

**MINUTES OF May 2, 2006**  
**COMMISSION CONFERENCE**  
**COMMENCED: 9:30 a.m.**  
**ADJOURNED: 10:50 a.m.**

**COMMISSIONERS PARTICIPATING:** Chairman Edgar  
Commissioner Deason  
Commissioner Arriaga  
Commissioner Carter  
Commissioner Tew

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

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1                    **Approval of Minutes**  
                         April 4, 2006 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

<u>ITEM NO.</u>	<u>CASE</u>
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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>
060231-TX	First Choice Technology, Inc.

PAA                      B) Application for certificate to provide shared tenant service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
060252-TS	Biopass Medical Systems, Incorporated d/b/a DSL Express

PAA                      C) Request for cancellation of an alternative access vendor certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
060289-TA	MCI WorldCom Network Services, Inc.	3/27/2006

PAA                      D) Requests for cancellation of competitive local exchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
060272-TX	DukeNet Communications, LLC	3/23/2006
060281-TX	Georgia Telephone Services, Inc.	12/31/2005

**Recommendation:** The Commission should approve the action requested in the dockets referenced above and close these dockets.

DECISION: The recommendation was approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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3\*\*PAA

**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):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** CMP: Moses, Casey

GCL: Tan, Wiggins

**Issue 1:** Should the Commission approve FTRI's proposed budget as outlined in Attachment A of staff's April 20, 2006 memorandum for the fiscal year 2006-2007, effective July 1, 2006; modify the Telecommunications Relay Service (TRS) surcharge from \$0.15 to \$0.09; or in the alternative keep the surcharge at the \$0.15 rate and if the surcharge is modified, order the incumbent local exchange companies, competitive local exchange companies, and shared tenant providers to begin billing the \$.09 surcharge on July 1, 2006?

**Recommendation:** Staff recommends that the Commission approve FTRI's proposed budget as outlined in Attachment A of staff's memorandum for the fiscal year 2006-2007, effective July 1, 2006, and maintain the current Telecommunications Relay Service surcharge at \$0.15 in order to prepare the Florida TRS fund for assuming IP-Relay and VRS intrastate costs.

**Issue 2:** Does the speech generating device as described in Attachment B of staff's April 20, 2006 memorandum meet the definition of "specialized telecommunications device" under Section 427.703(11), Florida Statutes?

**Recommendation:** No.

**Issue 3:** Should this docket be closed?

**Recommendation:** No. This docket should remain open for the duration of the contract with Sprint.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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4\*\*

**Docket No. 050152-EU** – Proposed revisions to Rule 25-6.049, F.A.C., Measuring Customer Service.

**Docket No. 990188-EI** – Generic investigation into requirement for individual electric metering by investor-owned electric utilities pursuant to Rule 25-6.049(5)(a), F.A.C.

**Critical Date(s):** None

**Rule Status:** Proposed

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar (050152-EU)  
Deason (990188-EI)

**Staff:** GCL: Harris, Fleming  
ECR: Kummer, Baxter, Hewitt

**Issue 1:** Should the Commission propose amendments to Rule 25-6.049, Florida Administrative Code, allowing condominiums operated like hotels (resort condominiums) to be master metered?

**Recommendation:** Yes.

**Issue 2:** Should Docket No. 990188-EI, the Commission's generic investigation docket, be closed?

**Recommendation:** Yes. The rule amendment recommended in Issue 1 addresses all the changes that should be made to the rule at this time, and therefore the generic investigation should be closed.

**Issue 3:** Should Docket No. 050152-EI, this rulemaking docket, be closed?

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

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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5

**Docket No. 050018-WU** – Initiation of deletion proceedings against Aloha Utilities, Inc. for failure to provide sufficient water service consistent with the reasonable and proper operation of the utility system in the public interest, in violation of Section 367.111(2), Florida Statutes.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** GCL: Melson

ECR: Devlin, Willis, Rendell

**(Decision on motion for reconsideration - oral argument not requested; participation at sole discretion of Commission.)**

**Issue 1:** Should the request for reconsideration of Order No. PSC-06-0270-AS-WU be granted?

**Recommendation:** No. The request for reconsideration should be denied.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. Pursuant to Order No. PSC-06-0270-AS-WU, this docket should be closed after Order No. PSC-06-0270-AS-WU has become final and non-appealable.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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6\*\*PAA

**Docket No. 050194-TL** – Complaint by Florida BellSouth customers who paid fees to BellSouth Telecommunications, Inc. related to Miami-Dade County Ordinance Section 21-44 ("Manhole Ordinance") and request that Florida Public Service Commission order BellSouth to comply with Section A.2.4.6 of General Subscriber Service Tariff and refund all fees collected in violation thereof.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** GCL: Scott, Fordham

CMP: Simmons, Dowds, Higgins

**Issue 1:** Has BellSouth violated the terms of Section A.2.4.6 of its General Subscriber Service Tariff, with respect to the Manhole Ordinance Fee, for all or part of the period 1983 through 2005? If so, what action should the Commission take?

