

MINUTES OF September 29, 2008

COMMISSION CONFERENCE

COMMENCED: 9:35 am
RECESSED: 12:00 noon
RECONVENED: 12:30 pm
ADJOURNED: 1:37 pm

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** **Consent Agenda**

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
080524-TX	SKYNET360, LLC
080527-TX	DSCI Corporation
080570-TX	Global Capacity Group, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
080493-TX	Excella Communications Inc.	7/14/2008

ITEM NO.

CASE

1**

Consent Agenda

(Continued from previous page)

C) Docket No. 080567-GU - Application by Florida Public Utilities Company (Company) for authority to issue and sell and/or exchange any combination of long-term debt, short-term notes and equity securities and/or to assume liabilities or obligations as guarantor, endorser or surety in an incremental amount not to exceed \$45 million, excluding retained earnings during calendar year 2009. Included in this \$45 million amount is the Company's request for authority to issue up to \$25 million in short-term notes during calendar year 2009. The Company states that its regulated share of this financing will not exceed 90 percent, or \$40.5 million.

For monitoring purposes, this docket should remain open until April 28, 2010 to allow the Company time to file the required Consummation Report.

D) Docket No. 080580-EI - Tampa Electric Company ("Company") seeks the authority to issue, sell and/or exchange equity securities and issue, sell, exchange and/or assume long-term or short-term debt securities and/or to assume liabilities or obligations as guarantor, endorser, or surety during calendar year 2009. The Company also seeks authority to enter into interest rate swaps or other derivative instruments related to debt securities during calendar year 2009.

The amount of all equity and long-term debt securities issued, sold, exchanged or assumed and liabilities and obligations assumed or guaranteed as guarantor, endorser, or surety will not exceed in the aggregate \$900 million during calendar year 2009, including any amounts issued to retire existing long-term debt securities. The maximum amount of short-term debt outstanding at any one time will be \$900 million during calendar year 2009. This application is for both Tampa Electric Company and its local gas distribution division, Peoples Gas System.

In connection with this application, Tampa Electric confirms that the capital raised pursuant to this application will be used in connection with the activities of the Company's regulated electric and gas divisions and not the unregulated activities of the utilities or its affiliates.

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

2

Docket No. 060122-WU – Joint petition for approval of stipulation on procedure with Office of Public Counsel, and application for limited proceeding increase in water rates in Pasco County, by Aloha Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Hartman

ECR: Fletcher

(Oral Argument Requested on Issue 2.)

Issue 1: Should the Commission grant Aloha's request for oral argument?

Recommendation: Yes, the Commission should grant Aloha's request for oral argument, and recommends that 10 minutes per side should be allowed.

DECISION: The recommendation is moot. The Motion for Abatement was granted.

Issue 2: What action should the Commission take with regard to OPC's Motion to Dismiss or in the Alternative Motion to Amend Procedural Order and Aloha's Response in opposition?

Recommendation: The Commission should deny OPC's Motion to Dismiss and should grant the Motion to Amend the Procedural Order. Staff recommends the Commission order Aloha to refile its direct testimony and exhibits by October 15, 2008.

DECISION: The recommendation is moot. The Motion for Abatement was granted. Further hearing dates to be schedule by the Prehearing Officer.

Issue 3: Should this docket be closed?

Recommendation: No, this docket should remain open pending the resolution of the protest, and further action associated with the Stipulation.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3**

Docket No. 080187-EQ – Petition for approval of amended standard offer contract and COG-2 rate schedule, by Progress Energy Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: GCL: Hartman

ECR: Kummer

SGA: Sickel, Lewis, Webb

(Procedural recommendation to close docket after party voluntarily withdrew petition.)

Issue 1: Should the Commission acknowledge Progress Energy Florida, Inc.'s voluntary withdrawal of its Petition Requesting Approval of a Standard Offer Contract and Associated Tariffs, filed April 1, 2008, in Docket No. 080187-EQ?

Recommendation: Yes, the Commission should acknowledge Progress Energy Florida, Inc.'s voluntary withdrawal of its Petition Requesting Approval of a Standard Offer Contract and Associated Tariffs as a matter of right. The effect of the voluntary withdrawal is to divest the Commission of further jurisdiction over PEF's petition but not over the subject matter.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4**

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): October 13, 2008 (Rule Waiver Deadline)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Hartman

ECR: Kummer

SGA: Sickel

Issue 1: Should the Commission grant PEF's petition for a waiver of Rules 25-17.250(1) and (2)(a), F.A.C.?

