

**MINUTES OF SEPTEMBER 20, 2005**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:35 a.m.

**ADJOURNED:** 1:45 p.m.

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

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

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**1Approval of Minutes**

August 17, 2005 Special Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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**2\*\*Consent Agenda**

PAA

- A) Request for acknowledgement of transfer of control of TCG Public Communications, Inc., holder of PATS Certificate No. 7799, to Global Tel\*Link Corporation, holder of PATS Certificate No. 3878.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
050547-TC	TCG Public Communications, Inc.  Global Tel*Link Corporation

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

**DECISION:** The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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3\*\***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: Rojas

**Issue 1:** Should the Commission require Sprint to pay liquidated damages by crediting the Florida Telecommunications Relay, Inc.'s (FTRI) account \$305,000 (61 days x \$5,000/day) for failure to meet the typing speed requirement of Section B-7(c) of the contract for the period of June 1, 2005, through July 31, 2005?

**Recommendation:** Yes.

**Issue 2:** Should the Commission approve Mr. Brian Musselwhite from AT&T to replace Mr. Chris McDonald formerly of AT&T as a TASA Advisory Committee member effective immediately?

**Recommendation:** Yes.

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

**Recommendation:** No. This docket should not be closed.

**DECISION:** The recommendation in Issue 1 was modified to allow the Commission to assess liquidated damages in the amount of \$100,000 immediately, with recognition of the additional \$205,000 originally recommended by staff. Staff will continue to monitor Sprint's performance under the terms of the contract with the understanding that a finding of non-compliance will result in the assessment of liquidated damages of no less than \$205,000 and possibly a higher amount. Issues 2 and 3 were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

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

**Staff:** GCL: Stern  
ECR: Wheeler, Baxter, Hewitt

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

**Recommendation:** Yes.

**Issue 2:** Should Docket No. 990188-EI 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 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 item was withdrawn.

**ITEM NO.**

**CASE**

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

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Stern  
ECR: McNulty

**Issue 1:** Should the Commission discontinue rulemaking activities on the modification to Rule 25-6.044(4), Florida Administrative Code, proposed by the City of Madeira Beach?

**Recommendation:** Yes. Absent the City's request, there is no need to change the rule.

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

**Recommendation:** Yes.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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**6\*\*Docket No. 050564-OT** - Petition to initiate rulemaking concerning regulated utility entertainment and ex parte communications, by Common Cause Florida.

**Critical Date(s):** 9/22/05 (Action on petition for rulemaking required within 30 days of filing.)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Stern

**Issue 1:** What action should the Commission take on the Petition?

**Recommendation:** The Petition should be dismissed for Petitioner's failure to allege standing as required by Rule 28-103.006, Florida Administrative Code. The dismissal should be without prejudice to Petitioner's filing, within 30 days, an amended petition that complies with the rule. The Petitioner should be encouraged, upon any refiling, to identify the source of the Commission's rulemaking authority to adopt the requested rules and to identify the specific law that the requested rules are designed to implement.

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

**Recommendation:** This docket should remain open for 30 days to allow Petitioner to file an amended petition that complies with Rule 25-103.006, Florida Administrative Code. If no such petition is filed, the docket should then be closed.

**DECISION:** The item was withdrawn.

**ITEM NO.**

**CASE**

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**7Docket No. 040208-EI** - Consumer complaint against Florida Power & Light Company  
by Leticia Callard.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Gervasi  
ECR: Kummer

**Issue 1:** Should Mrs. Callard's request for reconsideration of Order No.  
PSC-05-0806-FOF-EI be granted?

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

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

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

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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**8Docket No. 050374-TL** - Petition for approval of storm cost recovery surcharge, and stipulation with Office of Public Counsel, by Sprint-Florida, Incorporated.

**Critical Date(s):** 9/22/05 (Florida Statute 364.051 requires the Commission to act upon the petition within 120 days after filing.)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Teitzman, Rojas  
CMP: Mann, Bulecza-Banks, Casey, Moses, Salak, Wright  
RCA: Vandiver

**Issue 1:** Do the costs incurred by Sprint as a result of the 2004 hurricanes constitute a compelling showing of a substantial change in circumstances pursuant to Section 364.051(4), Florida Statutes?

