certificate No. 7465 by Thomas J. Neaman, Jr., effective February 1, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: McKay

Issue 1: Should the Commission deny Thomas J. Neaman, Jr., a voluntary cancellation of his pay telephone service (PATS) Certificate No. 7465 and cancel the certificate on the Commission's own motion with an effective date of February 1, 2008?

Recommendation: Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff's memorandum dated August 21, 2008.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

13**PAA

Docket No. 080156-TC – Request for cancellation of PATS Certificate No. 7504 by Business Telecom, Inc. d/b/a BTI, effective March 13, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: McKay

Issue 1: Should the Commission deny Business Telecom, Inc. d/b/a BTI, a voluntary cancellation of its pay telephone service (PATS) Certificate No. 7504 and cancel the certificate on the Commission's own motion with an effective date of March 13, 2008?

Recommendation: Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff's memorandum dated August 21, 2008.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14**PAA

Docket No. 080224-TI – Acknowledgment of cancellation of IXC Registration No. TJ847 by Network PTS, Inc., effective April 17, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: McKay

Issue 1: Should the Commission deny Network PTS, Inc., a voluntary cancellation of its intrastate interexchange telecommunications carrier (IXC) tariff and Registration No. TJ847 and cancel the tariff and remove the company's name from the register on the Commission's own motion with an effective date of April 17, 2008?

Recommendation: Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff's memorandum dated August 21, 2008.

ITEM NO.

CASE

14**PAA

Docket No. 080224-TI – Acknowledgment of cancellation of IXC Registration No. TJ847 by Network PTS, Inc., effective April 17, 2008.

(Continued from previous page)

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

15**PAA

Docket No. 080289-TC – Request for cancellation of PATS Certificate No. 5133 by Hampton Holding Co., Inc., effective June 30, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: McKay

Issue 1: Should the Commission deny Hampton Holding Co., Inc., a voluntary cancellation of its pay telephone service (PATS) Certificate No. 5133 and cancel the certificate on the Commission's own motion with an effective date of June 30, 2008?

Recommendation: Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff's memorandum dated August 21, 2008.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

16**PAA

Docket No. 080394-TC – Request for cancellation of PATS Certificate No. 8632 by Silver Springs Shores Telco, effective June 25, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: McKay

Issue 1: Should the Commission deny Silver Springs Shores Telco, a voluntary cancellation of its pay telephone service (PATS) Certificate No. 8632 and cancel the certificate on the Commission's own motion with an effective date of June 25, 2008?

Recommendation: Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff's memorandum dated August 21, 2008.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

17**PAA

Docket No. 080219-EI – Joint petition for authority to deviate from requirements of Order PSC-06-0144-PAA-EI regarding CCA wood pole inspections, by Progress Energy Florida, Inc., Florida Power & Light Company, and Tampa Electric Company. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Graves, Lewis

GCL: Hartman

Issue 1: Should PEF, FPL, and TECO be granted authority to deviate from the sounding and boring and excavation requirements of Order No. PSC-06-0144-PAA-EI with regard to CCA wood poles less than 16 years old?

Recommendation: Yes. Consistent with the deviation granted to Gulf Power Company (Gulf) in Order No. PSC-07-0078-PAA-EU, PEF, FPL, and TECO should be required to sound and selectively bore all CCA poles under the age of 16 years, but not be required to perform full excavation on these poles. PEF, FPL, and TECO should also be required to perform full excavation sampling to validate their inspection method. The results of the utilities' sampling should be filed in their annual distribution reliability reports.

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: Carter, Edgar, McMurrian, Argenziano, Skop

ITEM NO.

CASE

18**

Docket No. 080501-EI – Petition for waiver of Rule 25-17.250(1) and (2)(a), F.A.C., which requires Progress Energy Florida to have a standard offer contract open until a request for proposal is issued for same avoided unit in standard offer contract, and for approval of standard offer contract.

Critical Date(s): 9/12/08 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Sickel

ECR: Kummer

GCL: Hartman

Issue 1: Should the Commission suspend the renewable standard offer contract and associated tariffs filed by Florida Progress Energy Florida, Inc. as part of its request for rule waiver?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: No.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

19**

Docket No. 080255-EI – Petition for approval of standard interconnection agreements for expedited interconnection of customer-owned renewable generation and associated net metering tariff, by Tampa Electric Company.

Docket No. 080257-EI – Petition for approval of net metering tariff, new interconnection agreements, and modification of various related tariff sheets, by Progress Energy Florida, Inc.

Docket No. 080260-EI – Petition for approval of standard interconnection agreements for Tier 1 through Tier 3 customer-owned renewable generation systems and revisions to tariff sheets iv, 4.2, 4.16, and 9.1, by Gulf Power Company.

Docket No. 080265-EI – Petition for approval of net metering tariff and standard interconnection agreements, by Florida Power & Light Company.

Docket No. 080294-EI – Petition for approval of standard interconnection agreements for customer-owned renewable generation systems, by Florida Public Utilities Company.

Critical Date(s): 01/07/09 (8 month effective date); FPUC - 01/28/09

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Chase, Clemence, Crawford, Webb

ECR: Kummer

GCL: Brown, Sayler

Issue 1: Should the standard interconnection agreements and related revisions to the tariffs filed by Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), Tampa Electric Company (TECO), Gulf Power Company (Gulf) and Florida Public Utilities Company (FPUC) be approved?