Recommendation: Yes. PEF's petition for a waiver of Rules 25-17.250(1) and (2)(a), F.A.C., should be granted.

Issue 2: If the waiver of rules is granted, are the standard offer contract and its associated tariffs filed by Progress Energy Florida, Inc. (PEF) on July 15, 2008, in compliance with Rules 25-17.200 through 25-17.310, F.A.C.?

Recommendation: Yes. Assuming the waiver of rules is granted, the standard offer contract and its associated tariffs proposed by PEF are in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and therefore should be approved and made effective as of the date of the Commission's vote.

Issue 3: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation to approve the proposed Standard Offer Contract and tariffs filed by PEF, the tariffs should be made effective September 29, 2008. If no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 080501-EI should be closed. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that PEF's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5**PAA

Docket No. 080546-TI – Joint request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., in transfer of long distance customers from EliteView, LLC d/b/a GroveLine to BCN Telecom, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Watts

GCL: Morrow, 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 EliteView LLC d/b/a GroveLine's long distance customers to BCN Telecom, 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 the specific set of customers identified in the petition. The petitioners should be required to provide the Commission notification of the actual date when the transaction is consummated. If for any reason the transaction is not consummated, any waiver approved by the Commission shall be null and void.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

6**

Docket No. 080137-TI – Joint request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., in transfer of long distance customers from STARTEC Global Operating Company (TK051) to Americatel Corporation d/b/a 1010 123 Americatel d/b/a 10-15-688 AMETEX d/b/a 1 800 3030 123 Americatel Collect (TJ049); and request for cancellation of IXC Registration No. TK051, effective on consummation of transaction, on or about March 31, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Watts

GCL: McKay

Issue 1: Should the Commission vacate Proposed Agency Action Order No. PSC-08-0275-PAA-TI and Consummating Order No. PSC-08-0349-CO-TI in regard to the joint request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., in transfer of long distance customers from STARTEC Global Operating Company to Americatel Corporation d/b/a 1010 123 Americatel d/b/a 10-15-688 AMETEX d/b/a 1 800 3030 123 Americatel Collect?

Recommendation: Yes, the Commission should vacate PAA Order No. PSC-08-0275-PAA-TI, issued on April 30, 2008, and Consummating Order No PSC-08-0349-CO-TI, issued on May 28, 2008.

Issue 2: Should this docket be closed?

Recommendation: Yes, this docket should be closed upon the issuance of the Commission's Order vacating Proposed Agency Action Order No. PSC-08-0275-PAA-TI and Consummating Order No. PSC-08-0349-CO-TI.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 060614-TC – Compliance investigation of TCG Public Communications, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records, and determination of amount and appropriate method for refunding overcharges for collect calls made from inmate pay telephones. (Deferred from the September 16, 2008 Commission Conference)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: RCP: Curry, Kennedy

GCL: Tan, Teitzman

SSC: Moses

(Portions of the recommendation are based on confidential material and access to the material is controlled. Proposed Agency Action for Issues 1, 2, and 3 - Initiation to Show Cause for Issue 4.)

Issue 1: Is TCG the appropriate certificated entity to be held responsible for the improper disconnection of inmate calls caused by the Three-Way Call Detection software?

Recommendation: Yes, TCG is the appropriate certificated entity to be held responsible for the improper disconnection of inmate calls caused by the Three-Way Call Detection software.

Issue 2: Should the Commission accept TCG Public Communications, Inc.'s proposed settlement offer to make available a settlement pool in the amount of \$175,000 from which customers who were affected by the improper disconnection of inmate calls caused by the Three-Way Call Detection software may obtain a refund?

Recommendation: No, the Commission should not accept TCG Public Communications, Inc.'s proposed settlement offer to make available a settlement pool in the amount of \$175,000 from which customers who were affected by the improper disconnection of inmate calls caused by the Three-Way Call Detection software may obtain a refund.

ITEM NO.

