

MINUTES OF June 30, 2009

COMMISSION CONFERENCE

COMMENCED: 9:30 am

RECESSED: 11:24 am

RECONVENED: 11:38 am

ADJOURNED: 11:45 am

COMMISSIONERS PARTICIPATING: Chairman Carter
Commissioner Edgar
Commissioner McMurrian
Commissioner Argenziano (via telephone)
Commissioner Skop

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

1**

Docket No. 040763-TP – Request for submission of proposals for relay service, beginning in June 2005, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

Critical Date(s): 07/06/09 By contract, the Commission is required to notify Sprint of its intent to exercise the requested option period.

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RCP: Casey

GCL: Tan

SSC: Moses

Issue 1: 1 Should the Commission approve the contract option to extend the Sprint Relay contract for one year beginning June 1, 2010?

Recommendation: Yes. Staff recommends that the Commission approve the contract option to extend the Sprint Relay contract for one year beginning June 1, 2010. Rates for traditional telecommunications relay service (TRS) should be \$0.85 per session minute and the rate for CapTel captioning service should be \$1.47 per session minute for the 2010-2011 contract year. Staff also recommends that the amount of the Sprint performance bond should be \$5,852,937 for the 2010-2011 contract option year.

Issue 2: Should the Commission approve Mr. Louis J. Schwarz as a TASA advisory committee member to replace Ms. Julia Michalka effective immediately?

Recommendation: Yes, the Commission should approve Mr. Louis J. Schwarz as a TASA advisory committee member to replace Ms. Julia Michalka effective immediately.

ITEM NO.

CASE

1**

Docket No. 040763-TP – Request for submission of proposals for relay service, beginning in June 2005, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: No, this docket should not be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

2**

Docket No. 070733-EI – Complaint No. 694187E by Cutrale Citrus Juices USA, Inc. against Tampa Electric Company for refusing to provide transformer ownership discount for electrical service provided through Minute Maid substation.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: GCL: Klancke
ECR: Kummer

Issue 1: Should the Commission acknowledge Cutrale Citrus Juices USA, Inc.'s voluntary withdrawal of its petition, and if so, what effect does the withdrawal have on Docket 070733-EI?

Recommendation: Yes, the Commission should acknowledge Cutrale's voluntary withdrawal of its petition as a matter of right. The effect of the voluntary withdrawal is to divest the Commission of further jurisdiction over this matter.

Issue 2: Should this docket be closed?

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

DECISION: This item was deferred to the July 14, 2009 Commission Conference.

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

ITEM NO.

CASE

3**

Docket No. 080677-EI – Petition for increase in rates by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: GCL: Bennett, Brown, Hartman, Williams

ECR: Slemkewicz

Issue 1: Should the Commission grant South Florida Hospital and Healthcare Association's Request for a Base Rate Proceeding for Florida Power & Light Company?

Recommendation: No. A second FPL Base Rate Proceeding which shadows this docket is administratively inefficient. SFHHA's concerns as expressed in its petition are protected through the conduct of the current rate proceeding if it proceeds to hearing, through the current stipulation if FPL withdraws its petition, and through its ability to petition the Commission for a separate rate proceeding in the event the Commission approves a settlement agreement to which SFHHA does not become a signatory.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open to consider Florida Power & Light's Petition for Increase in Base Rates.

DECISION: The recommendations were approved with the modification that in the final order, the phrase "if warranted" shall be removed.

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

ITEM NO.

CASE

4**PAA

Docket No. 090307-TP – Request for expedited waiver of carrier selection requirements of Rule 25-4.118, FAC, due a transaction in which Birch Telecom of the South, Inc. d/b/a Birch Telecom d/b/a Birch Communications, a wholly owned subsidiary of Birch Communications, Inc., will acquire substantially all of the assets and customers of Cleartel Telecommunications, Inc. d/b/a Now Communications, also d/b/a VeraNet Solutions, IDS Telcom Corp. d/b/a Cleartel Communications, nii communications, ltd., and Supra Telecommunications and Information Systems, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Watts

GCL: Morrow

Issue 1: Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C., in the transfer of local and long distance customers to Birch Telecom of the South, Inc. d/b/a Birch Telecom d/b/a Birch Communications from Cleartel Telecommunications, Inc. d/b/a Now Communications, also d/b/a VeraNet Solutions, IDS Telcom Corp. d/b/a Cleartel Communications, nii communications, ltd., and Supra Telecommunications and Information Systems, Inc.?

