

MINUTES OF APRIL 5, 2005
COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.
ADJOURNED: 1:30 p.m.

COMMISSIONERS PARTICIPATING: Chairman Baez
Commissioner Deason
Commissioner Bradley
Commissioner Davidson
Commissioner Edgar

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

1**Consent Agenda

PAA

A) Application for certificate to provide pay telephone service.

DOCKET NO.

COMPANY NAME

050163-TC

Habib Fayiz

B) Docket No. 050082-GU - Application by Florida City Gas, a division of Pivotal Utility Holdings, Inc., formerly NUI Utilities, Inc. (Company), for authority to issue and sell during 2005 up to \$66.5 million in long-term debt securities. The proceeds of the issue will be used to redeem and refinance currently outstanding series of debt. The Company also requests authority to finance ongoing cash requirements through its participation and borrowings from and investments in AGL Resources' (AGLR) Utility Money Pool. Pursuant to AGLR's financing authorization under the Public Utility Holding Company Act of 1935, the Company will make short-term borrowings not to exceed \$600 million annually from the Utility Money Pool according to limits that are consistent, given the seasonal nature of the Company's business and its fluctuating cash demands, with the Company's capitalization. See AGL Resources Inc., Holding Co. Act Release No. 27828 (April 1, 2004).

For monitoring purposes, this docket should remain open until April 28, 2006 to allow the Company time to file the required Consummation Report.

RECOMMENDATION: The Commission should approve the action requested in the dockets referenced above and close these dockets with the exception of 050082-GU, which must remain open for monitoring purposes.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

Minutes of
Commission Conference
April 5, 2005

ITEM NO.

CASE

2**Docket No. 050108-OT - Proposed revisions to rules in Chapter 25-22 and 25-40, F.A.C.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Stern, Smith, Melson

ECR: Hewitt

Issue 1: Should the Commission propose the amendments to Chapters 25-22 and 25-40, Florida Administrative Code, shown on Attachments 1 and 2 to this recommendation?

Recommendation: Yes. The Commission should propose the amendments to the Chapters as shown on Attachments 1 and 2 of staff's March 24, 2005 memorandum.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no comments or requests for hearing are filed, the rule as proposed should be filed for adoption with the Secretary of State and the docket should be closed.

DECISION: This item was deferred.

Minutes of
Commission Conference
April 5, 2005

ITEM NO.

CASE

3Docket No. 991473-TP - Review and revision of Rules 25-4.002, 4.003, 4.0185, 4.023, 4.038, 4.039, 4.066, 4.070, 4.072, 4.073, 4.0770, 4.080, and 4.085, F.A.C.

Critical Date(s): None

Rule Status: Adoption

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

GCL: Stern

CMP: McDonald, Moses

ECR: Hewitt

Issue 1: Should the Commission approve the revisions to Rule 25-4.085, Florida Administrative Code, that were made in response to comments of the staff attorney for the Joint Administrative Procedures Committee (JAPC)? (Attachment A of staff's March 24, 2005 memorandum.)

Recommendation: Yes. The Commission should approve the revisions to Rule 25-4.085.

Issue 2: Should the rule be filed for adoption with the Secretary of State and the docket be closed?

Recommendation: Yes. After a Notice of Change is published in the Florida Administrative Weekly, the rule should be filed for adoption with the Secretary of State 21 days thereafter and the docket may be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

4**Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

Docket No. 050171-TP - Emergency petition of Ganoco, Inc. d/b/a American Dial Tone, Inc. for Commission order directing BellSouth Telecommunications, Inc. to continue to accept new unbundled network element orders pending completion of negotiations required by "change of law" provisions of interconnection agreement in order to address the FCC's recent Triennial Review Remand Order (TRRO).

Docket No. 050172-TP - Emergency petition of Ganoco, Inc. d/b/a American Dial Tone, Inc. for Commission order directing Verizon Florida Inc. to continue to accept new unbundled network element orders pending completion of negotiations required by "change of law" provisions of interconnection agreement in order to address the FCC's recent Triennial Review Remand Order (TRRO).

Critical Date(s): 4/8/05 (per BellSouth Carrier Notification SN91085070)

Commissioners Assigned: All Commissioners

Prehearing Officer: Davidson

Staff: GCL: Teitzman

CMP: T. Brown, Lee

Issue 1: Should the Commission grant BellSouth's Motion to Consolidate Docket No. 050171-TP into Docket No. 041269-TP?

Recommendation: No. Staff does not believe it is necessary to consolidate these dockets. However, the petition of American Dial Tone is substantially similar to the petitions filed by MCI and Supra in Docket No. 041269-TP, and therefore, for purposes of this recommendation the petitions should be addressed together.

DECISION: Following the decisions in Issues 2 and 3, the Commissioners, on their own motion, reconsidered the decision in Issue 1 and approved staff's recommendation.