CASE

7**PAA

Docket No. 060614-TC – Compliance investigation of TCG Public Communications, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records, and determination of amount and appropriate method for refunding overcharges for collect calls made from inmate pay telephones.

(Continued from previous page)

Issue 3: Should the Commission order TCG Public Communications, Inc. to dispose of refunds up to the maximum amount of \$6,290,450, plus interest, for the improper disconnection of inmate calls due to the implementation of the Three-Way Call Detection software?

Recommendation: Yes, the Commission should order TCG Public Communications, Inc. to dispose of refunds up to the maximum amount of \$6,290,450, plus interest, calculated in accordance with Rule 25-4.114, F.A.C., Refunds, for the improper disconnection of inmate calls due to the implementation of the Three-Way Call Detection software. TCG should remit the refund, plus interest, directly to the Florida Public Service Commission for deposit into the General Revenue Fund within 30 days of the issuance of the Consummating Order.

Issue 4: Should the Commission order TCG Public Communications, Inc. to show cause in writing within 21 days of the issuance of the Commission's Order why it should not be penalized in the amount of \$1,266,000 for its apparent violation of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service, Section 364.183(1), Florida Statutes, Access to Company Records, and for its apparent violation of Section 364.604 (2), Florida Statutes, Billing Practices?

Recommendation: Yes, the Commission should order TCG Public Communications, Inc. to show cause in writing within 21 days of the issuance of the Commission's Order why it should not be penalized in the amount of \$1,266,000 for its apparent violation of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service, Section 364.183(1), Florida Statutes, Access to Company Records, and for its apparent violation of Section 364.604 (2), Florida Statutes, Billing Practices. The company's response should contain specific allegations of facts and law. If TCG fails to respond to the show cause order or request a hearing, pursuant to Section 120.57, F.S., within the 21-day response period, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If TCG pays the penalty it should be submitted to the Commission for deposit into the General Revenue Fund, pursuant to Section 364.285, F.S.

ITEM NO.

CASE

7**PAA

Docket No. 060614-TC – Compliance investigation of TCG Public Communications, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records, and determination of amount and appropriate method for refunding overcharges for collect calls made from inmate pay telephones.

(Continued from previous page)

Issue 5: Should this docket be closed?

Recommendation: If the Commission approves staff recommendations for Issues 1, 2, and 3 and no person whose substantial interests are affected by the Proposed Agency Action files a protest within 21 days of the issuance of the order, a Consummating Order will be issued. Upon issuance of the Consummating Order TCG should remit all refunds, with interest, to the Commission to be deposited in the General Revenue Fund within 30 days after the issuance of the Consummating Order.

If the Commission approves staff's recommendation for Issue 4 and TCG does not respond to the Show Cause Order, the penalty should be deemed assessed. If TCG pays the penalty it should be remitted to the Commission to be deposited into the General Revenue Fund, pursuant to Section 364.285, F.S.

Upon payment of the refund and penalties this docket should be closed administratively.

DECISION: This item was deferred. Parties and staff were directed to work together and report back to the Commissioners regarding settlement negotiations within the next 30 days.

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

ITEM NO.

CASE

8**PAA

Docket No. 080512-EQ – Petition for approval of a negotiated power purchase contract for purchase of firm capacity and energy with Vision / FL, LLC, by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Sickel, Crawford, Ellis

GCL: Hartman

Issue 1: Should the Commission approve for purposes of cost recovery the proposed contract between Progress Energy Florida (PEF) and Vision / FL, LLC (Vision), for purchase of 40 MW of renewable firm capacity and energy?

Recommendation: Yes. Payments for capacity and energy are not expected to exceed PEF's avoided costs. The performance security required in the contract sufficiently protects ratepayers in the event of default.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected files a protest within 21 days of the issuance of the Commission's order approving the petition and contract, 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

9**

Docket No. 080317-EI – Petition for rate increase by Tampa Electric Company.

Critical Date(s): 10/10/08 (60-Day Suspension Date)
04/13/09 (8-Month Effective Date)

Commissioners Assigned: All Commissioners
Prehearing Officer: Skop

Staff: ECR: Slemkewicz
GCL: Young, Brown, Hartman

Issue 1: Should Tampa Electric Company's request for a \$228.2 million permanent base rate increase and its associated tariff revisions be suspended pending a final decision in this docket?