**Recommendation:** Staff recommends the Commission find that BellSouth violated the terms of Section A.2.4.6 of its General Subscriber Service Tariff, during all or part of the period 1998 through 2005. Given that the per line credit or refund would be less than \$.50, and since a significant number of affected customers may no longer be receiving service from BellSouth, staff recommends that no customer credit or refund be required.

Instead, staff recommends that the Commission set the cumulative overage in collections, with interest, as of year-end 2005 at \$469,176 and require that BellSouth consider this overage and any overage/underage for January 2006 through June 2006, in setting the Manhole Ordinance Fee to be assessed for the period July 2006 through December 2006. In addition, staff recommends the Commission find that, pursuant to existing Section A.2.4.6 of its General Subscriber Service Tariff, BellSouth is required to perform reconciliations for each future six-month period and to apply the overage/underage in collections as an accounting adjustment, to determine the appropriate fee. Finally, staff recommends that in the future, overhead loadings be computed using the same method in general use by BellSouth (i.e., the "original" method).

**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 a Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. With issuance of a Consummating Order, this docket should be closed.

**DECISION:** The item was deferred to the May 16, 2006 Agenda Conference by unanimous approval of the Commission.

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 060144-TX** – Petition for designation as eligible telecommunications carrier (ETC) by Vilaire Communications, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Arriaga

**Staff:** CMP: Maduro, Bulecza-Banks, Casey, Mann

GCL: Tan, Wiggins

**Issue 1:** Should Vilaire be granted ETC status in the State of Florida?

**Recommendation:** Yes. Staff recommends that Vilaire be granted ETC status in the BellSouth non-rural wire centers identified in Attachment A of staff's April 20, 2006 memorandum.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected files a protest to the Commission's Proposed Agency Action within 21 days of the issuance of the Commission Order, this docket should be closed upon issuance of a consummating order.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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8\*\*PAA

**Docket No. 060244-TI** – Request for waiver of carrier selection requirements of Rule 25-4.118, FAC, due to asset purchase agreement, whereby Reduced Rate Long Distance, LLC will acquire substantially all assets of W2Com International, LLC, including, but not limited to, W2Com's customer accounts in the State of Florida.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Buys

GCL: Tan

**Issue 1:** Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of W2Com International, LLC's customers to Reduced Rate Long Distance, LLC?

**Recommendation:** Yes. The Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code.

**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: Edgar, Deason, Arriaga, Carter, Tew



**ITEM NO.**

**CASE**

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9\*\*

**Docket No. 050963-TX** – Compliance investigation of Vortex Broadband Communications, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Watts, Howell, Ollila

GCL: Tan, Wiggins

**Issue 1:** Should the Commission vacate Order PSC-06-0229-PAA-TX in regard to the compliance investigation of Vortex Broadband Communications, Inc. for apparent violation of Section 364.183(1), Florida Statutes?

**Recommendation:** Yes. The Commission should vacate PAA Order No. PSC-06-0229-PAA-TX, issued on March 20, 2006.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. This docket should be closed upon the issuance of the Commission's vacating order. The vacating order should specify that PAA Order No. PSC-06-0229-PAA-TX should only be vacated with respect to Docket No. 050963-TX.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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10\*\*PAA

**Docket No. 050965-TX** – Compliance investigation of Benchmark Communications, LLC d/b/a Com One for apparent violation of Section 364.183(1), F.S., Access to Company Records.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Watts, Howell, Ollila

GCL: Tan, Wiggins

**Issue 1:** Should the Commission accept Benchmark Communications, LLC d/b/a Com One's proposal that the Commission vacate Proposed Agency Action Order No. PSC-06-0229-PAA-TX as it pertains to Benchmark Communications, LLC only, or in the alternative its settlement offer to voluntarily contribute \$500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes?

**Recommendation:** No. The Commission should not accept the company's proposal to vacate PAA Order No. PSC-06-0229-PAA-TX as it pertains to Benchmark only, or its settlement offer of \$500.

**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. If Benchmark fails to timely file a protest and request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If Benchmark fails to pay the \$10,000 penalty imposed in PAA Order No. PSC-06-0229-PAA-TX within fourteen (14) calendar days after the issuance of the Consummating Order, the company's CLEC Certificate No. 8568 should be canceled. If Benchmark's certificate is canceled in accordance with the Commission's Order from this recommendation, Benchmark should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively upon either receipt of the payment of the penalty imposed or upon the cancellation of the company's certificate.