Issue 2: Should the Commission find that BellSouth and Verizon are required to continue accepting "new add" orders for the delisted UNEs identified by the FCC in its Triennial Review Remand Order after March 11, 2005?

Recommendation: If a timely petition is filed with the FCC requesting reconsideration and/or clarification of the TRRO before March 28, 2005, staff believes it would then be appropriate for the Commission to require the ILECs to continue accepting "new adds" for delisted UNEs, pursuant to the rates, terms and conditions set forth in their interconnection agreements, and subject to a true-up to an appropriate rate if the FCC later clarifies that "new adds" were to stop on March 11, 2005. If, however,

ITEM NO.

CASE

4**

Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

Docket No. 050171-TP - Emergency petition of Ganoco, Inc. d/b/a American Dial Tone, Inc. for Commission order directing BellSouth Telecommunications, Inc. to continue to accept new unbundled network element orders pending completion of negotiations required by "change of law" provisions of interconnection agreement in order to address the FCC's recent Triennial Review Remand Order (TRRO).

Docket No. 050172-TP - Emergency petition of Ganoco, Inc. d/b/a American Dial Tone, Inc. for Commission order directing Verizon Florida Inc. to continue to accept new unbundled network element orders pending completion of negotiations required by "change of law" provisions of interconnection agreement in order to address the FCC's recent Triennial Review Remand Order (TRRO).

(Continued from previous page)

reconsideration or clarification is not timely requested prior to this Commission's consideration of this matter, staff recommends that the arguments of both the ILECs and the CLECs find support in the language of the TRRO and, thus, both arguments have significant merit. Staff believes that attempts to divine the FCC's intent in this instance could run afoul of the D.C. Circuit Court's admonitions in USTA II that sub-delegation by the FCC in this area is unlawful. As such, staff recommends that the Commission decline to make a finding as to the FCC's intent and require that the status quo be maintained, subject to a true-up to an appropriate rate, until either clarification from the FCC is obtained or the parties are otherwise able to reach a business solution of this dispute, but in no event beyond the term of the 12-month transition period contemplated in the TRRO.

DECISION: Staff's recommendation was denied as follows: With regard to high-capacity loops and transport, pending the outcome of BellSouth's appeal to the FCC, BellSouth will follow Mr. Lackey's outlined procedure that (1) the requesting CLEC will certify its order for loops and/or transport and (2) BellSouth will either provision the high-capacity loop or transport or will dispute such provisioning pursuant to the parties' existing dispute resolution process. On switching, there shall be no new adds after March 11, 2005 (requesting carriers may not obtain new local switching as an unbundled network element after 03/11/05).

ITEM NO.

CASE

4**

Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

Docket No. 050171-TP - Emergency petition of Ganoco, Inc. d/b/a American Dial Tone, Inc. for Commission order directing BellSouth Telecommunications, Inc. to continue to accept new unbundled network element orders pending completion of negotiations required by "change of law" provisions of interconnection agreement in order to address the FCC's recent Triennial Review Remand Order (TRRO).

Docket No. 050172-TP - Emergency petition of Ganoco, Inc. d/b/a American Dial Tone, Inc. for Commission order directing Verizon Florida Inc. to continue to accept new unbundled network element orders pending completion of negotiations required by "change of law" provisions of interconnection agreement in order to address the FCC's recent Triennial Review Remand Order (TRRO).

(Continued from previous page)

Issue 3: Should these dockets be closed?

Recommendation: No. Docket 041269-TL is currently set for hearing and should remain open to address the remaining open issues. Docket Nos. 050171-TP and 050172-TP should be held in abeyance pending clarification from the FCC or until the parties are otherwise able to reach a business solution of this dispute.

DECISION: The recommendation was approved with the modification that Dockets 050171 and 050172 will be closed.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

5Docket No. 040660-EG - Petition for approval of modifications to BuildSmart Program by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: GCL: Brown
ECR: Colson, Gardner

Issue 1: Should the Commission grant Petitioners' Motion for Leave to Amend Protest?

Recommendation: Yes. The Commission should grant the motion for leave to amend.

Issue 2: Should the Commission grant FPL's motion to dismiss?

Recommendation: No. The Commission should deny the motion to dismiss. The protest of the Commission's PAA Order states a cause of action upon which the Commission can grant relief, and Calcs-Plus has standing as a retail ratepayer of FPL.

Issue 3: Should this docket be closed?

Recommendation: If the Commission denies the motion to dismiss, the docket should remain open for further proceedings. If the Commission grants the motion to dismiss, this docket should be closed, and PAA Order No. PSC-04-1046-PAA-EG should be made final and effective.

DECISION: This item was withdrawn.

ITEM NO.