Recommendation: Yes. The \$228.2 million permanent base rate increase and its associated tariff revisions requested by Tampa Electric Company should be suspended pending a final decision in this docket.

Issue 2: Should this docket be closed?

Recommendation: No, this docket should remain open to process the Company's revenue increase request.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**PAA

Docket No. 070626-EI – Review of Florida Power & Light Company's Sunshine Energy Program.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Devlin

RCP: Salak

GCL: Fleming

Issue 1: Did the Staff audit account for all monies expended by Green Mountain and were those expenditures related to the Sunshine Energy Program?

Recommendation: Yes, the audit results indicate Green Mountain used the monies for purposes related to the Sunshine Energy Program.

DECISION: The recommendation was approved. Staff made an oral modification to the staff analysis portion of this issue adding the language “the Program was terminated because it no longer served the interests of its participants and no longer aligned with current state renewable energy policies” and deleted the language “overall Program results were not in the public interest when compared to similar programs.” Commissioner Skop dissented, in part.

Issue 2: Should this docket be closed?

Recommendation: No. If no substantially affected person files a protest within 21 days of the issuance of the order, this issue will become final upon the issuance of a consummating order. However, the docket should remain open pending resolution of the amounts held in escrow pursuant to Order No. PSC-08-0600-PAA-EI.

DECISION: The recommendation was modified, with the additional language that the Commission direct staff to work with the parties on any fallout/technical issues, including escrow amounts, that may remain and to follow through on the ending of the program; with the additional understanding that the two bullet points (at the top of the attached “FPL Adjustments handout) will be the treatment that these items will receive. Staff will have administrative authority to close the docket once the Commission deals with any fallout issues. Commissioner Skop dissented.

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

ITEM NO.

CASE

11**PAA

Docket No. 080514-GU – Investigation into 2006 earnings of the gas division of Florida Public Utilities Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Slemkewicz, Bulecza-Banks, Kyle, Livingston, Maurey, Springer
GCL: Klancke

Issue 1: What is the appropriate amount of rate base for the Gas Division of Florida Public Utilities Company for determining the amount of excess earnings for 2006?

Recommendation: The appropriate amount of rate base for the Gas Division of Florida Public Utilities Company for determining the amount of excess earnings for 2006 is \$57,640,036.

Issue 2: What is the appropriate overall rate of return for the Gas Division of Florida Public Utilities Company for determining the amount of excess earnings for 2006?

Recommendation: The appropriate overall rate of return for the Gas Division of Florida Public Utilities Company for determining the amount of excess earnings for 2006 is 8.29 percent.

Issue 3: What is the appropriate net operating income for the Gas Division of Florida Public Utilities Company for determining the amount of excess earnings for 2006?

Recommendation: The appropriate net operating income for the Gas Division of Florida Public Utilities Company for determining the amount of excess earnings for 2006 is \$4,876,605.

Issue 4: What is the appropriate amount of excess earnings for the Gas Division of Florida Public Utilities Company for 2006?

Recommendation: The appropriate amount of excess earnings for the Gas Division of Florida Public Utilities Company for 2006 is \$176,144, including interest of \$16,199 through August 31, 2008. Interest should continue to accrue until a final disposition of the excess earnings is made.

Issue 5: What is the appropriate disposition of the 2006 excess earnings for the Gas Division of Florida Public Utilities Company?

Recommendation: The 2006 excess earnings of \$176,144, including interest, should be applied to the storm reserve to cover future storm-related costs.

ITEM NO.

CASE

11**PAA

Docket No. 080514-GU – Investigation into 2006 earnings of the gas division of Florida Public Utilities Company.

(Continued from previous page)

Issue 6: 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

12 **Docket No. 080318-GU** – Petition for rate increase by Peoples Gas System.

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

Commissioners Assigned: All Commissioners
Prehearing Officer: Skop

Staff: ECR: Marsh, Buys, Draper, Kyle, Springer
GCL: Klancke, Fleming

(Decision on Interim Rates - ~~Participation is limited to Commissioners and Staff~~
Participation is at the discretion of the Commission.)

Issue 1: Should the \$26,488,091 permanent base rate increase and its associated tariff revisions requested by Peoples Gas System be suspended pending a final decision in this docket?

Recommendation: Yes. The \$26,488,091 permanent base rate increase and its associated tariff revisions requested by Peoples Gas System should be suspended pending a final decision in this docket.

Issue 2: Is Peoples Gas System’s proposed April 30, 2008 interim test year rate base of \$515,212,000 appropriate?

Recommendation: Yes. The appropriate interim test year rate base for Peoples is \$515,212,000.

Issue 3: Are Peoples Gas System’s proposed return on equity of 10.25 percent and overall cost of capital of 8.31 percent appropriate for the purpose of determining interim rates?

Recommendation: Yes. Peoples proposed return on equity of 10.25 percent and overall cost of capital of 8.31 percent are appropriate for purposes of determining interim rates.

Issue 4: Is Peoples Gas System’s proposed April 30, 2008 interim test year net operating income of \$40,534,000 appropriate?

Recommendation: No. The appropriate interim test year net operating income for Peoples is \$41,366,000.

Issue 5: Is Peoples Gas System’s proposed interim net operating income multiplier of 1.6436 appropriate?

Recommendation: Yes. Peoples’ proposed interim net operating income multiplier of 1.6436 is appropriate.

Issue 6: Should Peoples Gas System’s requested interim revenue increase of \$3,748,000 and percentage increase factor of 2.42 percent be granted?

Recommendation: No. After making the above adjustments, the interim revenue increase for Peoples should be \$2,380,000, for a percentage increase of 1.54 percent.

ITEM NO.

CASE

12 **Docket No. 080318-GU – Petition for rate increase by Peoples Gas System.**

(Continued from previous page)

Issue 7: How should the interim revenue increase for Peoples Gas System be distributed among the rate classes?

Recommendation: Any interim revenue increase approved should be applied evenly across the board to all rate classes based on their base rate revenues, as required by Rule 25-7.040, F.A.C., and should be recovered on a cents-per-therm basis. The interim rates should be made effective for all meter readings made on or after 30 days from the date of the vote approving any interim increase. The Company should give notice to customers of the interim increase commencing with the first bill for service that reflects the increase.

Issue 8: What is the appropriate security to guarantee the funds collected subject to refund?

Recommendation: The appropriate security to guarantee the funds collected subject to refund is a corporate undertaking.

Issue 9: Should this docket be closed?

Recommendation: No. This docket should remain pending the Commission’s final resolution of the company’s requested rate increase.

DECISION: The recommendations were approved. An oral modification was made to the first page of the recommendation replacing the language “Participation is limited to Commissioners and Staff” with “Participation is at the discretion of the Commission.”

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

ITEM NO.

CASE

13**PAA

Docket No. 080079-SU – Application for certificate to provide wastewater service in Highlands County by Utility Corporation of Florida, Inc.

Critical Date(s): September 30, 2008 (Statutory Deadline for original certificate, pursuant to Section 367.031, Florida Statutes)

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Brady, Redemann

GCL: Klancke

(Proposed Agency Action for Issues 4 and 5.)

Issue 1: Should Utility Corporation of Florida, Inc. be ordered to show cause, in writing within 21 days, as to why they should not be fined for providing wastewater service to the public for compensation without first obtaining a certificate of authorization from the Commission in apparent violation of Sections 367.031 and 367.045, F.S., and Rule 25-30.034, Florida Administrative Code (F.A.C)?

Recommendation: No. Show cause proceedings should not be initiated.

Issue 2: Should Utility Corporation of Florida, Inc. be ordered to show cause, in writing within 21 days, as to why it should not be fined for initiating an unauthorized rate increase on January 1, 2008, in apparent violation of Sections 367.081(1) and 367.091(3), F.S., and Rule 25-30.135, F.A.C.?

Recommendation: No. Show cause proceedings should not be initiated.

Issue 3: Should Utility Corporation of Florida, Inc.'s application for wastewater certificate be granted?

Recommendation: Yes. The utility should be granted Certificate No. 550-S to serve the territory described in Attachment A of staff's recommendation dated September 17, 2008, effective the date of the Commission's vote. The resultant order should serve as the utility's wastewater certificate and should be retained by the utility.

Issue 4: What are the appropriate rates and charges for Utility Corporation of Florida, Inc.?