**DECISION:** The item was deferred.

**ITEM NO.**

**CASE**

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11\*\*PAA

**Docket No. 050957-TX** – Compliance investigation of DSL Internet Corp d/b/a DSLi for apparent violation of Section 364.183(1), F.S., Access to Company Records.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Watts, Howell, Ollila

GCL: Tan, Scott

**Issue 1:** Should the Commission accept DSL Internet Corporation d/b/a DSLi's settlement offer to voluntarily contribute \$3,500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes?

**Recommendation:** Yes. The Commission should accept the company's settlement proposal.

**Issue 2:** Should this docket be closed?

**Recommendation:** If no person whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested and DSLi complies with its settlement offer, this docket should be closed administratively. If DLSi fails to remit the voluntary contribution of \$3,500 to the Commission within 30 days of the issuance of the Consummating Order, Certificate No. 7941 should be canceled and this docket should be closed administratively.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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12\*\*PAA

**Docket No. 050955-TX** – Compliance investigation of Cypress Communications Operating Company, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Watts, Howell, Ollila

GCL: Tan, Fordham

**Issue 1:** Should the Commission accept Cypress Communications Operating Company, LLC's settlement offer to voluntarily contribute \$3,500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes?

**Recommendation:** Yes. The Commission should accept the company's settlement proposal.

**Issue 2:** Should this docket be closed?

**Recommendation:** If no person whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested and Cypress complies with its settlement offer, this docket should be closed administratively. If Cypress fails to remit the voluntary contribution of \$3,500 to the Commission within 30 days of the issuance of the Consummating Order, Certificate No. 8176 should be canceled and this docket should be closed administratively.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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13\*\*PAA

**Docket No. 060061-TX** – Compliance investigation of T3 Communications, LLC d/b/a Tier 3 Communications d/b/a Naples Telephone and d/b/a Fort Myers Telephone for apparent violation of Section 364.183(1), F.S., Access to Company Records.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Watts, Howell, Ollila

GCL: Tan

**Issue 1:** Should the Commission accept T3 Communications, LLC d/b/a Tier 3 Communications d/b/a Naples Telephone and d/b/a Fort Myers Telephone's settlement offer to voluntarily contribute \$1,500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes?

**Recommendation:** Yes. The Commission should accept the company's settlement proposal.

**Issue 2:** Should this docket be closed?

**Recommendation:** If no person whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested and T3 complies with its settlement offer, this docket should be closed administratively. If T3 fails to remit the voluntary contribution of \$1,500 to the Commission within 30 days of the issuance of the Consummating Order, Certificate No. 8238 should be canceled and this docket should be closed administratively.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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14\*\*PAA

**Docket No. 050951-TX** – Compliance investigation of Yipes Enterprise Services, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Watts, Howell, Ollila

GCL: Tan, Fordham

**Issue 1:** Should the Commission accept Yipes Enterprise Services, Inc.'s settlement offer to voluntarily contribute \$1,000 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes?

**Recommendation:** Yes. The Commission should accept the company's settlement proposal.

**Issue 2:** Should this docket be closed?

**Recommendation:** If no person whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested and Yipes complies with its settlement offer, this docket should be closed administratively. If Yipes fails to remit the voluntary contribution of \$1,000 to the Commission within 30 days of the issuance of the Consummating Order, Certificate No. 7500 should be canceled and this docket should be closed administratively.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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15\*\*PAA

**Docket No. 050948-TX** – Compliance investigation of Arrow Communications, Inc. d/b/a ACI for apparent violation of Section 364.183(1), F.S., Access to Company Records.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Watts, Howell, Ollila

GCL: Tan, Banks

**Issue 1:** Should the Commission accept Arrow Communications, Inc. d/b/a ACI's settlement offer to voluntarily contribute \$500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order, and to place \$3,000 in escrow conditioned upon its timely response to the Commission's 2006 data request to resolve its apparent violation of Section 364.183(1), Florida Statutes?

**Recommendation:** No. The Commission should not accept the company's settlement proposal.

**Issue 2:** Should the Commission impose a penalty in the amount of \$10,000 on Arrow Communications, Inc. d/b/a ACI or cancel Certificate No. 4468 for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

**Recommendation:** Yes. The Commission should impose a penalty of \$10,000 on Arrow Communications, Inc. d/b/a ACI or cancel Certificate No. 4468 for apparent violation of Section 364.183(1), Florida Statutes.

ITEM NO.

CASE

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15\*\*PAA

**Docket No. 050948-TX** – Compliance investigation of Arrow Communications, Inc. d/b/a ACI for apparent violation of Section 364.183(1), F.S., Access to Company Records.

