

MINUTES OF NOVEMBER 19, 2002

COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.

ADJOURNED: 3:40 p.m.

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

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

1Approval of Minutes

October 14, 2002 Special Commission Conference

October 15, 2002 Regular Commission Conference

DECISION: The minutes were approved.

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

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

2**Consent Agenda

PAA A) Applications for certificates to provide alternative local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
021028-TX	Talk and Pay, Inc.
021053-TX	Intellitec Consulting Inc. d/b/a STS
020323-TX	Solution Telecom, Inc
020922-TX	Midwestern Telecommunications, Incorporated
021030-TX	American Phone Services Corp.

PAA B) Applications for certificates to provide interexchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
021027-TI	Talk and Pay, Inc.
021032-TI	Touchtone Communications Inc.
020417-TI	Airespring, Inc.
021109-TI	Goodlette Pine Ridge, LLC d/b/a Premier Executive Center

PAA C) Applications for certificates to provide shared tenant telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
021055-TS	Travelers Cable TV Inc
021108-TS	Goodlette Pine Ridge, LLC d/b/a Premier Executive Center

Minutes of
 Commission Conference
 November 19, 2002

<u>ITEM NO.</u>	<u>CASE</u>
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2** Consent Agenda

(Continued from previous page)

PAA D) Application for certificate to provide pay telephone service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020522-TC	Talton Communications, Inc.

PAA E) Request for cancellation of alternative local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
021049-TX	Structus TeleSystems, Inc.	7/19/02

PAA F) Request for cancellation of interexchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
021048-TI	Structus TeleSystems, Inc.	7/19/02

<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda (Continued from previous page)
PAA	G) DOCKET NO. 020985-TP - Request for approval of transfer of control of Budget Call Long Distance, Inc. (holder of IXC Certificate No. 3955), Global Crossing Local Services, Inc. (holder of ALEC Certificate No. 5574), Global Crossing North American Networks, Inc. (holder of IXC Certificate No. 3558), Global Crossing Telecommunications, Inc. (holder of IXC Certificate No. 63), and Global Crossing Telemanagement, Inc. (holder of ALEC Certificate No. 5308) from Global Crossing Ltd. (debtor-in-possession) to GC Acquisition Limited.
PAA	H) DOCKET NO. 021025-TI - Petition for authority to transfer control of Startec Global Licensing Company (holder of IXC Certificate No. 4427) from current shareholders to Allied Capital Corporation, due to filing of Chapter 11 bankruptcy.
	I) Docket NO. 021018-GU - Application by Chesapeake Utilities Corporation (Chesapeake) for authority to issue up to six million shares of Chesapeake common stock; up to one million shares of Chesapeake preferred stock; up to \$80 million in secured and/or unsecured debt; to enter into agreements for interest rate swap products during the calendar year 2003. In addition, the Company requests authorization to exceed more than five percent of the par value limitation placed on the total amount of short-term borrowings allowed by Section 366.04, Florida Statutes, so as to issue short-term obligations in an amount not to exceed \$40 million. (Deferred from November 5, 2002 conference; revised recommendation filed.)
	J) Docket No. 021084-EI - Application of Florida Power & Light Company (FP&L or Company) for approval pursuant to Chapter 25-8, Florida Administrative Code, and Section 366.04, Florida Statutes, to issue, sell and/or exchange any combination of long-term debt and equity securities and/or to assume liabilities or obligations as guarantor, endorser or surety in an aggregate amount not to exceed

ITEM NO.

CASE

2**

Consent Agenda

(Continued from previous page)

\$4.3 billion during calendar year 2003. FP&L also seeks authority to enter into forward refunding or forward swap contracts during calendar year 2003, and in conjunction with which FP&L seeks permission to issue and sell \$24.4 million of securities through December 2003. In addition, FP&L seeks authority to issue and sell short-term securities during calendar years 2003 and 2004 in an amount or amounts such that the aggregate principal amount of short-term securities outstanding at any time of the sale will not exceed 25% of FP&L's gross revenues during the preceding twelve months of operations.

- K) Docket No. 021088-EI - Application of Gulf Power Company (GPC) pursuant to Chapter 25-8, Florida Administrative Code, and Section 366.04, Florida Statutes, for authority to receive equity funds from Southern Company (GPC's parent company); to issue and sell long-term debt and equity securities; and to issue and sell short-term debt securities during the twelve months ending December 31, 2003. The maximum amount of common equity contributions received from Southern, the maximum amount of equity securities issued and the maximum principal amount of long-term debt securities issued will not total more than \$300 million. The maximum principal amount of short-term debt, at any one time, will not total more than \$190 million.

RECOMMENDATION: The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of Dockets Nos. 021018-GU, 021084-EI, and 021088-EI, which must remain open for monitoring purposes.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3Docket No. 020896-WS - Petition by customers of Aloha Utilities, Inc. for deletion of portion of territory in Seven Springs area in Pasco County.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Bradley

Staff: GCL: Holley
CAF: Lowery
ECR: Walden

ISSUE 1: Should the Customers' Petition, along with Aloha's Motion to Dismiss, Request for Oral Argument, and the Responses filed thereto, be held in abeyance until the First DCA has rendered an opinion on Aloha's appeal of the Commission's Final Order?

RECOMMENDATION: Yes. The Customer Petition, along with Aloha's Motion to Dismiss, Request for Oral Argument, and the Responses filed thereto, should be held in abeyance until the First DCA renders an opinion on Aloha's appeal of the Commission's Final Order. If the Commission declines to abate the Customers' Petition and Aloha's Motion to Dismiss, a subsequent recommendation on the Motion to Dismiss will be filed at a later date.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending the outcome of the appeal of the Final Order before the First DCA.