**Recommendation:** Yes. The costs incurred by Sprint as a result of the 2004 hurricanes constitute a compelling showing of a substantial change in circumstances pursuant to Section 364.051(4), Florida Statutes.

**Issue 2(a):** If Issue 1 is answered in the affirmative, how much, if any, of the costs set forth in the Stipulation may be recovered from Sprint's basic local service customers?

**Recommendation:** Sprint should be authorized to impose a surcharge limited to 50 cents per access line for no more than 12 months, which approximates \$9 million of recovery.

**Issue 2(b):** If any costs are determined to be recoverable, how should those costs be recovered?

**Recommendation:** Staff recommends that the Commission should authorize Sprint's recovery in the manner provided in 2005-132, Laws of Florida. Specifically, Sprint should be authorized to impose a surcharge limited to 50 cents per access line for no more than 12 months.

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

**Recommendation:** If the Commission finds recovery to be inappropriate, then this docket should be closed. However, if the Commission finds recovery on the part of Sprint to be appropriate this docket should remain open for a period of time consistent with the methodology of recovery deemed appropriate.



**ITEM NO.**

**CASE**

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8                      Docket No. 050374-TL - Petition for approval of storm cost recovery surcharge, and stipulation with Office of Public Counsel, by Sprint-Florida, Incorporated.

(Continued from previous page)

DECISION: Issues 1 and 3 were approved. Issue 2(a) was modified to reflect that the amount to be recovered is the \$30 million amount that is the subject of the stipulation. Issue 2(b) was modified to increase the amount of the surcharge from 50 cents to 85 cents. Commissioner Edgar dissented on Issues 2(a) and 2(b).

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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9\*\*PAADocket No. 040133-EU - Petition of Withlacoochee River Electric Cooperative, Inc. to modify territorial agreement or, in the alternative, to resolve territorial dispute with Progress Energy Florida, Inc. in Hernando County.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Vining, Brown  
ECR: Breman

**Issue 1:** Should the Commission approve the settlement agreement and implementation of the first phase of the settlement by PEF and WREC?

**Recommendation:** Yes.

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

**Recommendation:** No. This docket should remain open to address the petition for approval of the amended territorial agreement and implementation of phase two of the settlement agreement.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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10\*\*PAA Docket No. 050500-EU - Joint petition for approval of territorial settlement agreement by Tampa Electric Company, Progress Energy Florida, Inc., and The Mosaic Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Brown  
ECR: Breman, Wheeler

**Issue 1:** Should the Commission approve the proposed Settlement Agreement regarding the provision of electric service to Mosaic's mobile facilities?

**Recommendation:** Yes. The Commission should approve the proposed agreement, effective the date of the Commission's consummating order making the approval final.

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

**Recommendation:** Yes. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order. If a protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order approving this Settlement Agreement, the Settlement Agreement should remain in effect pending resolution of the protest and the docket should remain open.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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11\*\*PAA Docket No. 050484-TI - Investigation and determination of appropriate method for refunding overcharges for 0+ calls made from pay telephones by Network Communications International Corp. d/b/a Mundo Telecom d/b/a 1800Call4Less.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: R. Kennedy

ECR: Lester

GCL: Scott

**Issue 1:** Should the Commission accept NCIC's offer to contribute \$35,000, in three installments of \$15,000, \$10,000 and \$10,000, to the General Revenue Fund as a resolution for charging end users a non-subscriber surcharge on 0+ intrastate calls made from pay telephones in excess of the rate caps provided in Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements?

**Recommendation:** Yes.

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

**Recommendation:** The Order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. The company should submit its first payment of \$15,000 within 30 days after issuance of the Proposed Agency Action (PAA) Order; submit the second payment of \$10,000 within 60 days after issuance of the PAA Order; and submit its final payment of \$10,000 within 90 days after issuance of the PAA Order. All payments should be made payable to the Florida Public Service Commission for deposit in the State of Florida General Revenue Fund. The company should submit its final report to the Commission within 30 days of making its last payment to the Commission. Upon receipt of all the payments and the final report, this docket should be closed administratively.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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12\*\*PAA Docket No. 050532-TL - Investigation and determination of appropriate method for refunding overcharges assessed on directory assistance calls by Verizon Florida Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** CMP: Curry, Davis  
ECR: Lester  
GCL: Susac

**Issue 1:** Should the Commission accept Verizon Florida Inc.'s proposal to issue a refund, plus interest, to all affected customers for overcharges on directory assistance calls from February 23, 2005, to June 15, 2005?

