

MINUTES OF JANUARY 20, 2004

COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.

ADJOURNED: 12:55 p.m.

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

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

1 Approval of Minutes

December 16, 2003 Regular Commission Conference

DECISION: The minutes were approved.

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

Minutes of
Commission Conference
January 20, 2004

ITEM NO.

CASE

2**Consent Agenda

PAA

Application for certificate to provide competitive local exchange telecommunications service.

DOCKET NO.

COMPANY NAME

031081-TX

Alpha Telecom, LLC

RECOMMENDATION: The Commission should approve the action requested in the docket referenced above and close this docket.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3**Docket No. 991222-TP - Request for submission of proposals for relay service, beginning in June 2000, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: CMP: Trapp, Casey, Moses

GCL: Rojas

ISSUE 1: Should Mr. Jimmy Peterson, Mr. Christopher McDonald, and Ms. Kathy Borzell be named to the TASA Advisory Committee?

RECOMMENDATION: Yes. Mr. Jimmy Peterson, Mr. Christopher McDonald, and Ms. Kathy Borzell should be named to the TASA Advisory Committee.

ISSUE 2: Should the Commission amend the current contract with Sprint to include Captel as a service offering starting March 1, 2004, and extending through May 31, 2005, at the session minute rates described in the "usage costs" section of this recommendation?

RECOMMENDATION: Yes. The Commission should amend the current contract with Sprint to include Captel as a service offering starting March 1, 2004, and extending through May 31, 2005, at the session minute rates as described in the "usage costs" section of staff's memorandum dated January 8, 2004.

PAA ISSUE 3: Should the TASA surcharge be raised from \$.12 to \$.13 per access line effective March 1, 2004?

RECOMMENDATION: Yes. The Commission should approve raising the TASA surcharge to \$.13 per access line. In addition, Local Exchange Companies and Competitive Local Exchange Companies should be ordered to assess a \$.13 surcharge beginning March 1, 2004.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. This docket should not be closed.

DECISION: The recommendations were approved.

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

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Commission Conference
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ITEM NO.

CASE

4Docket No. 031017-EU - Request for declaratory statement by Tampa Electric Company regarding territorial dispute with City of Bartow in Polk County.

Critical Date(s): Petition must be disposed of by March 19, 2004

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: GCL: Stern
ECR: Breman

ISSUE 1: Should the City of Bartow's amended Motion to Dismiss or Abate be granted?

RECOMMENDATION: Yes. Because there is no current dispute, the Amended Motion to Dismiss or Abate should be granted.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission votes to dispose of the petition for declaratory statement, the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5Docket No. 010503-WU - Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc. (Deferred from December 2, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: GCL: Jaeger, Holley, Helton

ECR: Fletcher, Merchant, Willis, Jenkins, Devlin

ISSUE 1: Should interested persons be allowed to participate?

RECOMMENDATION: Yes. Pursuant to Rule 25-22.021, Florida Administrative Code, when "the Commission is considering new matters related to, but not addressed at hearing," interested persons are not barred from participating. Interested persons should be given ten minutes each to discuss the appropriate calculation of the refunds and the appropriate amount and timing of the release of the remaining escrowed funds.

ISSUE 2: Has Aloha made the appropriate refund of interim rates for the period January 1, 2002, through April 30, 2002 (the rate case period)?

RECOMMENDATION: Yes. Aloha has made the 4.87% refund for the rate case period required by the Final Order.

ISSUE 3: What is the appropriate calculation of refunds for the period May 1, 2002 through July 31, 2003 (the appeal period)?

PRIMARY RECOMMENDATION: In addition to the refunds set forth in Order No. PSC-02-0593-FOF-WU, i.e. 4.87%, the utility should be required to make an additional refund of \$73,696 which includes interest. As a result, the total refund would be 7.85% which includes the 4.87% amount already refunded by the utility. The additional refund amount represents the adjustment needed to bring Aloha's earned return on equity (ROE) for the appeal period (May 1, 2002 through July 31, 2003) to its newly authorized midpoint of 11.34%. Of the total balance of \$352,352 held in escrow, the additional amount that should be released to Aloha is \$278,656. The remaining \$73,696 amount should be released to the utility upon staff's verification that Aloha has made the additional refund. The additional refund should be made with interest in accordance with Rule 25-30.360(4), Florida Administrative Code. The utility should submit proper refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds as contributions in aid of construction (CIAC) pursuant to Rule 25-30.360(8), Florida Administrative Code.

ITEM NO.

CASE

5

Docket No. 010503-WU - Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc. (Deferred from December 2, 2003 conference; revised recommendation filed.)

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ALTERNATIVE ONE RECOMMENDATION: The refunds for interim rates collected during the appeal period should be as set forth in Order No. PSC-02-0593-FOF-WU. Aloha has completed the required 4.87% refunds, and an analysis of its earnings during the appeal period shows that no further refund is required. As such, all funds in the escrow account should be released to Aloha and the escrow account should be closed. The utility should treat any unclaimed refunds as contributions in aid of construction (CIAC) pursuant to Rule 25-30.360(8), Florida Administrative Code.

