

**MINUTES OF JULY 19, 2005**  
**COMMISSION CONFERENCE**

**COMMENCED:** 9:40 a.m.

**ADJOURNED:** 12:20 p.m.

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

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

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1 Approval of Minutes

June 14, 2005 Regular Commission Conference

June 21, 2005 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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ITEM NO. CASE  

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2\*\*Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
050388-TX	American Telecharge, Inc.

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, Bradley, Edgar

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3\*\*Docket No. 050421-TL - Petition by Florida Alliance of Information and Referral Services to initiate rulemaking to require local exchange telecommunications companies to include 211 information on inside cover of telephone directories.

Critical Date(s): 7/21/05 (30-day statutory deadline)

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: GCL: Moore

CMP: Bulecza-Banks, Cordiano, Moses

Issue 1: Should the Commission grant the Florida Alliance of Information and Referral Services' Petition to Initiate Rulemaking to amend Rule 25-4.040(3)(b), Florida Administrative Code?

Recommendation: Yes, the Commission should grant the Petition in part. A rule development workshop should be held before the Commission decides whether to amend the rule in the form requested by the petitioner.

Issue 2: Should this docket be closed?

Recommendation: No.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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4\*\*Docket No. 050378-TP - Proposed amendment of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Moore, Rojas  
CCA: Belcher, Flynn  
CMP: Isler, Kennedy  
ECR: Hewitt

Issue 1: Should the Commission amend Rule 25-4.0161, Florida Administrative Code, to specify the penalty to be imposed for violating the rule's requirement to file a regulatory assessment fee return by the due date?

Recommendation: Yes.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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5\*\*Docket No. 050438-EU - Petition to initiate rulemaking to amend Rule 25-6.044(4),  
F.A.C., Continuity of Service, by City of Madeira Beach, Florida.

Critical Date(s): 7/25/05 (30-day statutory deadline)

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Stern  
ECR: McNulty

Issue 1: Should the Commission grant the City of Madeira Beach's Petition to Initiate Rulemaking to amend Rule 25-6.044(4), Florida Administrative Code?

Recommendation: The Commission should grant the Petition in part. A rule development workshop should be held before the Commission decides whether to amend the rule in the form requested by the City.

Issue 2: Should this docket be closed?

Recommendation: No.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

ITEM NO.

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6\*\*Docket No. 050045-EI - Petition for rate increase by Florida Power & Light Company.  
(Deferred from July 5, 2005 conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Baez

Staff: GCL: C. Keating  
ECR: Willis

Issue 1: Should the Commission grant FPL's motions to dismiss FRF's "Petition to Conduct General Rate Case and Request for Hearing" and the Hospitals' substantially similar petition?

Recommendation: Rather than dismiss, the Commission should deny both Petitions. Although the Petitions filed by FRF and the Hospitals are styled as requests to initiate proceedings, the relief sought by FRF and the Hospitals is purely procedural. The Petitions ask the Commission to conduct rate cases for FPL and suggest that the results of these requested rate cases should become effective at the conclusion of the currently operative rate settlement for FPL. A proceeding to determine the fair, just, and reasonable rates for FPL to implement upon conclusion of the currently operative rate settlement has already been initiated, and FRF and the Hospitals may fully and fairly represent their interests in that proceeding.

What is truly being sought by FRF and the Hospitals are procedural placeholders - in the form of separate but contemporaneous rate proceedings - that would allow either party, in the event it is unsatisfied with a hypothetical stipulation among FPL and other parties to the docket, to press the case to hearing under the established time schedule. The Commission should not provide FRF and the Hospitals such additional process rights beyond the due process rights afforded to all parties.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open.

DECISION: The item was deferred.

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7\*\*Docket No. 050078-EI - Petition for rate increase by Progress Energy Florida, Inc.  
(Deferred from July 5, 2005 conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners  
Prehearing Officer: Baez

Staff: GCL: Brubaker  
ECR: Willis

Issue 1: Should the Commission grant PEF's motion to dismiss FRF's Petition to Conduct General Rate Case and Request for Hearing?

Recommendation: Rather than dismiss, the Commission should deny FRF's Petition. Although the Petition filed by FRF is styled as a request to initiate proceedings, the relief sought by FRF is purely procedural. The Petition asks the Commission to conduct a rate case for PEF and suggests that the result of this requested rate case should become effective at the conclusion of the currently operative rate settlement for PEF. A proceeding to determine the fair, just, and reasonable rates for PEF to implement upon conclusion of the currently operative rate settlement has already been initiated, and FRF may fully and fairly represent its interests in that proceeding.

What is truly being sought by FRF is a procedural placeholder - in the form of separate but contemporaneous rate proceeding - that would allow FRF, in the event it is unsatisfied with a hypothetical stipulation among PEF and other parties to the docket, to press the case to hearing under the established time schedule. The Commission should not provide FRF such additional process rights beyond the due process rights afforded to all parties.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open.