Recommendation: A monthly service rate of \$32.00 per unit for wastewater treatment services should be approved. In addition, a usage charge of \$0.50 per thousand gallons of treated effluent should be approved. Utility Corp. should be required to charge these approved rates until authorized to change them by this Commission in a subsequent proceeding. Utility Corp. should file a proposed customer notice and tariff sheets reflecting the Commission-approved rates for staff approval. Once the notice and tariff sheets have been approved, 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. The utility should distribute the approved notice to customers no later than with the first bill containing the rates. Proof of the date the notice was given should be filed within ten days after the date of the notice.

ITEM NO.

CASE

13**PAA

Docket No. 080079-SU – Application for certificate to provide wastewater service in Highlands County by Utility Corporation of Florida, Inc.

(Continued from previous page)

Issue 5: Should the utility be required to refund any increase in rates collected since January 1, 2008?

Recommendation: Yes. The utility should be required to refund all of the revenues collected from the unauthorized rate increase, with interest, within 90 days of the Consummating Order, pursuant to Rule 25-30.360, F.A.C. Interest should be calculated, pursuant to Rule 25-30.360(4), F.A.C., with the average monthly interest rate calculated for each month of the refund period. Interest on the refunds should continue to accrue until the refunds are complete. The refunds should be credited to the accounts of the customers who paid the unauthorized rate increase (qualified customers) or mailed to each qualified customer's last known address. No maintenance or administrative costs associated with the refunds should be borne by the customers. The utility should provide monthly refund reports until the refunds are completed, as well as a final refund status report within 30 days from the date that the refunds are completed, as required by Rule 25-30.360(2) and (7), F.A.C, respectively. The utility should treat any unclaimed refunds in accordance with Rule 25-30.360(8), F.A.C.

Issue 6: Should this docket be closed?

Recommendation: No. Upon expiration of the protest period, if a timely protest is not filed by a substantially affected person to the proposed agency action issues, the Order should become final and effective upon the issuance of a Consummating Order. The docket should be held open pending verification that noticing to customers of the Commission-approved rates has been given and that refunds to customers have been made after which staff should be granted administrative authority to close the docket.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14**PAA

Docket No. 070680-WS – Application for staff-assisted rate case in Pasco County by Orangewood Lakes Services, Inc.

Critical Date(s): 04/07/09 (15-Month Effective Date (SARC))

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrian

Staff: ECR: Hudson, Bruce, Bulecza-Banks, Fletcher, Daniel, Stallcup, Redmann
GCL: Klancke

(Proposed Agency Action Except for Issues 12, 14, 15, 16, and 17.)

Issue 1: Should the quality of service provided by Orangewood be considered satisfactory?

Recommendation: Yes. The Utility's quality of product, operational condition, and attempts to address customer complaints are satisfactory; therefore, the overall quality of service provided by Orangewood should be considered satisfactory.

Issue 2: What are the used and useful percentages for Orangewood's water and wastewater systems?

Recommendation: The Utility's water and wastewater treatment, distribution, and collection facilities are 100 percent used and useful.

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

Recommendation: The appropriate average test year rate base for Orangewood is \$32,751 for water and \$46,546 for wastewater.

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

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 7.67 percent.

Issue 5: What are the appropriate pre-repression billing determinants for ratesetting purposes for the respective water and wastewater systems?

Recommendation: The appropriate pre-repression billing determinants for ratesetting are 4,502 equivalent residential connections (ERCs) and 27,816.3 kgals for the water system and 3,994 ERCs and 21,483 kgals for the wastewater system.

Issue 6: What are the appropriate amounts of test year revenues in this case?

Recommendation: The appropriate amount of test year revenues for the Utility is \$110,623 for water and \$89,676 for wastewater.

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

Recommendation: The appropriate amount of operating expense for the Utility is \$77,815 for water and \$181,865 for wastewater.

Issue 8: What are the appropriate revenue requirements?

Recommendation: The appropriate revenue requirements are \$78,900 for the water system and \$189,947 for the wastewater system.

ITEM NO.

CASE

14**PAA

Docket No. 070680-WS – Application for staff-assisted rate case in Pasco County by Orangewood Lakes Services, Inc.

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Issue 9: What are the appropriate rate structures for the Utility’s various customer classes?