**Recommendation:** Yes.

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

**Recommendation:** The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the Commission approves Issue 1, Verizon must submit to staff within 30 days after the issuance of the Proposed Agency Action Order a report indicating the total number of customers that were affected by the overcharges and the amount of revenue that the company received from the overcharges. If the Commission's Order is not protested, the company will also submit a final report to staff within 90 days after the issuance of the Proposed Agency Action Order identifying the total number of customers that were refunded, the amount that was refunded including interest, and the amount of any unclaimed refunds including interest. The company will also remit payment of any unrefunded monies to the Commission for deposit in the state of Florida General Revenue Fund. If staff determines that Verizon has complied with the provisions of the Commission's Order, then this docket will be closed administratively. If Verizon fails to demonstrate that it has complied with the provisions of the Commission's Order, then this docket should remain open pending further action.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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13\*\*PAA Docket No. 050556-TX - Compliance investigation of America's Wireless Choice, Inc. for apparent violation of Rule 25-22.032(6)(b), F.A.C., Customer Complaints.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Curry  
GCL: Susac  
RCA: Roland

**Issue 1:** Should the Commission impose a penalty upon America's Wireless Choice, Inc. in the amount of \$10,000 per apparent violation, for a total of \$40,000 for four apparent violations of Rule 25-22.032(6)(b), Florida Administrative Code, Customer Complaints?

**Recommendation:** Yes.

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

**Recommendation:** The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If America's Wireless 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 America's Wireless fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order, the company's Certificate No. 8317 should be cancelled. If America's Wireless's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively upon either receipt of the payment of the penalty or upon the cancellation of the company's certificate.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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14\*\*PAA Docket No. 041441-GU - Petition for approval of storm cost recovery clause to recover storm damage costs in excess of existing storm damage reserve, by Florida Public Utilities Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** ECR: Slemkewicz, Maurey  
CMP: Bulecza-Banks, Makin  
GCL: Jaeger

**Issue 1:** What is the appropriate methodology to be used for booking costs to the storm damage reserve in this docket?

**Recommendation:** The appropriate methodology to be used for booking costs to the storm damage reserve is a direct incremental cost with net book value adjustment approach methodology.

**Issue 2:** Has FPUC quantified the appropriate amount of managerial and non-managerial employee payroll expense that should be charged to the storm damage reserve? If not, what adjustments should be made?

**Recommendation:** No. FPUC's managerial and non-managerial employee payroll expense should be reduced by \$11,341 to eliminate certain overtime pay that was incorrectly charged to the storm damage reserve.

**Issue 3:** Is it appropriate for FPUC to charge the storm damage reserve with the bonuses awarded to its directors?

**Recommendation:** No. The \$10,257 in directors' bonuses should be excluded from FPUC's storm damage reserve.

**Issue 4:** Has FPUC properly quantified the costs of company-owned vehicles that should be charged to the storm damage reserve? If not, what adjustments should be made?

**Recommendation:** No. The costs of company-owned vehicles charged to the storm damage reserve should be reduced by \$2,590 to eliminate depreciation expense and insurance that are recovered in base rates.

**Issue 5:** Is it appropriate for FPUC to charge its storm damage reserve for estimated post-storm costs for customer notices and advertising, legal fees, travel, administrative fees and miscellaneous?

**Recommendation:** No. These post-storm costs are not related to actual storm restoration activities and should not be charged to the storm damage reserve. Therefore, the amount charged to the storm damage reserve should be reduced by \$29,500 to remove these costs.

**ITEM NO.**

**CASE**

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14\*\*PAA

Docket No. 041441-GU - Petition for approval of storm cost recovery clause to recover storm damage costs in excess of existing storm damage reserve, by Florida Public Utilities Company.

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**Issue 6:** Of the costs that FPUC has charged to the storm damage reserve, should any portion be booked as capital costs associated with the replacement and retirement of plant items affected by the 2004 storms?

