

FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: February 28, 2006, 9:30 a.m.

LOCATION: Room 148, Betty Easley Conference Center

DATE ISSUED: February 17, 2006

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.

To obtain a copy of staff's recommendation for any item on this agenda, contact the Division of the Commission Clerk and Administrative Services at (850) 413-6770. There may be a charge for the copy. The agenda and recommendations are also accessible on the PSC Homepage, at <http://www.floridapsc.com>, at no charge.

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Video and audio versions of the conference are available and can be accessed live on the PSC Homepage on the day of the Conference. The audio version is available through archive storage for up to three months afterward.

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ITEM NO. **CASE**

1 **Approval of Minutes**
 January 24, 2006 Regular Commission Conference

2** **Consent Agenda**

PAA A) Application for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
060053-TX	Protection Plus of the Florida Keys, Inc. d/b/a ENGAGE COMMUNICATIONS

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
060055-TC	AIR-serv Group, LLC

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
060059-TS	Coleman Technologies, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
060032-TX	GTC Telecom, Corp. d/b/a Curbside Communications	12/31/2005
060036-TX	O1 Communications of Florida, Inc.	12/31/2005
060046-TX	RGT Utilities of Florida, Inc.	12/31/2005
060050-TP	Trinity Telecommunications, Inc. d/b/a Trinity Connect	12/31/2005

Agenda for
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February 28, 2006

ITEM NO. _____ CASE _____

2** Consent Agenda

(Continued from previous page)

PAA E) Request for cancellation of a shared tenant service certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
060052-TS	Byron Financial & Management Corp. d/b/a Crown Suites & Message Center	12/31/2005

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

ITEM NO.

CASE

3

Docket No. 050925-EI – Petition for declaratory statement that, pursuant to Rule 25-6.100(7), F.A.C., and Commission Orders 8035 and 8029, Progress Energy Florida, Inc. is permitted to collect franchise fees from its customers within the town limits of the Town of Belleair to comply with Town's November 15, 2005 demand for payment of franchise fees for period between September 24, 2002 and November 11, 2004, by Progress Energy Florida, Inc.

Critical Date(s): 3/21/06 (90-day statutory deadline)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Harris

ECR: Kummer

(Interested persons may participate at the Commission's discretion.)

Issue 1: Should the Commission grant Progress Energy Florida's Petition for Declaratory Statement that it may collect franchise fees due to the Town of Belleair from the customer-residents of that town, for the time period September 24, 2002 through November 11, 2004?

Recommendation: No. The Commission should deny Progress Energy Florida's Petition and decline to issue a declaratory statement because unanswered questions remain regarding the Town of Belleair's legal authority to retroactively impose the franchise fee.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission votes to dispose of the petition for declaratory statement, the docket should be closed.

ITEM NO.

CASE

4**PAA

Docket No. 050977-EU – Joint petition of Orlando Utilities Commission and Progress Energy Florida, Inc. for approval of term extension to territorial agreement in Orange County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: GCL: Jaeger

ECR: Windham

Issue 1: Should the Commission approve the Joint Petition for approval of a Second Amendment extending the expiration date of the Territorial Agreement between Orlando Utilities Commission and Progress Energy Florida, Inc., through June 30, 2006?

Recommendation: Yes. The Second Amendment to Territorial Agreement between Orlando Utilities Commission and Progress Energy Florida, Inc. appears to be in the public interest and should be approved thereby extending the expiration date through June 30, 2006. The Second Amendment should become effective upon the issuance of a Consummating Order finalizing the Proposed Agency Action Order approving this Amendment.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no timely protest to the proposed agency action is filed by a substantially affected person within 21 days, this docket should be closed upon the issuance of the Consummating Order. In the event there is a timely protest, this docket should remain open pending resolution of the protest.

ITEM NO.

CASE

5**

Docket No. 060122-WU – Joint petition for approval of stipulation on procedure by Aloha Utilities, Inc. and Office of Public Counsel.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Melson

ECR: Rendell

Issue 1: Should the Commission approve the Stipulation on Procedure, filed February 13, 2006, between Aloha and the Office of Public Counsel regarding the procedures to be followed in the event Aloha files a limited proceeding to recover the costs of purchasing water from Pasco County and installing and operating related chloramination facilities?

Recommendation: Yes. The Stipulation on Procedure should be approved.

Issue 2: Should this docket be closed?

Recommendation: No.

ITEM NO.