Recommendation: Yes, the amended tariffs, including the standard interconnection agreements, are in compliance with Rule 25-6.065, Florida Administrative Code, and should be approved.

DECISION: The recommendation was approved. Staff is to continue to work with FPL to address the concerns voiced at the Commission Conference.

ITEM NO.

CASE

19**

Docket No. 080255-EI – Petition for approval of standard interconnection agreements for expedited interconnection of customer-owned renewable generation and associated net metering tariff, by Tampa Electric Company.

Docket No. 080257-EI – Petition for approval of net metering tariff, new interconnection agreements, and modification of various related tariff sheets, by Progress Energy Florida, Inc.

Docket No. 080260-EI – Petition for approval of standard interconnection agreements for Tier 1 through Tier 3 customer-owned renewable generation systems and revisions to tariff sheets iv, 4.2, 4.16, and 9.1, by Gulf Power Company.

Docket No. 080265-EI – Petition for approval of net metering tariff and standard interconnection agreements, by Florida Power & Light Company.

Docket No. 080294-EI – Petition for approval of standard interconnection agreements for customer-owned renewable generation systems, by Florida Public Utilities Company.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Yes, if Issue 1 is approved, these tariff revisions should become effective on October 1, 2008, and remain in effect, with revenues subject to refund, pending the outcome of any protest. If a protest to the approval of any one of the utility's tariff filings is filed within 21 days of the issuance of the order, it should not prevent the order from becoming final at the end of the protest period as to any IOU that is not the subject of a protest.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

20**PAA

Docket No. 080152-GU – Petition for approval of recognition of a regulatory asset under provisions of Statement of Financial Accounting Standard (SFAS) No. 71, by Florida City Gas. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: ECR: Slemkewicz, Bulecza-Banks, Kyle, Maurey

GCL: Hartman

Issue 1: Should the Commission authorize Florida City Gas to use deferral accounting and to create a regulatory asset to record certain charges incurred by the Company due to union decertification by FCG union employees?

Recommendation: Yes. The Commission should authorize Florida City Gas to use deferral accounting and to create a regulatory asset to record certain charges incurred by the Company due to union decertification by FCG union employees. Further, the Commission should find that the approval to record the regulatory asset for accounting purposes does not limit the Commission's ability to review the amounts for reasonableness in future rate proceedings.

Issue 2: 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: Carter, Edgar, McMurrin, Argenziano, Skop

ITEM NO.

CASE

21**PAA

Docket No. 080163-GU – Petition for approval to create regulatory subaccount of meter installation to capitalize all incurred and future costs associated with installation of encoder receiver transmitters (ERTs) under provisions of Statement of Financial Accounting Standard No. 71, Accounting for the Effects of Certain Types of Regulation (SFAS 71); and requesting depreciation of installation costs of ERTs over 15-year period beginning January 1, 2008, by Florida City Gas. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: ECR: Marsh

GCL: Fleming

Issue 1: Should FCG be allowed to capitalize installation costs associated with the addition of ERTs?

Recommendation: Installation costs incurred during 2008 for the addition of ERTs on existing meters should be capitalized beginning January 1, 2008. However, installation costs that were expensed prior to 2008 should not be capitalized.

Issue 2: Should the Commission establish a subaccount with depreciation rates for the ERT Installations?

Recommendation: Yes. Account 382.1, ERT Installations, should be established with a 15-year average service life, and a resulting depreciation rate of 6.7 percent for the ERTs.

Issue 3: What should be the effective date for the implementation of the new depreciation rate for the ERT Installations?

Recommendation: The effective date for the implementation of the new depreciation rate for the ERT Installations should be January 1, 2008.

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 issuance of a consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

22

Docket No. 080003-GU – Purchased gas adjustment (PGA) true-up. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: ECR: Lee, Draper, Kummer, McNulty

GCL: Fleming

(Participation at the Commission's Discretion)

Issue 1: Should the Commission grant the petition of Florida City Gas for an increase in its Purchased Gas Adjustment (PGA) cap from \$1.14875 per therm to \$1.48875 per therm?

Recommendation: No. The Commission should deny City Gas's request for an increase to its PGA cap. The Commission should maintain the current cap of \$1.14875. Current market prices do not support a change in the cap.

Issue 2: What is the appropriate effective date for the revised cap if the Commission grants the mid-course correction requested by Florida City Gas?

Recommendation: If the Commission approves staff's recommendation in Issue 1 to deny a change in City Gas's PGA cap, this issue is moot. If the Commission approves a new cap in Issue 1, the new cap should become effective with ratepayers bills beginning September 1, 2008.

Issue 3: Should this docket be closed?

Recommendation: No. This docket is an on-going docket and should remain open.

DECISION: Item 22 was withdrawn.

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

ITEM NO.

CASE

23

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): 135 day deadline per statute - August 21, 2008*

*The critical dates have been tolled due to the Governor's Executive Order No. 08-170.

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Brown, Bulecza-Banks, Garl, Hewitt, Lester, Matlock, Maurey, McNulty, Stallcup, Webb, Wu

GCL: Brown, Klancke

(The Commission should address Issues 9 and 17 after addressing Issue 1.)

Issue 1: Has FPL met the requirements of Rule 25-22.082, Florida Administrative Code, with respect to the selection of building WCEC 3?