Recommendation: Yes, the Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C. Any waiver approved by the Commission should only apply to the specific set of customers identified in the petition. The petitioners should be required to provide the Commission notification of the actual date when the transaction is consummated. If for any reason the transaction is not consummated, any waiver approved by the Commission shall be null and void.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5**PAA

Docket No. 070348-TX – Amended petition for designation as eligible telecommunications carrier (ETC) by Swiftel, LLC. (Deferred from the June 16, 2009 Commission Conference)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: RCP: Polk, Casey

GCL: Murphy

SSC: Moses

Issue 1: Should Swiftel be granted eligible telecommunications carrier status in the State of Florida?

Recommendation: No. Staff recommends that Swiftel not be granted eligible telecommunications carrier status in the State of Florida.

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: This item was deferred to the August 18, 2009 Commission Conference.

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

ITEM NO.

CASE

6**

Docket No. 090168-TL – State certification of rural telecommunications carriers pursuant to 47 C.F.R. 54.314, High Cost Universal Service.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RCP: Polk, Casey

GCL: Teitzman

SGA: Fogleman

Issue 1: Should the Florida Public Service Commission (FPSC or Commission) certify to the FCC and to the USAC that for the year 2010 Windstream Florida, Inc., Frontier Communications of the South, LLC, GTC, Inc. d/b/a FairPoint Communications, ITS Telecommunications Systems, Inc., Northeast Florida Telephone Company d/b/a NEFCOM, Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone, and Smart City Telecommunications, LLC d/b/a Smart City Telecom will only use the federal high-cost support they receive for the provision, maintenance and upgrading of facilities and services for which the support is intended?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed and subsequent annual certifications of rural telephone companies should be addressed in a new docket.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

Critical Date(s): 5-Month Effective Date Waived Through 06/30/09

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: RCP: Mann, Casey

ECR: Daniel, Lingo, Redemann

GCL: Brown

(Proposed Agency Action Except for Issue Nos. 21 and 22)

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

Recommendation: Yes. The overall quality of service provided by Southlake is satisfactory.

Issue 2: What are the used and useful percentages of Southlake's water treatment plant, ground storage tanks, and water distribution lines?

Recommendation: The Southlake water treatment plant, ground storage tanks, and water distribution system are 100 percent used and useful.

Issue 3: What are the used and useful percentages of the utility's wastewater treatment plant and wastewater collection system?

Recommendation: The Southlake wastewater treatment plant is 76 percent used and useful. The used and useful adjustment should be made to Account No. 354.4, Structures and Improvements, and Account No. 380.4, Treatment and Disposal Equipment. The wastewater collection system should be considered 100 percent used and useful.

Issue 4: Should the audit adjustments to rate base to which the utility agrees, be made?

Recommendation: Yes. Based on audit adjustments agreed to by the Utility and staff, plant in service should be increased \$55,660 for water and decreased \$307,196 for wastewater. Accumulated depreciation should be decreased \$22,892 for water and decreased \$4,279 for wastewater.

Issue 5: Should any additional adjustments be made to the Utility's test year plant in service balance?

Recommendation: Yes. Staff recommends that plant in service be decreased by an additional \$350,853 for water and \$1,164,175 for wastewater.

Issue 6: What is the appropriate working capital allowance?

Recommendation: The appropriate amount of working capital should be \$55,897 for water and \$89,321 for wastewater.

Issue 7: Should any adjustments be made to the Contributions in Aid of Construction balances ending December 31, 2008?

Recommendation: Yes. Contributions in Aid of Construction (CIAC) should be increased by \$8,958 for water and \$7,525 for wastewater and the associated accumulated amortization of CIAC should be decreased by \$271 for water and \$168 for wastewater.