CASE

6Docket No. 041338-TP - Joint petition by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom d/b/a Grapevine; Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch; DIECA Communications, Inc. d/b/a Covad Communications Company; Florida Digital Network, Inc.; LecStar Telecom, Inc.; MCI Communications, Inc.; and Network Telephone Corporation (“Joint CLECs”) for generic proceeding to set rates, terms, and conditions for hot cuts and batch hot cuts for UNE-P to UNE-L conversions and for retail to UNE-L conversions in BellSouth Telecommunications, Inc. service area. Docket No. 040301-TP - Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: GCL: Susac, Banks

CMP: Vinson, Dowds, Duffey, Harvey

Issue 1: Should the Commission grant Supra Telecommunications and Information Systems Inc.'s Motion for Oral Argument?

Recommendation: No. Staff recommends denying Supra's Motion for Oral Argument because staff believes Supra's arguments are adequately contained in its motion, thereby making oral argument unnecessary.

Issue 2: Should the Commission grant Supra Telecommunications and Information Systems Inc.'s Motion for Reconsideration of Order No. PSC-05-0157-PCO-TP, issued February 8, 2005?

Recommendation: No. Staff recommends denying Supra's Motion for Reconsideration of Order No. PSC-05-0157-PCO-TP, issued February 8, 2005, because the Commission did not make an error of fact or law in resolving the matter.

Issue 3: Should these dockets be closed?

Recommendation: No. Staff believes these dockets should remain open pending the resolution of the issues set for hearing.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

7Docket No. 050111-TP - Joint petition of MCG Capital Corporation, IDS Telcom Corp. and IDS Telcom LLC for approval for name change and transfer of CLEC Certificate No. 5228 from IDS Telcom LLC to IDS Telcom Corp.; for waiver of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection in connection with the sale of customer-based and other assets from IDS Telcom LLC to IDS Telcom Corp.; and for acknowledgment of registration of IDS Telcom Corp. as intrastate interexchange telecommunications company effective February 8, 2005.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: GCL: Rockette-Gray, B. Keating
CMP: Watts, McCoy

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

Recommendation: Yes. Staff recommends that MCG's request for oral argument be granted. Staff also recommends each party be allowed approximately ten minutes to present its argument if oral argument is granted.

DECISION: The recommendation was denied.

Issue 2: Should the Commission grant MCG's Motion to Dismiss?

Recommendation: Yes. Accepting all of the allegations in Ms. Heiffer's Protest as true, Ms. Heiffer has failed to adequately allege standing and has thereby failed to state a cause of action upon which relief can be granted. Therefore, MCG's Motion to Dismiss should be granted, Order No. PSC-05-0251-PAA-TP should be reinstated and consummated as a final order, and this Docket should be closed.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

8**Docket No. 050100-SU - Initiation of show cause proceedings against S & L Utilities, Inc. for violation of Rule 25-30.110, F.A.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Rodan

ECR: Romig

Issue 1: Should S & L be ordered to show cause, in writing, within 21 days, why it should not be fined for failure to file its 2003 annual report by the date due as required by Rule 25-30.110(3), Florida Administrative Code?

Recommendation: No. A show cause proceeding should not be initiated. Staff recommends that the penalties calculated according to Rule 25-30.110(7), Florida Administrative Code, for delinquent annual reports should not be assessed.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

9**PAADocket No. 050095-TL - Petition for extension and modification of existing Service Guarantee Program and for limited waiver of Rules 25-4.066(2), 25-4.070(1)(b), 25-4.070(3)(a), and 25-4.073(1)(d), F.A.C., by BellSouth Telecommunications, Inc.

Critical Date(s): 5/3/05 (90-day statutory deadline for rule waiver)

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: CMP: Buys, Casey

GCL: Scott

Issue 1: Should the Commission extend BellSouth Telecommunications, Inc.'s existing Service Guarantee Plan and limited waiver of the applicability of Rule Nos. 25-4.066(2), 25-4.070(3)(a), and 25-4.070(1)(b), Florida Administrative Code, approved in Docket No. 010097-TL, until Rule 25-4.085, Florida Administrative Code, becomes effective?

Recommendation: Yes.

Issue 2: Should the Commission approve BellSouth Telecommunications, Inc.'s Petition for Extension and Modification of BellSouth's existing Service Guarantee Program and for relief from Rules 25-4.066(2); 25-4.070(1)(b); 25-4.070(3)(a); and 25-4.073(1)(d), Florida Administrative Code?

Recommendation: Yes.

Issue 3: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

10**PAADocket No. 050056-TX - Compliance investigation of AAA Reconnect, Inc. for apparent violation of Rule No. 25-4.043, F.A.C., Response to Commission Staff Inquiries, Rule No. 25-24.480(2), F.A.C., Records and Reports, Rules Incorporated, and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees, Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: CMP: Buys
GCL: Rojas

Issue 1: Should the Commission impose a \$10,000 penalty on AAA Reconnect, Inc. for its apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, incorporated by Rule 25-24.835, Florida Administrative Code, Rules Incorporated?