Recommendation: Yes. FPL issued a RFP consistent with the requirements of Rule 25-22.082, F.A.C., on December 13, 2007. The RFP process was conducted in accordance with the guidelines provided by Rule 25-22.082, F.A.C. ~~Pursuant to Rule 25-22.082(15), F.A.C., costs in addition to those identified in this need determination proceeding for WCEC 3 would not be recoverable unless FPL can demonstrate that such costs were prudently incurred and due to extraordinary circumstances.~~

DECISION: The recommendation was approved, as modified at the Commission Conference.

Issue 2: Is there a need for WCEC 3, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. FPL has demonstrated a reliability need in the summer of 2013 based on maintaining a 20 percent reserve margin planning criterion. The construction of WCEC 3 in 2011 will provide adequate generating capacity to allow for the conversions of the existing Cape Canaveral and Riviera generating units and will not adversely impact system reliability.

DECISION: The recommendation was approved.

ITEM NO.

CASE

23 **PAA

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 3: Is there a need for WCEC 3 taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. FPL has adequately demonstrated a need for WCEC 3 in 2011 and the conversions of the Riviera and Cape Canaveral plants. The cost estimates presented by all three projects consisting of capital costs, fuel costs, emission costs and water are reasonable.

DECISION: The recommendation was approved.

Issue 4: Is there a need for WCEC 3, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. While adding WCEC 3 in 2011 followed by the Riviera and Cape Canaveral conversions will not change FPL's generation mix, which will remain predominately natural gas, building additional coal or nuclear generation by 2013 is not feasible. The addition of WCEC 3 followed by the conversions will, however, lead to reductions in the amount of natural gas and fuel used. The addition of WCEC 3 and the conversions will also lead to an overall increase in system efficiency of 1.4 percent for WCEC 3 and 1.1 percent for the conversions for an overall system efficiency of 2.5 percent.

DECISION: The recommendation was approved.

Issue 5: Are there any renewable energy sources and technologies or conservation measures taken by or reasonably available to FPL which might mitigate the need for WCEC 3?

Recommendation: No. FPL's forecasted reliability need already accounts for all the identified cost-effective DSM and renewable generation. The amount of DSM and renewable generation included is the same as the amount the Commission approved as reasonable in Docket No. 070650-EI.

DECISION: The recommendation was approved.

ITEM NO.

CASE

23 **PAA

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 6: Is WCEC 3 the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. FPL's economic analysis of WCEC 3 and conversion of the Riviera and Cape Canaveral units utilized a reasonable range of fuel and environmental costs. Together, these three projects will result in the greatest savings for FPL's ratepayers.

DECISION: The recommendation was approved.

Issue 7: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition to determine need for WCEC 3?

Recommendation: Yes.

DECISION: The recommendation was approved.

Issue 8: If an affirmative determination of need is granted, should FPL be required to annually report the budgeted and actual cost compared to the estimated total in-service cost of the proposed WCEC 3?

Recommendation: Yes. Since the construction of WCEC 3 and the conversion projections are interrelated, FPL should annually report to the Director of the Division of Economic Regulation the budgeted and actual cost compared to the estimated total in-service cost of the proposed WCEC 3, Cape Canaveral Conversion, and Riviera Conversion relied upon in these proceedings.

DECISION: The recommendation was approved.

ITEM NO.

CASE

23 **PAA

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 9: Should FPL be granted an exemption from Rule 25-22.082, Florida Administrative Code, with respect to the conversion of the Riviera plant?

Recommendation: Yes. FPL's plan with the conversions is more cost-effective than the plan that was compared to the RFP responses. Therefore, FPL has demonstrated that the conversion projects will likely result in a lower cost supply of electricity and should be granted an exemption from the requirements of Rule 25-22.082(18), F.A.C. ~~Since the construction of WCEC 3 and the conversion projections are interrelated, costs in addition to those identified in this need determination proceeding for all 3 projects should not be recoverable unless FPL can demonstrate that such costs were prudently incurred and due to extraordinary circumstances.~~

DECISION: The recommendation was approved by Chairman Carter and Commissioners Edgar, McMurrian, and Argenziano, as modified at the Commission Conference. Commissioner Skop dissented.

Issue 10: Is there a need for the conversion of the Riviera plant, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. FPL has demonstrated a reliability need in the summer of 2013 based on maintaining a 20 percent reserve margin planning criterion. The construction of WCEC 3 in 2011 will provide adequate generating capacity to allow for the conversions of the existing Cape Canaveral and Riviera generating units and will not adversely impact system reliability.

DECISION: The recommendation was approved.

ITEM NO.

CASE

23 **PAA

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 11: Is there a need for the conversion of the Riviera plant, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. FPL has adequately demonstrated a need for WCEC 3 in 2011 and the conversions of the Riviera and Cape Canaveral plants. The cost estimates presented by all three projects consisting of capital costs, fuel costs, emission costs and water are reasonable.

DECISION: The recommendation was approved.

Issue 12: Is there a need for the conversion of the Riviera plant, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. While adding WCEC 3 in 2011 followed by the Riviera and Cape Canaveral conversions will not change FPL's generation mix, which will remain predominately natural gas, building additional coal or nuclear generation by 2013 is not feasible. The addition of WCEC 3 followed by the conversions will, however, lead to reductions in the amount of natural gas and fuel used. The addition of WCEC 3 and the conversions will also lead to an overall increase in system efficiency of 1.4 percent for WCEC 3 and 1.1 percent for the conversions for an overall system efficiency of 2.5 percent.