DECISION: The item was withdrawn.

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8\*\*Docket No. 040028-TP - Complaint and request for summary disposition to enforce contract audit provisions in interconnection agreement with NewSouth Communications Corp., by BellSouth Telecommunications, Inc. (Deferred from June 21, 2005 conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Susac  
CMP: Wright

Issue 1: Should the Commission grant BellSouth Telecommunications, Inc.'s Motion For Summary Disposition?

Recommendation: Yes. Staff recommends granting BellSouth's Motion for Summary Disposition and allowing BellSouth, at its sole expense, and upon thirty (30) days notice to NewSouth, to audit NewSouth's records to verify the type of traffic being transmitted over loop and transport combinations, also known as Enhanced Extended Link (EELs). Staff recommends requiring BellSouth to serve NewSouth with notice of its intent to conduct the audit, thirty (30) days in advance of the audit.

Issue 2: Should this Docket be closed?

Recommendation: Yes. In the event BellSouth's Motion for Summary Disposition is granted, staff recommends closing the docket because no further action is needed by the Commission.

DECISION: The item was deferred.



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9\*\*Docket No. 040527-TP - Complaint to enforce interconnection agreement with NuVox Communications, Inc. by BellSouth Telecommunications, Inc. (Deferred from June 21, 2005 conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Rojas, Susac

CMP: Wright

Issue 1: Should the Commission grant BellSouth Telecommunications, Inc.'s Motion For Summary Disposition?

Recommendation: Yes. Staff recommends granting BellSouth's Motion for Summary Disposition and allowing BellSouth, at its sole expense, and upon thirty (30) days notice to NuVox, to audit NuVox's records to verify the type of traffic being transmitted over loop and transport combinations, also known as Enhanced Extended Link (EELs).

Issue 2: Should this Docket be closed?

Recommendation: Yes. In the event BellSouth's Motion for Summary Disposition is granted, staff recommends closing the docket because no further action is needed by the Commission.

DECISION: The item was deferred.

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10Docket 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. (Deferred from June 14, 2005 conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: GCL: Banks, Susac

CMP: Vinson, Dowds, Harvey

Issue 1: Should the Commission grant FDN Communications' request for oral argument regarding its Motion for Reconsideration of the Order Establishing Procedure, or in the alternative, Motion to Establish True-Up?

Recommendation: Yes. Because this matter has not yet been to hearing and the questions presented are somewhat unique, staff recommends that the Commission entertain oral presentations from the parties. The length of such presentations is at the Commission's discretion. Staff recommends that they be limited to 10 minutes per party.

Issue 2: Should the Commission grant FDN's Motion for Reconsideration of the Order Establishing Procedure?

Recommendation: No. FDN has not demonstrated that when addressing the procedural schedule in this docket, the Prehearing Officer overlooked a point of fact or law in rendering the Order Establishing Procedure, Order No. PSC-05-0433-PCO-TP, issued April 20, 2005.

Issue 3: Should the Commission grant FDN's Motion to Establish True-Up?

Recommendation: No. Staff recommends that the Commission deny FDN's Motion to Establish True-Up. If the Commission denies staff on Issue 2, this issue becomes moot.

Issue 4: Should these dockets be closed?

Recommendation: No. Whether or not the Commission denies staff on Issues 2 or 3, staff recommends these dockets should remain open pending the resolution of the issues set for hearing.

DECISION: The item was deferred.

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11 Docket No. 040208-EI - Consumer complaint against Florida Power & Light Company  
by Leticia Callard.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Gervasi, Halloran  
ECR: Kummer  
RCA: Plescow

Issue 1: Should the Commission accept Mrs. Callard's exceptions to the Recommended Order?

Recommendation: No. Mrs. Callard's exceptions should be rejected. Mrs. Callard has failed to demonstrate that the factual findings in the Recommended Order are not based on competent, substantial evidence.

Issue 2: Should the Commission accept FPL's exceptions to the Recommended Order?

Recommendation: No. FPL's exceptions should be rejected. FPL has failed to demonstrate that the factual findings in the Recommended Order are not based on competent, substantial evidence. Furthermore, FPL has failed to show that the ALJ's conclusions of law erroneously apply the relevant law.

Issue 3: Should the Administrative Law Judge's Recommended Order be adopted as the Commission's Final Order in this case?

Recommendation: Yes. The Administrative Law Judge's Findings of Fact are based on competent, substantial evidence in the record. The Conclusions of Law appropriately apply the provisions of the Florida Statutes and the Florida Administrative Code.

Issue 4: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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12\*\*PAADocket No. 050327-GU - Petition by Florida Division of Chesapeake Utilities Corporation for approval of special contract with Department of Management Services, Agency of the State of Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Broussard, Bulecza-Banks, Makin

ECR: Slemkewicz

GCL: Brown

Issue 1: Should the Commission approve the special contract between the Florida Division of Chesapeake Utilities Corporation (Chesapeake or the Company) and the Department of Management Services (DMS), an agency of the State of Florida?

Recommendation: Yes. The Commission should approve the special contract between Chesapeake and the Department of Management Services (DMS), an agency of the State of Florida, effective July 19, 2005, the date of the Commission vote in this matter.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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13\*\*PAADocket No. 050390-TI - Investigation and determination of appropriate method for refunding overcharges due to call duration errors on long distance calls by ACN Communication Services, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Watts  
ECR: Lester  
GCL: Rojas, Ouellette

Issue 1: Should the Commission accept ACN Communication Services, Inc.'s proposal to issue a refund of \$2,438.67, plus interest of \$62.63, for a total of \$2,501.30, to the Commission for overcharging end-users on intrastate calls made using services provided by ACN Communication Services, Inc. from June 2004 through February 2005, and require the company to remit the refund, plus interest, to the Commission for deposit in the State of Florida General Revenue Fund within 30 days of the issuance of the Consummating Order?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. The company should remit payment of the refund, with interest, to the Commission for deposit in the State of Florida General Revenue Fund within 30 days of the issuance of the Consummating Order. Upon receipt of the refund, with interest, this docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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14\*\*PAADocket No. 050238-TX - Application for certificate to provide competitive local exchange telecommunications service by USA Telephone Inc. d/b/a Choice One Telecom.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler, Kennedy

GCL: McKay

RCA: Vandiver

Issue 1: Should the Commission accept the alternative arrangement proposed by USA Telephone Inc. d/b/a Choice One Telecom to pay monies owed to Florida Telecommunications Relay, Inc., wherein \$3,384.30 will be paid immediately, and the balance owed of \$6,000.00, plus interest of \$114.12, for a total of \$6,114.12, will be paid in six equal installments of \$1,019.02 each, beginning September 1, 2005?

Recommendation: Yes.

Issue 2: If the Commission approves staff's recommendation in Issue 1, should the Commission make Certificate No. 8587 active, with an effective date of May 3, 2005?

Recommendation: Yes.

Issue 3: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision 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 Choice One fails to make the monthly payments, direct and payable to FTRI, with written notification of each payment to the Commission, Certificate No. 8587 will be cancelled, staff will notify underlying carriers to discontinue providing the company wholesale local exchange service, and the company should be required to immediately cease and desist providing any telecommunications service in Florida. This docket should be closed administratively upon either verification that required fees have been paid to FTRI, or upon cancellation of Certificate No. 8587 and notification to underlying carriers to discontinue providing the company wholesale local exchange service.

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14\*\*PAA

Docket No. 050238-TX - Application for certificate to provide competitive local exchange telecommunications service by USA Telephone Inc. d/b/a Choice One Telecom.

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DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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15\*\*PAADocket No. 050404-TC - Request for cancellation of PATS Certificate No. 8130 by Paul Chang, effective March 4, 2005.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay

Issue 1: Should the Commission deny Paul Chang a voluntary cancellation of its pay telephone company (PATS) Certificate No. 8130 and cancel the certificate on the Commission's own motion with an effective date of March 4, 2005?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If the company fails to pay the Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's certificate should be cancelled administratively and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. 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 pay telephone service in Florida. This docket should be closed administratively either upon receipt of the payment of the 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, Edgar



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16\*\*PAADocket No. 050405-TI - Acknowledgment of cancellation of IXC Registration No. TJ595 by @ccess, LLC, effective March 1, 2005.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay

Issue 1: Should the Commission deny @ccess, LLC's request for a voluntary cancellation and instead cancel IXC Registration No. TJ595 on the Commission's own motion with an effective date of March 1, 2005?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If the company fails to pay the Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's tariff should be cancelled administratively, its name removed from the register, and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If the company's tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's tariff and removal from the register.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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17Docket No. 041291-EI - Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Baez

Staff: ECR: Slemkewicz, Draper, Devlin, Haff, Joyce, Kummer, Kyle, Lee, Maurey, McNulty, Romig, Wheeler, Willis  
GCL: C. Keating, Fleming

Issue 1: What is the legal effect, if any, of FPL's 1993 storm cost study and Order No. PSC-95-0264-FOF-EI entered in Docket No. 930405-EI on the decisions to be made in this docket?

Recommendation: The methodology proposed in FPL's 1993 storm cost study does not represent the standard by which the Commission must determine which costs are appropriately charged to FPL's storm damage reserve. In Order No. PSC-95-0264-FOF-EI, the Commission did not expressly approve the methodology proposed in FPL's study and made no finding that the methodology was "reasonable" or "appropriate" or otherwise should be used as the continuing standard for charging costs to the storm reserve.

Issue 2: Is the methodology in Order No. PSC-95-0264-FOF-EI, issued in Docket No. 930405-EI, for booking costs to the Storm Damage Reserve the appropriate methodology to be used in this docket?

Recommendation: No. A modified incremental cost approach is the appropriate methodology to be used in this docket for booking costs to the Storm Damage Reserve.

Issue 3: Were the costs that FPL has booked to the Storm Damage Reserve consistent with the methodology in the study filed on October 1, 1993, by the Company in Docket No. 930405-EI?

Recommendation: Yes. The costs that FPL has booked to the Storm Damage Reserve appear to be consistent with the methodology in the study filed on October 1, 1993, in Docket No. 930405-EI.

Issue 4: Has FPL quantified the appropriate amount of non-management employee labor payroll expense that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: No. FPL's non-management employee labor expense should be adjusted to reflect only the incremental costs above its budgeted levels for the year end 2004. To prevent FPL from collecting twice through rates for its employee regular pay,

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Docket No. 041291-EI - Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

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the Commission should disallow \$10.9 million of the amount FPL charged to the storm reserve.

NON-MANAGEMENT EMPLOYEE LABOR EXPENSE

FPL Requested Charge to Storm Reserve	\$45,389,456
Staff Recommended Charge to Storm Reserve	<u>\$34,489,456</u>
Staff Recommended Adjustment	<u>\$10,900,000</u>

Issue 5: Has FPL properly treated payroll expense associated with managerial employees when determining the costs that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: No. FPL's managerial employee payroll expense should be adjusted to reflect only the incremental costs above its budgeted levels for the year end 2004. To prevent FPL from collecting twice for its employee regular pay, the Commission should disallow \$21.1 million of the amount FPL charged to the storm reserve.

MANAGERIAL EMPLOYEE PAYROLL EXPENSE

FPL Requested Charge to Storm Reserve	\$62,196,295
Staff Recommended Charge to Storm Reserve	<u>\$41,096,295</u>
Staff Recommended Adjustment	<u>\$21,100,000</u>

Issue 6: At what point in time should FPL stop charging costs related to the 2004 storm season to the storm reserve?

Recommendation: FPL should stop charging costs to the storm reserve no later than July 31, 2005, for restoration work related to the 2004 storm season. In addition, the follow-up project cost in question must be demonstrated to be related to the 2004 storm damages and a staff audit of the follow-up projects is necessary to ensure that FPL followed its stated procedures differentiating the regular and storm-repair work orders and that FPL followed the cost accounting methodology approved in this proceeding.

Issue 7: Has FPL charged to the storm reserve appropriate amounts relating to employee training for storm restoration work? If not, what adjustments should be made?

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Docket No. 041291-EI - Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

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Recommendation: Yes. FPL has not charged any employee training costs to the storm reserve. No adjustment is necessary.

Issue 8: Has FPL properly quantified the costs of tree trimming that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: No. The costs of tree trimming included in the storm reserve should be reduced by \$1 million.

FPL Requested Charge to Storm Reserve	\$89,435,466
Staff Recommended Charge to Storm Reserve	<u>\$88,435,466</u>
Staff Recommended Adjustment	\$ <u>1,000,000</u>

Issue 9: Has FPL properly quantified the costs of company-owned fleet vehicles that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: No. The costs of company-owned fleet vehicles charged to the storm reserve should be reduced by \$5,261,887.

FPL Requested Charge to Storm Reserve	\$8,088,117
Staff Recommended Charge to Storm Reserve	<u>\$2,826,230</u>
Staff Recommended Adjustment	<u>\$5,261,887</u>

Issue 10: Has FPL properly determined the costs of call center activities that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: Yes. Only incremental costs of call center activities were charged to the storm reserve. No adjustment is necessary.

Issue 11: Has FPL appropriately charged to the storm reserve any amounts related to advertising expense or public relations expense for the storms? If not, what adjustments should be made?

Recommendation: No. The Commission should disallow \$1,552,410 of the amount FPL charged to the storm reserve. This amount represents the difference between the advertising expense that was incurred and the amount that was originally budgeted for 2004. Further, in the future, FPL should exclude budgeted advertising and public relations expense from its storm reserve.

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Docket No. 041291-EI - Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

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ADVERTISING/PUBLIC RELATIONS EXPENSE

FPL Requested Charge to Storm Reserve	\$1,703,454
Staff Recommended Charge to Storm Reserve	<u>\$151,044</u>
Staff Recommended Adjustment	<u>\$1,552,410</u>

Issue 12: Has uncollectible expense been appropriately charged to the storm reserve? If not, what adjustments should be made?

Recommendation: FPL has not charged any uncollectible expense to the storm reserve. If the Commission follows the utility's Actual Restoration Cost Approach, no adjustment should be made. However, if the Commission follows the Modified Incremental Cost Approach recommended by staff, uncollectible expense is addressed in Issue 15.

Issue 13: Of the costs that FPL has charged or proposes to charge to the storm reserve, should any portion(s) instead be booked as capital costs associated with its retirement (including cost of removal) and replacement of plant items affected by the 2004 storms? If so, what adjustments should be made?

Recommendation: Yes. FPL should charge the normal cost of replacements, approximately \$58 million, to rate base as plant in service. FPL should also charge the normal cost of removal, approximately \$12.2 million, to the cost of removal reserve. In addition, the \$21.7 million classified as Contributions in Aid of Construction (CIAC) should not be charged against the storm reserve.

	<u>Plant in Service</u>	<u>Cost of Removal</u>	<u>CIAC</u>
Requested by Company	\$58,000,000	\$12,200,000	\$21,700,000
Recommended by Staff	<u>0</u>	<u>0</u>	<u>0</u>
Adjustment	<u>(\$58,000,000)</u>	<u>(\$12,200,000)</u>	<u>(\$21,700,000)</u>

Issue 14: Has FPL appropriately quantified the costs of materials and supplies used during storm restoration that should be charged to the storm reserve? If not, what adjustments should be made?

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Docket No. 041291-EI - Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

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Recommendation: Yes. FPL has properly quantified the costs of materials and supplies used during restoration that should be charged to the storm reserve. Therefore, no adjustment is necessary.

Issue 15: If the Commission does not apply, in this docket, the methodology applied by FPL for charging expenses to the storm reserve pursuant to the study filed on October 1, 1993 by the Company and addressed by the Commission in Order No.

PSC-95-0264-FOF-EI in Docket No. 930405-EI, should the Commission take into account:

- a) Revenues lost by the Company due to the disruption of customer service during the 2004 storm season or the absence of customers after the storms;
- b) Overtime incurred by Company personnel in work areas not directly affected by the storm due to loss of some personnel to storm assignments (backfill work);
- c) Costs associated with work which must be postponed due to the urgency of the storm restoration and accomplished after the restoration was completed (catch-up work);
- d) Uncollectible accounts receivable write-offs directly related to the storms; and
- e) Incremental contractor, outside professional services and temporary labor costs due to work postponed due to the urgency of the storm restoration and accomplished after the restoration was completed.

Primary Recommendation: If the Commission approves staff's recommendation on Issues 1 and 2 and uses a Modified Incremental Cost Approach rather than the Actual Restoration Cost Approach proposed by FPL, lost revenues and uncollectible accounts should be taken into account but not backfill work, catch-up work and expenses associated with contractors and outside services. In taking into account lost revenues, the Commission should not consider lost revenues as indirect costs but should recognize that the normal O&M costs charged to the storm reserve by FPL and removed by staff in previous issues as recovered in base rates, were not recovered in base rates due to lost revenues. Therefore, the Commission should recognize lost revenues by including normal O&M costs that were not recovered in base rates totaling \$33,814,297 and include uncollectible accounts receivable write-offs totaling \$6,000,000 for a total of \$39,814,297. The backfill work, catch-up work and expenses associated with contractors and outside services of \$16,000,000 should not be taken into account. Furthermore, any

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recoveries of the directly related uncollectible expense should be credited to reduce the amount of unrecovered storm damage costs. Moreover, directly related uncollectible expense will be subject to the cumulative true-up at the end of the recovery period.

	Lost Revenue	Catch-up & Backfill Overtime	Incremental Contractor & Outside Services	Uncollectible Accounts Receivable Write-Offs	TOTAL
Requested by Company	38,200,000	9,000,000	7,000,000	6,000,000	60,200,000
Requested by Staff	33,814,297	0	0	6,000,000	39,814,297
Staff Adjustment	4,385,703	9,000,000	7,000,000	0	20,385,703

Alternate Staff Recommendation: Alternate staff only disagrees with primary staff on the issue of lost revenues. Alternate staff recommends that the Commission not take into account any of the \$38.2 million of lost revenues.

Issue 16: Taking into account any adjustments identified in the preceding issues, what is the appropriate amount of storm-related costs to be charged against the storm reserve?

Recommendation: Based on staff's adjustments recommended in the previous issues, the appropriate amount of storm-related costs to be charged against the storm reserve is \$794,309,025 (\$798,100,000 system).

TOTAL COSTS TO BE CHARGED AGAINST THE STORM RESERVE

Amount Requested	\$890,000,000 (System)
Staff Recommended	<u>\$798,100,000</u> (System)
Difference	<u>(\$91,900,000)</u> (System)

If the Commission approves the alternate staff recommendation on Issue 15, staff's recommended charge to the storm reserve would be \$760,655,346 (\$764,285,703 system).

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Issue 17: Were the costs FPL has booked to the storm reserve reasonable and prudently incurred?

Recommendation: The Commission should find that the costs listed in Issue 16 as being appropriately charged to the storm reserve are reasonable and prudent. The Commission need not and should not make a finding of reasonableness or prudence for those costs that FPL booked to its storm reserve other than those listed in Issue 16. Such a finding may bind the Commission in a future proceeding concerning recovery of such costs.

Issue 18: Is FPL's objective of safe and rapid restoration of electric service following tropical storms and hurricanes appropriate?

Recommendation: Safe and rapid restoration of electric service following service interruptions is the legal obligation of every monopoly investor-owned electric utility in Florida and is consistent with industry practice. However, because no party has challenged FPL's objectives or efforts to restore service in connection with the extraordinary storm season that affected its service territory in 2004 and the resolution of this issue has no direct bearing on the decisions to be made in this case, the Commission need not address this issue.

Issue 19: Does the stipulation of the parties that the Commission approved in Order No. PSC-02-0501-AS-EI affect the amount or timing of storm-related costs that FPL can collect from customers through the proposed surcharge? If so, what is the impact?

Recommendation: The stipulation expressly provides that, in the event there are insufficient funds in FPL's storm reserve, FPL may petition for recovery of prudently incurred costs in excess of the storm reserve. The stipulation does not require that FPL absorb such costs through earnings until its return on equity is reduced to 10% before seeking a change in rates.

Issue 20: In the event that the Commission determines the stipulation approved in Order No. PSC-02-0501-AS-EI does not affect the amount of costs that FPL can recover from ratepayers, should the responsibility for those costs be apportioned between FPL and retail ratepayers? If so, how should the costs be apportioned?

Recommendation: No. Staff recommends that FPL be allowed to recover all reasonable and prudently incurred storm damage costs identified and approved by the Commission.

Issue 21: What is the appropriate amount of storm-related costs to be recovered from the customers?

Recommendation: The appropriate amount of storm-related costs to be recovered from the retail customers through a surcharge is \$441,990,525 plus interest and revenue taxes. In addition, FPL's depreciation reserve surplus should not be used to offset any of the \$441,990,525.



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TOTAL COSTS TO BE RECOVERED FROM THE RETAIL CUSTOMERS

Amount Requested	\$533,000,000
Staff Recommended	<u>\$441,990,525</u>
Difference	<u>(\$91,009,475)</u>

If the Commission approves the alternate staff recommendation on Issue 15, staff's recommended surcharge amount would be \$408,336,846, plus interest and revenue taxes. Issue 22: If recovery is allowed, what is the appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery?

Recommendation: The appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery is to record the costs as a regulatory asset in a subaccount of Account 182.1, Extraordinary Property Losses.

Issue 23: Should FPL be authorized to accrue and collect interest on the amount of storm-related costs permitted to be recovered from customers? If so, how should it be calculated?

Recommendation: Staff recommends that FPL be allowed to charge interest at the applicable 30-day commercial paper rate on the unamortized balance of storm damage restoration costs permitted to be recovered from ratepayers. In addition, staff recommends an adjustment be made in the calculation of interest to recognize the storm-related deferred taxes not included in the Company's upcoming rate case. This adjustment reduces the interest carrying charge on the unamortized balance of storm-related costs by approximately \$5.1 million.

Issue 24: WITHDRAWN.

Issue 25: If the Commission approves recovery of any storm-related costs, how should they be allocated to the rate classes?

Recommendation: Storm-related costs should be allocated to the rate classes using the revised allocation percentages developed in FPL's response to Staff Interrogatory No. 35, Attachment 1, page 1 of 2. (EXH 2) These percentages reflect an allocation that approximates the way the storm damage costs would have been allocated in a base rate proceeding, i.e., based on the amount of damage in each functional area (e.g., transmission, distribution, etc.).

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Each rate class's cost responsibility should be based on its actual kWh sales for 2003, adjusted to reflect the remaining 29-month recovery period to calculate a cents-per-kWh recovery factor. FPL should immediately file tariffs containing revised factors that will become effective beginning with cycle 13 billings for the month of September 2005. The factors should be designed to recover the Commission-approved jurisdictional storm cost recovery amount addressed in Issue 21, plus interest and revenue taxes, less the actual/estimated revenues collected between February 17, 2005, and cycle 12 billings for September 2005.

If the Commission determines that FPL's allocation method is appropriate, FPL should nevertheless file revised factors using FPL's allocation percentages, reflecting the Commission-approved recovery amount as described in the previous paragraph.

Issue 26: What is the appropriate recovery period?