Recommendation: Yes.

Issue 2: Should the Commission impose a \$500 penalty on AAA Reconnect, Inc. for its apparent violation of Rule 25-24.480(2), Florida Administrative Code, Records and Reports; Rules Incorporated, incorporated by Rule 25-24.835, Florida Administrative Code?

Recommendation: Yes.

Issue 3: Should the Commission impose a penalty and a cost of collection, together totaling \$500, on AAA Reconnect, Inc. for its apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

Recommendation: Yes.

Issue 4: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation 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 AAA Reconnect 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 fails to pay the imposed penalties in Issues 1 through 3 within fourteen (14) calendar days after the issuance of the Consummating Order, CLEC Certificate No. 8461 should be cancelled administratively and the collection of the past due Regulatory Assessment Fees, including statutory late

ITEM NO.

CASE

10**PAA

Docket No. 050056-TX - Compliance investigation of AAA Reconnect, Inc. for apparent violation of Rule No. 25-4.043, F.A.C., Response to Commission Staff Inquiries, Rule No. 25-24.480(2), F.A.C., Records and Reports, Rules Incorporated, and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees, Telecommunications Companies.

(Continued from previous page)

payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. For any payment received applicable to the penalty, including cost of collection, in Issue 3, the cost of collection should be subtracted from the amount received and should be deposited in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. Any monetary amount exceeding the cost of collection should be remitted to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange services in Florida. This docket should be closed administratively either upon receipt of the payment of the penalties and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's certificate.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

11**PAADocket No. 041376-EI - Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: Breman, Haff, Lee, Wheeler

GCL: Stern

Issue 1: Should the Commission approve TECO's petition for the Big Bend Units 1, 2, and 3 SCR systems and alkali injection systems as a new program for cost recovery through the ECRC?

Recommendation: Yes. The program is eligible for recovery through the ECRC and any prudently incurred costs for the Big Bend Units 1, 2, and 3 SCR and alkali injection systems are appropriate for recovery through the ECRC.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.

DECISION: This item was deferred.

ITEM NO.

CASE

12**PAADocket No. 041405-EQ - Petition of Progress Energy Florida, Inc. for approval of amendment to existing cogeneration contract with Pinellas County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: McRoy

GCL: Brown

Issue 1: Should the Commission approve PEF's petition to modify its current agreement with Pinellas County?

Recommendation: Yes. The proposed changes will not be included in calculating the facility's capacity factor and do not affect the economics or cost-effectiveness of the contract.

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: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

13**PAADocket No. 050153-EI - Request for approval of change in rate used to capitalize allowance for funds used during construction (AFUDC) from 7.29% to 7.42%, effective January 1, 2005, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Brinkley, Lester

GCL: Jaeger

Issue 1: Should the Commission approve FPL's request to increase its AFUDC rate from 7.29% to 7.42%?

Recommendation: Yes. The appropriate AFUDC rate for FPL is 7.42% based on a 13-month average capital structure for the period ending December 31, 2004.

Issue 2: What is the appropriate monthly compounding rate to achieve the requested 7.42% annual rate?

Recommendation: The appropriate monthly compounding rate to maintain an annual rate of 7.42% is 0.598251%.

Issue 3: Should the Commission approve Florida Power & Light Company's requested effective date of January 1, 2005, for implementing the revised AFUDC rate?

Recommendation: Yes.

Issue 4: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

14**PAADocket No. 040254-WU - Application for staff-assisted rate increase in Polk County by Keen Sales, Rentals and Utilities, Inc.

Critical Date(s): 8/20/05 (15-month statutory effective date waived - SARC)

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: Biggins, Bruce, Hudson, Lingo, Massoudi, Rendell
GCL: Vining

Issue 1: Is the quality of service provided by Keen's Lake Region System considered satisfactory?

Recommendation: Yes. The quality of service provided by Keen's Lake Region System should be considered satisfactory.

DECISION: The recommendation was approved.

Issue 2: What portions of Keen's water system are used and useful?

Recommendation: The water treatment plant and water distribution systems should be considered 100% used and useful.

DECISION: The recommendation was approved.

Issue 3: What is the appropriate allocation of common costs from Keen to Lake Region Paradise Island?

Recommendation: The appropriate allocation of common costs from Keen to Lake Region Paradise Island is 45%.

DECISION: The recommendation was approved.

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

Recommendation: The appropriate average test year rate base for Keen Sales, Rentals and Utilities is \$20,742 for water.

DECISION: The recommendation was approved.

ITEM NO.