CASE

6**

Docket No. 060035-GU – Petition to initiate rulemaking to amend Rule 25-7.037, F.A.C., Change in Character of Service, by Associated Gas Distributors of Florida, Inc.

Critical Date(s): None (Petitioner waived 30-day statutory deadline.)

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: GCL: Moore

CMP: Bulecza-Banks

RCA: Fletcher

Issue 1: Should the Commission grant the petition and initiate rulemaking to amend Rule 25-7.037, Florida Administrative Code?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: No.

ITEM NO.

CASE

7

Docket No. 030829-TP – Complaint of Florida Digital Network, Inc. d/b/a FDN Communications against BellSouth Telecommunications, Inc. for resolution of certain billing disputes and enforcement of unbundled network element (UNE) orders and interconnection agreements.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: GCL: Fordham

CMP: Barrett, Dowds, King

(Post-hearing notice of voluntary dismissal - participation at the discretion of the Commission.)

Issue 1: Should the Commission acknowledge FDN's Notice of Withdrawal of its Complaint?

Recommendation: Yes. The Commission should acknowledge FDN's Notice of Withdrawal of its Complaint. In addition, the Commission should find that the voluntary withdrawal renders any and all outstanding motions moot, and that any confidential documents filed in this matter be returned to the submitting party.

Issue 2: Should this docket be closed?

Recommendation: Yes. With the withdrawal of the Complaint, there are no further matters for this Commission to adjudicate in this Docket and, therefore, it should be closed.

ITEM NO.

CASE

8**

Docket No. 060073-GU – Petition for approval of tariff modifications related to alert days and unauthorized overruns, by Peoples Gas System.

Critical Date(s): 3/27/06 (60-day suspension date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: S. Brown, Broussard, Bulecza-Banks

GCL: M. Brown

Issue 1: Should the Commission grant Peoples Gas System’s petition for approval of tariff modifications relating to alert days, unauthorized gas usage and penalties imposed for failure to deliver make-up gas after a force majeure event?

Recommendation: Yes. The Commission should grant Peoples Gas System’s petition for approval of tariff modifications relating to correcting inconsistencies between various rate schedules, penalties applied for unauthorized gas usage, and penalties imposed for failure to deliver make-up gas after a force majeure event.

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.

ITEM NO.

CASE

9**

Docket No. 060087-GU – Petition for approval of optional budget billing program for residential natural gas customers, by Florida Public Utilities Company.

Critical Date(s): 3/30/06 (60-day suspension date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Broussard, Bulecza-Banks

GCL: Fleming

Issue 1: Should the Commission grant FPUC’s petition for approval of an Optional Budget Billing Program for residential customers of its natural gas utility?

Recommendation: Yes. The Commission should grant FPUC’s petition for approval of its Optional Budget Billing Program.

Issue 2: Should this docket be closed?

Recommendation: Yes. If a protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, the tariff should remain in effect with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order.

ITEM NO.

CASE

10**

Docket No. 050542-TX – Petition for designation as eligible telecommunications carrier (ETC) by Ganoco, Inc. d/b/a American Dial Tone.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: CMP: Maduro, Bulecza-Banks, Casey, Fogleman, Mann
GCL: Fordham

Issue 1: Should American Dial Tone be granted ETC status in the State of Florida?

Recommendation: Staff recommends that American Dial Tone be granted ETC status in the Verizon and BellSouth non-rural wire centers identified in Attachment A of staff's February 16, 2006 memorandum. However, American Dial Tone should not be granted ETC status in Sprint's service area unless a UNE or equivalent agreement is consummated between American Dial Tone and Sprint, and American Dial Tone makes a showing to the Commission that granting it ETC status in Sprint's service area is in the public interest. American Dial Tone should be required, at the time of annual ETC recertification, to demonstrate how it has used the universal service funds within Florida. American Dial Tone should also be required to adhere to the new certification and reporting requirements as detailed in staff's analysis should it decide to seek universal service high cost funds.

Issue 2: Should this docket be closed?

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

ITEM NO.

CASE

11**PAA

Compliance investigations for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Docket No. 050948-TX	–	Arrow Communications, Inc. d/b/a ACI
Docket No. 050949-TX	–	Alternative Access Telephone Communications Corp. d/b/a AA Tele-Com
Docket No. 050950-TX	–	KingTel, Inc.
Docket No. 050951-TX	–	Yipes Enterprise Services, Inc.
Docket No. 050952-TX	–	France Telecom Corporate Solutions L.L.C.
Docket No. 050953-TX	–	Suntel Metro, Inc.
Docket No. 050954-TX	–	Movie, Television & Graphics Corp. d/b/a M.T.G.
Docket No. 050955-TX	–	Cypress Communications Operating Company, LLC
Docket No. 050956-TX	–	CariLink International, Inc.
Docket No. 050957-TX	–	DSL Internet Corporation d/b/a DSLi
Docket No. 050962-TX	–	BAK Communications, LLC
Docket No. 050963-TX	–	Vortex Broadband Communications, Inc.
Docket No. 050964-TX	–	Infotelecom, LLC
Docket No. 050965-TX	–	Benchmark Communications, LLC d/b/a Com One
Docket No. 050966-TX	–	Asia Talk Telecom, Inc. d/b/a HelloCom Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: M. Watts, Howell, Ollila

GCL: Tan, Wiggins, Scott, Teitzman, Fordham, Banks

Issue 1: Should the Commission impose a penalty in the amount of \$10,000 on each of the companies listed in Attachment A of staff's February 16, 2006 memorandum or cancel each company's respective certificate, as listed in Attachment A, for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

Recommendation: Yes. The Commission should impose a penalty of \$10,000 or cancel the certificate of each company listed in Attachment A of staff's memorandum for apparent violation of Section 364.183(1), Florida Statutes.

Issue 2: Should these dockets be closed?

Recommendation: The Orders issued from this recommendation will become final and effective upon issuance of a Consummating Order in each respective docket, unless a person whose substantial interests are affected by the Commission's decision in a given docket files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of that docket's Proposed Agency Action Order. As provided by Section

ITEM NO.

CASE

11**PAA

Compliance investigations for apparent violation of Section 364.183(1), F.S., Access to Company Records.

(Continued from previous page)

120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any of the companies listed in Attachment A of staff's memorandum fails to timely file a protest in its respective docket and request a Section 120.57, Florida Statutes, hearing, the facts in that docket should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If any of the companies listed in Attachment A fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order in its respective docket, the company's CLEC certificate, as listed in Attachment A, should be canceled. If a company's certificate is canceled in accordance with the Commission's Orders from this recommendation, that company should be required to immediately cease and desist providing telecommunications service in Florida. These dockets should be closed administratively upon either receipt of the payment of the penalty imposed in the respective docket or upon the cancellation of the respective company's certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

ITEM NO.

CASE

12**

Docket No. 050676-TC – Compliance investigation of Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division, PATS Certificate No. 8063, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Isler

GCL: Scott

Issue 1: Should the Commission accept the settlement offer proposed by Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division to resolve the apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes. The Commission should accept the company's settlement proposal as listed on Attachment A of staff's February 16, 2006 memorandum.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

ITEM NO.

CASE

13**

Docket No. 050714-TI – Compliance investigation of Global Dialtone, Inc., IXC Registration No. TJ513, for apparent violation of Section 364.336, F.S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: CMP: Isler

GCL: Scott

Issue 1: Should the Commission accept the settlement offer proposed by Global Dialtone, Inc., as listed on Attachment A of staff's February 16, 2006 memorandum, to resolve the apparent violation of Section 364.336, Florida Statutes?

Recommendation: Yes. The settlement proposal should be accepted.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the company's intrastate interexchange telecommunications tariff and removal from the register.

ITEM NO.

CASE

14**PAA

Docket No. 050967-TX – Request for cancellation of CLEC Certificate No. 8410 by The Phone Connection, Inc., effective December 28, 2005.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: McKay

Issue 1: Should the Commission deny The Phone Connection, Inc. a voluntary cancellation of its competitive local exchange company (CLEC) Certificate No. 8410 and cancel the certificate on the Commission's own motion with an effective date of December 28, 2005?

Recommendation: Yes. The company should be denied a voluntary cancellation as listed on Attachment A of staff's February 16, 2006 memorandum.

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 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 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 competitive local exchange telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees or upon cancellation of the company's certificate.

ITEM NO.

CASE

15**PAA

Docket No. 050960-TP – Request for cancellation of CLEC Certificate No. 7493 and for acknowledgment of cancellation of IXC Registration No. TJ376 effective December 27, 2005, by U.S. TelePacific Corp. d/b/a TelePacific Communications.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Tan, Teitzman

Issue 1: Should the Commission deny U.S. TelePacific Corp. d/b/a TelePacific Communications a voluntary cancellation of its competitive local exchange company (CLEC) Certificate No. 7493 and IXC tariff and Registration No. TJ376 and cancel the certificate and tariff and remove the company's name from the register on the Commission's own motion with an effective date of December 27, 2005?