DECISION: The recommendation was approved.

ITEM NO.

CASE

23 **PAA

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 13: Are there any renewable energy sources and technologies or conservation measures taken by or reasonably available to FPL which might mitigate the need for the conversion of the Riviera plant?

Recommendation: No. FPL's forecasted reliability need already accounts for all the identified cost-effective DSM and renewable generation. The amount of DSM and renewable generation included is the same as the amount the Commission approved as reasonable in Docket No. 070650-EI.

DECISION: The recommendation was approved.

Issue 14: Is the conversion of the Riviera plant the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. FPL's economic analysis of WCEC 3 and conversion of the Riviera and Cape Canaveral units utilized a reasonable range of fuel and environmental costs. Together, these three projects will result in the greatest savings for FPL's ratepayers.

DECISION: The recommendation was approved.

Issue 15: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition to determine need for the conversion of the Riviera plant?

Recommendation: Yes.

DECISION: The recommendation was approved.

ITEM NO.

CASE

23 **PAA

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 16: If an affirmative determination of need is granted, should FPL be required to annually report the budgeted and actual cost compared to the estimated total in-service cost of the proposed Riviera Conversion?

Recommendation: Yes. Since the construction of WCEC 3 and the conversion projections are interrelated, FPL should annually report to the Director of The Division of Economic Regulation the budgeted and actual cost compared to the estimated total in-service cost of the proposed WCEC 3, Cape Canaveral Conversion, and Riviera Conversion relied upon in these proceedings.

DECISION: The recommendation was approved.

Issue 17: Should FPL be granted an exemption from Rule 25-22.082, Florida Administrative Code, with respect to the conversion of the Cape Canaveral plant?

Recommendation: Yes. FPL's plan with the conversions is more cost-effective than the plan that was compared to the RFP responses. Therefore, FPL has demonstrated that the conversion projects will likely result in a lower cost supply of electricity and should be granted an exemption from the requirements of Rule 25-22.082(18), F.A.C. ~~Since the construction of WCEC 3 and the conversion projections are interrelated, costs in addition to those identified in this need determination proceeding for all 3 projects should not be recoverable unless FPL can demonstrate that such costs were prudently incurred and due to extraordinary circumstances. FPL should be required to annually report the budgeted vs. actual construction expenses for all three projects.~~

DECISION: The recommendation was approved by Chairman Carter and Commissioners Edgar, McMurrian, and Argenziano, as modified at the Commission Conference. Commissioner Skop dissented.

ITEM NO.

CASE

23 **PAA

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 18: Is there a need for the conversion of the Cape Canaveral plant, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. FPL has demonstrated a reliability need in the summer of 2013 based on maintaining a 20 percent reserve margin planning criterion. The construction of WCEC 3 in 2011 will provide adequate generating capacity to allow for the conversions of the existing Cape Canaveral and Riviera generating units and will not adversely impact system reliability.

DECISION: The recommendation was approved.

Issue 19: Is there a need for the conversion of the Cape Canaveral plant, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. FPL has adequately demonstrated a need for WCEC 3 in 2011 and the conversions of the Riviera and Cape Canaveral plants. The cost estimates presented by all three projects consisting of capital costs, fuel costs, emission costs, and water are reasonable.

DECISION: The recommendation was approved.

ITEM NO.

CASE

23 **PAA

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 20: Is there a need for the conversion of the Cape Canaveral plant, taking into account the need for fuel diversity and supply reliability as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. While adding WCEC 3 in 2011 followed by the Riviera and Cape Canaveral conversions will not change FPL's generation mix, which will remain predominately natural gas, building additional coal or nuclear generation by 2013 is not feasible. The addition of WCEC 3 followed by the conversions will, however, lead to reductions in the amount of natural gas and fuel used. The addition of WCEC 3 and the conversions will also lead to an overall increase in system efficiency of 1.4 percent for WCEC 3 and 1.1 percent for the conversions for an overall system efficiency of 2.5 percent.

DECISION: The recommendation was approved.

Issue 21: Are there any renewable energy sources and technologies or conservation measures taken by or reasonably available to FPL which might mitigate the need for the conversion of the Cape Canaveral plant?

Recommendation: No. FPL's forecasted reliability need already accounts for all the identified cost-effective DSM and renewable generation. The amount of DSM and renewable generation included is the same as the amount the Commission approved as reasonable in Docket No. 070650-EI.

DECISION: The recommendation was approved.

Issue 22: Is the conversion of the Cape Canaveral plant the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

Recommendation: Yes. FPL's economic analysis utilized a reasonable range of fuel and environmental costs. Together, the WCEC 3 and conversion projects will result in the greatest savings for FPL's ratepayers.

DECISION: The recommendation was approved.

ITEM NO.

CASE

23 **PAA

Docket No. 080203-EI – Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

Docket No. 080245-EI – Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.

Docket No. 080246-EI – Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 23: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition to determine need for the conversion of the Cape Canaveral plant?

Recommendation: Yes.

DECISION: The recommendation was approved.

Issue 24: If an affirmative determination of need is granted, should FPL be required to annually report the budgeted and actual cost compared to the estimated total in-service cost of the proposed Cape Canaveral Conversion?