CASE

14**PAA

Docket No. 040254-WU - Application for staff-assisted rate increase in Polk County by Keen Sales, Rentals and Utilities, Inc.

(Continued from previous page)

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

Recommendation: The appropriate return on equity rate is 11.40% with a range of 10.40% to 12.40%. The appropriate overall rate of return is 7.25%.

DECISION: The recommendation was approved.

Issue 6: What is the appropriate test year revenue?

Recommendation: The appropriate test year revenue for this utility is \$25,355.

DECISION: The recommendation was approved.

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

Recommendation: The appropriate amount of operating expense for this utility is \$51,976.

DECISION: The recommendation was approved.

Issue 8: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$53,480.

DECISION: The recommendation was approved.

Issue 9: Is a continuation of the current rate structure, which includes a 5,000-gallon (5 kgal) allotment, appropriate for this utility, and, if not, what is the appropriate rate structure?

Recommendation: No. A continuation of the utility's current rate structure is not appropriate. The rate structure should be changed to a three-tier inclining block rate structure. The pre-repression base facility charge (BFC) cost recovery should be set at 25%. The usage blocks should be set for consumption at: a) 0 - 5 kgal; b) 5.001 - 10 kgals; and c) for usage in excess of 10 kgal, with appropriate usage block rate factors of 1.0, 1.25, and 1.5, respectively.

DECISION: The recommendation was approved with the addition that the 3-tier rate structure will be monitored for one year and any customer complaints on the rate structure will be reported to the Commission in a short time. The utility is to file reports periodically. If there are no customer complaints, staff is to advise the Commissioners by memorandum after one year.

ITEM NO.

CASE

14**PAA

Docket No. 040254-WU - Application for staff-assisted rate increase in Polk County by Keen Sales, Rentals and Utilities, Inc.

(Continued from previous page)

Issue 10: Is an adjustment to reflect repression of consumption appropriate in this case, and, if so, what is the adjustment and the resulting number of kgals to be used to set rates?

Recommendation: Yes. An adjustment to reflect repression of consumption is appropriate. Residential consumption should be reduced by 36.3%, resulting in a consumption reduction of approximately 5,026.9 kgals. Total water consumption for ratesetting is 8,804.7 kgals. In order to monitor the effects of both the changes in rate structures and revenues, the utility should prepare monthly reports detailing the number of bills rendered, the consumption billed, and the revenues billed. These reports should be provided to staff. In addition, the 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.

DECISION: The recommendation was approved.

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

Recommendation: The recommended rates should be designed to produce monthly service revenues of \$52,280. Once approved, the 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), Florida Administrative Code. The rates should not be implemented until notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

DECISION: The recommendation was approved.

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, Florida Statutes?

Recommendation: The water rates should be reduced as shown on Schedule No. 4 of staff's March 24, 2005 memorandum, 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, Florida Statutes. 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

ITEM NO.

CASE

14**PAA

Docket No. 040254-WU - Application for staff-assisted rate increase in Polk County by Keen Sales, Rentals and Utilities, Inc.

(Continued from previous page)

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.

DECISION: The recommendation was approved.

Issue 13: What is the appropriate customer deposit for the utility?

Recommendation: The appropriate customer deposit should be the recommended charge as specified in the analysis portion of staff's March 24, 2005 memorandum. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the customer deposit should become effective for connections made on or after the stamped approval date of the revised tariff sheets.

DECISION: The recommendation was approved.

Issue 14: Should the utility be authorized to collect miscellaneous charges, and, if so, what are the appropriate charges?

Recommendation: Yes. The utility should be authorized to collect miscellaneous service charges and the appropriate charges should be the recommended charges specified in the analysis portion of staff's March 24, 2005 memorandum. The approved charges will be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. These charges may not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

DECISION: The recommendation was approved.

Issue 15: Should the utility be authorized to collect late payment fees, and if so what are the appropriate charges?

Recommendation: Yes. The utility should be authorized to collect a \$5.00 late fee. The utility should file revised tariff sheets which are consistent with the Commission's vote within one month of the Commission's final vote. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's

ITEM NO.

CASE

14**PAA

Docket No. 040254-WU - Application for staff-assisted rate increase in Polk County by Keen Sales, Rentals and Utilities, Inc.

(Continued from previous page)

decision. If revised tariff sheets are filed and approved, the late payment fee should become effective for connections made on or after the stamped approval date of the revised tariff sheets, and provided customers have been noticed.

DECISION: The recommendation was approved.

Issue 16: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

Recommendation: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility shall be subject to the refund provisions discussed in the analysis portion of staff's March 24, 2005 memorandum. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, 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.

DECISION: The recommendation was approved.

Issue 17: What are the appropriate service availability charges?

