

FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: October 18, 2005, 9:30 a.m.

LOCATION: Room 148, Betty Easley Conference Center

DATE ISSUED: October 7, 2005

NOTICE

Persons affected by Commission action on certain items on this agenda for which a hearing has not been held (other than actions on interim rates in file and suspend rate cases) may be allowed to address the Commission when those items are taken up for discussion at this conference. These items are designated by double asterisks (**) next to the agenda item number.

Included in the above category are items brought before the Commission for tentative or proposed action which will be subject to requests for hearing before becoming final. These actions include all tariff filings, items identified as proposed agency action (PAA), show cause actions and certain others.

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CASE

- 1 **Approval of Minutes**
September 20, 2005 Regular Commission Conference
- 2** **Consent Agenda**
- PAA A) Applications for certificates to provide competitive local exchange telecommunications service.
- | <u>DOCKET NO.</u> | <u>COMPANY NAME</u> |
|-------------------|--------------------------------|
| 050579-TX | Pac-West Telecomm, Inc. |
| 050602-TX | Custom Network Solutions, Inc. |
- PAA B) Request for approval of transfer of control of an alternative access vendor company.
- | <u>DOCKET NO.</u> | <u>COMPANY NAME</u> |
|-------------------|-----------------------------|
| 050589-TA | Winstar Communications, LLC |
| | GVC Networks, LLC |
- C) Docket No. 050582-GU – Application by Florida Public Utilities Company (Company) for authority to issue and sell and/or exchange any combination of the long-term debt, short-term notes and equity securities and/or to assume liabilities or obligations as guarantor, endorser or surety in an incremental amount not to exceed \$45,000,000, excluding retained earnings during calendar year 2006. Included in this \$45 million amount is the Company’s request for authority to issue up to \$25 million in short-term notes during calendar year 2006.
- For monitoring purposes, this docket should remain open until April 27, 2007 to allow the Company time to file the required Consummation Report.
- D) Docket No. 050630-GU – Chesapeake Utilities Corporation (Chesapeake or Company) seeks the authority to issue common stock, preferred stock and secured and/or unsecured debt, and to enter into agreements for interest rate swap products, equity products and other financial derivatives, and to exceed limitation placed on short-term borrowings in 2006.
- The Company seeks authority to issue during calendar year 2006 up to 6,000,000 shares of Chesapeake common stock; up to 1,000,000 shares of Chesapeake preferred stock; up to \$80 million in secured and/or unsecured debt; to enter into agreements up to \$40 million in Interest Rate Swap Products, Equity Products and other Financial

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2**

Consent Agenda

(Continued from previous page)

Derivatives; and to obtain authorization to exceed the limitation placed on short-term borrowings by Section 366.04, Florida Statutes, so as to issue short-term obligations during 2006, in an amount not to exceed \$40 million.

For monitoring purposes, this docket should remain open until April 27, 2007 to allow the Company time to file the required Consummation Report.

- E) Docket No. 050609-EI – Tampa Electric Company (“Company”) seeks the authority to issue, sell and/or exchange equity securities and issue, sell, exchange and/or assume long-term or short-term debt securities and/or to assume liabilities or obligations as guarantor, endorser or surety during calendar year 2006. The Company also seeks authority to enter into interest rate swaps or other derivative instruments related to debt securities during calendar year 2006.

The amount of all equity and long-term debt securities issued, sold, exchanged or assumed and liabilities and obligations assumed or guaranteed as guarantor, endorser or surety will not exceed in the aggregate \$400 million during calendar year 2006, including any amounts issued to retire existing long-term debt securities. The maximum amount of short-term debt outstanding at any one time including bank borrowings will be \$475 million during calendar year 2006.

In connection with this application, Tampa Electric confirms that the capital raised pursuant to this application will be used in connection with the activities of the Company’s electric and gas divisions and not the unregulated activities of its affiliates.

For monitoring purposes, this docket should remain open until April 27, 2007 to allow the Company time to file the required Consummation Report.

Recommendation: The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of Docket Nos. 050582-GU, 050630-GU, and 050609-EI, which must remain open for monitoring purposes.

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CASE

3**

Docket No. 050591-TP – Proposed amendment of Rule 25-4.036, F.A.C., Design and Construction of Plant, and Rule 25-24.515, F.A.C., Pay Telephone Service.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: GCL: Cibula

CMP: Kennedy

ECR: Hewitt

Issue 1: Should the Commission propose the amendment of Rule 25-4.036, Florida Administrative Code, Design and Construction of Plant, and Rule 25-24.515, Florida Administrative Code, Pay Telephone Service, to reflect the most current edition of the National Electrical Code, NFPA 70-2005?