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CASE

7**PAA

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

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Issue 8: What is the appropriate rate base for the December 31, 2008, test year?

Recommendation: Based on staff's recommended adjustments, addressed in previous issues, the appropriate simple average rate base for the test year ending December 31, 2008, is \$3,787,926 for water and \$970,486 for wastewater.

Issue 9: What is the appropriate return on equity?

Recommendation: The appropriate return on equity (ROE) should be 9.48 percent, based on the Commission's approved 2008 leverage formula and equity ratio of 100 percent. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

Issue 10: What is the appropriate overall weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ending December 31, 2008?

Recommendation: The appropriate overall weighted average cost of capital for the test year ending December 31, 2008, is 9.33 percent.

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CASE

7**PAA

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

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Issue 11: Should any adjustments be made to operation and maintenance expenses?

Recommendation: Staff performed an analysis of O&M expenses for water and wastewater to determine if the amounts recorded in the general ledger were accurately stated and to determine if a difference exists between O&M expenses reported in the general ledger and O&M expenses reported in the filing. Based on staff's analysis, the following adjustments should be made:

O&M Balances The company filing includes O&M expenses based upon projections for the calendar year 2008. Total O&M expenses per the utility filing are \$624,964 for water and \$927,017 for wastewater. Test year general ledger balances for O&M water and wastewater expenses are \$589,016 and \$929,931 respectively, a difference of \$35,948 for water and \$2,914 for wastewater. An adjustment of (\$35,948) for water and \$2,914 for wastewater should be made to the filing for the difference between amounts in the filing and the test year general ledger amounts.

Rate Case Expense Staff's calculated rate case expense should be recovered over four years for an annual expense of \$59,986, with \$29,993 allocated to water and \$29,993 allocated to wastewater. As recommended in audit finding No. 6, staff removed utility rate case expense of \$68,307 for water and \$67,307 for wastewater included in the test year. See Issue No. 12.

Purchased Power The company's general ledger showed purchased power expense of \$66,977 for water and \$115,841 for wastewater for the test year. Per the audit, purchased power expense for the test year of 2008 was \$68,692 for water and \$117,814 for wastewater. Staff made adjustments of \$1,715 for water and \$1,973 for wastewater purchased power expense. This was done to include purchased power expense incurred during the test period, but billed after the test period.

Land Lease According to the audit report, for the test year, the utility had a capital lease agreement with Southlake Development, Ltd. A capital lease requires a company to record the plant asset on its books and records, with payments made to the lessor used to reduce the cost of land lease obligation. Instead, the utility recorded the payments to expense accounts 641 and 741 (Rental of Building - Real Property) in the amounts of \$11,778 and \$45,299, respectively. As this property is now owned by the utility, staff recommends that these costs be removed from O&M expenses.

Contractual Services - Other The company included contractual services-other costs of \$8,250 in water and \$8,250 in wastewater for the test year which were out-of-period non-recurring expenses. The costs were incurred in connection with an examination by the Internal Revenue Service for the 2005 tax year. Staff removed these costs as out-of-period expenses.

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7**PAA

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

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Communication Expense Staff reviewed postage costs included in the utility’s communications expense account. Auditors found support for \$1,324 of water and \$1,324 of wastewater postage expense. The utility recorded \$1,750 of water and \$1,750 of wastewater postage expense. Staff made adjustments of (\$426) to water and (\$426) to wastewater communication expense to reflect the unsupported postage cost.

Reclassification of Capital Costs

The auditors determined that the utility expensed certain costs that should have been recorded as capital expenditures. These costs were for the following items:

	<u>Water</u>	<u>Wastewater</u>
Mapping	\$34,476	\$34,477
Sanitary Lateral Connection	0	\$5,700
Lift Station Construction	0	<u>\$17,259</u>
Total	<u>\$34,476</u>	<u>\$57,436</u>

Unsupported Expense

The utility bears the responsibility of maintaining documentation which supports its general ledger amounts. During the audit analysis of O&M expense, the utility could not provide supporting documentation for certain expenses items recorded in the general ledger. Unsupported water expense totaled \$20,315 and wastewater expense totaled \$38,615. Staff recommends that these amounts be removed from O&M for the test year.