Recommendation: The appropriate service availability charges for the utility are a plant capacity charge of \$400 and a meter installation charge of \$100. If the Commission approves these charges, the utility should file revised tariff sheets which are consistent with the Commission's vote. Staff recommends that it be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the revised service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets.

DECISION: The recommendation was approved.

Minutes of
Commission Conference
April 5, 2005

ITEM NO.

CASE

14**PAA

Docket No. 040254-WU - Application for staff-assisted rate increase in Polk County by Keen Sales, Rentals and Utilities, Inc.

(Continued from previous page)

Issue 18: Should this docket be closed?

Recommendation: Yes. If no timely protest is filed by a person whose interest is substantial, this docket should be closed upon the issuance of a Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the tariffs should remain in effect with any increase held subject to refund pending resolution of the protest, and the docket should remain open.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

15**Docket No. 041418-WS - Application for deletions and amendments to portions of service territory in Seminole County by CWS Communities LP d/b/a Palm Valley Utilities, holder of Certificates 277-W and 223-S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: ECR: Rieger

GCL: Jaeger

Issue 1: Should CWS Communities LP d/b/a Palm Valley Utilities be ordered to show cause in writing, within 21 days, why it should not be fined for its failure to comply with the requirements of Section 367.045(2), Florida Statutes?

Recommendation: No. CWS Communities LP d/b/a Palm Valley Utilities should not be ordered to show cause.

Issue 2: Should the Commission approve Palm Valley's application to amend Certificates 277-W and 223-S?

Recommendation: Yes. The Commission should approve Palm Valley's application to amend Certificates 277-W and 223-S to reflect the territory described in Attachment A of staff's March 24, 2005 memorandum. Palm Valley should charge the customers in the added territory the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

Issue 3: Should this docket be closed?

Recommendation: Yes. If staff's recommendation in Issues 1 and 2 is approved, no further action is required and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

16**Docket No. 040173-WU - Application for transfer of majority organizational control of L W V Utilities, Inc., holder of Certificate No. 152-W in Pasco County, from James A. Cochran to James C. Weeks and Ricky A. Miller.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Davidson

Staff: ECR: Johnson, Brinkley, Rieger

GCL: Vining

Issue 1: Should the Commission approve the transfer of majority organizational control of LWV Utilities, Inc. from the James A. Cochran Revocable Trust to James C. Weeks and Ricky A. Miller?

Recommendation: Yes. The transfer of majority organizational control is in the public interest and should be approved. A description of the territory granted by Certificate No. 152-W is appended to staff's March 24, 2005 memorandum as Attachment A. The utility should be required to file a revised legal description, territory map and supporting documentation verifying that the revised legal description is consistent with the territory description in Docket No. 760618-W within 120 days of the order approving the transfer.

PAA

Issue 2: What is the rate base of LWV at the time of transfer?

Recommendation: The rate base for transfer purposes is \$30,097 for the water system as of December 31, 2003.

Issue 3: Should the existing rates and charges for the utility be continued?

Recommendation: Yes. The rates and charges approved for the utility should be continued. 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 4: Should the utility be required to provide proof 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 adjustments recommended herein?

Recommendation: Yes. To ensure that the utility adjusts its books in accordance with the Commission's decision, LWV should provide proof, within 30 days of issuance of the consummating order on this matter, that the utility's books and records have been set up using the NARUC USOA and the adjustments for all the applicable NARUC USOA primary accounts have been made.

ITEM NO.

CASE

16**

Docket No. 040173-WU - Application for transfer of majority organizational control of L W V Utilities, Inc., holder of Certificate No. 152-W in Pasco County, from James A. Cochran to James C. Weeks and Ricky A. Miller.

(Continued from previous page)

Issue 5: Should the docket be closed?

Recommendation: No. If no timely protest is received to the proposed agency action issue, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of the revised legal description, territory map, and statement that the utility has established its books and records in compliance with the NARUC USOA and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer. Upon receipt of the statement, the docket should be administratively closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

17**Docket No. 050013-WU - Application for transfer of facilities of Spring Creek Village, Ltd. in Lee County to Bonita Springs Utilities, Inc., and for cancellation of Certificate No. 271-W.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: ECR: Johnson, Kaproth

GCL: Rodan

Issue 1: Should the transfer of facilities from Spring Creek to BSU and the cancellation of Certificate No. 271-W be approved?

Recommendation: Yes. The transfer of facilities from Spring Creek to BSU is in the public interest and should be approved. Certificate No. 271-W should be cancelled administratively upon receipt of the executed agreement confirming the actual date of closing, which is anticipated to be November 1, 2005. Spring Creek will be responsible for filing a regulatory assessment fee (RAF) form with the corresponding amount of RAFs due for January 1, 2005 through the date of closing.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should be closed administratively upon receipt of the executed purchase agreement confirming the actual date of closing.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

18**Docket No. 041096-WS - Application for transfer of Certificate Nos. 542-W and 470-S
in Putnam County from Buffalo Bluff Utilities, Inc. to St. John's River Club, L.L.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: ECR: Johnson, Kaproth, Rieger

GCL: Brown

Issue 1: Should the Commission approve the transfer of facilities and Certificate Nos. 542-W and 470-S from Buffalo Bluff to St. John's River Club, L.L.C.?

Recommendation: Yes. The transfer of facilities and Certificate Nos. 542-W and 470-S from Buffalo Bluff to SJRC is in the public interest and the Commission should approve it. The transfer should be effective on the day of the Commission vote. SJRC should be ordered to submit a recorded warranty deed within 30 days of the date of the order approving the transfer, reflecting that ownership of the land upon which the utility's facilities are located has been properly conveyed to SJRC. In addition, Buffalo Bluff will be responsible for the payment of all RAFs due for revenues received from January 1, 2005 through the date of closing. SJRC will be responsible for the payment of all RAFs due thereafter, and for filing the 2005 annual report for January 1 through December 31, 2005, and for the subsequent years. A description of the territory being transferred is appended to staff's March 24, 2005 memorandum as Attachment A.

PAA Issue 2: What is the rate base for Buffalo Bluff's water and wastewater systems at the time of the transfer?

Recommendation: The rate base, which for transfer purposes reflects the net book value at the time of transfer, is \$18,042 for the water system and \$33,928 for the wastewater system as of December 31, 2004.

PAA Issue 3: Should an acquisition adjustment be included in the calculation of rate base?

Recommendation: No. Pursuant to Rule 25-30.0371(2), Florida Administrative Code, an acquisition adjustment should not be included in rate base.

Issue 4: Should the utility's existing rates and charges be continued?

Recommendation: Yes. The existing rates and charges for the utility should be continued until authorized to change by the Commission in a subsequent proceeding. The tariff sheets reflecting the existing rates and charges should be effective for services rendered or connections made on or after the stamped approval date.

ITEM NO.

CASE

18**

Docket No. 041096-WS - Application for transfer of Certificate Nos. 542-W and 470-S in Putnam County from Buffalo Bluff Utilities, Inc. to St. John's River Club, L.L.C.

(Continued from previous page)

Issue 5: Should the utility be required to provide proof 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 adjustments recommended herein?

Recommendation: Yes. To ensure that the utility adjusts its books in accordance with the Commission's decision, SJRC should provide proof, within 30 days of issuance of a final order on this matter, that adjustments to all applicable NARUC USOA primary accounts have been made to reflect the Commission-approved rate base adjustments and balances.

Issue 6: Should this docket be closed?

Recommendation: No. If no timely protest is received to the proposed agency action issues, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of evidence that the utility owns or has continued use of the land upon which its facilities are located, and has provided a statement within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer. Upon receipt of the statement and the recorded deed and staff's verification that the deed satisfies the requirements of Rule 23-30.037(2)(q), Florida Administrative Code, the docket should be administratively closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

19**Docket No. 041461-WU - Application for transfer of Certificate No. 153-W in Pasco County from Floralino Properties, Inc. to Colonial Manor Utility Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: ECR: Brady, Romig

GCL: Brown

Issue 1: Should the transfer of Certificate No. 153-W from Floralino Properties, Inc. to Colonial Manor Utility Company be approved?

Recommendation: Yes. The transfer is in the public interest and should be approved effective the date of the Commission's vote. The territory being transferred is described in Attachment A of staff's March 24, 2005 memorandum. Colonial Manor Utility Company should be responsible for filing the utility's 2004 annual report and paying 2004 regulatory assessment fees.

PAA Issue 2: What is the rate base for Floralino Properties, Inc. at the time of transfer?

Recommendation: For transfer purposes, rate base should be \$47,208, as of December 31, 2003. Within 30 days from the date of the issuance of the Consummating Order finalizing rate base, Colonial Manor Utility Company should be required to provide a statement that the utility's books have been adjusted to reflect the Commission-approved rate base adjustments and balances.

PAA Issue 3: Should an acquisition adjustment be approved?

Recommendation: No. An acquisition adjustment should not be included in the calculation of rate base for transfer purposes.

PAA Issue 4: Should the utility's existing rates and charges be continued?

Recommendation: The utility's existing water service rates, customer deposits, and miscellaneous service charges should be continued until authorized to change by the Commission in a subsequent proceeding. The utility's existing service availability charges should be eliminated. The tariff sheets reflecting these rates and charges should be effective for services rendered or connections made on or after the stamped approval date.

ITEM NO.

CASE

19**

Docket No. 041461-WU - Application for transfer of Certificate No. 153-W in Pasco County from Floralino Properties, Inc. to Colonial Manor Utility Company.

(Continued from previous page)

Issue 5: Should this docket be closed?

Recommendation: If no timely protest is received to the proposed agency action issues on rate base, acquisition adjustment, and rates and charges, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of the statement from Colonial Manor Utility Company that the utility's books have been adjusted to reflect the Commission-approved rate base adjustments and balances. Upon receipt of such statement, the docket should be administratively closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

20**Docket No. 041394-WS - Joint application for transfer of CWS Communities LP d/b/a Crystal Lake Club, holder of Certificate Nos. 525-W and 454-S in Highlands County, to Mink Associates II, LLC d/b/a Crystal Lake Club Utilities.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: Clapp, Rieger, Romig

GCL: Fleming

Issue 1: Should the transfer of facilities and Certificate Nos. 525-W and 454-S from CWS Communities LP d/b/a Crystal Lake Club to Mink Associates II, LLC d/b/a Crystal Lake Club Utilities be approved?

Recommendation: Yes. The transfer of facilities and Certificate Nos. 525-W and 454-S from CWS Communities LP d/b/a Crystal Lake Club to Mink Associates II, LLC d/b/a Crystal Lake Club Utilities is in the public interest and should be approved effective the date of the Commission's vote. Mink should file a recorded copy of the 99-year lease for the land for the water and wastewater facilities within 30 days of the issuance date of the Order approving the transfer. The buyer should be required to provide a statement within 30 days of the order approving the transfer that it has established its books and records in compliance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA). Mink should be responsible for the annual reports and regulatory assessment fees (RAFs) for 2004 and the future. The territory being transferred is described in Attachment A of staff's March 24, 2005 memorandum.

Issue 2: Should the rates and charges approved for this utility be continued?

Recommendation: Yes. The rates and charges approved for Crystal Lake should be continued until authorized to change by the Commission in a subsequent proceeding. 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.

Minutes of
Commission Conference
April 5, 2005

ITEM NO.

CASE

20**

Docket No. 041394-WS - Joint application for transfer of CWS Communities LP d/b/a Crystal Lake Club, holder of Certificate Nos. 525-W and 454-S in Highlands County, to Mink Associates II, LLC d/b/a Crystal Lake Club Utilities.

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: No. The docket should remain open pending receipt of the recorded 99-year lease and a statement that it has established its books and records in compliance with the NARUC USOA, including separate general ledgers for the Mink water and wastewater systems. Upon receipt of the recorded lease and the statement, the docket should be administratively closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

21**Docket No. 041301-SU - Application for amendment of Certificate No. 249-S to add territory in Volusia County by North Peninsula Utilities Corporation.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Davidson

Staff: ECR: Walden

GCL: Brown

Issue 1: Should the utility's request to amend its wastewater certificate be granted?

Recommendation: Yes. Wastewater Certificate No. 249-S held by North Peninsula Utilities Corporation should be amended to include the territory listed on Attachment A of staff's March 24, 2005 memorandum. North Peninsula should charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

Issue 2: Should the docket be closed?

Recommendation: Yes. Because no further action is needed, the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson, Edgar

ITEM NO.

CASE

22**Docket No. 992015-WU - Application for limited proceeding to recover costs of water system improvements in Marion County by Sunshine Utilities of Central Florida, Inc. (Deferred from November 30, 2004 conference.)

Critical Date(s): None

Commissioners Assigned: Baez, Deason, Bradley
Prehearing Officer: Baez

Staff: GCL: Jaeger
ECR: Daniel, Fletcher, Redemann

Issue 1: Should this docket be closed?

Recommendation: Yes. Because the utility has now advised the Commission that it will not proceed with the project for construction of a centralized water treatment plant, this docket should be closed.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley

Minutes of
Commission Conference
April 5, 2005

ITEM NO.

CASE

23**Docket No. 040326-TL - Petition for suspension or modification of local number portability (LNP) requirement in Section 251(b)(2) of the Communications Act of 1934 as amended, by Northeast Florida Telephone Company d/b/a NEFCOM.

Critical Date(s): None

Commissioners Assigned: Deason, Davidson, Edgar

Prehearing Officer: Deason

Staff: GCL: Susac

CMP: Maduro, Bulecza-Banks, Casey

Issue 1: Should the Commission grant the Joint Motion Seeking Approval of the Stipulation of Settlement requiring NEFCOM to implement LNP from wireline to wireless carriers by November 24, 2005?

Recommendation: Yes. Staff recommends that the Commission grant the Joint Motion, thereby approving the Stipulation set forth in Attachment A of staff's March 24, 2005 memorandum.

Issue 2: Should this docket be closed?

Recommendation: Yes. Staff recommends closing the docket because no further action is needed from the Commission.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Davidson, Edgar