Recommendation: Yes. Since the construction of WCEC 3 and the conversion projections are interrelated, FPL should annually report to the Director of the Division of Economic Regulation the budgeted and actual cost compared to the estimated total in-service cost of the proposed WCEC 3, Cape Canaveral Conversion, and Riviera Conversion relied upon in these proceedings. ~~Costs in addition to those identified in this need determination proceeding should not be recoverable unless FPL can demonstrate that such costs were prudently incurred and due to extraordinary circumstances.~~

DECISION: The recommendation was approved, as modified at the Commission Conference.

Issue 25: Should these three dockets be closed?

Recommendation: Yes. Upon issuance of an order granting FPL's petitions to determine the need for WCEC 3, the Cape Canaveral Conversion, and the Riviera Conversion, each of these three dockets should be closed when the time for filing an appeal has run.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

24**PAA

Docket No. 070394-WU – Application for staff-assisted rate case in Pasco County by Holiday Utility Company, Inc. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): 12/01/08 (15-Month Effective Date (SARC))

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: ECR: Hudson, Bulecza-Banks, Fletcher, Lingo, Stallcup, Daniel
GCL: Jaeger

(Proposed Agency Action Except for Issues 12 and 13)

Issue 1: Is the quality of service provided by Holiday Utility Company, Inc. considered satisfactory?

Recommendation: Yes. The overall quality of service provided by Holiday Utility Company, Inc. should be considered satisfactory. The quality of the water at Westwood should be considered satisfactory; however, the quality of water at the Anclote water system is marginal because of the sodium levels, although the utility appears to be working to improve the quality of the water through the interconnection with Tarpon Springs. The operational conditions at the water treatment plants and the utility's attempts to resolve customer complaints are satisfactory. However, staff recommends that the utility be required to provide monthly status reports to the Commission beginning November 1, 2008, addressing the requirements of the DEP consent order to abandon the wells in the Anclote water system and begin purchasing water from Tarpon Springs. The reporting should continue until all requirements of the consent order are fulfilled.

Issue 2: Does the Utility have excessive unaccounted for water and, if so, what adjustments should be made?

Recommendation: Yes. During the test year period, the Westwood system had approximately 8 percent excessive unaccounted for water and the Anclote system had approximately 8 percent excessive unaccounted for water. Therefore, purchased power and chemicals for the Westwood system should be reduced by 8 percent and the pro forma purchased water expense for the Anclote water system should be reduced by 8 percent.

Issue 3: What portions of the utility's water facilities are used and useful?

Recommendation: The Westwood water treatment plant and distribution system and the Anclote water distribution system should be considered 100 percent used and useful.

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

Recommendation: The appropriate average test year rate base for Holiday is \$489,255 for water.

ITEM NO.

CASE

24 **PAA

Docket No. 070394-WU – Application for staff-assisted rate case in Pasco County by Holiday Utility Company, Inc. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

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

Recommendation: The appropriate return on equity is 11.19 percent with a range of 10.19 percent - 12.19 percent. The appropriate overall rate of return is 9.24 percent.

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

Recommendation: The appropriate test year revenue for this utility is \$126,433 for water.

Issue 7: What are the appropriate test year operating expenses?

Recommendation: The appropriate amount of operating expenses for Holiday is \$204,760 for water.

Issue 8: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$255,788 for water.

Issue 9: What is the appropriate rate structure for the Utility?

Recommendation: The appropriate rate structure for the Utility is a three-tier inclining block rate structure. The usage blocks should be set for monthly usage levels of: 1) 0-8 kgals; 2) 8.001-15 kgals; and 3) usage in excess of 15 kgals. The usage block rate factors should be set at 1.0, 1.25 and 1.5, respectively, and the BFC cost recovery allocation should be set at 25 percent.

Issue 10: Is a repression adjustment appropriate in this case, and, if so, what is the appropriate adjustment to make for this utility?

Recommendation: Yes, a repression adjustment is appropriate. Residential water consumption should be reduced by 10.3 percent, resulting in a consumption reduction of approximately 1,882 kgals. Total water consumption for ratesetting is 23,915 kgals. The resulting water system reductions to revenue requirements are \$106 in purchased power expense, \$23 in chemicals expense, \$5,708 in purchased water expense, and \$275 in regulatory assessment fees (RAFs). The post-repression revenue requirement is \$249,625.

In order to monitor the effects of both the changes in revenues and rate structure, the utility should be ordered to file monthly reports detailing the number of bills rendered, the consumption billed and the revenues billed for each system. In addition, the reports should be prepared by customer class and meter size. The reports should be filed with staff, on a quarterly basis, for a period of two years beginning 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

24 **PAA

Docket No. 070394-WU – Application for staff-assisted rate case in Pasco County by Holiday Utility Company, Inc. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

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

Recommendation: The appropriate monthly water rates are shown on Schedule No. 4 of staff's memorandum dated August 7, 2008. Excluding miscellaneous service revenues, the recommended rates are designed to produce revenues of \$249,625. 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 of the revised 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 no less than 10 days after the date of the notice.

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 rates should be reduced as shown on Schedule No. 4 of staff's memorandum dated August 7, 2008, 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. 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. 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

24 **PAA

Docket No. 070394-WU – Application for staff-assisted rate case in Pasco County by Holiday Utility Company, Inc. (Deferred from the August 19, 2008 Commission Conference.)