**Recommendation:** Yes. FPUC should charge the normal costs of replacements to rate base as plant in service. Therefore, the amount charged to the storm damage reserve should be reduced by \$31,967 to remove the items that should be capitalized as plant in service.

**Issue 7:** Taking into account any adjustments identified in the preceding issues, what is the appropriate amount of storm restoration costs to be charged against the storm damage reserve?

**Recommendation:** Based on staff's adjustments recommended in the previous issues, the appropriate amount of storm restoration costs to be charged against the storm damage reserve is \$533,345.

**Issue 8:** What amount, if any, should FPUC be allowed to include for recovery in this docket for the purposes of building a storm damage reserve balance for future storms?

**Recommendation:** The Commission should not allow the recovery of any of the requested \$300,000 for the replenishment of the storm damage reserve. Instead, the Commission should order that the remaining \$117,773 of 2002 excess earnings, as determined in Docket No. 050224-GU, be credited to the storm damage reserve (Account 228.1). The \$117,773 should not be netted against the existing storm reserve deficit, but should be used to offset future storm restoration costs.

**Issue 9:** What is the appropriate amount of storm restoration costs to be recovered from the customers?

**Recommendation:** The appropriate amount of storm restoration costs to be recovered from the customers is \$474,275, plus any interest as determined in Issue 11.

**Issue 10:** If recovery is allowed, what is the appropriate account treatment for recording the unamortized balance of the storm restoration costs subject to future recovery?

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

**Issue 11:** Should FPUC be authorized to accrue and collect interest on the amount of storm restoration costs permitted to be recovered from customers? If so, how should interest be calculated?

**Recommendation:** Yes. Staff recommends that FPUC be allowed to charge interest at the applicable 30-day commercial paper rate on the net-of-tax unamortized balance of



ITEM NO.

CASE

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14\*\*PAA

Docket No. 041441-GU - Petition for approval of storm cost recovery clause to recover storm damage costs in excess of existing storm damage reserve, by Florida Public Utilities Company.

(Continued from previous page)

storm damage restoration costs permitted to be recovered from customers. The total amount to be recovered with interest and revenue taxes is \$489,598.

**Issue 12:** What mechanism should be used to collect the amount of the storm-related costs authorized for recovery?

**Recommendation:** Recovery of storm-related costs should be recovered through a temporary surcharge based on various rate classes and consumption. FPUC should be required to include a statement on the customers' bills that identifies the per therm charge approved by the Commission as a result of its 2004 storm-related costs.

**Issue 13:** What is the appropriate recovery period?

**Recommendation:** Based on staff's adjustments in Issue 11, the adjusted storm-related costs of \$489,598 including interest and taxes should be recovered over a two and a half year period (30 months) in equal amounts of approximately \$195,839 per year. Within 60 days following expiration of the Commission-approved recovery period, FPUC should file with the Commission for approval of the final over-or-under-recovery of the 2004 storm damage costs, along with a proposed method to true up any over-or-under-recovery. However, if FPUC recovers the \$489,598 in costs earlier than two and one half years, FPUC would notify the Commission that the costs have been recovered and that it would no longer be assessing the surcharge.

**Issue 14:** If the Commission approves recovery of any storm-related costs, how should they be allocated to the rate classes?

**Recommendation:** Recovery of storm-related costs should be allocated to the various rate classes in the same way as the allocation of an interim rate increase. This is consistent with past Commission practice in the allocation of surcharges. FPUC should immediately file a revised tariff using staff-recommended allocation factors as shown in Attachment A of staff's September 8, 2005 memorandum.

**Issue 15:** If the Commission approves a mechanism for the recovery of storm-related costs from the ratepayers, on what date should it become effective?

**Recommendation:** Recovery of storm-related costs should become effective with all meter readings on and after thirty (30) days from the date of the issuance of the Proposed Agency Action Order in this matter if there is no protest. This will allow FPUC time to provide notice to its customers. If the Proposed Agency Action is protested, FPUC should be allowed to charge the surcharge on an interim basis subject to refund with interest. **Issue 16:** Should this docket be closed?