Conclusion

In conclusion, based on the above adjustments, along with rate case expense (See Issue No. 12), staff recommends that O&M expenses be reduced by \$147,792 for water and \$182,453 for wastewater. The following table reflects staff’s O&M expense adjustments for the test year ending December 31, 2008:

<u>Description of O&M Expense</u>	<u>Staff Adjustments to 2008 O&M</u>	
	<u>Water</u>	<u>Wastewater</u>
To adjust filing to 12/31/2008 General Ledger (AF No. 6)	(\$35,948)	\$2,914
To reflect staff calculated Rate Case expense	29,993	29,993
To adjust purchased power to test year amount	1,715	1,973
To remove land lease expense (AF No. 6)	(11,778)	(45,297)
To remove out of test year contractual services	(8,250)	(8,250)
To reflect actual test year postage cost	(426)	(426)
To reflect audit finding regarding reclassification of capital costs (AF No. 6)	(34,476)	(57,436)
To reflect audit finding regarding Undocumented Costs (AF No. 6)	(20,315)	(38,615)

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To remove test year rate case expense (AF No. 6)	(68,307)	(67,307)
Total	(\$147,792)	(\$182,453)

Issue 12: What is the appropriate amount of rate case expense?

Recommendation: The appropriate amount of rate case expense should be \$239,945. This expense should be recovered over four years for an annual expense of \$59,986, with \$29,993 allocated to water and \$29,993 allocated to wastewater. A deferred cost balance for rate case expense should be created for both water and wastewater in the amount of \$89,979.

Issue 13: Should any adjustments be made to the 2008 test year taxes other than income for water and wastewater?

Recommendation: Yes. Taxes other than income for the 2008 test year should be increased by \$4,611 for water and decreased by \$10,348 for wastewater.

Issue 14: Should any adjustments be made to net depreciation expense for 2008 for water and wastewater?

Recommendation: Yes. Net depreciation expense for water should be decreased by \$4,315 and net depreciation expense for wastewater should be decreased by \$46,206.

Issue 15: What is the test year water and wastewater operating income before any revenue increases?

Recommendation: The test year operating income should be \$230,269 for water and (\$133,834) for wastewater.

Issue 16: What is the appropriate pre-repression revenue requirement for the December 31, 2008 test year?

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

	Test Year <u>Revenues</u>	<u>Increase</u>	Revenue <u>Requirement</u>	<u>Increase</u>
Water	\$890,217	\$128,878	\$1,019,095	14.48%
Wastewater	\$695,973	\$234,936	\$930,909	33.76%

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CASE

7**PAA

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

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Issue 17: What are the appropriate rate structures for the utility’s respective water and wastewater systems?

Recommendation: The appropriate rate structures for the utility’s water system are a three-tiered inclining-block rate structure applicable to residential customers. The appropriate usage blocks are for monthly consumption of: 1) 0-10,000 gallons (10 kgals); 2) 10.001-20 kgals; and 3) consumption in excess of 20 kgals. The base facility charge (BFC)/uniform gallonage charge should be applied to the utility’s general service water customers. The BFC cost recovery allocation for the water system should be set at 40 percent. The appropriate rate structure for the utility’s wastewater customers is the BFC/gallonage charge rate structure. Residential wastewater consumption should be capped for billing purposes at 10 kgal per month. The general service wastewater gallonage charge should be 1.2 times the corresponding residential gallonage charge. The BFC cost recovery allocation for the wastewater system should be set at 50 percent.

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CASE

7**PAA

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

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Issue 18: Are repression adjustments to the utility’s water and wastewater systems appropriate in this case, and, if so, what are the appropriate adjustments to make for this utility?

Recommendation: Yes, repression adjustments are appropriate. Residential water consumption should be reduced by 1.7 percent, resulting in a consumption reduction of approximately 4,366.9 kgals. Total residential water consumption for ratesetting is 250,473.1 kgals. Total water consumption for ratesetting is 535,321.1 kgals, which represents a 0.8 percent reduction in overall consumption. The resulting water system reductions to revenue requirements are \$556 in purchased power expense, \$229 in chemicals expense and \$37 in RAFs. The post-repression revenue requirement for the water system is \$1,018,275.

Residential wastewater consumption should be reduced by 1.4 percent, resulting in a consumption reduction of approximately 1,826.7 kgals. Total residential wastewater consumption for ratesetting is 133,074.3 kgals. Total wastewater consumption for ratesetting is 355,343.3 kgals, which represents a 0.5 percent reduction in overall consumption. The resulting wastewater system reductions to revenue requirements are \$603 in purchased power expense, \$164 in chemicals expense, \$1,098 in sludge removal expense and \$88 in RAFs. The post-repression revenue requirement for the wastewater system is \$930,055.

In order to monitor the effects of both the changes in revenues and rate structure, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenues billed for each system. In addition, the reports should be prepared, for both the water and wastewater systems, by customer class and meter size. **The reports should be filed with staff, on a semi-annual basis, for a period of two years beginning the first billing period after the approved rates go into effect.** To the extent the utility makes adjustments to consumption in any month during the reporting period, the utility should be ordered to file a revised monthly report for that month within 30 days of any revision.

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CASE

7**PAA

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

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Issue 19: What are the appropriate rates for this utility?

Recommendation: The appropriate monthly water rates are shown on Schedule 4-A of staff's memorandum dated June 18, 2009, and the corresponding appropriate monthly wastewater rates are shown on Schedule 4-B of staff's memorandum dated June 18, 2009. Excluding miscellaneous service revenues, the recommended water rates are designed to produce revenues of \$1,018,275, while the recommended wastewater rates are design to produce revenues of \$930,055. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date the notice was given no less than 10 days after the date of the notice.

Issue 20: In determining whether any portion of the water and wastewater interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenue requirement granted. Based on this calculation, a water refund is required in the amount of \$16,613. For wastewater, a refund of \$44,492 is required.

ITEM NO.

CASE

7**PAA

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

(Continued from previous page)

Issue 21: What is the appropriate amount by which rates should be reduced, four years after the established effective date, to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

Recommendation: The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B of staff's memorandum dated June 18, 2009, to remove \$29,993 of water and \$29,993 of wastewater rate case expense, grossed up for RAFs, which is being amortized over a four-year period. The grossed up amount, factoring in a RAF of 4.5 percent, equals \$31,406 for both water and wastewater. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than 30 days prior to the actual date of the required rate reduction. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. Southlake should provide proof of the date notice was given, no less than 10 days after the date of the notice.

Issue 22: Should the utility be required to provide proof, within 90 days of the final order issued in this docket, that it has adjusted its books for all applicable National Association of Regulatory Commissioners Uniform System of Accounts (NARUC USOA) associated with Commission approved adjustments?

Recommendation: Yes. To ensure that the utility adjusts its books in accordance with the Commission decision, Southlake should provide proof, within 90 days of the final order issued in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Issue 23: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff, and that the interim refund has been completed and verified by staff. Once these actions are complete, this docket should be closed administratively, and the corporate undertaking should be released.

DECISION: This item was deferred to the August 18, 2009 Commission Conference.

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

ITEM NO.

CASE

8**

Docket No. 090155-EQ – Petition for approval of revisions to renewable energy tariff by Florida Public Utilities Company.

Critical Date(s): 11/30/09 (8-Month-Effective-Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Sickel, Ellis

GCL: Hartman

Issue 1: Is the standard offer contract filed by Florida Public Utilities Company in compliance with Rules 25-17.200 through 25-17.310, F.A.C.?

Recommendation: Yes. The Standard Offer Contract proposed by FPUC is in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and therefore should be approved.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation to approve the proposed Standard Offer Contract and tariffs filed by FPUC, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 090155-EQ should be closed, and the Standard Offer Contracts and tariffs filed by FPUC should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that FPUC's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**

Docket No. 090165-EQ – Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

Critical Date(s): 12/01/09 (8-Month-Effective-Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Sickel, Ellis

GCL: Hartman

Issue 1: Are the standard offer contracts filed by TECO in compliance with Rules 25-17.200 through 25-17.310, F.A.C.?

Recommendation: Yes, with the exception of Section 18 of TECO's Standard Offer Contract. TECO should file within 30 days revised standard offer contracts, which contain no right of first refusal for renewable energy credits. If the revised tariffs comply with the Commission's decision, staff should be granted the administrative authority to approve the revised tariffs.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation, TECO should file revised standard offer contracts within 30 days of the Commission's vote, in accordance with the Commission's decision. This docket should be administratively closed by staff after review and approval of the revised contracts, if no person whose substantial interests are affected has filed a protest within 21 days of the Commission order. If the standard offer contract is administratively approved and a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that TECO's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved. Commissioner Skop dissented.

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

ITEM NO.

CASE

10**

Docket No. 090228-EG – Petition for approval of a pilot small general service price responsive load management program, by Tampa Electric Company.

Critical Date(s): 5-Month suspension expires on November 15, 2009

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: SGA: Ellis

GCL: Fleming

Issue 1: Should TECO's pilot Small General Service Price Responsive Load Management program be approved?

Recommendation: Yes. The Commission should approve TECO's Petition, and the tariffs needed to implement the proposed pilot program. Program costs should be capped at \$286,000 as part of TECO's existing Conservation Research & Development Program. The program should be limited to 50 participants, and expire 18 months from the date of the Commission's vote. TECO should also provide a report on its cost-effectiveness to staff upon completion of the program.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the tariffs should become effective the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect with any increase held subject to refund pending resolution of the protest. 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: Carter, Edgar, McMurrian, Argenziano, Skop

ITEM NO.

CASE

11

Docket No. 070703-EI – Review of coal costs for Progress Energy Florida's Crystal River Units 4 and 5 for 2006 and 2007.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: ECR: Lester, Thompson, Lee, Matlock, A. Roberts, Breman
GCL: Bennett, Young
SGA: Sickel

(Participation is Limited to Commissioners and Staff)

Issue 1: Did the imprudences in PEF's fuel procurement activities determined in Order No. PSC-07-0816-FOF-EI result in the costs of coal actually delivered to Crystal River Units 4 and 5 during 2006 and 2007 being unreasonably high?

Recommendation: Yes. PEF paid excessive costs for coal and SO₂ allowances. Based on resolution of Issues 1A through 1E, the excess amount totals \$7,698,907 for 2006 and 2007.

Issue 1A: How should the reasonableness of the costs of coal delivered to Crystal River Units 4 and 5 during 2006 and 2007 be measured?

Recommendation: The reasonableness of coal costs for 2006 and 2007 should be assessed using the methodology that the Commission used in Order No. PSC-07-0816-FOF-EI, with a modification to the capital cost component of the cost-effectiveness step.

Issue 1B: What candidates for alternative coal purchases should the Commission consider in evaluating whether more economical coal was available for delivery to Crystal River Units 4 and 5 during 2006?

Recommendation: For the 80/20 blend, the Commission should use PRB coal with a heat content of 8,800 Btu per pound and a SO₂ emission rate of 0.80 pounds of SO₂ per MMBtu as the proxy coal candidate for the cost-effectiveness evaluation and excess cost calculation for 2006.

Issue 1C: By what amount, if any, were the costs of coal actually delivered to Crystal River Units 4 and 5 unreasonably high in 2006?

Recommendation: Staff recommends that the Commission find PEF incurred excessive coal costs of \$2,196,094 for Crystal River 4 and 5 in 2006. This is based on 432,229 tons of PRB coal with a delivered price of \$3.11 per MMBtu and an SO₂ emission allowance price of \$731 per ton.

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CASE

11

Docket No. 070703-EI – Review of coal costs for Progress Energy Florida's Crystal River Units 4 and 5 for 2006 and 2007.

(Continued from previous page)

Issue 1D: What candidates for alternative coal purchases should the Commission consider in evaluating whether more economical coal was available for delivery to Crystal River Units 4 and 5 during 2007?

Recommendation: For the 80/20 blend, the Commission should use PRB coal with a heat content of 8,800 Btu per pound and an SO₂ emission rate of 0.80 pounds of SO₂ per MMBtu as the proxy coal candidate for cost-effectiveness evaluation and excess cost calculation for 2007.

Issue 1E: By what amount, if any, were the costs of coal actually delivered to Crystal River Units 4 and 5 unreasonably high in 2007?

Recommendation: Staff recommends that the Commission find PEF incurred excessive coal cost of \$5,502,813 for Crystal River 4 and 5 in 2007. This is based on 462,200 tons of PRB coal with a delivered price of \$2.88 per MMBtu and an SO₂ emission allowance price of \$524 per ton.

Issue 2: If the Commission determines that costs of coal delivered to Crystal River Units 4 and 5 during 2006 and 2007 were unreasonably high, should it require PEF to issue a refund to its customers? If so, in what amount?

Recommendation: Yes. If the Commission finds the costs of coal delivered to Crystal River Units 4 and 5 during 2006 and 2007 were unreasonably high in issues 1C and 1E, the Commission should require PEF to issue a refund to its customers. The amount of the refund is addressed in Issue 1C and Issue 1E. Staff recommends recognizing the refund amount, plus interest, during the 2009 fuel proceeding. This approach would affect customer bills in 2010 and not require administrative filings to implement.

Issue 3: Based on the evidence of PEF's fuel procurement approach and activities as they relate to Crystal River 4 and 5, what additional action, if any, should the Commission take in this docket?

Recommendation: The Commission should order PEF to file a report as part of its projection testimony due on September 1, 2009, in the fuel docket, Docket No. 090001-EI. The report should address the current status of plant modifications and any remaining issues that were recognized in the Refund Order. Further, the report should address PEF's additional efforts, including test burns of new coals that create opportunities to achieve the lowest fuel costs. PEF should demonstrate how its coal procurement activities are continually looking for short-term and long-term opportunities in the coal markets, including continually exploring coal markets and new coal supply worldwide. Any future application of the methodology should compare total actual costs for a period to the total costs that would have resulted from a particular blend, taking into account the coal that would have actually been displaced.

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CASE

11

Docket No. 070703-EI – Review of coal costs for Progress Energy Florida's Crystal River Units 4 and 5 for 2006 and 2007.

(Continued from previous page)

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. Commissioner Skop will be writing a concurring opinion.

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

ITEM NO.

CASE

12**PAA

Docket No. 080353-WU – Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.

Critical Date(s): 5-Month Effective Date Waived Through June 30, 2009

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

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

GCL: Young

(Proposed Agency Action Except for Issue Nos. 15 & 17)

Issue 1: Is the quality of service provided by Placid Lakes Utilities, Inc. satisfactory?

Recommendation: Yes. The overall quality of service provided by Placid Lakes Utilities, Inc. is satisfactory. The Utility should be ordered to install an additional water line to loop two existing water lines on Thurman Avenue to improve water quality. This creates an increase to plant of \$3,978. Accordingly, corresponding adjustments should be made to increase depreciation expense and accumulated depreciation both by \$93.

Issue 2: What should the used and useful percentages be for the Utility's water facilities?

Recommendation: The water treatment plant is 100 percent used and useful, and the distribution system is 79.09 percent used and useful. As such, water rate base should be reduced by \$125,032 to reflect the 20.91 percent of the distribution system which is non-used and useful. Accordingly, corresponding adjustments should be made to reduce depreciation expense by \$5,715 and property tax expense by \$700.

Issue 3: Should adjustments be made to Placid Lakes' requested pro-forma plant additions?

Recommendation: Yes. Plant-in-service should be reduced by \$65,450 to reflect pro-forma plant adjustments. Corresponding adjustments should also be made to decrease accumulated depreciation and depreciation expense by \$65,450 and 3,593, respectively.

Issue 4: What is the appropriate working capital?

Recommendation: The appropriate amount of working capital is \$59,853.

Issue 5: What is the appropriate rate base?

Recommendation: The appropriate rate base for the test year ended December 31, 2008 is \$425,464 for the water system.

Issue 6: What is the appropriate return on equity?

Recommendation: The appropriate return on equity (ROE) is 9.48 percent, based on staff's recommended 2008 leverage formula and an equity ratio of 100 percent. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

ITEM NO.

CASE

12**PAA

Docket No. 080353-WU – Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.

(Continued from previous page)

Issue 7: What is the weighted average cost of capital including the proper components, amounts, and cost rates associated with the appropriate capital structure?

Recommendation: The recommended weighted average cost of capital is 9.42 percent for the test year ended December 31, 2008.

Issue 8: Should adjustments be made to O&M expenses?

Recommendation: Yes, adjustments should be made to reduce O&M by \$8,204.

Issue 9: What is the appropriate amount of rate case expense?

Recommendation: The appropriate amount of rate case expense for this docket is \$94,164. This expense should be recovered over four years for an annual expense of \$23,791. Thus, rate case expense should be reduced by \$9,872.

Issue 10: What is the test year water operating income or loss before any revenue increase?

Recommendation: Based on the operating expense adjustments discussed in previous issues, the test year operating loss is \$26,365 before any revenue increase.

Issue 11: What is the appropriate revenue requirement?

Recommendation: The following revenue requirement should be approved:

	Test		Revenue	
	<u>Year Revenues</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
Water	\$536,400	\$111,540	\$647,940	20.79%

Issue 12: Should the utility's current three-tiered inclining-block rate structure, with monthly usage blocks of: a) 0-10,000 gallons (10 kgals); b) 10.001-20 kgals; and c) usage in excess of 20 kgals, with usage block rate factors of 1.0, 1.5, and 2.0, respectively, be continued for its water system?

Recommendation: Yes. Furthermore, the base facility charge (BFC) cost recovery allocation should be set at 40 percent.

ITEM NO.

CASE

12**PAA

Docket No. 080353-WU – Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.

(Continued from previous page)

Issue 13: Is a repression adjustment to the utility’s water system appropriate in this case, and, if so, what is the appropriate adjustment to make for this utility?

Recommendation: Yes, a repression adjustment is appropriate. Residential water consumption should be reduced by 2.2 percent, resulting in a consumption reduction of approximately 2,058.4 kgals. Total residential water consumption for ratesetting is 92,956.2 kgals, which represents a 2.1 percent reduction in overall consumption. The resulting water system reductions to revenue requirements are \$359 in purchased power expense, \$235 in chemicals expense, and \$28 in regulatory assessment fees (RAFs). The post-repression revenue requirement for the water system is \$641,527.

In order to monitor the effects of the change in revenues, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenues billed for each system. In addition, the reports should be prepared by customer class and meter size. These reports should be filed with staff, on a semi-annual basis, for a period of two years beginning the first billing period after the approved rates go into effect. To the extent the utility makes adjustments to consumption in any month during the reporting period, the utility should be ordered to file a revised monthly report for that month within 30 days of any revision.

Issue 14: What are the appropriate rates for this utility?

Recommendation: The appropriate monthly water rates are shown on Schedule 4 of staff’s memorandum dated June 18, 2009. Excluding miscellaneous service revenues, the recommended water rates are designed to produce revenues of \$641,527. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given no less than 10 days after the date of the notice.

ITEM NO.

CASE

12**PAA

Docket No. 080353-WU – Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.

(Continued from previous page)

Issue 15: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense?

Recommendation: The rates should be reduced as shown on Schedule No. 4 of staff's memorandum dated June 18, 2009 to remove the rate case expense, grossed up for RAFs, which is being amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-40.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. Placid Lakes should provide proof of the date notice was given no less than 10 days after the date of the notice. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease, and for the reduction in the rates due to the amortized rate case expense.

Issue 16: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund if any?

Recommendation: The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenue requirement granted. Using these principals, staff recommends that no interim refund is required.

Issue 17: Should the Utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

Recommendation: Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, Placid Lakes should provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts have been made.

ITEM NO.

CASE

12**PAA

Docket No. 080353-WU – Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.

(Continued from previous page)

Issue 18: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively, and the corporate undertaking should be released.

DECISION: This item was deferred to the August 18, 2009 Commission Conference.

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