Recommendation: The appropriate recovery period, which became effective on an interim basis on February 17, 2005, is three years or less. The recovery period should end with cycle 12 billings for February 2008, unless all approved costs are recovered sooner. If the approved costs are fully recovered prior to February 2008, the recovery period should continue until the next cycle 12 billings, so that all customers are assessed the surcharge for the same number of billing cycles. Within 60 days following expiration of the Commission-approved recovery period, FPL should file with the Commission for approval of the final over- or under-recovery of the 2004 storm damage costs, and a proposed method to true up any final over- or under-recovery.

Issue 27: If the Commission approves a storm cost recovery surcharge, should the approved surcharge factors be adjusted annually to reflect actual sales and revenues?

Recommendation: No.

Issue 28: If the Commission approves a mechanism for the recovery of storm-related costs from the ratepayers, on what date should it become effective?

Recommendation: The interim surcharge factors became effective on February 17, 2005. If the Commission revises the surcharge factors based on its vote in Issue 25, the revised factors should become effective with cycle 13 billings for September 2005.

Issue 29: What is the appropriate disposition of the revenue collected as an interim storm cost recovery surcharge?

Recommendation: If the Commission authorizes FPL to collect a total amount that is less than that collected on an interim basis, the difference should be refunded to customers with interest. If the Commission authorizes FPL to collect a total amount that is more than that collected on an interim basis, the funds collected under the interim provision should be applied to the total overall amount. Revenues collected on an

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interim basis, less revenue taxes, should be applied to the amount approved for recovery by the Commission. Further, total revenues will be subject to the cumulative true-up at the end of the recovery period.

Issue 30: WITHDRAWN.

Issue 31: Should this docket be closed?

Recommendation: Yes. This docket should be closed if no party files a timely appeal of the Commission's final order. At the time of FPL's true-up filing following the recovery period set forth in Issue 26, the Commission may address the true-up in a separate docket.

DECISION: The recommendations in Issues 1-12, 14, 16-23 and 25-29 were approved. The recommendation in Issue 13 was approved as discussed at the conference. The primary staff recommendation in Issue 15a was approved; Commissioner Deason dissented. The recommendations in Issues 15b-15e were approved. Issues 24 and 30 were withdrawn. Issue 31 was modified as discussed at the conference. Refer to the official transcript filed with the Clerk's Office for full discussion.

Commissioners participating: Baez, Deason, Bradley, Edgar

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18\*\*PAADocket No. 050293-EQ - Petition for approval of new standard offer contract for qualifying cogeneration and small power production facilities and for approval of associated revisions to tariff schedule COG-2 by Tampa Electric Company.

Critical Date(s): 12/25/05 (8-month effective date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: Sickel, Wheeler

GCL: Brown

Issue 1: Should TECO's petition for approval of a new Standard Offer Contract, and associated tariffs, based upon a combustion turbine unit with an in-service date of January 1, 2007, be approved?

Recommendation: Yes. TECO's new Standard Offer Contract complies with Rule 25-17.0832, Florida Administrative Code. The Commission should approve it, and it should become effective the date the Commission's order becomes final.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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19\*\*Docket No. 050300-EI - Request for approval to begin depreciating Martin Unit No. 8 and Manatee Unit No. 3 using whole life depreciation rates currently approved for Martin Power Plant, Unit No. 4 and Common, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: ECR: Gardner

GCL: C. Keating, Fleming

Issue 1: Should new depreciation rates be approved for Florida Power & Light's Manatee Unit No. 3 and Martin Unit No. 8 plant subaccounts based upon the whole life depreciation rate prescribed for Martin Unit No. 4?

Recommendation: Yes. For Manatee Unit No. 3 and Martin Unit No. 8, FPL proposes the whole life depreciation rates as shown on Attachment A of staff's July 7, 2005 memorandum. These rates should be approved for the combined cycle generating units, pending a comprehensive depreciation study in 2009. The depreciation rates reflect those currently prescribed whole life depreciation rates for Martin Unit No. 4 and Common plant subaccounts.

Issue 2: What should be the implementation date for the depreciation rates for Manatee Unit No. 3 and Martin Unit No. 8?

Recommendation: Staff recommends June 30, 2005, as an implementation date for FPL's whole life depreciation rates for Manatee Unit No. 3 and Martin Unit No. 8.

Issue 3: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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20\*\*Docket No. 050349-SU - Request for approval of revision to general service tariff in Pinellas County by Ranch Mobile WWTP, Inc.

Critical Date(s): 7/19/05 (60-day suspension date-extended)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Revell, Rendell

GCL: Vining

Issue 1: Should Ranch Mobile's request to revise its general service tariff be approved?