ALTERNATIVE TWO RECOMMENDATION: As discussed in Issue 2, no additional refund above the \$31,527 amount is necessary for the rate case period. Because the Final Order was upheld on appeal, and did not allow for any increase whatsoever, the total 15.95% increase for interim rates collected after April 30, 2002, should be refunded. This amounts to a total of \$397,519 without interest, or \$400,096 with interest, for the appeal period. Because the utility has already refunded \$121,983 for the appeal period, an additional \$278,113 remains to be refunded (\$400,096 less \$121,983). As security for this additional refund, Aloha should maintain \$278,113 in the escrow account. Therefore, of the total balance of \$352,352 held in escrow, the additional amount that should be released to Aloha is \$74,239 (\$352,352 less \$278,113). The remaining \$278,113 amount of the escrow account should be released to the utility upon staff's verification that the utility has made the additional refund. The additional refund should be made with interest in accordance with Rule 25-30.360(4), Florida Administrative Code. The utility should submit proper refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds as contributions in aid of construction (CIAC) pursuant to Rule 25-30.360(8), Florida Administrative Code.

ISSUE 4: Should Aloha Utilities, Inc. be ordered to show cause, in writing within 21 days, why it should not be fined for its failure to escrow 15.95% of all revenues collected for the month of July 2003 in apparent violation of Orders Nos. PSC-01-2199-FOF-WU and PSC-02-1056-PCO-WU?

RECOMMENDATION: Yes. Aloha should be ordered to show cause, in writing within 21 days, why it should not be fined \$200 for the apparent violation of Orders Nos. PSC-01-2199-FOF-WU and PSC-02-1056-PCO-WU. The order to show cause should incorporate the conditions stated in the analysis portion of staff's January 8, 2004 memorandum.

ITEM NO.

CASE

5

Docket No. 010503-WU - Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc. (Deferred from December 2, 2003 conference; revised recommendation filed.)

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ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to verify the completion of additional refunds, if any, as well as the construction of pro forma plant as required in the Final Order.

DECISION: The recommendations in Issues 1, 2, and 5 were approved. The Primary and Alternative One recommendations in Issue 3 were denied; Alternative Two in Issue 3 was approved. The recommendation in Issue 4 was denied.

Commissioner Davidson dissented from the majority decision in Issue 2.

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

ITEM NO.

CASE

6**PAADocket No. 031007-TP - Petition of Verizon Florida Inc. for variance from existing collocation requirements of Order Nos. PSC-99-1744-PAA-TP and PSC-00-0941-FOF-TP, and for adoption of terms of settlement agreement with Covad Communications Company and affiliates, AT&T Corporation and affiliates, and Sprint Communications Company L.P. and its CLEC affiliates.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Muskovac
GCL: Fordham

ISSUE 1: Should the Commission grant Verizon's petition for variance from existing collocation requirements?

RECOMMENDATION: Yes. The Commission should grant Verizon's petition for variance from existing collocation requirements.

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, Jaber, Bradley, Davidson

ITEM NO.

CASE

7**PAADocket No. 031106-TX - Compliance investigation of Kevin M. Brown d/b/a Miracle Communications for apparent violation of Rules 25-22.032, F.A.C., Customer Complaints, and 25-24.835, F.A.C., Rules Incorporated.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Curry
 CAF: Lowery
 GCL: Rojas

ISSUE 1: Should the Commission impose a \$10,000 penalty upon Miracle Communications for its apparent violation of Rule 25-22.032(5)(a), Florida Administrative Code, Consumer Complaints, to be paid to the Florida Public Service Commission within fourteen days after the issuance of the Consummating Order?

RECOMMENDATION: Yes. The Commission should impose a \$10,000 penalty upon Miracle Communications for its apparent violation of Rule 25-22.032(5)(a), Florida Administrative Code, Consumer Complaints. If Miracle Communications fails to timely protest the Commission's Order and fails to pay the imposed penalty of \$10,000 within fourteen calendar days after the issuance of the Consummating Order, Certificate No. 7254 should be canceled and the company should be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida.

ISSUE 2: Should the Commission impose a penalty of \$500 upon Miracle Communications for its apparent violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty upon Miracle Communications for its apparent violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated. If Miracle Communications fails to timely protest the Commission's Order and fails to pay the \$500 penalty within fourteen calendar days after the issuance of the Consummating Order, Certificate No. 7254 should be canceled and the company should also be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: The Order issued from these recommendations will become final upon issuance of the 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. If the Commission's Order is not

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CASE

7**PAA

Docket No. 031106-TX - Compliance investigation of Kevin M. Brown d/b/a Miracle Communications for apparent violation of Rules 25-22.032, F.A.C., Customer Complaints, and 25-24.835, F.A.C., Rules Incorporated.

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protested, this docket should be closed upon receipt of the payment of the penalties or cancellation of Certificate No. 7254.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

8**Docket No. 030794-TI - Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ469 issued to Summit Telco, L.L.C. for violation of Section 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Rojas

ISSUE 1: Should the Commission accept the settlement offer proposed by Summit Telco, L.L.C. to resolve the apparent violation of Section 364.336, Florida Statutes?
RECOMMENDATION: The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission order, the company's tariff should be cancelled and its name removed from the register administratively. In addition, the company should be required to immediately cease and desist providing intrastate interexchange service in Florida. If the company's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, the company should be required to first pay any outstanding RAF, including statutory late payment charges, and the contribution.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the tariff and removal from the register.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**Docket No. 030805-TI - Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ629 issued to Wholesale Carrier Services, Inc. for violation of Section 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission accept the settlement offer proposed by Wholesale Carrier Services, Inc. to resolve the apparent violation of Section 364.336, Florida Statutes?