Recommendation: Yes. The company should be denied a voluntary cancellation as listed on Attachment A of staff's February 16, 2006 memorandum.

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 within fourteen (14) calendar days after the issuance of the Consummating Order, the company's CLEC certificate and IXC tariff should be cancelled administratively, the company's name should be removed from the register, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's CLEC certificate and IXC tariff are cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange and intrastate interexchange telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees or upon cancellation of the company's CLEC certificate and IXC tariff and removal of its name from the register.

ITEM NO.

CASE

16

Docket No. 041464-TP – Petition for arbitration of certain unresolved issues associated with negotiations for interconnection, collocation, and resale agreement with Florida Digital Network, Inc. d/b/a FDN Communications, by Sprint-Florida, Incorporated.

Critical Date(s): None

Commissioners Assigned: Edgar, Deason

Prehearing Officer: Deason

Staff: CMP: Bulecza-Banks, Casey, Maduro, Buys, Mann, Brown

GCL: Scott

(Motion for reconsideration - participation at the discretion of the panel.)

Issue 1: Should the Commission grant Sprint-Florida, Incorporated's Motion for Reconsideration?

Recommendation: No. Sprint's Motion for Reconsideration should be denied. Staff believes that Sprint's Motion fails to identify any points of fact or law that the Commission overlooked or failed to consider in its decisions as to Issues 5, 21, 22, and 24. However, Sprint's Motion does identify certain aspects of the Order on Arbitration that should be clarified or amended, as set forth in the analysis portion of staff's February 17, 2006 memorandum. Accordingly, staff recommends that the Commission on its own motion clarify its decisions on Issues 21 and 24.

Issue 2: Should the Commission require submission of the agreement within 15 days of the vote on this recommendation?

Recommendation: Yes.

Issue 3: Should this docket be closed?

Recommendation: No. This Docket should remain open pending the submission and approval of the agreement between the parties.

ITEM NO.

CASE

17**

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: Edgar, Deason, Arriaga

Prehearing Officer: Edgar

Staff: CMP: Salak

GCL: Teitzman, Wiggins

Issue 1: Should the Commission, on its own motion, vacate its decision on Issues 5, 13, 16-18, and 22(b), and direct staff to assign new staff members to review the existing record and prepare a new recommendation on those issues for the Commission's de novo consideration?

Recommendation: Yes. Staff recommends, in an abundance of caution and to promote public confidence in the impartiality of its consideration of issues 5, 13, 16-18, and 22(b), that the Commission should vacate its decision on Issues 5, 13, 16-18, and 22(b), and direct that new staff members be assigned to review the existing record and prepare a new recommendation on these issues for the Commission's de novo consideration.

Issue 2: Should the Commission issue a Final Order on the non-vacated issues?

Recommendation: ~~Yes. If the Commission approves staff's recommendation in Issue 1, the Commission should direct that a Final Order on the non-vacated issues be issued immediately. In light of the March 11, 2006 deadline, staff recommends further that the Commission require the filing of interconnection agreements and amendments compliant with the Commission's decisions on the non-vacated issues or the result of negotiation by March 2, 2006, for approval by the Commission.~~

~~If the Commission denies staff's recommendation on Issue 1, the Commission should direct that a Final Order on all issues be issued immediately and should require the filing of interconnection agreements and amendments compliant with the Commission's decisions or the result of negotiation by March 2, 2006, for approval by the Commission.~~

Yes. The Commission should direct that a Final Order on all non-vacated issues be issued immediately. The Prehearing Officer issued an order on February 21, 2006, requiring the filing of interconnection agreements and amendments compliant with the Commission's decisions on the non-vacated issues by March 10, 2006.

Because it would be impractical for the Commission to grant administrative approval to these agreements before the March 11, 2006 date specified in the TRRO, staff further recommends that the Commission require the agreements and amendments to specify that they will take effect as of March 11, 2006, provided they are ultimately approved by the Commission.

ITEM NO.

CASE

17**

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

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1, this docket should remain open pending the Commission's consideration of Issues 5, 13, 16-18, and 22(b). Upon resolution of these issues, the Commission should set forth a time frame for the submission of signed amendments addressing these issues for approval by the Commission.