Recommendation: Yes. The utility's request to revise its general service tariff should be approved with the staff recommended addition. The utility should file a revised tariff sheet which is consistent with the Commission vote. Staff recommends that it be given administrative authority to approve the revised sheet upon staff's verification that the tariff is consistent with the Commission's decision. The utility should also file a proposed customer notice to reflect the Commission-approved revision. The approved revision should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), after staff has verified that the proposed customer notice is adequate and this notice has been provided to customers. The utility should provide proof that the three affected customers have received notice within 10 days after the date of the notice.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order. If a protest is filed within 21 days of the issuance of the Commission's Order, the tariff should remain in effect with all revenues held subject to refund pending resolution of the protest and the docket held open.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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21\*\*Docket No. 050368-WS - Request for approval of change in meter installation fees and proposed changes in miscellaneous service charges in Pasco County by Paradise Lakes Utility, L.L.C.

Critical Date(s): 7/22/05 (60-day suspension date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Merta, Rendell

GCL: Jaeger

Issue 1: Should Paradise Lakes Utility, L.L.C.'s proposed tariff sheet to increase meter installation fees for 5/8" x 3/4" meters to \$182.15 for standard meters and \$332.79 for radio read meters and actual cost for all other meter sizes be approved as filed?

Recommendation: Yes. First Revised Sheet No. 19.0, increasing the utility's meter installation fees, should be approved as filed. The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided that the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof that the customers have received notice within 10 days after the date that the notice was sent.

Issue 2: Should Paradise Lakes Utility, L.L.C.'s proposed tariff sheets to modify and increase miscellaneous service charges to \$20 and to add after hours charges of \$40 be approved as filed?

Recommendation: Yes. First Revised Sheet No. 16.0 and First Revised Sheet No. 18.0 should be approved as filed. The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided that the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof that the customers have received notice within 10 days after the date that the notice was sent.

Issue 3: Should this docket be closed?

Recommendation: Yes. If Issues 1 and 2 are approved, the revised tariff sheets should become effective on or after the stamped approval date on the revised tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with all increased

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charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar



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22\*\*Docket No. 050369-WS - Request for approval of change in meter installation fees and proposed changes in miscellaneous service charges in Pasco County by Mad Hatter Utility, Inc.

Critical Date(s): 7/22/05 (60-day suspension date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Merta, Rendell

GCL: Jaeger

Issue 1: Should Mad Hatter Utility, Inc.'s proposed tariff sheets to increase meter installation fees for 5/8" x 3/4" meters to \$182.15 for standard meters, \$332.79 for radio read meters, and actual cost for all other meter sizes be approved as filed?

Recommendation: Yes. First Revised Sheet No. 35.0 and First Revised Sheet No. 32.0, increasing the meter installation fees, should be approved as filed. The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided that the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof that the customers have received notice within 10 days after the date that the notice was sent.

Issue 2: Should Mad Hatter Utility, Inc.'s proposed tariff sheets to modify and increase miscellaneous service charges to \$20 and after hours charges to \$40 be approved as filed?

Recommendation: Yes. Second Revised Sheet No. 15.0 and First Revised Sheet No. 16.0 should be approved as filed. The utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided that the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof that the customers have received notice within 10 days after the date that the notice was sent.

Issue 3: Should this docket be closed?

Recommendation: Yes. If Issues 1 and 2 are approved, the revised tariff sheets should become effective on or after the stamped approval date on the revised tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with all increased charges held subject to refund pending resolution of the protest, and the docket should

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remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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23\*\*Docket No. 050211-WS - Application for amendment of Certificates 618-W and 532-S to extend water and wastewater service areas to include certain land in Sumter County by North Sumter Utility Company, L.L.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: Walden

GCL: Gervasi

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

Recommendation: Yes. Certificates 618-W and 532-S, granted to North Sumter Utility Company, LLC, should be amended to include the territory listed on Attachment A of staff's July 7, 2005 memorandum.

Issue 2: Should the docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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24\*\*PAADocket No. 030696-TI - Compliance investigation of 9278 Communications, Inc. for apparent violation of Sections 364.02 and 364.04, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Deason, Bradley, Edgar

Prehearing Officer: Edgar

Staff: CMP: Kennedy

GCL: Rojas

Issue 1: Should the Commission accept the settlement offer submitted by 9278 Communications, Inc. to resolve the company's apparent violation of Sections 364.02 and 364.04, Florida Statutes?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision 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. This docket should be closed administratively upon receipt of the final payment of the voluntary contribution, and confirmation that the company complied with the terms contained in its settlement agreement. If 9278 Communications fails to pay the total amount of the voluntary contribution and comply with the terms in accordance with its settlement agreement, action will be taken pursuant to the provisions in paragraph 6 of that agreement. If 9278 Communications fails to cure any default pursuant to the provisions of paragraph 6 of the settlement agreement, the settlement agreement shall be considered null and void and this docket should remain open pending further action.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Bradley, Edgar