Recommendation: The appropriate rate structure for the water and wastewater systems’ residential and non-residential class is a base facility charge (BFC)/uniform gallonage charge rate structure. The water system’s 2 kgals allotment should be removed from the BFC, and the BFC cost recovery should be set at 50 percent. The appropriate rate structure for Orangewood’s wastewater system should be changed to a BFC/gallonage charge rate structure. The residential wastewater cap monthly gallon age cap should be set at 8,000 gallons (8 kgal). The non-residential gallonage charge should be 1.2 times greater than the corresponding residential charge, and the BFC cost recovery percentage for the wastewater system should be set at 50 percent.

Issue 10: Is a repression adjustment appropriate in this case?

Recommendation: No. However, in order to monitor the effects of the changes in revenues, the Utility should prepare monthly reports for the water and wastewater systems, detailing the number of bills rendered, the consumption billed, and the revenues billed. These reports should be provided to staff. In addition, these reports should be prepared, by customer class and meter size, on a quarterly basis for a period of two years, beginning the first billing period after the approved rates go into effect.

Issue 11: What are the appropriate rates for the Utility?

Recommendation: The appropriate water and wastewater monthly rates are shown on Schedule Nos. 4-A and 4-B of staff’s memorandum dated September 17, 2008, respectively. The recommended rates should be designed to produce revenue of \$76,781 for water and \$187,549 for wastewater, excluding miscellaneous service charges. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. Orangewood should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 12: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: The Utility did not implement the Commission approved interim rates. Therefore, no refund is necessary.

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Issue 13: Should the Utility be authorized to collect miscellaneous service charges, and, if so, what are the appropriate charges?

Recommendation: Yes. Orangewood should be authorized to collect miscellaneous service charges. The appropriate charges are reflected in staff’s memorandum dated September 17, 2008. The Utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by staff. Within 10 days of the date the order is final, Orangewood should be required to provide notice of the tariff changes to all customers. The Utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

Issue 14: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

Recommendation: The water and wastewater rates should be reduced as shown on Schedule No. 4 of staff’s memorandum dated September 17, 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 Orangewood 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.

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Issue 15: 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 Orangewood?

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 Orangewood. Prior to implementation of any temporary rates, the Utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by Orangewood should be subject to the refund provisions discussed in the analysis portion of staff's memorandum dated September 17, 2008. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month, indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 16: Should the Utility be required to show cause, in writing within 21 days, why it should not be fined for assessing additional meter installation charges without an authorized tariff?

Recommendation: No. Show cause proceedings should not be initiated at this time. Orangewood should be put on notice that, pursuant to Sections 367.081(1) and 367.091(3), F.S., it may only charge rates and charges approved by the Commission.

Issue 17: Should the Commission order Orangewood to show cause, in writing within 21 days, why it should not be fined for apparent violation of Section 367.045(2), Florida Statutes?

Recommendation: No. Show cause proceedings should not be initiated; however, the Utility should be given until January 5, 2009, to file an amendment application to include the mobile home community in Orangewood's authorized territory.

Issue 18: 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: This item was deferred to the December 2, 2008 Commission Conference.

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

ITEM NO.

CASE

15**

Docket No. 080342-WS – Application for amendment of Certificates 352-W and 308-S to extend water and wastewater service areas to include certain land in Martin County, by Miles Grant Water and Sewer Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Rieger

GCL: Hartman

Issue 1: Should Miles Grant Water and Sewer Company be required to show cause, in writing, within 21 days why it should not be fined for its apparent violation of Section 367.045, Florida Statutes?

Recommendation: No. A show cause proceeding should not be initiated.

Issue 2: Should the Commission approve Miles Grant's application for amendment of Certificates 352-W and 308-S?

Recommendation: Yes. The Commission should approve Miles Grant's application for amendment of Certificates 352-W and 308-S to include territory as reflected in Attachment A of staff's memorandum dated September 17, 2008. The resultant order should serve as Mile Grant's amended certificates and should be retained by the utility. The utility should charge the customers in the territory added herein the rates and charges contained in its current tariff until authorized to change by the Commission.

Issue 3: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendations in Issue 1 and Issue 2, no further action will be necessary and this docket should be closed.

DECISION: The recommendations were approved.

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