DECISION: The recommendations were approved. Additionally, staff was directed to file a motion to expedite appeal at the First District Court of Appeal.

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

ITEM NO.

CASE

4**PAADocket No. 021068-TC - Implementation of 211 access to comprehensive information and referral services from pay telephones.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Watts, Cater, Moses
GCL: Teitzman

ISSUE 1: Should the Commission order all pay telephone providers in Florida to implement 211 access to comprehensive information and referral services from all Florida pay telephones?

RECOMMENDATION: Yes. The Commission should order all pay telephone providers in Florida to implement 211 access to comprehensive information and referral services from their respective Florida pay telephones. If no protest to the Proposed Agency Action Order is filed within 21 days of the issuance of the Order, each pay telephone provider shall allow 211 to be forwarded as dialed to the local exchange company to provide 211 access to comprehensive information and referral services and should update its signage to reflect this change within six months of the date of issuance of the Consummating Order.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order.

DECISION: The recommendations were approved with the modification and clarification to Issue 2 that the order resulting from this recommendation will not apply to payphones in confinement facilities.

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

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

5**PAADocket No. 020666-TI - Compliance investigation of Sky Telecom, Inc. for apparent violation of Rule 25-24.910, F.A.C., Certificate of Public Convenience and Necessity Required. (Deferred from August 20, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Buys
GCL: Fordham

ISSUE 1: Should the Commission impose a monetary penalty on Sky Telecom, Inc. for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

RECOMMENDATION: No. The Commission should not impose a monetary penalty on Sky Telecom, Inc. for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order. This docket should be closed administratively upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

6**Docket No. 011277-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 7333 issued to Asset Channels-Telecom, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Rules Incorporated.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: CMP: Isler
GCL: Teitzman

ISSUE 1: Should this docket be closed?

RECOMMENDATION: Yes. Although the Commission was not aware of it, Asset Channels-Telecom, Inc. had filed for bankruptcy protection prior to the docket being established. Therefore, Order No. PSC-01-2412-PAA-TX, issued on December 12, 2001, should not be reinstated and this docket should be closed upon issuance of the Order from this recommendation.

DECISION: The recommendation was approved.

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

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

7Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.
Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

Critical Date(s): 12/4/02 (Commission order due to Florida Department of Environmental Protection as final report on need.)

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: ECR: Haff, Hewitt, Kenny, Lester, Sickel
CMP: Futrell, Makin
GCL: Brown, Harris

ISSUE 1: Does Florida Power & Light company have a need for Martin Unit 8, taking into account the need for electric system reliability and integrity?

RECOMMENDATION: In order to precisely meet a planning reserve margin criterion of 20.0%, FPL needs only 15 MW of capacity with the addition of Manatee Unit 3 in Summer, 2005. Therefore, FPL does not have a pressing reliability need for the entire 789 MW of capacity from Martin Unit 8 until Summer, 2006. ~~However, as discussed in Issue 14, it is more cost-effective for FPL to place Martin Unit 8 into commercial service in 2005 rather than 2006.~~ Placing Martin Unit 8 into service in 2005 will enhance FPL's electric system reliability and integrity.

DECISION: The recommendation was approved with the noted deletion of language.

ITEM NO.

CASE

7

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.

Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

(Continued from previous page)

ISSUE 2: Does Florida Power & Light company have a need for Manatee Unit 3, taking into account the need for electric system reliability and integrity?

RECOMMENDATION: Yes. FPL has an estimated need for 1,122 MW of capacity for Summer, 2005. The 1,107 MW of summer capacity from Manatee Unit 3 is needed by FPL to ensure electric system reliability and integrity. With the addition of Manatee Unit 3 in Summer, 2005, FPL's projected reserve margin for Summer, 2005 is 19.92%.

DECISION: The recommendation was approved.

ISSUE 3: Does Florida Power & Light have a need for Martin Unit 8, taking into account the need for adequate electricity at a reasonable cost?

RECOMMENDATION: Yes. FPL has chosen a proven technology and has experience with the construction and operation of combined cycle units. The estimated costs for Martin Unit 8 appear to be reasonable.

DECISION: The recommendation was approved.

ISSUE 4: Does Florida Power & Light Company have a need for Manatee Unit 3, taking into account the need for adequate electricity at a reasonable cost?

RECOMMENDATION: Yes. FPL has chosen a proven technology and has experience with the construction and operation of combined cycle units. The estimated costs for Manatee Unit 3 appear to be reasonable.

DECISION: The recommendation was approved.

ITEM NO.

CASE

7

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.

Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

(Continued from previous page)

ISSUE 5: Are there any conservation measures taken by or reasonably available to Florida Power & Light Company that might mitigate the need for Martin Unit 8?

RECOMMENDATION: No. FPL appears to have implemented all available cost-effective conservation and demand-side management measures.

DECISION: The recommendation was approved. Additionally, as discussed, the sentence beginning "Stated another way ..." on page 18 of staff's recommendation will not be placed in the order.

ISSUE 6: Are there any conservation measures taken by or reasonably available to Florida Power & Light Company that might mitigate the need for Manatee Unit 3?

RECOMMENDATION: No. FPL appears to have implemented all available cost-effective conservation and demand-side management measures.

DECISION: The recommendation was approved.