Recommendation: Yes. Rule 25-4.036 and Rule 25-24.515 should be amended as set forth in Attachment A of staff's October 6, 2005 memorandum.

Issue 2: Should this docket be closed?

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

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CASE

4**

Docket No. 040779-TP – Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. and Network Telephone Corporation by Z-Tel Communications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Rojas, McKay

CMP: Bates, Dowds

Issue 1: Should the Commission acknowledge the Joint Notice of Withdrawal and close this Docket?

Recommendation: Yes.

ITEM NO.

CASE

5**

Docket No. 050570-TP – Joint petition of TDS Telecom d/b/a TDS Telecom/Quincy Telephone, Northeast Florida Telephone Company d/b/a NEFCOM, GTC, Inc. d/b/a GT Com, Smart City Telecommunications, LLC d/b/a Smart City Telecom, ITS Telecommunications Systems, Inc. and Frontier Communications of the South, LLC, for generic investigation of third-party transit traffic arising from transit traffic service tariff filed by BellSouth Telecommunications, Inc.

Docket No. 050119-TP – Joint petition by TDS Telecom d/b/a TDS Telecom/Quincy Telephone; ALLTEL Florida, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT Com; Smart City Telecommunications, LLC d/b/a Smart City Telecom; ITS Telecommunications Systems, Inc.; and Frontier Communications of the South, LLC ["Joint Petitioners"] objecting to and requesting suspension and cancellation of proposed transit traffic service tariff filed by BellSouth Telecommunications, Inc.

Docket No. 050125-TP – Petition and complaint for suspension and cancellation of Transit Traffic Service Tariff No. FL2004-284 filed by BellSouth Telecommunications, Inc., by AT&T Communications of the Southern States, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley (050570-TP)

Edgar (050119-TP, 050125-TP)

Staff: GCL: Rojas

CMP: Vickery, King

Issue 1: Should the Commission grant the petition for generic investigation into third-party transit traffic?

Recommendation: Yes. The Commission should grant the petition for generic investigation into third-party transit traffic, and hold Docket Nos. 050119-TP and 050125-TP in abeyance pending resolution of the generic investigation.

Issue 2: Should the Commission, on its own motion, expand the petition for generic investigation into third-party transit traffic to include Sprint and Verizon?

Recommendation: Yes. The Commission should expand the petition for generic investigation into third-party transit traffic to include Sprint and Verizon.

Issue 3: Should these dockets be closed?

Recommendation: No. If staff's recommendations are approved, these dockets should remain open pending the resolution of this petition.

ITEM NO.

CASE

6

Docket No. 050200-TX – Application for certificate to provide competitive local exchange telecommunications service by Matrix Telecom, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Rojas
CMP: McCoy

(Dismissal of protest - oral argument not requested - participation at the Commissioners' discretion.)

Issue 1: Should the Commission, on its own motion, dismiss Verizon's Protest and Request for Hearing regarding Order No. PSC-05-0555-PAA-TX as it pertains to Matrix?

Recommendation: Yes. Verizon has failed to adequately allege standing to proceed. Therefore, the protest should be dismissed and Order No. PSC-05-0555-PAA-TX should be reinstated as a final order as it applies to Matrix.

Issue 2: Should this Docket be closed?

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

ITEM NO.

CASE

7**

Docket No. 050583-GU – Petition to amend provisions of Pool Manager Service Tariff by Florida Public Utilities Company.

Critical Date(s): 11/16/05 (60-day suspension date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Broussard, Bulecza-Banks, Makin

GCL: Brown

Issue 1: Should the Commission approve FPUC’s revised petition to amend the Company’s penalty provision in its Pool Manager Service Tariff?

Recommendation: Yes. The Commission should approve FPUC’s revised petition to amend its provision of the Pool Manager Service Tariff rate from \$15.00, to the maximum of \$15.00 or 200% of the highest weekly Alert Day price posted by FGT as recorded in Gas Daily, effective October 18, 2005, the date of the Commission’s vote in this matter.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected timely files a protest of the Commission’s tariff Order, the docket may be closed upon the issuance of a Consummating Order. If a timely protest is filed, the tariff should remain in effect pending resolution of the protest, with revenues held subject to refund.

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CASE

8**PAA

Docket No. 050179-TL – Petition for realignment of exchange boundaries of St. Johns, St. Augustine, Ponte Vedra Beach, Jacksonville, and Green Cove Springs, and for consolidation of Julington exchange with St. Johns Exchange, by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: CMP: Brown, Bulecza-Banks, Casey, Mann, Moses, Wright

GCL: Scott

Issue 1: Should BellSouth's proposed St. Johns boundary realignment be approved?

Recommendation: Staff recommends that BellSouth's proposed St. Johns boundary realignment be approved with two modifications which were offered by BellSouth. First, customers who would incur a telephone number change would be assigned new numbers, but retain the functionality of their old number for a period of two years. Second, after the two-year period, these customers would receive a reference or intercept message on their old number notifying callers that their number was changed and provide the caller with the new number for an additional one-year period, at no cost to the customer.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed if no timely protest is filed within 21 days of the issuance of this Order.

ITEM NO.

CASE

9**PAA

Docket No. 050428-TP – Joint petition of Acceris Management and Acquisition LLC and Acceris Communications Corp. of Florida for approval of name change and transfer of CLEC Certificate No. 8371 from Acceris Communications Corp. of Florida to Acceris Management and Acquisition LLC; for acknowledgement of registration of Acceris Management and Acquisition LLC as IXC effective 6/22/05, and acknowledgment of cancellation of Acceris Communications Corp. of Florida's IXC Registration No. TJ413 effective 9/30/05; and for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., in connection with sale of customer-based and other assets of Acceris Communications Corp. of Florida to Acceris Management and Acquisition LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: CMP: McCoy

GCL: Rojas

Issue 1: Should the Commission approve the name change and transfer of CLEC Certificate No. 8371 from Acceris Communications Corp. of Florida to Acceris Management and Acquisition LLC?

Recommendation: Yes.

Issue 2: Should the Commission acknowledge registration of Acceris Management and Acquisition LLC as an intrastate interexchange company, effective June 22, 2005?

Recommendation: Yes.

Issue 3: Should the Commission acknowledge Acceris Communications Corp. of Florida's request to remove registration TJ413 from the register, effective September 30, 2005?

Recommendation: Yes.

Issue 4: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of customers from Acceris Communications Corp. of Florida to Acceris Management and Acquisition LLC?

Recommendation: Yes.

Issue 5: 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, the order will become final upon the issuance of a consummating order. However, this docket should remain open pending receipt of payment of the 2005 regulatory assessment fees by Acceris Communications Corp. of Florida, for both its CLEC and IXC operations. If Acceris Communications Corp. of Florida fails to pay its 2005 regulatory assessment fees, staff will bring this matter back before the Commission for resolution.

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CASE

10

Docket No. 050363-TP – Compliance investigation of Southeastern Services, Inc. for apparent failure to disclose required information on each of its applications for alternative access vendor certificate, competitive local exchange company certificate, and interexchange company certificate.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Buys

GCL: Fordham

(Motion to dismiss - oral argument requested - participation at the Commissioners' discretion depending on vote on Issue 1.)

Issue 1: Should the Commission grant NEFCOM's Request for Oral Argument?

Recommendation: No. The Request for Oral Argument should be denied.

Issue 2: Should the Commission grant SSI's Motion to Dismiss NEFCOM's Protest of PAA Order No. PSC-05-0734-PAA-TP?

Recommendation: Yes. The Commission should grant SSI's Motion to Dismiss NEFCOM's Protest of PAA Order No. PSC-05-0734-PAA-TP.

Issue 3: Should this docket be closed?

Recommendation: No. The Docket should remain open pending receipt of the settlement amount offered. Thereafter, the Docket should be administratively closed.

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CASE

11**PAA

Docket No. 050518-TC – Request for cancellation of PATS Certificate No. 5860 by U.S. Paytel Optima, L.L.C., effective July 29, 2005.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: CMP: Isler

GCL: Scott

Issue 1: Should the Commission deny U.S. Paytel Optima, L.L.C. a voluntary cancellation of its pay telephone company (PATS) Certificate No. 5860 and cancel the certificate on the Commission's own motion with an effective date of July 29, 2005?

Recommendation: Yes.

Issue 2: Should this docket be closed?

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

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CASE

12**PAA

Docket No. 050565-TC – Request for cancellation of PATS Certificate No. 5943 by Birchwood Properties Corp., effective August 23, 2005.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Scott

Issue 1: Should the Commission deny Birchwood Properties Corp. a voluntary cancellation of its pay telephone company (PATS) Certificate No. 5943 and cancel the certificate on the Commission's own motion with an effective date of August 23, 2005?

Recommendation: Yes.

Issue 2: Should this docket be closed?

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

ITEM NO.

CASE

13**PAA

Docket No. 050576-TC – Request for cancellation of PATS Certificate No. 8172 by Duane E Lund, effective August 25, 2005.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Scott

Issue 1: Should the Commission cancel Duane E Lund’s Pay Telephone Certificate No. 8172 on its own motion with an effective date of August 25, 2005; notify the Division of the Commission Clerk and Administrative Services that any unpaid Regulatory Assessment Fees should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amount?

Recommendation: Yes.

Issue 2: Should this docket be closed?

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

ITEM NO.

CASE

14**

Docket No. 050061-WS – Application for grandfather certificates to operate water and wastewater facility in Okeechobee County by Pine Ridge Management Corporation.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Brady, Rieger, Romig

GCL: Rodan

Issue 1: Should Pine Ridge Management Corporation's application for grandfather certificates be approved?

Recommendation: Yes. Pine Ridge's application should be approved and the utility should be issued Certificate Nos. 630-W and 539-S, effective May 13, 2004, to serve the territory described in Attachment A of staff's October 6, 2005 memorandum.

PAA

Issue 2: What rates and charges should be approved for this utility?

Recommendation: The utility's existing rates and charges, based on the allocation set forth in the analysis portion of staff's October 6, 2005 memorandum, should be approved until authorized to change by the Commission in a subsequent proceeding. The tariff should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code. The utility should also be required to provide customers with a semi-annual bill affirming the charges for water and wastewater service and when payment is due. In addition, the utility should file a proposed customer notice reflecting all Commission-approved rates and charges. Once approved by staff, the utility should provide the notice to all customers within 10 days of the date the order is finalized. Within 10 days after the notice is given, the utility should file a statement confirming that the notice has been given.

PAA

Issue 3: Should the utility's proposed violation reconnection charge and late payment charge be approved?

Recommendation: Yes. The charges are reasonable and should be approved. These charges should be included in the notice, and implemented with the tariff, described in Issue 2.

Issue 4: Should this docket be closed?

Recommendation: No. If no timely protest is received to the proposed agency action Issues 2 and 3, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open to verify that notice has been given to customers, and a revised tariff has been filed which reflects the Commission-approved rates and charges. Once staff has verified these matters, the docket should be administratively closed.

ITEM NO.

CASE

15

Docket No. 041144-TP – Complaint against KMC Telecom III LLC, KMC Telecom V, Inc., and KMC Data LLC for alleged failure to pay intrastate access charges pursuant to its interconnection agreement and Sprint's tariffs and for alleged violation of Section 364.16(3)(a), F.S., by Sprint-Florida, Incorporated.

Critical Date(s): None

Commissioners Assigned: Baez, Deason, Bradley

Prehearing Officer: Bradley

Staff: GCL: B. Keating, Fordham

CMP: Marsh, Pruitt

(Motion to dismiss - oral argument not requested - participation at the Commissioners' discretion.)

Issue 1: Should KMC's Motion to Dismiss, or alternative request for stay of these proceedings, be granted?

Recommendation: No. The Commission has jurisdiction to address the issues presented in this case and has not been specifically preempted. Staff further recommends that KMC's alternative request that the proceeding be stayed pending the outcome of FCC proceedings be denied.

Issue 2: Should this Docket be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1, this matter should proceed to consideration of staff's post-hearing recommendation.

ITEM NO.

CASE

16**

Docket No. 041269-TP – Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Bradley, Edgar

Prehearing Officer: Edgar

Staff: CMP: Barrett, Lee

GCL: Teitzman, Scott

Issue 1: Should the Commission grant Supra’s Emergency Motion to Require BellSouth to Effectuate Orders for Supra’s Embedded Customer Base?

Recommendation: No. Staff recommends that the Motion should be denied because while CLECs retain access to unbundled local circuit switching during the 12-month transition period for their embedded end-user customers, that access is limited to the arrangements existing on March 11, 2005. Orders requiring a new UNE-P arrangement, such as a customer move to another location or an additional line, are not permitted pursuant to the FCC’s *TRRO*.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open for an evidentiary hearing on this matter.