**Recommendation:** No. 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, a Consummating Order should be issued. However, the docket should remain open to

**ITEM NO.**

**CASE**

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14\*\*PAA

Docket No. 041441-GU - Petition for approval of storm cost recovery clause to recover storm damage costs in excess of existing storm damage reserve, by Florida Public Utilities Company.

(Continued from previous page)

address the true-up of the actual storm restoration costs. The docket should be closed administratively once staff has verified that the true-up is complete.

DECISION: The item was deferred.

**ITEM NO.**

**CASE**

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15\*\***Docket No. 050486-EI** - Petition for approval of optional budget billing program for GS-1 rate customers by Florida Power & Light Company.

**Critical Date(s):** 9/12/05 (60-day suspension date - waived)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Draper  
GCL: Brown

**Issue 1:** Should the Commission approve FPL's Petition for Approval of an Optional Budget Billing Program for GS-1 Rate Customers?

**Recommendation:** Yes.

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

**Recommendation:** Yes. If Issue 1 is approved, this tariff should become effective on November 1, 2005. If a protest is filed within 21 days of the issuance of the order, these tariffs 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.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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16\*\***Docket No. 050226-EI** - Petition for approval of 2005 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company.

**Critical Date(s):** 12/1/05 (8-month effective date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Draper, Breman  
GCL: Brown

**Issue 1:** Should the Commission approve FPL's proposed underground residential distribution (URD) tariffs and their associated charges?

**Recommendation:** Yes.

**Issue 2:** Should the Commission approve FPL's revised tariff sheets and charges associated with the installation of underground commercial/industrial distribution (UCD) facilities?

**Recommendation:** Yes.

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

**Recommendation:** Yes. If Issues 1 and 2 are approved, this tariff should become effective on September 20, 2005. If a protest is filed within 21 days of the issuance of the order, these tariffs 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.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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17\*\*PAADocket No. 050316-EI - Petition for approval of integrated Clean Air Regulatory Compliance Program for cost recovery through Environmental Cost Recovery Clause, by Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** ECR: Breman, Harlow, Kyle, Wheeler  
GCL: Stern

**Issue 1:** Should the Commission approve PEF's petition for recovery of implementing its Integrated Clean Air Regulatory Compliance Program as a new activity for cost recovery through the Environmental Cost Recovery Clause?

**Recommendation:** Yes, conditionally. Costs for Phase I Clean Air Interstate Rule (CAIR) and Clean Air Mercury Rule (CAMR) compliance activities are eligible for recovery through the ECRC and any prudently incurred costs are appropriate for recovery through the ECRC. It is premature to address recovery of PEF's costs to comply with Phase II of CAIR and CAMR because PEF has not identified any such costs. If the new EPA rules are stayed, PEF should submit a copy of the stay to the Commission within two weeks of its issuance.

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

**Recommendation:** Yes. This docket should be closed 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.

DECISION: The item was deferred.

**ITEM NO.**

**CASE**

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18\*\***Docket No. 050228-SU** - Request for approval of new class of service in Pinellas County by Ranch Mobile WWTP, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Revell, Rendell  
GCL: Vining

**Issue 1:** Should the utility's request to modify the approved rate be granted?

**Recommendation:** Yes. The utility's request should be granted, and the corrected tariff rate should be \$23.10. If the Commission approves the revised charge, the utility should file a revised tariff sheet which is consistent with the Commission's decision within 10 days after the vote. Staff recommends that it be given administrative authority to approve the revised tariff sheet upon staff's verification that the tariff is consistent with the Commission's decision. In addition, the utility should file a proposed customer notice to reflect the Commission-approved rate. The approved rate should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The utility should provide proof that the only affected customer has received notice of the corrected tariff charge within 10 days after the date of the notice.

**Issue 2:** If a revised monthly charge is approved, should the utility be required to refund the difference in revenues collected between the originally approved charge and the revised charge?

**Recommendation:** Yes. The utility should be required to refund the difference between the originally approved charge of \$65.20 and the approved revised charge for each period that WWTP charges the higher rate.

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

**Recommendation:** If no protest is filed within 21 days of the issuance of the Commission's Order, a consummating order will be issued. The docket should remain open to allow for staff's verification of the revised tariff sheet and the utility's compliance with the noticing requirements, and until the refund has been completed and verified by staff. If a protest is filed within 21 days of the issuance of the Commission's Order, the tariff should remain in effect with all revenues held subject to refund pending resolution of the protest. Once these actions are complete, this docket may be closed administratively.