(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 Holiday?

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, Holiday should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum dated August 7, 2008. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., Holiday 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 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.

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

ITEM NO.

CASE

25**PAA

Docket No. 060540-WU – Application for increase in water rates in Pasco County by Colonial Manor Utility Company. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): 5-Month Effective Date Waived through 08/19/08*

*The critical dates have been tolled due to the Governor’s Executive Order No. 08-170.

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: ECR: Fletcher, Bulecza-Banks, Daniel, Lingo

GCL: Jaeger

(Proposed Agency Action Except for Issues 18 and 19)

QUALITY OF SERVICE

Issue 1: Is the quality of service provided by Colonial considered satisfactory?

Recommendation: Yes. The overall quality of service provided by Colonial should be considered satisfactory. Although the Utility’s quality of water is currently marginal because of the nitrate levels, Colonial appears to be working to improve the quality by proposing to construct an ion exchange filter system. The operational condition of the system and the Utility’s attempts to resolve customer complaints should be considered satisfactory. However, Colonial should be required to provide quarterly status reports to the Commission beginning November 1, 2008, addressing the requirements of the FDEP Consent Order to construct a centralized ion exchange treatment system to reduce the nitrate levels in the system’s water. The reporting should continue until all requirements of the consent order are fulfilled.

RATE BASE

Issue 2: Should the audit adjustments to rate base and net operating income be made?

Recommendation: Yes. Plant-in-service, revenues, operation and maintenance (O&M) expense, depreciation expense, and taxes other than income should be reduced by \$76,382, \$5,219, \$7,358, \$1,427, and \$185, respectively. Accumulated depreciation should be increased by \$76,847. The detailed account adjustments for plant, accumulated depreciation, O&M expenses, and depreciation expense are shown on Schedules Nos. 1-E and 1-H of staff’s memorandum dated August 11, 2008.

Issue 3: Should any adjustment be made to plant-in-service for the test year ending December 31, 2007?

Recommendation: Yes. In order to reflect the Utility’s rate base to a 2007 simple average balance and to capitalize expenses associated with emergency main breaks, plant should be increased by \$13,632. Corresponding adjustments should be made to increase accumulated depreciation by \$15,699 and depreciation expense by \$478.

ITEM NO.

CASE

25 **PAA

Docket No. 060540-WU – Application for increase in water rates in Pasco County by Colonial Manor Utility Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 4: Should adjustments be made to the Utility's pro forma plant additions?

Recommendation: Yes. In order to remove pro forma amounts to reflect the appropriate phase-one rate base, plant and accumulated depreciation should be reduced by \$794,458 and \$37,826, respectively. With regard to phase-two, pro forma plant should be increased by \$99,642. In accordance with the depreciation rates required in Rule 25-30.140, F.A.C., phase-two pro forma accumulated depreciation should be decreased by \$3,907.

Issue 5: What portions of the Utility's water facilities are used and useful?

Recommendation: The Utility's water treatment facilities and distribution system should be considered 100 percent used and useful.

Issue 6: Should the Utility's request for an acquisition adjustment be approved?

Recommendation: No. Colonial's request for a positive acquisition should be denied. An adjustment should be made to remove the acquisition adjustment in the amount of \$188,851.

Issue 7: What is the appropriate working capital allowance?

Recommendation: In accordance with Rule 25-30.433(2), F.A.C., the appropriate amount of working capital is \$15,324 for phase-one and \$20,359 for phase-two.

Issue 8: What is the appropriate rate base for the December 31, 2007, test year?

Recommendation: The appropriate water rate base for the test year ending December 31, 2007, is \$244,706 for phase-one and \$1,109,922 for phase-two.

COST OF CAPITAL

Issue 9: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2007?

Recommendation: The appropriate return on equity is 12.01 percent with a range of 11.01 percent - 13.01 percent. The appropriate overall rate of return is 5.86 percent for phase-one and 6.59 percent for phase-two.

NET OPERATING INCOME

Issue 10: What is the appropriate annualized revenue adjustment?

Recommendation: The appropriate annualized revenue adjustment is \$1,786, and the utility's annualized revenue adjustment amount of \$5,000 should be reduced by \$3,214.

Issue 11: Should any further adjustments be made to the Utility's test year operation and maintenance expenses?

Recommendation: Yes. O&M expenses should be decreased by \$6,689 to amortize non-recurring expenses and by \$4,953 to remove expenses that should be capitalized.

ITEM NO.

CASE

25 **PAA

Docket No. 060540-WU – Application for increase in water rates in Pasco County by Colonial Manor Utility Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 12: Should any adjustments be made to pro forma operating expenses?

Recommendation: Yes. In order to remove pro forma amounts to reflect the appropriate phase-one net operating income, O&M expense, depreciation expense, and property taxes should be reduced by \$43,165, \$37,826, and \$15,108, respectively. Phase-two pro forma O&M expenses, depreciation expense, and property taxes should be reduced by \$2,883, \$3,907, and \$883, respectively.

Issue 13: What is the test year pre-repression operating income or loss before any revenue increase?

Recommendation: Based on the adjustments discussed in previous issues, the test year operating income for phase-one and operating loss for phase-two before any provision for increased revenues are \$11,764 and \$28,225, respectively.