(Continued from previous page)

**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 that docket's Proposed Agency Action Order. As provided by Section 120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If ACI fails to timely file a protest and request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If ACI fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order, the company's CLEC Certificate No. 4468 should be canceled. If ACI's certificate is canceled in accordance with the Commission's Order from this recommendation, ACI should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively upon either receipt of the payment of the penalty imposed or upon the cancellation of the company's certificate.

**DECISION:** The recommendations were approved. Chairman Edgar and Commissioner Deason dissented.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew



**ITEM NO.**

**CASE**

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16\*\*PAA

**Docket No. 060174-EG** – Petition for extension of residential load control pilot project, by Florida Power & Light Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Sickel, Baxter

GCL: Fleming

**Issue 1:** Should Florida Power & Light (FPL or Company) be authorized to continue to offer the currently approved Pilot Program, along with the On-Call Program?

**Recommendation:** Yes. The combined load management programs continue to meet the policy objectives of the Florida Energy Efficiency and Conservation Act. The Pilot Program should continue through August 31, 2007, and FPL should provide detailed analysis with respect to this load management program no later than June 1, 2007. FPL agrees with this filing date.

**Issue 2:** 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 the issuance of a consummating order.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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17\*\*PAA

**Docket No. 060226-EU** – Requests for approval of electric utilities' long-term energy emergency plans, filed pursuant to Rule 25-6.0185, F.A.C.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: McRoy

GCL: Fleming

**Issue 1:** Should the current long-term energy emergency plans be approved?

**Recommendation:** Yes. The plans meet the established criteria for long-term energy emergency plans. The majority of the changes to the plans consist of position name and duty changes as well as personnel name updates. After a thorough review of the utilities' long-term energy emergency plans, staff recommends that the plans meet the established requirements set out in Rule 25-6.0185, Florida Administrative Code.

**Issue 2:** When should affected utilities file a compliance letter or plan update?

**Recommendation:** Each affected utility should file the next compliance letter or plan update no later than January 31, 2009, and every three calendar years thereafter. Each plan update should include a type and strike version to highlight changes to the plan.

**Issue 3:** Should this docket be closed?

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

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

**ITEM NO.**

**CASE**

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18\*\*

**Docket No. 050880-WU** – Petition for limited alternative rate increase in Lake County by Brendenwood Water System, Inc.

**Critical Date(s):** 5/22/06 (90-day deadline pursuant to Rule 25-30.457(12), F.A.C.)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Arriaga

**Staff:** ECR: Merta, Rendell

GCL: Gervasi

**PAA**

**Issue 1:** Should the Commission approve Brendenwood Water System, Inc.'s application for a limited alternative rate increase?

**Recommendation:** Yes. The Commission should approve Brendenwood Water System, Inc.'s application for a limited alternative rate increase in the amount of 20 percent. Pursuant to Rule 25-30-457(13), F.A.C., the utility should be required to hold any revenue increase granted subject to refund with interest for a period of 15 months after the filing of its annual report for the year the adjustment in rates was implemented. If overearnings occur, such overearnings, up to the amount held subject to refund, with interest, should be disposed of for the benefit of the customers.

**PAA**

**Issue 2:** What are the appropriate monthly service rates?

**Recommendation:** The water service rates for Brendenwood in effect as of November 30, 2005 should be increased by 20 percent to generate the recommended revenue increase. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the 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 notice was given no less than 10 days after the date of the notice.

**Issue 3:** Should the recommended rates be approved for the utility on a temporary basis in the event of a protest filed by a party other than the utility?

**Recommendation:** Yes. Pursuant to Rule 25-30.457(16), F.A.C., in the event of a protest of the Proposed Agency Action (PAA) Order by a substantially affected person other than the utility, the utility should be authorized to implement the rates established in the PAA order on a temporary basis upon the utility filing a staff-assisted rate case application within 21 days of the date the protest is filed. Pursuant to Rule 25-30.457(18), F.A.C., if the utility fails to file a staff-assisted rate case application within 21 days in the event there is a protest, the application for a limited alternative rate increase should be deemed withdrawn.

ITEM NO.

CASE

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18\*\*

**Docket No. 050880-WU** – Petition for limited alternative rate increase in Lake County by Brendenwood Water System, Inc.

(Continued from previous page)

**Issue 4:** Should this docket be closed?

**Recommendation:** Yes. If no timely protest is filed by a substantially affected person within 21 days of the Order, a Consummating Order should be issued and the docket should be closed. If a protest is filed within 21 days of the issuance of the Order, the docket should remain open pending resolution of the protest.

**DECISION:** The recommendations were approved.

Commissioners participating: Edgar, Deason, Arriaga, Carter, Tew