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**CASE**

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18\*\*

Docket No. 050228-SU - Request for approval of new class of service in Pinellas County by Ranch Mobile WWTP, Inc.

(Continued from previous page)

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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19\*\***Docket No. 050474-SU** - Request for approval of new class of bulk wastewater rates in Monroe County by K W Resort Utilities Corp.

**Critical Date(s):** 9/9/05 (60-day suspension date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Hudson, Rendell

GCL: Jaeger

**Issue 1:** Should K W Resort Utilities' Original Sheet No. 16.0 for a bulk wastewater rate for South Stock Island Marinas (Peninsular Marina) be approved as filed?

**Recommendation:** Yes. Original Sheet No. 16.0, establishing a bulk wastewater rate for South Stock Island Marinas (Peninsular Marina), should be approved as filed. The utility should file a proposed customer notice to reflect the Commission-approved rate. The approved rate should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided that the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff rate to all customers. The utility should provide proof that the customers have received notice within 10 days after the date that the notice was sent.

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

**Recommendation:** Yes. If Issue 1 is approved, the tariff sheet should become effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with all increased charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar



**ITEM NO.**

**CASE**

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20\*\*PAA Docket No. 050540-SU - Settlement offer for possible overearnings in Marion County by BFF Corp.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Fletcher, Rendell, Willis

GCL: Jaeger

**Issue 1:** Should the Commission accept the settlement offer proposed by BFF Corp.?

**Recommendation:** Yes. Pursuant to the settlement offer, the gallonage charge for both residential and general service customers should be reduced by \$0.98 per 1,000 gallons. The utility should file a proposed customer notice within 15 days of the Commission vote, which is consistent with its decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code, after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The utility should provide proof that the customers have received notice within 10 days after the date of the notice.

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

**Recommendation:** Yes. If no timely protest is filed by a substantially affected party, this docket should be closed upon the issuance of a consummating order.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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21\*\***Docket No. 050313-WU** - Application for transfer of majority organizational control of NHC Utilities, Inc., holder of Certificate No. 573-W in Charlotte County, from EMB/NHC, L.L.C. to MHC-Encore Holdings, L.P.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** ECR: Clapp, Redemann, Romig  
GCL: Brown

**Issue 1:** Should the transfer of majority organizational control of NHC Utilities, Inc., holder of water Certificate No. 573-W, from EMB/NHC, L.L.C. to MHC-Encore Holdings, L.P. be approved?

**Recommendation:** Yes. The transfer is in the public interest and should be approved effective the date of the Commission's vote. The territory being transferred is described in Attachment A of staff's September 8, 2005 memorandum. NHC should continue to be responsible for filing the utility's 2005 annual report and paying 2005 regulatory assessment fees on or before March 31, 2006.

**Issue 2:** Should the rates and charges approved for NHC be continued?

**Recommendation:** Yes. The buyer should continue charging the rates and charges approved for NHC until authorized to change by the Commission in subsequent proceedings. The ownership changes did not affect the tariff issuing officers, therefore, revised tariff pages are not required.

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

**Recommendation:** Yes. No timely protest to this transfer of majority organizational control was filed within the time prescribed by section 367.045(3), Florida Statutes, and therefore this docket should be closed upon issuance of the Commission's final order.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

**ITEM NO.**

**CASE**

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22\*\***Docket No. 050314-WU** - Application for transfer of facilities operated under Certificate 434-W in Highlands County from Sebring Ridge Utilities, Inc. to City of Avon Park Utilities.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** ECR: Johnson, Kaproth, Redemann  
GCL: Rodan

**Issue 1:** Should the transfer of the water facilities from Sebring Ridge to the City of Avon Park Utilities and the cancellation of Certificate No. 434-W be approved?

**Recommendation:** Yes. The transfer of the water facilities from Sebring Ridge to the City of Avon Park should be approved as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. Certificate No. 434-W should be cancelled effective January 26, 2005.

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

**Recommendation:** Yes. Because no further action is necessary concerning the transfer, this docket should be closed.

**DECISION:** The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar