

# FLORIDA PUBLIC SERVICE COMMISSION

## COMMISSION CONFERENCE AGENDA

**CONFERENCE DATE AND TIME:** June 19, 2007, 9:30 a.m.

**LOCATION:** Betty Easley Conference Center, Joseph P. Cresse Hearing Room 148

**DATE ISSUED:** June 8, 2007

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### NOTICE

Persons affected by Commission action on certain items on this agenda may be allowed to address the Commission, either informally or by oral argument, when those items are taken up for discussion at this conference. These items are designated by double asterisks (\*\*) next to the agenda item number.

To participate informally, affected persons need only appear at the agenda conference and request the opportunity to address the Commission on an item listed on agenda. Informal participation is not permitted: (1) on dispositive motions and motions for reconsideration; (2) when a recommended order is taken up by the Commission; (3) in a rulemaking proceeding after the record has been closed; or (4) when the Commission considers a post-hearing recommendation on the merits of a case after the close of the record. The Commission allows informal participation at its discretion in certain types of cases (such as declaratory statements and interim rate orders) in which an order is issued based on a given set of facts without hearing.

See Rule 25-22.0021, F.A.C., concerning Agenda Conference participation and Rule 25-22.0022, F.A.C., concerning oral argument.

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Table of Contents  
 Commission Conference Agenda  
 June 19, 2007

1**	<b>Consent Agenda</b> .....	2
2**	<b>Docket No. 070303-TP</b> – 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. .	3
3**	<b>Docket No. 060684-TP</b> – Complaint and petition for declaratory relief against BellSouth Telecommunications, Inc. for refusal to provide telephone service to a new development, by Litestream Holdings, LLC.....	4
4**PAA	<b>Docket No. 070137-EU</b> – Joint petition for approval of territorial agreement in Orange County by Orlando Utilities Commission and Progress Energy Florida, Inc. ....	5
5	<b>Docket No. 060285-SU</b> – Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven. ....	6
6**PAA	<b>Docket No. 060582-TP</b> – Petition of Alltel Communications, Inc. for designation as eligible telecommunications carrier (ETC) in certain rural telephone company study areas located entirely in Alltel's licensed area.....	7
7**PAA	<b>Docket No. 070329-TX</b> – Petition for approval of transfer of CLEC Certificate No. 4722 from Xspedius Management Co. of Jacksonville, LLC d/b/a Xspedius Communications to Time Warner Telecom of Florida, L.P., and request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C. <b>Docket No. 070330-TX</b> – Petition for approval of transfer of CLEC Certificate No. 5474 from Xspedius Management Co. Switched Services, LLC d/b/a Xspedius Communications to Time Warner Telecom of Florida, L.P., and request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C. <b>Docket No. 070331-TI</b> – Acknowledgment of registration as intrastate interexchange telecommunications company, effective May 21, 2007, and request for waiver of carrier selection requirements of Rule 25-4.118, FAC, to allow Time Warner Telecom of Florida, L.P. to acquire assets and customer base of Xspedius Management Co. Switched Services, LLC d/b/a Xspedius Communications.....	8
8**	<b>Docket No. 070118-TP</b> – Request for cancellation of PATS Certificate No. 8081 and CLEC Certificate No. 8384 by Phone 1 Smart LLC, effective February 16, 2007.....	9
9**	<b>Docket No. 070320-EI</b> – Petition for approval of tariff provisions relating to installation of underground distribution facilities and customer applications relating to underground service and relocation of facilities, by Tampa Electric Company.....	10
10**	<b>Docket No. 070350-EG</b> – Petition for approval of residential load control program by Florida Power & Light Company.....	11

Table of Contents  
Commission Conference Agenda  
June 19, 2007

11**	<b>Docket No. 070297-EI</b> – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Tampa Electric Company.	
	<b>Docket No. 070298-EI</b> – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Progress Energy Florida, Inc.	
	<b>Docket No. 070299-EI</b> – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Gulf Power Company.	
	<b>Docket No. 070300-EI</b> – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Public Utilities Company.	
	<b>Docket No. 070301-EI</b> – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Power & Light Company. ....	12
12**PAA	<b>Docket No. 070041-SU</b> – Application for limited proceeding rate increase in Monroe County by Key Haven Utility Corporation. ....	14

**ITEM NO.**

**CASE**

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1\*\*

**Consent Agenda**

PAA

A) Requests for approval of transfer of competitive local exchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
070329-TX	Xspedius Management Co. of Jacksonville, LLC d/b/a Xspedius Communications Time Warner Telecom of Florida, L.P.
070330-TX	Xspedius Management Co. Switched Services, LLC d/b/a Xspedius Communications Time Warner Telecom of Florida, L.P.

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

**ITEM NO.**

**CASE**

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2\*\*

**Docket No. 070303-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:** Argenziano

**Staff:** GCL: Scott

CMP: Vickery

ECR: Dickens

**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 Safety Code, IEEE C2-2007?

**Recommendation:** Yes. Rule 25-4.036 and Rule 25-24.515 should be amended as set forth in Attachments 1 and 2 of staff's June 7, 2007, 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.

**ITEM NO.**

**CASE**

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3\*\*

**Docket No. 060684-TP** – Complaint and petition for declaratory relief against BellSouth Telecommunications, Inc. for refusal to provide telephone service to a new development, by Litestream Holdings, LLC.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Teitzman

CMP: Buys, Kennedy

**Issue 1:** Should the Second Amended Complaint by Litestream Holdings, LLC against BellSouth Telecommunications, Inc. d/b/a AT&T Florida be granted?

**Recommendation:** No. The Petition should be dismissed without prejudice to sufficiently plead standing.

**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**

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4\*\*PAA

**Docket No. 070137-EU** – Joint petition for approval of territorial agreement in Orange County by Orlando Utilities Commission and Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrin

**Staff:** GCL: Brown

ECR: Redemann, Rieger

**Issue 1:** Should the Commission approve the proposed territorial agreement between Orlando Utilities Commission and Progress Energy Florida, Inc.?

**Recommendation:** Yes. The proposed territorial agreement between Orlando Utilities Commission and Progress Energy Florida, Inc., is in the public interest and should be approved. The effective date of the agreement should be the date the Commission's order approving the agreement becomes final and no longer subject to judicial review.

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

**Recommendation:** If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order.

**ITEM NO.**

**CASE**

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5

**Docket No. 060285-SU** – Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven.

**Critical Date(s):** None

**Commissioners Assigned:** Edgar, Carter, McMurrian (For purposes of this decision.)  
**Prehearing Officer:** Carter

**Staff:** GCL: Brown  
ECR: Fletcher, Bulecza-Banks, Rendell

**(Motion for reconsideration – no oral argument requested.)**

**Issue 1:** Should the Commission deny Placida HG, LLC's Motion for Reconsideration of Order No. PSC-07-0327-PCO-SU?

**Recommendation:** Yes. The Motion for Reconsideration does not identify a point of fact or law which was overlooked or which the Commission failed to consider in its order granting temporary service availability charges.

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

**Recommendation:** No. The docket should remain open to address the substantive issues of the case.

**ITEM NO.**

**CASE**

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6\*\*PAA

**Docket No. 060582-TP** – Petition of Alltel Communications, Inc. for designation as eligible telecommunications carrier (ETC) in certain rural telephone company study areas located entirely in Alltel's licensed area.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** CMP: Mann, Dowds

GCL: Teitzman

**Issue 1:** Should Alltel be granted eligible telecommunications carrier status in certain rural telephone company study areas located entirely in Alltel's licensed area in the state of Florida?

**Primary Recommendation:** Yes. Staff recommends that Alltel be granted eligible telecommunications carrier status in certain rural telephone company study areas located entirely in Alltel's licensed area in the state of Florida as identified in Attachment A of staff's June 7, 2007, memorandum.