ISSUE 7: Has Florida Power & Light Company adequately ensured the availability of fuel commodity and transportation to serve Martin Unit 8?

RECOMMENDATION: Yes. While FPL has yet to sign a contract to supply natural gas to the proposed unit, FPL will provide the Commission with a copy of the signed contract for commodity and transportation to serve Martin Unit 8 once signed.

DECISION: The recommendation was approved.

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

7

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.

Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

(Continued from previous page)

ISSUE 8: Has Florida Power & Light Company adequately ensured the availability of fuel commodity and transportation to serve Manatee Unit 3?

RECOMMENDATION: Yes. While FPL has yet to sign a contract to supply natural gas to the proposed unit, FPL will provide the Commission with a copy of the signed contract for commodity and transportation to serve Manatee Unit 3 once signed.

DECISION: The recommendation was approved.

ISSUE 9: Did Florida Power & Light Company's Supplemental Request for Proposals, issued April 26, 2002, satisfy the requirements of Rule 25-22.082, Florida Administrative Code?

RECOMMENDATION: Yes. FPL properly issued and evaluated the supplemental RFP in accordance with Rule 25-22.082, Florida Administrative Code, and has therefore satisfied the requirements of the Rule.

DECISION: The recommendation was approved.

ITEM NO.

CASE

7

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.

Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

(Continued from previous page)

ISSUE 10: Was the process used by Florida Power & Light Company to evaluate Martin Unit 8, Manatee Unit 3, and projects submitted in response to its Supplemental Request for Proposals, issued April 26, 2002, fair, reasonable, and appropriate?

RECOMMENDATION: Yes. FPL's analysis of its self-build options, individual responses to the Supplemental RFP, and grouping of proposals for purposes of the economic evaluation was appropriate. FPL's evaluation process reasonably resulted in the choice of the most cost-effective alternative required by statute.

DECISION: The recommendation was approved.

ISSUE 11: In its evaluation of Martin 8, Manatee 3, and projects filed in response to its Supplemental Request for Proposals, issued on April 26, 2002, did Florida Power & Light employ fair and reasonable assumptions and methodologies?

RECOMMENDATION: Yes. Given the variation in the proposals with regard to term and megawatts proposed, the methodologies employed to evaluate supply-side options were fair and reasonable. As discussed in staff's recommendation for Issues 11(a) through 11(g), FPL used fair and reasonable assumptions in evaluating all supply-side options.

DECISION: The recommendation was approved.

ITEM NO.

CASE

7

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.

Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

(Continued from previous page)

ISSUE 11(a): Were the assumptions regarding parameters that FPL assigned to its own proposed units reasonable and appropriate?

RECOMMENDATION: Yes. FPL's heat rate and availability assumptions for Martin Unit 8 and Manatee Unit 3 are reasonable and appropriate.

DECISION: The recommendation was approved.

ISSUE 11(b): Did FPL appropriately model variable O&M costs in its analysis?

RECOMMENDATION: Yes. FPL used the variable O&M costs contained in its supplemental RFP for the self-build projects. FPL modeled variable O&M costs for the bidders as they were bid.

DECISION: The recommendation was approved.

ISSUE 11(c): When modeling and quantifying the costs of all options, did FPL fairly and appropriately compare the costs of projects having different durations?

RECOMMENDATION: Yes. FPL's use of greenfield filler units in its expansion plan studies was appropriate.

DECISION: The recommendation was approved.

ITEM NO.

CASE

7

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.

Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

(Continued from previous page)

ISSUE 11(d): When modeling and quantifying the costs of all options, did FPL employ assumptions regarding the gas transportation costs applicable to "filler units" that were fair, reasonable and appropriate?

RECOMMENDATION: Yes. FPL used identical gas transportation cost assumptions for filler units for generation expansion plans containing both FPL's self-build units and the RFP projects.

DECISION: The recommendation was approved.

ISSUE 11(e): When modeling and quantifying the costs of all options, including its own, did FPL appropriately and adequately take cycling and start-up costs into account?

RECOMMENDATION: Yes. Further, FPL modeled cycling and start-up costs identically for its self-build units and the RFP projects.

DECISION: The recommendation was approved.

ISSUE 11(f): When modeling and quantifying the costs of all options, did FPL appropriately and adequately take into account the impact of seasonal variations on heat rate and unit output?

RECOMMENDATION: Yes. Using greater precision to model seasonal variations on heat rate and unit output was unnecessary and would have affected both the FPL self-build units and the RFP projects virtually the same.

DECISION: The recommendation was approved.

ITEM NO.

CASE

7

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.

Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

(Continued from previous page)

ISSUE 11(g): Did FPL act in a fair, reasonable and appropriate manner in not considering for the short list portfolios that included TECO and other bidders, in part, because TECO's reserve margin requirement might be impaired?
RECOMMENDATION: Yes. FPL considered, but appropriately did not include, TECO on its short list.

DECISION: There was no vote on this issue.

ISSUE 12: Was Florida Power & Light Company's decision to apply an equity penalty cost to projects filed in response to its Supplemental Request for Proposals appropriate? If so, was the amount properly calculated?

RECOMMENDATION: No. The application of the equity penalty in FPL's evaluation of outside supply options is not appropriate in this case. The Commission should determine the appropriateness of an equity penalty on a case-by-case basis. Even without the implementation of the equity penalty, FPL's self-build option still appears to be the most cost-effective method of adding capacity.

DECISION: The recommendation was approved with the modification discussed at the conference. Commissioners Deason and Bradley dissented.

ITEM NO.

CASE

7

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.

Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

(Continued from previous page)

ISSUE 13: In its evaluation of Martin Unit 8, Manatee Unit 3, and projects filed in response to its Supplemental Request for Proposals, issued on April 26, 2002, did Florida Power & Light Company properly and accurately evaluate transmission interconnection and integration costs?

RECOMMENDATION: Yes. FPL properly and accurately evaluated transmission-related costs for the RFP projects and FPL's self-build options.

DECISION: The recommendation was approved.

ISSUE 14: Is Florida Power & Light Company's Martin Unit 8 the most cost-effective alternative available?

RECOMMENDATION: FPL's base-case self-build plan, in which both Martin Unit 8 and Manatee Unit 3 enter service in Summer, 2005, appears to be the most cost-effective alternative. Deferring Martin Unit 8 by one year is more costly than FPL's base-case self-build plan. The Commission's decision on Issue 12 (equity penalty) will affect the level of the cost-effectiveness of FPL's base-case self-build plan.

DECISION: The recommendation was approved.

ISSUE 15: Is Florida Power & Light Company's Manatee Unit 3 the most cost-effective alternative available?

RECOMMENDATION: See staff recommendation on Issue 14.

DECISION: The recommendation was approved.

ITEM NO.

CASE

7

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.

Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

(Continued from previous page)

ISSUE 16: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition for determination of need for Martin Unit 8?

RECOMMENDATION: Yes. FPL's Petition for Determination of Need for Martin Unit 8 satisfies the statutory requirements of Section 403.519, Florida Statutes, and, therefore, should be approved.

DECISION: The recommendation was approved.

ISSUE 17: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition for determination of need for Manatee Unit 3?

RECOMMENDATION: Yes. FPL's Petition for Determination of Need for Manatee Unit 3 satisfies the statutory requirements of Section 403.519, Florida Statutes, and, therefore, should be approved.

DECISION: The recommendation was approved.

ISSUE 18: Should Docket Nos. 020262-EI and 020263-EI be closed?

RECOMMENDATION: Yes. These dockets should be closed after the time for filing an appeal has run.

DECISION: The recommendation was approved.

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

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

8**PAADocket No. 020971-EG - Petition for modification of Demand-Side Management Plan by removal of Good Cents Loan Program by Florida Public Utilities Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Munroe, Harlow
GCL: Holley

ISSUE 1: Should Florida Public Utilities Company's (FPUC) petition to remove the Good Cents Loan Program be approved?
RECOMMENDATION: Yes. The program is no longer cost-effective. FPUC's petition should be granted.

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: Jaber, Deason, Baez, Palecki, Bradley

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

9**Docket No. 021013-EI - Petition for extension of experimental pre-pay residential service program by Florida Power & Light Company.

Critical Date(s): 11/30/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Wheeler
GCL: Jaeger

ISSUE 1: Should the Commission approve Florida Power & Light Company's petition to extend its Prepay Residential Service experimental rate through December 31, 2003?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective on November 19, 2002. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved with oral modifications made to Issue 1 on pages 4 and 5 of staff's recommendation at the conference.

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

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

10**PAADocket No. 021014-GU - Petition for approval to amortize gain on sale of property by Florida Public Utilities Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: E. Bass, P. Lee
GCL: Jaeger

ISSUE 1: Should FPUC's request to amortize the net gain associated with the sale of property consisting of land and an office and outbuilding over a five-year period be approved?

RECOMMENDATION: Yes. Staff recommends that the net gain of \$186,110 (\$158,194 jurisdictional) be amortized over five years beginning August 1, 2002. Further, staff recommends that \$97,524 of the sale proceeds be recorded as gross salvage to recover the net unrecovered amount of the associated office and outbuildings.

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 with the directive in Issue 1 that staff monitor unamortized balance through the comprehensive depreciation review and consider any change in circumstances.

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

ITEM NO.

CASE

11**PAADocket No. 011677-WU - Application for staff-assisted rate case in Polk County by Tevalo, Inc. d/b/a McLeod Gardens Water Company.

Critical Date(s): 15-month effective date waived (SARC)

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: ECR: Fitch, Davis, Lingo
GCL: Vining

ISSUE 1: Is the quality of service provided by McLeod Gardens considered satisfactory?

RECOMMENDATION: Yes. However, the utility should be required to install the automatic chlorination system within four months of the Consummating Order.

ISSUE 2: Should the Commission approve a projected test year for the utility?

RECOMMENDATION: Yes. The Commission should approve a projected test year for the utility to better match expenses with customer growth on a going-forward basis. A projected test year ending December 31, 2003, should be approved.

ISSUE 3: What portions of McLeod Gardens are used and useful?

RECOMMENDATION: The water treatment plant at McLeod Gardens should be considered 100% used and useful. The water distribution system should be considered 100% used and useful.

ISSUE 4: What is the appropriate projected average test year rate base for the utility?

RECOMMENDATION: The appropriate projected average test year rate base for this utility is \$68,792. The utility should be required to complete the installation of the automatic chlorination system within four months of the Consummating Order.

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

RECOMMENDATION: The appropriate return on equity is 10.41% with a range of 9.41% - 11.41%. The appropriate overall rate of return is 9.98%.

ITEM NO.

CASE

11**PAA

Docket No. 011677-WU - Application for staff-assisted rate case in Polk County by Tevalo, Inc. d/b/a McLeod Gardens Water Company.

(Continued from previous page)

ISSUE 6: What are the appropriate test year revenues?

RECOMMENDATION: The appropriate test year revenues for the utility are \$17,224.

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

RECOMMENDATION: The appropriate amount of operating expense for this utility is \$26,276.

ISSUE 8: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement is \$33,141 for water.

ISSUE 9: Is a continuation of the utility's current flat rate structure for its water system appropriate in this case, and, if not, what is the appropriate rate structure?

RECOMMENDATION: No. A continuation of the utility's current flat rate structure for its water system is not appropriate in this case. The water system rate structure should be changed to a traditional base facility charge (BFC)/gallonage charge rate structure. The cost recovery allocated to the BFC should be 30%.

ISSUE 10: Is an adjustment to reflect repression of consumption due to the rate structure and price changes appropriate in this case, and, if so, what is the appropriate repression adjustment?

RECOMMENDATION: Yes. A repression adjustment of 8,668 kgal is appropriate in this case. In order to monitor the effects of both the changes in rate structure and the recommended revenue change, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenue billed. These reports should be provided, by customer class and meter size, on a quarterly basis for a period of two years, beginning with the first billing period after the approved rates go into effect.

ISSUE 11: What are the appropriate monthly rates for service?

ITEM NO.

CASE

11**PAA

Docket No. 011677-WU - Application for staff-assisted rate case in Polk County by Tevalo, Inc. d/b/a McLeod Gardens Water Company.

(Continued from previous page)

RECOMMENDATION: The appropriate monthly rates should be designed to produce revenues of \$32,441, excluding miscellaneous service charge revenues. 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), Florida Administrative Code. The rates should not be implemented until staff has approved the proposed customer notice, and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision.

ISSUE 12: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The water rates should be reduced as shown on Schedule 4 of staff's November 7, 2002 memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case

ITEM NO.

CASE

11**PAA

Docket No. 011677-WU - Application for staff-assisted rate case in Polk County by Tevalo, Inc. d/b/a McLeod Gardens Water Company.

(Continued from previous page)

expense. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision.

ISSUE 13: What are the appropriate customer deposits for this utility?

RECOMMENDATION: The appropriate customer deposits should be the recommended charges as specified in the analysis portion of staff's November 7, 2002 memorandum. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the customer deposits should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 14: Should the utility's service availability charges be revised?

RECOMMENDATION: Yes. The utility's current tap-in fee of \$275 should be discontinued and a plant capacity charge of \$275 should be approved. The utility should also be authorized to collect a meter installation fee of \$115. The utility should file revised tariff sheets which are consistent with the Commission's vote within thirty days of the Consummating Order. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 15: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

ITEM NO.

CASE

11**PAA

Docket No. 011677-WU - Application for staff-assisted rate case in Polk County by Tevalo, Inc. d/b/a McLeod Gardens Water Company.

(Continued from previous page)

RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed below in the analysis portion of staff's November 7, 2002 memorandum. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

ISSUE 16: Should this docket be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional five months from the date of the Consummating Order, to allow staff time to verify the installation of an automatic chlorination system as described in Issue Nos. 1 and 4. Once staff has verified that this work has been completed, the docket should be closed administratively.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

12**PAADocket No. 020010-WS - Application for staff-assisted rate case in Highlands County by The Woodlands of Lake Placid, L.P.
Docket No. 990374-WS - Application for certificates to operate a water and wastewater utility in Highlands County by The Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation. (Deferred from October 15, 2002 conference; revised recommendation filed.)

Critical Date(s): 15-month effective date waived (SARC)

Commissioners Assigned: Full Commission
Prehearing Officer: Deason (020010)
Palecki (990374)

Staff: ECR: Moniz, Davis, Lingo
GCL: Echternacht

ISSUE 1: Should Highvest Corporation's Motion to Cancel Proposed Agency Action be granted?

RECOMMENDATION: No. At this time any ruling on this motion would be premature.

ISSUE 2: Should this docket be consolidated with Docket No. 990374-WS, Woodlands' application for water and wastewater certificates?

RECOMMENDATION: Yes. Docket No. 020010-WS should be consolidated with Docket No. 990374-WS.

ISSUE 3: Is the quality of service provided by the Woodlands of Lake Placid, L.P., considered satisfactory?

RECOMMENDATION: The quality of service provided by Woodlands of Lake Placid, L.P., should be considered satisfactory; however, the utility should be required to complete the pro forma plant modification for the wastewater treatment plant within 120 days of the issuance of the Consummating Order. The docket should remain open for staff to verify the project as complete.

ISSUE 4: What portions of utility plant in service serving the territory known as Woodlands of Lake Placid, L.P., are used and useful?

RECOMMENDATION: The water treatment plant should be considered to be 100% used and useful, the water

<u>ITEM NO.</u>	<u>CASE</u>
12**PAA	<p>Docket No. 020010-WS - Application for staff-assisted rate case in Highlands County by The Woodlands of Lake Placid, L.P.</p> <p>Docket No. 990374-WS - Application for certificates to operate a water and wastewater utility in Highlands County by The Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation. (Deferred from October 15, 2002 conference; revised recommendation filed.)</p> <p>(Continued from previous page)</p> <p>distribution system should be considered to be 86.9% used and useful with the exception of meters and meter installations (Account No. 334) which should be 100% used and useful. The wastewater treatment plant should be considered to be 59% used and useful, and the wastewater collection system should be considered to be 84.6% used and useful.</p> <p><u>ISSUE 5:</u> What is the appropriate average test year rate base for the utility?</p> <p><u>RECOMMENDATION:</u> The appropriate average test year rate base for the utility is \$218,618 for water and \$191,341 for wastewater. The utility should be required to complete all pro forma additions, as discussed in the analysis portion of staff's November 7, 2002 memorandum, within 120 days of the issuance of the Consummating Order.</p> <p><u>ISSUE 6:</u> What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?</p> <p><u>RECOMMENDATION:</u> The appropriate rate of return on equity is 11.10% with a range of 10.10% - 12.10%. The appropriate overall rate of return for the utility is 7.18%.</p> <p><u>ISSUE 7:</u> What are the appropriate test year revenues?</p> <p><u>RECOMMENDATION:</u> The appropriate test year revenues for this utility are \$98,155 for water and \$50,544 for wastewater.</p> <p><u>ISSUE 8:</u> What is the appropriate amount of operating expense?</p> <p><u>RECOMMENDATION:</u> The appropriate amount of operating expense for this utility is \$49,160 for water and \$42,054 for wastewater.</p>

ITEM NO.

CASE

12**PAA

Docket No. 020010-WS - Application for staff-assisted rate case in Highlands County by The Woodlands of Lake Placid, L.P.

Docket No. 990374-WS - Application for certificates to operate a water and wastewater utility in Highlands County by The Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation. (Deferred from October 15, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 9: What are the appropriate revenue requirements?

RECOMMENDATION: The appropriate revenue requirements for water and wastewater are \$64,858 and \$55,792, respectively.

ISSUE 10: What is the appropriate residential gallonage cap for wastewater service?

RECOMMENDATION: The appropriate residential gallonage cap for wastewater service should be 8,000 gallons for residential customers.

ISSUE 11: Should the utility's current flat rate structure for its water system be continued, and, if not, what is the appropriate rate structure?

RECOMMENDATION: No. A continuation of the utility's current flat rate structure for its water system is not appropriate in this case. The water system rate structure should be changed to a traditional base facility charge (BFC)/gallonage charge rate structure. In addition, staff recommends that 19% of the BFC cost recovery be shifted to the gallonage charge, resulting in a pre-repression cost recovery split of 35% from the BFC and 65% from the gallonage charge.

ISSUE 12: Are adjustments to the water and wastewater systems to reflect repression of consumption appropriate in this case, and, if so, what are the appropriate repression adjustments?

RECOMMENDATION: Yes. Repression adjustments of 4,861 kgal to the water system and 3,889 kgal to the wastewater system are appropriate in this case. In order to monitor the effects of both the change in rate structure and the recommended revenue change, the utility should be ordered to prepare monthly reports detailing the number of bills

ITEM NO.

CASE

12**PAA

Docket No. 020010-WS - Application for staff-assisted rate case in Highlands County by The Woodlands of Lake Placid, L.P.

Docket No. 990374-WS - Application for certificates to operate a water and wastewater utility in Highlands County by The Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation. (Deferred from October 15, 2002 conference; revised recommendation filed.)

(Continued from previous page)

rendered, the consumption billed, and the revenue billed. These reports should be provided, by customer class and meter size, on a quarterly basis for a period of two years, beginning with the first billing period after the approved rates go into effect.

ISSUE 13: What are the appropriate rates for each system?

RECOMMENDATION: The recommended rates should be designed to produce revenues of \$70,106 for water and \$50,544 for wastewater excluding miscellaneous service charges, as shown in the analysis portion of staff's November 7, 2002 memorandum. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

ISSUE 14: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The water and wastewater rates should be reduced as shown on Schedules 4 and 4A of staff's November 7, 2002 memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth

ITEM NO.

CASE

12**PAA

Docket No. 020010-WS - Application for staff-assisted rate case in Highlands County by The Woodlands of Lake Placid, L.P.

Docket No. 990374-WS - Application for certificates to operate a water and wastewater utility in Highlands County by The Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation. (Deferred from October 15, 2002 conference; revised recommendation filed.)

(Continued from previous page)

the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

ISSUE 15: In the event of a protest of the Proposed Agency Action (PAA) Order, should any amount of annual water revenues be held subject to refund?

RECOMMENDATION: Yes. In the event of a protest of the PAA Order, the utility should be allowed to continue collecting current rates as temporary rates. However, in order to protect utility customers from potential overearnings, the utility should hold \$33,298 (33.92%) of annual service revenues subject to refund. In the event of a protest, the security should be in the form of a bond or letter of credit. Alternatively, the utility could establish an escrow agreement with an independent financial institution. If security is provided through an escrow agreement, the utility should escrow 33.92% of its monthly water service revenues. By no later than the twentieth day of each month, the utility should file a report showing the amount of revenues collected each month and the amount of revenues collected to date relating to the amount subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

ITEM NO.

CASE

12**PAA

Docket No. 020010-WS - Application for staff-assisted rate case in Highlands County by The Woodlands of Lake Placid, L.P.

Docket No. 990374-WS - Application for certificates to operate a water and wastewater utility in Highlands County by The Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation. (Deferred from October 15, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 16: Should Woodlands be ordered to refund the revenues collected from its unauthorized rate increase and if so, what is the amount and how should it be distributed?

RECOMMENDATION: Yes. The utility should refund the revenues collected from its unauthorized rate increase. The utility should refund the unauthorized water rate increase of \$6.29 a month collected from January 1998 until the effective date of the final rates, within 90 days of the Consummating Order pursuant to Rule 25-30.360, Florida Administrative Code. The refunds should be made with interest in accordance with Rule 25-30.360(4), Florida Administrative Code. The refund and the accrued interest should be paid only to those water customers who paid the unauthorized rates from January 1998 until the implementation of the Commission-approved final rates. In no instance should maintenance and administrative costs associated with any refund be borne by the customers; the costs are the responsibility of, and should be borne by, the utility. The utility should provide refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds in accordance with Rule 25-30.360(8), Florida Administrative Code. If Highvest Corporation can provide assurance that it will assume this liability, the utility should be allowed to credit each water customer's bill by \$6.29, which equates to \$1,151 (183 bills x 6.29) per month for the same amount of time it collected its unauthorized rates.

Minutes of
Commission Conference
November 19, 2002

<u>ITEM NO.</u>	<u>CASE</u>
12**PAA	Docket No. 020010-WS - Application for staff-assisted rate case in Highlands County by The Woodlands of Lake Placid, L.P. Docket No. 990374-WS - Application for certificates to operate a water and wastewater utility in Highlands County by The Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation. (Deferred from October 15, 2002 conference; revised recommendation filed.) (Continued from previous page)

ISSUE 17: Should these dockets be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, these dockets should remain open for staff to verify that the utility has completed the required refunds and has filed its revised tariff sheets and staff has administratively approved them. Additionally, these dockets should remain open in order for staff to verify the completion of the pro-forma plant items as described in Issue 5. Once these actions are complete, the dockets may be closed administratively.

DECISION: The recommendations were approved with modification to Issue 9 that wastewater revenue rates will not be reallocated to water revenue rates. Staff is to monitor consumption for a 12-month period and bring a recommendation (which may include inclining block rates) if further adjustments are needed. Any fallout in other issues will be addressed by staff.

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

ITEM NO.

CASE

13Docket No. 020344-SU - Application for rate increase in
Monroe County by Key Haven Utility Corporation.

Critical Date(s): 11/25/02 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Bradley

Staff: ECR: Boutwell, Merchant, Rieger, D. Draper

GCL: Jaeger

ISSUE 1: Should the utility's proposed final wastewater rates be suspended?

RECOMMENDATION: Yes. Key Haven's proposed final wastewater rates should be suspended. The docket should remain open pending the Commission's final action on the utility's requested rate increase.

ISSUE 2: Should an interim revenue increase be approved?

RECOMMENDATION: Yes. On an interim basis, the utility should be authorized to collect annual wastewater revenues as indicated below:

	<u>Revenues</u>	<u>\$ Increase</u>	<u>% Increase</u>
Wastewater	\$296,454	\$55,347	22.96%

ISSUE 3: What are the appropriate interim wastewater rates for Key Haven Utility Corporation?

RECOMMENDATION: The service rates for Key Haven in effect as of December 31, 2001, should be increased by 23.00% to generate the recommended revenue increase for the interim period. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. Also, the rates should not be implemented until the required security has been filed. The utility should provide proof to staff of the date notice was given within 10 days after the date of notice.

ISSUE 4: What is the appropriate security to guarantee the interim increase?

RECOMMENDATION: The utility should be required to file a bond, secure a letter of credit, or open an escrow account to guarantee any potential refunds of wastewater revenues

Minutes of
Commission Conference
November 19, 2002

<u>ITEM NO.</u>	<u>CASE</u>
13	Docket No. 020344-SU - Application for rate increase in Monroe County by Key Haven Utility Corporation.

(Continued from previous page)

collected under interim conditions. If the utility chooses to open an escrow account, it should deposit 23.00% of interim wastewater revenues collected each month. The letter of credit or surety bond should be in the amount of \$37,115. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14 Docket No. 020409-SU - Application for rate increase in
Charlotte County by Utilities, Inc. of Sandalhaven.

Critical Date(s): 11/30/02 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Revell, Edwards, D. Draper, Merchant

GCL: Stern

ISSUE 1: Should the utility's proposed wastewater rates be suspended?

RECOMMENDATION: Yes. Sandalhaven's proposed wastewater rates should be suspended. The docket should remain open pending the Commission's final action on the utility's requested rate increase.

ISSUE 2: Should an interim revenue increase be approved?

RECOMMENDATION: Yes. On an interim basis, the utility should be authorized to collect annual wastewater revenues as indicated below:

	<u>Revenues</u>	<u>\$ Increase</u>	<u>% Increase</u>
Wastewater	\$276,505	\$54,601	24.61%

ISSUE 3: What are the appropriate interim wastewater rates?

RECOMMENDATION: The service rates for Sandalhaven in effect as of December 31, 2001, should be increased by 25.22% to generate the recommended revenue increase for the interim period. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. Also, the rates should not be implemented until the required security has been filed. The utility should provide proof to staff of the date notice was given within 10 days after the date of notice.

ISSUE 4: What is the appropriate security to guarantee the interim increase?

RECOMMENDATION: The utility should be required to file a corporate undertaking by the parent company to guarantee any potential refunds of wastewater revenues collected under

Minutes of
Commission Conference
November 19, 2002

<u>ITEM NO.</u>	<u>CASE</u>
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14	Docket No. 020409-SU - Application for rate increase in Charlotte County by Utilities, Inc. of Sandalhaven.
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(Continued from previous page)

interim conditions. The corporate undertaking should be in the amount of \$36,615. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 19, 2002

<u>ITEM NO.</u>	<u>CASE</u>
15**Docket No.	020553-WS - Application for amendment of Certificate Nos. 294-S and 338-W to extend water and wastewater service area in Brevard County by Burkim Enterprises, Inc.
	Critical Date(s): None
	Commissioners Assigned: Full Commission
	Prehearing Officer: Baez
	Staff: ECR: Redemann GCL: Crosby, Helton
	<u>ISSUE 1</u> : Should Burkim be ordered to show cause, in writing, within 21 days, why it should not be fined for serving outside its certificated territory without prior Commission approval in apparent violation of Section 367.045(2), Florida Statutes?
	<u>RECOMMENDATION</u> : No. A show cause proceeding should not be initiated.
	<u>ISSUE 2</u> : Should Burkim's amendment application of Certificate Nos. 338-W and 294-S be granted?
	<u>RECOMMENDATION</u> : Yes. Burkim's amendment application to expand its territory should be granted. The territory amendment is described in Attachment A of staff's November 7, 2002 memorandum. Burkim should charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.
	<u>ISSUE 3</u> : Should this docket be closed?
	<u>RECOMMENDATION</u> : Yes. No further action is required and the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

16**Docket No. 021008-SU - Request for approval of two new classes of bulk wastewater rates in Monroe County by K W Resort Utilities Corp.

Critical Date(s): 11/23/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Sargent
GCL: Echternacht

ISSUE 1: Should KW Resort Utilities' request for a new class of service for equivalent residential connection (ERC) based flat wastewater rates be approved?

RECOMMENDATION: Yes. KWRU's request for a new class of service for ERC-based flat wastewater rates should be approved. The utility should be allowed to continue collection of the ERC-based flat wastewater rates currently being charged and Tariff Sheet No. 15.7 should be approved as filed pursuant to Rule 25-30.475, Florida Administrative Code, for service rendered as of the stamped approval date on the tariff sheets.

ISSUE 2: Should KW Resort Utilities' request for a new class of service for temporary effluent treatment wastewater rates be approved?

RECOMMENDATION: Yes. KWRU's request for a new class of service for temporary effluent treatment wastewater rates should be approved. The utility should be allowed to continue collection of the temporary effluent treatment wastewater rates currently being charged and Tariff Sheet No. 15.9 should be approved as filed pursuant to Rule 25-30.475, Florida Administrative Code, for service rendered as of the stamped approval date on the tariff sheets.

ISSUE 3: Should KW Resort Utilities be ordered to show cause, in writing, within 21 days, why it should not be fined for collecting charges not approved by the Commission, in apparent violation of Sections 367.091(4) and 367.091(5), Florida Statutes?

RECOMMENDATION: No. KWRU should not be ordered to show cause, in writing, within 21 days, why it should not be fined for collecting charges not approved by the Commission,

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

16**

Docket No. 021008-SU - Request for approval of two new classes of bulk wastewater rates in Monroe County by K W Resort Utilities Corp.

(Continued from previous page)

in apparent violation of Sections 367.091(4) and 367.091(5), Florida Statutes.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. If Issues 1 and 2 are approved, the new tariffs should become effective on or after the stamped approval date on the 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 tariffs should remain in effect with ERC-based flat wastewater rates and temporary effluent treatment 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: Jaber, Deason, Baez, Palecki, Bradley

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

17**Docket No. 001660-SU - Application for amendment of Certificate No. 361-S to extend and to delete wastewater service area in Highlands County by Highlands Utilities Corporation.

Critical Date(s): None

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

Staff: ECR: Rieger
GCL: Jaeger

ISSUE 1: Should the Commission order Highlands Utilities Corporation to show cause, in writing, within 21 days, why it should not be fined an amount up to \$5,000 for each offense as authorized by Section 367.161, Florida Statutes, for serving outside its certificated territory in apparent violation of Section 367.045(2), Florida Statutes?

RECOMMENDATION: No. A show cause proceeding should not be initiated for the above-noted apparent violation. However, the utility should be admonished of the need to comply with all the applicable statutes, Commission rules, and Commission orders, and that fines could be imposed for future violations.

ISSUE 2: Should the Commission approve the Settlement Agreement, filed May 29, 2002, between Highlands Utilities Corporation and the Town of Lake Placid?

RECOMMENDATION: Yes. The Commission should approve the Settlement Agreement, filed May 29, 2002, between Highlands Utilities Corporation and the Town of Lake Placid, and the Commission should acknowledge that the Town of Lake Placid has withdrawn its protest.

ISSUE 3: Should Highlands Utilities Corporation's amended application for amendment of Certificate No. 361-S be granted?

RECOMMENDATION: Yes. Highlands Utilities Corporation's application for an amendment to expand and delete its territory should be granted as described in Attachment A of staff's November 7, 2002 memorandum. Highlands Utilities Corporation should charge the customers in the territory added herein the rates and charges contained in its tariff

Minutes of
Commission Conference
November 19, 2002

ITEM NO.

CASE

17**

Docket No. 001660-SU - Application for amendment of Certificate No. 361-S to extend and to delete wastewater service area in Highlands County by Highlands Utilities Corporation.

(Continued from previous page)

until authorized to change by this Commission in a subsequent proceeding.

ISSUE 4: Should Highlands Utilities Corporation's request for a filing fee refund in the amount of \$500 be granted?

RECOMMENDATION: Yes. Highlands Utilities Corporation's request for a filing fee refund should be granted. The utility should be allowed to submit an Application For Refund to the State of Florida Office of the Comptroller, requesting a refund of \$500.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: Yes. If staff's recommendations in Issues 1, 2, 3, and 4 are approved, no further action is required and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Palecki, Bradley