REVENUE REQUIREMENT

Issue 14: What is the appropriate pre-repression revenue requirement for the December 31, 2007 test year?

Recommendation: The following pre-repression revenue requirement should be approved.

	Test Year		Revenue	
	<u>Revenues</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
Phase-One	\$157,364	\$4,308	\$161,672	2.74%
Phase-Two	\$157,364	\$170,204	\$327,568	108.16%

RATES AND CHARGES

Issue 15: What are the appropriate rate structures for phase-one and phase-two for the Utility?

Recommendation: The Utility’s current inclining block rate structure should remain in place during phase-one. The appropriate phase-two rate structure is a continuation of the phase-one rate structure, with usage blocks remaining at residential monthly usage levels of: 1) 0-10,000 gallons (10 kgals); and 2) usage in excess of 10 kgals. However, the usage block rate factors should be changed to 1.0 and 2.0, respectively, and the base facility charge (BFC) cost recovery allocation should be set at 40 percent. The uniform gallonage charge should continue to be applied to all general service consumption.

ITEM NO.

CASE

25 **PAA

Docket No. 060540-WU – Application for increase in water rates in Pasco County by Colonial Manor Utility Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 16: Are repression adjustments appropriate for phase-one and phase-two in this case, and, if so, what are the appropriate adjustments to make for this utility?

Recommendation: No repression adjustment is appropriate for phase-one; however, a repression adjustment is appropriate for phase-two. Residential water consumption in phase-two should be reduced by 15.1%, resulting in a consumption reduction of approximately 5,846 kgals. Total water consumption for rate setting is 33,953 kgals. The resulting water system reductions to revenue requirements are \$2,534 in purchased power expense, \$1,058 in chemicals expense, \$495 in purchased water expense, and \$192 in regulatory assessment fees (RAFs). The appropriate phase-two post-repression revenue requirement is \$319,192.

In order to monitor the effects of both the changes in revenues and rate structure, the Utility should be ordered to file monthly reports detailing the number of bills rendered, the consumption billed and the revenues billed for each system during phase-one and phase-two. In addition, the reports should be prepared by customer class and meter size. The reports should be filed with staff, on a quarterly basis, for a period of two years beginning the first billing period after the approved phase-one 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 17: What are the appropriate monthly rates for the Utility?

Recommendation: The appropriate monthly phase-one and phase-two rates are shown on Schedule No. 4 of staff's memorandum dated August 11, 2008. Excluding miscellaneous service revenues, the phase-two recommended rates are designed to produce revenues of \$319,192. In addition, phase-two rates should not become effective until the FDEP certifies completion of the ion exchange treatment system. 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 of the revised 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 no less than 10 days after the date of the notice.

ITEM NO.

CASE

25 **PAA

Docket No. 060540-WU – Application for increase in water rates in Pasco County by Colonial Manor Utility Company. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 18: 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 rates should be reduced as shown on Schedule No. 4 of staff's memorandum dated August 11, 2008, 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. 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. 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.

OTHER

Issue 19: 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 (NARUC) Uniform System of Accounts (USOA) primary accounts associated with the Commission approved adjustments?

Recommendation: Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, Colonial should provide proof, within 90 days of the Consummating Order, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Issue 20: Should this docket be closed?

Recommendation: No. If no timely protest is filed by a substantially affected person within 21 days of the Proposed Agency Action Order, a Consummating Order should be issued. However, the docket should remain open to allow staff to monitor the appropriate implementation of phase-two rates.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

26**PAA

Docket No. 080113-WS – Application for certificates to provide water and wastewater service in Duval County by Regency Utilities, Inc. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): 08/19/08 (Statutory Deadline for original certificate pursuant to Section 367.031, Florida Statutes)*

*The critical dates have been tolled due to the Governor’s Executive Order No. 08-170.

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: ECR: Brady, Redemann

GCL: Bennett

(Proposed Agency Action for Issues 2 and 3)

Issue 1: Should Regency Utilities, Inc.’s application for water and wastewater certificates be granted?

Recommendation: Yes. Regency Utilities, Inc. should be granted Certificate Nos. 641-W and 551-S to serve the territory described in Attachment A of staff’s memorandum dated August 7, 2008, effective the date of the Commission’s vote. The resultant order should serve as Regency Utilities, Inc.’s water and wastewater certificates and should be retained by the utility.

Issue 2: Should the utility’s proposed water and wastewater rates and return on investment be approved?

Recommendation: Yes. The water and wastewater rates shown on Schedule No. 4 of staff’s memorandum dated August 7, 2008, should be approved. Regency should be required to charge the approved rates and charges until authorized to change them by this Commission in a subsequent proceeding. The utility should file a proposed customer notice to reflect the Commission-approved rates. The water and wastewater rates should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice and tariff sheets. The utility should distribute the notice to the customers no later than with the first bill containing the rates and should provide proof of the date the notice was given no less than ten days after the date of the notice. A return on equity of 9.07% with a range of plus or minus 100 basis points should be approved.

Issue 3: Should the utility’s request for miscellaneous service charges and a late fee be approved?

Recommendation: Yes. The utility’s request for miscellaneous service charges and a late fee should be approved. The charges should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C.

ITEM NO.

CASE

26 **PAA

Docket No. 080113-WS – Application for certificates to provide water and wastewater service in Duval County by Regency Utilities, Inc. (Deferred from the August 19, 2008 Commission Conference.)

(Continued from previous page)

Issue 4: Should this docket be closed?

Recommendation: No. If no protest to the proposed agency action issues is filed by a substantially affected person within 21 days of the date of the PAA order, a consummating order should be issued and the docket administratively closed upon verification by staff that required tariff and notice have been reviewed and that notice has been sent.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

27**

Docket No. 080183-WU – Joint application for approval of transfer of Tamiami Village Water Company, Inc.'s water system and Certificate No. 388-W in Lee County to Ni Florida, LLC. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Brady, Marsh, Redemann

GCL: Klancke

Issue 1: Should the Commission approve the transfer of facilities and Certificate No. 388-W from Tamiami Village Water Company, Inc. to Ni Florida, LLC?

Recommendation: Yes, the transfer of facilities and Certificate No. 388-W is in the public interest and should be approved effective as of the date of the Commission's vote. A description of the territory being transferred is appended to this recommendation as Attachment A of staff's memorandum dated August 7, 2008. The subsequent order will serve as the utility's water certificate and should be retained by the utility. Tamiami is responsible for payment of 2008 RAFs from January 1, 2008, to the date of the closing. Ni Florida is responsible for payment of 2008 RAFs from the date of closing through December 31, 2008, and RAFs for all future years. Ni Florida is also responsible for filing the utility's annual report for 2008 and all future years. Pursuant to Rule 25-9.044(1), Florida Administrative Code (F.A.C.), the rates and charges approved for the utility should be continued until authorized to change by the Commission in a subsequent proceeding. The buyer should be required to file documentation confirming the closing of the purchase within 15 days of the closing and an updated territory map within 6 months from the date of the closing. The docket should remain open until rate base is established by the Commission at a subsequent agenda conference.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open until staff receives proof of the executed purchase agreement confirming the closing, staff receives and verifies an updated territory map, and rate base is established by the Commission at a subsequent agenda.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

28**

Docket No. 080180-WU – Application for transfer of majority organizational control of Pasco Utilities, Inc., holder of Certificate No. 168-W in Pasco County, to Gary Deremer and Cecil Delcher.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Clapp, Kaproth, Rieger

GCL: Hartman

Issue 1: Should the transfer of majority organizational control be approved?

Recommendation: Yes, the transfer of majority organizational control of Pasco Utilities, Inc., Certificate No. 168-W, to Gary Deremer and Cecil Delcher is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as the utility's water certificate and should be retained by the utility. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

Issue 2: Should this docket be closed?

Recommendation: Yes, because no further action is necessary, this docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

29

Docket No. 050863-TP – Complaint by DPI-Teleconnect, L.L.C. against BellSouth Telecommunications, Inc. for dispute arising under interconnection agreement. (Deferred from the August 19, 2008 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: McMurrian, Argenziano, Skop
Prehearing Officer: McMurrian

Staff: GCL: Tan
RCP: Trueblood

Issue 1A: Is dPi entitled to credits for the AT&T Florida line connection charge waiver promotion when dPi orders free blocks on resale lines?

Recommendation: No. Staff does not believe the TouchStar Service blocks that dPi orders for its resale lines that are provided by AT&T free of charge are “purchased” features that qualify for promotional credits. Staff recommends that dPi is entitled to credits for the Line Connection Charge Waiver promotion only when a dPi reacquisition or win-over customer purchases basic service and two features.

Issue 1B: If so, in what amount?

Recommendation: If staff’s recommendation in Issue 1A is approved, dPi is not entitled to any credits. If staff’s recommendation is denied in Issue 1A, dPi is entitled to credits in the amount of \$59,210 for the Line Connection Charge Waiver promotion.

Issue 2A: Is dPi entitled to any other promotional resale credits from AT&T Florida?

Recommendation: No. dPi is not entitled to any other promotional credits from AT&T Florida.

Issue 2B: If so, in what amount?

Recommendation: Since dPi waived its position on Issue 2A, dPi is not entitled to any credits.

Issue 3: Should this docket be closed?

Recommendation: Yes. The docket should be closed after the time for filing an appeal has run.

DECISION: The recommendations were approved.

Commissioners participating: McMurrian, Argenziano, Skop

ITEM NO.

CASE

30**

Docket No. 070601-WU – Application for staff-assisted rate case in Pasco County by Orangeland Water Supply.

Critical Date(s): 2/14/09 (15-Month Effective Date (SARC))

Commissioners Assigned: McMurrian, Argenziano, Skop
Prehearing Officer: Skop

Staff: ECR: Deason, Bulecza-Banks, Fletcher, Bruce, Lingo, Stallcup
GCL: Hartman

Issue 1: Should the Commission approve the Amended Settlement Agreement in its entirety?

Recommendation: Yes. The Amended Settlement Agreement should be approved. The Utility should file a proposed customer notice and revised tariff sheets within 15 days of the Commission vote, which is consistent with the Commission's decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), after staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. The Utility should provide proof that the customers have received notice within 10 days after the date of the notice.

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open until a final order has been issued, staff has approved the revised tariffs sheets and customer notices within 15 days of the Commission vote, the utility has sent the notices to its customers, and staff has received proof that the customers have received notice within 10 days after the date of the notice. Once staff has verified all of the above actions are complete, this docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: McMurrian, Argenziano, Skop