RECOMMENDATION: The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission order, the company's tariff should be cancelled and its name removed from the register administratively. In addition, the company should be required to immediately cease and desist providing intrastate interexchange service in Florida. If the company's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, the company should be required to first pay any outstanding RAF, including statutory late payment charges, and the contribution.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the tariff and removal from the register.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**PAADocket No. 031008-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 7318 issued to Paramount International Telecommunications, Inc. d/b/a R Network for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission impose a \$500 penalty or cancel Paramount International Telecommunications, Inc. d/b/a R Network's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: The Commission should impose a \$500 penalty or cancel the company's certificate with an effective date of December 31, 2003, if payment of the penalty is not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission. If the Commission's Order is not protested and payment of the penalty is not received, the company's Certificate No. 7318 should be cancelled administratively. If Paramount International Telecommunications, Inc. d/b/a R Network'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 pay telephone service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final 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. The docket should then be closed upon receipt of the penalty or cancellation of the certificate.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

11**Docket No. 031074-EI - Petition for approval of changes to existing performance guaranty agreement and for approval of a second performance guaranty agreement, by Florida Power & Light Company.

Critical Date(s): 1/24/04 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Draper, Springer

GCL: Brown

ISSUE 1: Should FPL's proposed revisions to its existing Performance Guaranty Agreement tariff and FPL's proposed new Performance Guaranty Agreement tariff be suspended?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

12**PAADocket No. 030569-GU - Application for rate increase by City Gas Company of Florida.
(Deferred from January 6, 2004 conference; revised recommendation filed.)

Critical Date(s): 1/20/04 (PAA rate case - 5-month effective date waived for 5 days)

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Brinkley, Baxter, Draper, Gardner, Hewitt, Kaproth, Kenny, Lester,
Lingo, Romig, Springer, Stallcup, Wheeler, Winters
CMP: Makin
GCL: Jaeger

ISSUE 1: Is City Gas's projected test period of the twelve months ending September 30, 2004 appropriate?

RECOMMENDATION: Yes. With the adjustments recommended by Staff in the following issues, the 2002 and 2004 test years are appropriate.

ISSUE 2: Are City Gas's forecasts of customers and therms for the September 30, 2004, projected test year appropriate?

RECOMMENDATION: No. The projected number of customers and therms by rate class as contained in Minimum Filing Requirement (MFR) Schedule G-2, pages 8 through 11, for fiscal year 2004 should be adjusted to reflect Staff's recommended disallowance of the Company's Customer Retention Program as discussed in Issues 35 and 36.

ISSUE 3: Is the quality of service provided by City Gas adequate?

RECOMMENDATION: Yes. The quality of service provided by City Gas is satisfactory.

ISSUE 4: Should the projected test year rate base be adjusted to remove inactive service lines that have been inactive for five years or more?

RECOMMENDATION: Yes. Test year Plant in Service, Accumulated Depreciation, and Depreciation Expense should be reduced by \$144,925, \$144,925, and \$10,290, respectively, to reflect the 955 inactive service lines that have been inactive for five years or more.

Staff recommends that the Company complete an inactive service line study to determine how many of the 955 service lines should be cut/capped and physically abandoned. The study and retirements should be completed and provided to the Bureau of Safety no later than 24 months from the date of the executed order.

ISSUE 5: Is City Gas's Gas Plant in Service of \$198,469,190 for the projected test year appropriate?

ITEM NO.

CASE

12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida. (Deferred from January 6, 2004 conference; revised recommendation filed.)

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RECOMMENDATION: No. The appropriate amount of Gas Plant in Service for the projected test year is \$198,324,265.

ISSUE 6: Should any of the following corporate allocations from NUI Corporation to City Gas be adjusted: Common Plant Allocated in the amount of \$8,128,136, Accumulated Depreciation - Common Plant Allocated in the amount of \$3,821,245, and Common Plant Depreciation and Amortization Expense in the amount of \$1,131,596?

RECOMMENDATION: Yes. Common Plant Allocated should be reduced by \$1,766,884, Accumulated Depreciation - Common Plant Allocated should be reduced by \$119,520, and Common Plant Depreciation and Amortization should be reduced by \$302,961, as a result of NUI's projected corporate capital spending reductions due to its pursuit to sell NUI.

In addition, pursuant to Audit Exception No. 3, Common Plant Allocated should be reduced by \$570,346, Accumulated Depreciation - Common Plant should be reduced by \$65,149, and Common Plant Depreciation and Amortization should be reduced by \$15,930 to remove plant unrelated to City Gas.

ISSUE 7: Should any of the following balances be adjusted for non-utility operations: Common Plant in the amount of \$2,405,121, Accumulated Depreciation - Common Plant in the amount of \$1,153,707, and Depreciation and Amortization Expense in the amount of \$131,856?

RECOMMENDATION: Yes. Plant should be reduced \$34,748; Accumulated Depreciation should be reduced \$14,376; and Depreciation Expense should be reduced \$761.

ISSUE 8: Is City Gas's Common Plant Allocated of \$5,723,015 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Common Plant Allocated for the projected test year is \$3,351,037.

ISSUE 9: Are City Gas's Acquisition Adjustment, Accumulated Amortization of Acquisition Adjustment, and related Amortization Expense of \$1,462,697, \$226,472, and \$46,740, respectively, appropriate for the projected test year?

RECOMMENDATION: Yes. City Gas's Acquisition Adjustment, Accumulated Amortization of Acquisition Adjustment, and related Amortization Expense of \$1,462,697, \$226,472, and \$46,740, respectively, are appropriate for the projected test year.

ISSUE 10: Is City Gas's Construction Work in Progress (CWIP) of \$6,452,439 for the projected test year appropriate?

RECOMMENDATION: Yes. City Gas's Construction Work in Progress (CWIP) of \$6,452,439 for the projected test year is appropriate.

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CASE

12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida.
(Deferred from January 6, 2004 conference; revised recommendation filed.)

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ISSUE 11: Is City Gas's Total Plant of \$212,107,341 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Total Plant for the projected test year is \$209,590,438 .

ISSUE 12: Is City Gas's Accumulated Depreciation of Gas Plant in Service of \$84,927,235 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate Accumulated Depreciation of Gas Plant in Service for the projected test year is \$84,776,445.

ISSUE 13: Is City Gas's requested Accumulated Depreciation and Accumulated Amortization of Plant in Service of \$87,821,245 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Accumulated Depreciation and Amortization of Plant in Service for the projected test year is \$87,471,410.

ISSUE 14: Should an adjustment be made to Interest Accrued in Working Capital?

RECOMMENDATION: Yes. Interest Accrued should be increased by \$100,639 to reflect correction to NUI interest payable.

ISSUE 15: Should an adjustment be made to Accrued Taxes Payable and Tax Collections Payable in Working Capital?

RECOMMENDATION: Yes. Taxes Accrued - General should be increased by \$242,900 and Tax Collections Payable should be increased by \$1,067,188.

ISSUE 16: Have underrecoveries and overrecoveries related to the Purchased Gas Adjustment and Conservation Cost Recovery been appropriately reflected in the Working Capital Allowance?

RECOMMENDATION: Yes. The Company has appropriately reflected underrecoveries and overrecoveries in the Working Capital Allowance.

ISSUE 17: Has City Gas accounted for its Asset Retirement Obligations in accordance with Rule 25-14.014, Florida Administrative Code, Accounting for Asset Retirement Obligations under SFAS 143, such that it is revenue-neutral?

RECOMMENDATION: Yes. City Gas has accounted for its Asset Retirement Obligations in accordance with Rule 25-14.014, Florida Administrative Code, Accounting for Asset Retirement Obligations under SFAS 143, such that it is revenue-neutral.

ISSUE 18: Should an adjustment be made to Working Capital Allowance for the net of Deferred Piping and Accumulated Amortization of Deferred Piping?

RECOMMENDATION: Yes. Working Capital Allowance should be increased by \$61,207 for the net of Deferred Piping and Accumulated Amortization of Deferred Piping. This represents an increase to Deferred Piping of \$62,306 and an increase to Accumulated Amortization of Deferred Piping of \$1,099.

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12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida. (Deferred from January 6, 2004 conference; revised recommendation filed.)

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ISSUE 19: Is City Gas's Working Capital of (\$864,289) for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Working Capital for the projected test year is (\$2,221,581).

ISSUE 20: Is City Gas's Rate Base of \$123,421,807 for the September 2004 projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Rate Base for the projected test year is \$119,897,447.

ISSUE 21: Should an adjustment be made to Accumulated Deferred Income Taxes in the capital structure?

RECOMMENDATION: Yes. An adjustment should be made to increase Accumulated Deferred Income Taxes in the capital structure by \$4,713,871 to reflect a balance of \$11,845,018.

ISSUE 22: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?

RECOMMENDATION: The appropriate amount of unamortized investment tax credits (ITCs) is \$536,361. The ITCs should be included in the capital structure at a zero cost rate.

ISSUE 23: Have rate base and capital structure been reconciled appropriately?

RECOMMENDATION: No. The Commission should adjust City Gas's capital structure to match the investor capital ratios to those of NUI Utilities, Inc. The appropriate investor capital ratios are an equity ratio of 43.35%, a long-term debt ratio of 47.55% and a short-term debt ratio of 9.10%.

ISSUE 24: What is the appropriate cost rate for short-term debt for the September 2004 projected test year?

RECOMMENDATION: The appropriate cost rate for short-term debt is 3.9%.

ISSUE 25: What is the appropriate cost rate for common equity to use in establishing City Gas's revenue requirement?

RECOMMENDATION: The appropriate cost rate for common equity is 11.25%, and the appropriate range is plus or minus 100 basis points.

ISSUE 26: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?

RECOMMENDATION: The appropriate weighted average cost of capital is 7.36%.

ISSUE 27: Has City Gas properly removed Purchased Gas Adjustment Revenues, Expenses, and Taxes-Other from the projected test year?

ITEM NO.

CASE

12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida. (Deferred from January 6, 2004 conference; revised recommendation filed.)

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RECOMMENDATION: No. The Company's adjustment to Purchased Gas Adjustment Revenues was overstated. The adjustment to Purchased Gas Revenues should be decreased from \$31,127,076 to \$30,972,215, an increase to Adjusted Revenues of \$154,861.

ISSUE 28: Should an adjustment be made to correct Projected Total Operating Revenues?

RECOMMENDATION: Yes. Projected Total Operating Revenues should be decreased by \$86,663.

ISSUE 29: Should test year revenues be increased to offset the amount that the Clewiston Pipeline Extension Project's (Pipeline or project) costs exceed its associated revenues, and, if so, what is the appropriate revenue adjustment?

RECOMMENDATION: Yes. Test year revenues should be increased by \$280,288 to offset the amount that the Pipeline's costs exceed its associated revenues.

ISSUE 30: Is City Gas's projected Total Operating Revenues of \$37,873,588 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Total Operating Revenues for the projected test year is \$38,222,074.

ISSUE 31: Has the Company properly allocated expenses between regulated and non-regulated operations?

RECOMMENDATION: No. City Gas failed to allocate certain costs in its MFRs to non-utility operations. Operations and Maintenance Expense (O&M) should be reduced by \$82,475 to remove non-utility expenses.

ISSUE 32: Should an adjustment be made to Account 891, Maintenance of Measuring and Regulating Station Equipment - City Gate Check Stations, for odorant costs?

RECOMMENDATION: Yes. Account 891 should be increased by \$15,548 for odorant costs for the 2004 projected test year. A corresponding adjustment to reduce working capital allowance by \$7,774 is also appropriate.

ISSUE 33: Should an adjustment be made to Account 903, Customer Records and Collections, for the projected test year?

RECOMMENDATION: Yes. Account 903, Customer Records and Collections, should be reduced by \$117,831.

ISSUE 34: Should an adjustment be made to Account 904, Uncollectible Accounts, and for Bad Debt in the Revenue Expansion Factor?

RECOMMENDATION: Yes. Uncollectible Accounts should be reduced by \$255,258 for the projected test year. The appropriate rate for Bad Debt in the Revenue Expansion Factor is 0.013103.

ITEM NO.

CASE

12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida.
(Deferred from January 6, 2004 conference; revised recommendation filed.)

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ISSUE 35: Should an adjustment be made to Account 913, Advertising Expense, for the projected test year?

RECOMMENDATION: Yes. An adjustment should be made to reduce Account 913, Advertising Expense by \$210,000 for the projected test year.

ISSUE 36: Should an adjustment be made to Account 912, Demonstration and Selling Expense, and Account 916, Miscellaneous Sales Expense, for the projected test year?

RECOMMENDATION: Yes. An adjustment should be made to reduce Account 912, Demonstration and Selling Expense, by \$513,644 and reduce Account 916, Miscellaneous Sales Expense, by \$33,191 for the projected test year.

ISSUE 37: Should an adjustment be made to Account 921, Office Supplies and Expenses, for miscellaneous expenses that were written off in the projected test year?

RECOMMENDATION: Yes. Account 921, Office Supplies and Expenses, should be reduced by \$328,367 for the projected test year.

ISSUE 38: Should an adjustment be made to Account 921, Office Supplies and Expenses, for Charitable Contributions?

RECOMMENDATION: Yes. Account 921, Office Supplies and Expenses, should be reduced by \$35,633 for Charitable Contributions.

ISSUE 39: Is City Gas's (\$2,847) adjustment to Account 921, Office Supplies and Expenses, for American Gas Association membership dues appropriate?

RECOMMENDATION: No. Account 921, Office Supplies and Expenses, should be reduced by an additional \$13,178 for American Gas Association membership dues related to charitable contributions and advertising that is not informational or educational in nature.

ISSUE 40: Should an adjustment be made to Account 923, Outside Services, for the projected test year?

RECOMMENDATION: Yes. Account 923, Outside Services, should be increased by \$866,569.

ISSUE 41: Should an adjustment be made to Account 925, Injuries and Damages, for the projected test year?

RECOMMENDATION: Yes. Account 925, Injuries and Damages, should be reduced by \$336,952.

ISSUE 42: Should an adjustment be made to Account 926, Employee Benefits, for the projected test year?

RECOMMENDATION: Yes. Account 926 - Employee Benefits should be reduced by \$50,960 to reflect the removal of a duplicate expense.

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CASE

12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida. (Deferred from January 6, 2004 conference; revised recommendation filed.)

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ISSUE 43: Should an adjustment be made to Account 928, Regulatory Commission Expense, for Rate Case Expense for the projected test year and what is the appropriate amortization period?

RECOMMENDATION: Yes. Account 928, Regulatory Commission Expense, should be decreased by \$5,671, from \$165,090 to \$159,419; the appropriate rate case expense amortization period is three years; and the appropriate amount of rate case expense from the prior case and this proceeding is \$478,256 to be amortized beginning February, 2004.

ISSUE 44: Are the trend rates used by City Gas to calculate projected O&M expenses appropriate?

RECOMMENDATION: No. The customer growth rates contained in MFR Schedule G-2, page 12 of 34, of 0.18% for fiscal year 2003 and 0.12% for fiscal year 2004 are not appropriate. The appropriate customer growth rates are -0.15% for fiscal year 2003 and -0.56% for fiscal year 2004. In addition, for the projected test year, the Commission should use 2.0% for the general inflation rate instead of the 2.2% proposed by City. Staff recommends that the Commission accept City Gas's payroll trend rates.

ISSUE 45: Has City Gas used the appropriate trend basis for each O&M account?

RECOMMENDATION: No. The customer growth factor should not be applied to the "other" expense portions of O&M Account Nos. 886, 921, 923, 926, 930.2, 931.

ISSUE 46: Should the projected test year O&M expense be adjusted for the effect of any changes to trend rates or bases?

RECOMMENDATION: Yes. Notwithstanding specific adjustments to O&M expense accounts in earlier issues, O&M should be reduced an additional \$59,750 as a result of lowering the inflation and customer growth rates, changing the trend bases on select accounts, and recalculating the application of compound rates to be consistent with the Commission methodology used in prior gas rate cases.

ISSUE 47: Is City Gas's O&M Expense of \$24,068,151 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of O&M Expense for the projected test year is \$22,906,546.

ISSUE 48: Should an adjustment be made to projected Depreciation Expense for non-utility depreciation that was incorrectly removed?

RECOMMENDATION: Yes. The projected test year Depreciation Expense should be increased by \$115,860 to correct the error.

ISSUE 49: What adjustments, if any, should be made to the depreciation expense to reflect the Commission's decision in Docket No. 030222-GU?

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12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida. (Deferred from January 6, 2004 conference; revised recommendation filed.)

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RECOMMENDATION: The appropriate adjustment for depreciation expense to reflect the Commission's decision in Docket No. 030222-GU should be a reduction of \$243,449.

ISSUE 50: Is City Gas's Depreciation and Amortization Expense of \$8,395,317 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Depreciation and Amortization Expense for the projected test year is \$7,937,786.

ISSUE 51: Is City Gas's Taxes Other Than Income of \$2,216,926 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Taxes Other Than Income is \$2,297,928, an increase of \$81,002.

ISSUE 52: Is City Gas's Income Tax Expense of (\$403,763), which includes current and deferred income taxes and interest reconciliation, for the projected test year appropriate?

RECOMMENDATION: No. The appropriate income tax expense, including current taxes, deferred income taxes, and interest reconciliation, is \$358,280.

ISSUE 53: Is City Gas's projected Total Operating Expenses of \$34,276,631 appropriate?

RECOMMENDATION: No. The appropriate amount of Total Operating Expenses for the projected test year is \$33,500,540.

ISSUE 54: Is City Gas's projected Net Operating Income of \$3,596,957 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Net Operating Income for the projected test year is \$4,721,534.

ISSUE 55: What is the appropriate revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for City Gas?

RECOMMENDATION: The appropriate Revenue Expansion Factor is 0.612409, and the appropriate Net Operating Income Multiplier is 1.6329.

ISSUE 56: Is City Gas's requested annual operating revenue increase of \$10,489,305 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate annual operating revenue increase for the projected test year is \$6,699,655.

ISSUE 57: Are City Gas's estimated revenues from sales of gas by rate class at present rates for the projected test year appropriate?

RECOMMENDATION: No. The adjustment to correct estimated sales of gas by rate class at present rates for the projected test year is addressed in Issue 28.

ISSUE 58: What is the appropriate cost of service methodology to be used in allocating costs to the rate classes?

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CASE

12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida.
(Deferred from January 6, 2004 conference; revised recommendation filed.)

(Continued from previous page)

RECOMMENDATION: The appropriate methodology is Staff's cost of service methodology adjusted for adjustments made to rate base, operation and maintenance expense, and net operating income.

ISSUE 59: What are the appropriate Customer Charges?

RECOMMENDATION: Staff's recommended customer charges are as follows:

Rate Class	Staff Recommended Customer Charge
GS-1	\$8.00
GS-100	\$9.50
GS-220	\$11.00
GS-600	\$12.00
GS-1,200	\$15.00
GS-6,000	\$30.00
GS-25K	\$80.00
GS-60K	\$150.00
GS-120K	\$250.00
GS-250K	\$300.00
GS-1,250K	\$500.00
Gas Lighting	N/A
Natural Gas Vehicles	\$15.00
Contract Demand	\$400.00

ISSUE 60: What are the appropriate per therm Distribution Charges?

RECOMMENDATION: Staff's recommended per therm Distribution Charges are contained in Attachment 7, pages 1-4, to its January 8, 2004 memorandum.

ISSUE 61: What is the appropriate Demand Charge?

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12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida. (Deferred from January 6, 2004 conference; revised recommendation filed.)

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RECOMMENDATION: The appropriate demand charge is \$0.289 per Demand Charge Quantity. Staff's development of the recommended demand charge is shown in Attachment 8 of its memorandum and discussed in Issue 67.

ISSUE 62: What are the appropriate Miscellaneous Service Charges?

RECOMMENDATION: Staff's recommended Miscellaneous Service Charges are shown below:

Type of Miscellaneous Charge	Staff-Recommended Charge
Residential Connect	\$50.00
Non-Residential Connect	\$110.00
Residential Reconnect after non-payment	\$37.00
Non-Residential Reconnect after non-payment	\$80.00
Change of Account	\$20.00
Customer Requested Temporary Disconnection	See Issue 74.
Bill Collection in lieu of Disconnection	\$20.00
Late Payment Charge	Greater of \$5.00 or 1.5%
Returned Check Charge	Greater of \$25.00 or 5%
Copy of Tariff	This charge should be eliminated.

ISSUE 63: If the Commission grants a revenue increase to City Gas, how should the increase be allocated to the rate classes?

RECOMMENDATION: Staff's recommended allocation of the revenue increase to the rate classes is contained in Attachment 6, page 16 of 16 of its January 8, 2004 memorandum.

ISSUE 64: Should City Gas's proposal to replace its existing rate classes with 11 new volumetric-based rate classes be approved?

RECOMMENDATION: Yes. City Gas's proposal to replace its existing rate classes with 11 new volumetric-based rate classes should be approved.

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CASE

12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida. (Deferred from January 6, 2004 conference; revised recommendation filed.)

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ISSUE 65: Should City Gas's proposed minimum bill provision for customers using 60,000 therms or more per year be approved?

RECOMMENDATION: Yes. City Gas's proposed minimum bill provision for customers using 60,000 therms or more per year should be approved.

ISSUE 66: To which customer classes should City Gas's Competitive Rate Adjustment Rider be applied?

RECOMMENDATION: The Competitive Rate Adjustment Rider should be applied to all customers that do not receive an alternate fuel discount pursuant to City Gas's Alternate Fuel Discount Rider. The Alternate Fuel Discount Rider is addressed in Issue 69.

ISSUE 67: Is City Gas's proposal to bill certain of its customers a demand charge based on their Demand Charge Quantity appropriate?

RECOMMENDATION: No. The Commission should not approve City Gas's proposal. In lieu of City Gas's proposal, the Commission should approve a demand charge of \$0.289 for rate schedules GS-120K, GS-250K, and GS-1,250K, with a separate Demand Charge Quantity established for the winter season (November through March) and for the summer season (April through October). Staff's development of the recommended demand charge is shown in Attachment 8 of its January 8, 2004 memorandum. Staff's recommendation does not change City Gas's revenue requirement. This is a rate design issue only.

ISSUE 68: Should City Gas's proposal to eliminate its interruptible rate classes be approved?

RECOMMENDATION: Yes. City Gas's proposal to eliminate its interruptible rate classes should be approved.

ISSUE 69: Should City Gas's proposal to apply its existing Alternate Fuel Discount (AFD) as a rider be approved?

RECOMMENDATION: Yes. City Gas's proposal to apply its existing Alternate Fuel Discount (AFD) as a rider should be approved.

ISSUE 70: Should City Gas's proposal to lower the eligibility threshold for discounts to customers who have alternate fuel capability from 250,000 to 120,000 therms per year be approved?

RECOMMENDATION: Yes. City Gas's proposal to lower the eligibility threshold for discounts to customers who have alternate fuel capability from 250,000 to 120,000 therms per year should be approved.

ISSUE 71: Should City Gas's proposal to consolidate its sales and transportation customer classifications be approved?

ITEM NO.

CASE

12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida.
(Deferred from January 6, 2004 conference; revised recommendation filed.)

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RECOMMENDATION: Yes. City Gas's proposal to consolidate its sales and transportation customer classifications should be approved.

ISSUE 72: Should City Gas's proposal to eliminate its Standby Sales Service provision be approved?

RECOMMENDATION: Yes. City Gas's proposal to eliminate its Standby Sales Service provision should be approved.

ISSUE 73: Should City Gas's proposed new Transportation Supply Service (TSS) rate schedule be approved?

RECOMMENDATION: Yes, with the exception of the tariff language contained in Special Conditions paragraph 3 of the proposed rate schedule, which should be removed.

ISSUE 74: Is City Gas's proposed new Temporary Disconnect Charge appropriate?

RECOMMENDATION: No. The proposed charge should not be approved.

ISSUE 75: Are City Gas's proposed Daily Imbalance Charges appropriate?

RECOMMENDATION: Yes. City Gas's proposed Daily Imbalance Charges are appropriate.

ISSUE 76: Are City Gas's proposed new monthly charges applicable to Third Party Suppliers appropriate?

RECOMMENDATION: Yes. City Gas's proposed new monthly charges applicable to Third Party Suppliers are appropriate.

ISSUE 77: Are City Gas's proposed new Unauthorized Gas Use provision and the associated per therm charge appropriate?

RECOMMENDATION: Yes. City Gas's proposed new Unauthorized Gas Use provision and the associated per therm charge are appropriate.

ISSUE 78: Is City Gas's proposal to expand the existing Contract Transportation Service (KTS) rate schedule to include sales service customers appropriate?

RECOMMENDATION: Yes. City Gas's proposal to expand the existing KTS rate schedule to include sales service customers is appropriate.

ISSUE 79: What is the appropriate effective date for City Gas's revised rates and charges?

RECOMMENDATION: The revised rates and charges should become effective for meter readings on or after 30 days following the date of the Commission vote approving the rates and charges.

ISSUE 80: Should any portion of the \$2,942,306 interim increase granted by Order No. PSC-03-1217-PCO-GU, issued on October 27, 2003, be refunded to customers?

RECOMMENDATION: No portion of the \$2,942,306 interim revenue increase should be refunded.

ITEM NO.

CASE

12**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida.
(Deferred from January 6, 2004 conference; revised recommendation filed.)

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ISSUE 81: Should City Gas be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case?

RECOMMENDATION: Yes. The Company should be required to fully describe the entries and adjustments that will be either recorded or used in preparing reports submitted to the Commission.

ISSUE 82: Should City Gas's energy conservation cost recovery factors approved in Docket No. 030004-GU, Order No. PSC-03-1374-FOF-GU, be realigned to reflect the new rate classes in this case?

RECOMMENDATION: Yes. City Gas should file realigned conservation cost recovery factors using the approved revenue requirement in this case based on new rate classes. See Commission Order No. PSC-00-2536-TRF-EG.

ISSUE 83: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon the 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: The recommendations were approved, with a modification by staff to Issue 34.

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

ITEM NO.

CASE

13**Docket No. 031071-WS - Application for acknowledgment of transfer of a portion of Florida Water Services Corporation's land and facilities in Lake County to City of Groveland, and for amendment of Certificate Nos. 106-W and 120-S.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Clapp, Kaproth, Willis

GCL: Holley

ISSUE 1: Should the transfer of Florida Water Services Corporation's Palisades/Sunshine Parkway Systems facilities in Lake County to the City of Groveland be approved as a matter of right?

RECOMMENDATION: Yes. The transfer of FWSC's Palisades/Sunshine Parkway Systems facilities in Lake County to the City of Groveland should be approved, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. Certificate Nos. 106-W and 120-S should be amended to reflect the deleted territory described in Attachment A of staff's January 8, 2004 memorandum, effective November 5, 2003. Regulatory Assessment Fees (RAFs) for January 1 through November 5, 2003, should be submitted within 20 days after the issuance of the order approving the transfer.

ISSUE 2: Should the Commission open a docket to examine whether FWSC's sale of its Palisades/Sunshine Parkway Systems facilities to the City of Groveland involves a gain that should be shared with FWSC's remaining customers?

RECOMMENDATION: Yes. The Commission should open a docket to examine whether FWSC's sale of its Palisades/Sunshine Parkway Systems facilities to the City of Groveland involves a gain that should be shared with FWSC's remaining customers.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of any pending dockets concerning the Palisades/Sunshine Parkway Systems facilities, and until Certificate Nos. 106-W and 120-S are amended to reflect the deleted territory described in Attachment A of staff's January 8, 2004 memorandum.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14**PAADocket No. 040005-WS - Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.

Critical Date(s): 3/31/04 (statutory reestablishment deadline)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Biggins, Rendell

GCL: Rodan

ISSUE 1: Which index should be used to determine price level adjustments?

RECOMMENDATION: The Gross Domestic Product Implicit Price Deflator Index is recommended for use in calculating price level adjustments. Staff recommends calculating the 2004 price index by using a fiscal year, four-quarter comparison of the Implicit Price Deflator Index ending with the third quarter 2004.

ISSUE 2: What percentage should be used by water and wastewater utilities for the 2004 Price Index?

RECOMMENDATION: The 2004 Price Index for water and wastewater utilities should be 1.60%.

ISSUE 3: How should the utilities be informed of the indexing requirements?

RECOMMENDATION: Pursuant to Rule 25-30.420(1), Florida Administrative Code, the Division of the Commission Clerk and Administrative Services, after the expiration of the PAA protest period, should mail each regulated water and wastewater utility a copy of the PAA order establishing the index which will contain the information presented in Form PSC/WAW 15 (4/99) and Appendix A (Attachment 1 of staff's January 8, 2004 memorandum). A cover letter from the Director of the Division of Economic Regulation should be included with the mailing of the order (Attachment 2 of staff's memorandum). If a protest is filed and a hearing is held, the Division of the Commission Clerk and Administrative Services should mail each regulated water and wastewater utility a copy of the final order establishing the index which will contain the information presented in Form PSC/WAW 15 (4/99) and Appendix A (Attachment 1). A cover letter from the Director of the Division of Economic Regulation should be included with the mailing of the order (Attachment 2).

ITEM NO.

CASE

14**PAA

Docket No. 040005-WS - Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.

(Continued from previous page)

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon the issuance of the Consummating Order if no substantially affected person files a timely protest within the 14-day protest period after issuance of the PAA Order. Any party filing a protest should be required to prefile testimony with the protest.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

15 Docket No. 020960-TP - Petition for arbitration of open issues resulting from interconnection negotiations with Verizon Florida Inc. by DIECA Communications, Inc. d/b/a Covad Communications Company.

Critical Date(s): None

Commissioners Assigned: Baez, Deason, Bradley

Prehearing Officer: Deason

Staff: GCL: Fordham, Rojas

CMP: T. Brown, Broussard, Muskovac, Vickery

ISSUE 1: Should the Commission grant Covad's Motion for Reconsideration?

RECOMMENDATION: No. The Commission should deny Covad's Motion for Reconsideration, but should make clarification as discussed in the analysis portion of staff's January 8, 2004 memorandum.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending the submission of a properly executed conforming Agreement. Thereafter, it is recommended that staff review the Agreement and, if in compliance with the findings of this Commission, administratively approve the Agreement and close the Docket.

ITEM NO.

CASE

16**Docket No. 030828-WS - Complaint Nos. 512346W and 533120W contesting high water and wastewater bills for December 2002 and April 2003, respectively, filed by Mr. Harold Shriver against Terra Mar Village Utilities, Inc., in Volusia County.

Critical Date(s): None

Commissioners Assigned: Baez, Deason, Bradley

Prehearing Officer: Bradley

Staff: GCL: Jaeger
CAF: Plescow

ISSUE 1: What is the proper disposition of Mr. Harold Shriver's Petition for Initiation of Proceedings?

RECOMMENDATION: In accordance with Rule 28-106.201(4), Florida Administrative Code, the Commission should dismiss the Petition, without prejudice, for Mr. Shriver's failure to comply with the requirements of Rule 28-106.201(2)(b), (d), and (e), Florida Administrative Code. Mr. Shriver should be given 21 days to amend his Petition to comply with Rule 28-106.201, Florida Administrative Code.

ISSUE 2: Should the docket be closed?

RECOMMENDATION: If no amended petition complying with the requirements of Rule 28-106.201(2), Florida Administrative Code, is filed within 21 days of the date of the Order arising from this decision, this docket should be administratively closed.

ITEM NO.

CASE

17**Docket No. 030200-TP - Emergency petition of AT&T Communications of the Southern States, LLC d/b/a AT&T d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a AT&T for cease and desist order and other sanctions against Supra Telecommunications and Information Systems, Inc.

Critical Date(s): None

Commissioners Assigned: Baez, Deason, Davidson

Prehearing Officer: Davidson

Staff: GCL: Fordham

CMP: Buys

ISSUE 1: Should the Commission acknowledge AT&T's Notice of Voluntary Dismissal?

RECOMMENDATION: Yes. The Commission should acknowledge AT&T's Notice of Voluntary Dismissal.

ISSUE 2: Should this docket be closed?

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

ITEM NO.

CASE

18**Docket No. 020650-WU - Application for partial transfer of facilities in Marion County from Marion Utilities, Inc. to Silver Springs Regional Water and Sewer, Inc., a non-profit corporation, and for amendment of Certificate No. 347-W.

Critical Date(s): None

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

Staff: GCL: Brubaker
ECR: Kyle, Merchant, Willis

ISSUE 1: Should the Commission acknowledge the Voluntary Dismissal and Withdrawal of Protest of Proposed Agency Action filed by OPC, and make Order No. PSC-03-0337-PAA-WU final and effective?

RECOMMENDATION: Yes. The Commission should acknowledge the Voluntary Dismissal and Withdrawal of Protest of Proposed Agency Action filed by OPC, and make Order No. PSC-03-0337-PAA-WU final and effective.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. Nothing further remains to be done in this docket, and it should be closed.

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