**Alternative Recommendation:** No. Staff recommends that at this time Alltel should not be granted eligible telecommunications carrier status in certain rural telephone company study areas located entirely in Alltel's licensed area in the state of Florida as identified in Attachment A of staff's memorandum.

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

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

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 070329-TX** – Petition for approval of transfer of CLEC Certificate No. 4722 from Xspedius Management Co. of Jacksonville, LLC d/b/a Xspedius Communications to Time Warner Telecom of Florida, L.P., and request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C.

**Docket No. 070330-TX** – Petition for approval of transfer of CLEC Certificate No. 5474 from Xspedius Management Co. Switched Services, LLC d/b/a Xspedius Communications to Time Warner Telecom of Florida, L.P., and request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C.

**Docket No. 070331-TI** – Acknowledgment of registration as intrastate interexchange telecommunications company, effective May 21, 2007, and request for waiver of carrier selection requirements of Rule 25-4.118, FAC, to allow Time Warner Telecom of Florida, L.P. to acquire assets and customer base of Xspedius Management Co. Switched Services, LLC d/b/a Xspedius Communications.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Watts

GCL: McKay

**Issue 1:** Should the Commission approve the requests for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of Xspedius Management Company of Jacksonville, LLC's and Xspedius Management Company Switched Services, LLC's customers to Time Warner Telecom of Florida, L.P. in Docket Nos. 070329-TX, 070330-TX, and 070331-TI?

**Recommendation:** Yes. The Commission should approve the requests for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in Docket Nos. 070329-TX, 070330-TX, and 070331-TI.

**Issue 2:** Should these dockets be closed?

**Recommendation:** No. These dockets should remain open pending the completion of other actions being taken in the dockets. If no person whose substantial interests are affected by the proposed agency action files a protest in Docket No. 070329-TX, 070330-TX, or 070331-TI, within 21 days of the issuance of its respective order, the Proposed Agency Action Order will become final and effective upon the issuance of the Consummating Order. These dockets will be closed administratively by staff upon completion all actions in the dockets.

**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 070118-TP** – Request for cancellation of PATS Certificate No. 8081 and CLEC Certificate No. 8384 by Phone 1 Smart LLC, effective February 16, 2007.

**Critical Date(s):** None

**Commissioners Assigned:** Edgar, Carter McMurrian (For purposes of this decision.)

**Prehearing Officer:** Administrative

**Staff:** CMP: Isler

GCL: McKay

**Issue 1:** Should the Commission vacate its vote from the March 13, 2007, Agenda Conference and close this docket?

**Recommendation:** Yes. The Commission's March 13, 2007, Agenda Conference vote should be vacated and this docket should be closed.

**ITEM NO.**

**CASE**

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9\*\*

**Docket No. 070320-EI** – Petition for approval of tariff provisions relating to installation of underground distribution facilities and customer applications relating to underground service and relocation of facilities, by Tampa Electric Company.

**Critical Date(s):** 07/06/07 (60-day suspension date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Draper

GCL: Holley

**Issue 1:** Should the Commission approve TECO's proposed standard forms for the provision of underground distribution facilities, underground service, and relocation of facilities?

**Recommendation:** Yes.

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

**Recommendation:** Yes. If Issue 1 is approved, this tariff should become effective on June 19, 2007. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect, with any revenues 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.

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 070350-EG** – Petition for approval of residential load control program by Florida Power & Light Company.

**Critical Date(s):** 07/30/07 (60-day suspension date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Sickel, Kummer

GCL: Fleming

**Issue 1:** Should the tariffs making the Residential Load Control Pilot Project a permanent program be suspended?

**Recommendation:** Yes. Staff needs additional time to analyze the information on the performance of the Pilot before making a recommendation on permanent adoption.

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

**Recommendation:** No. The docket should remain open pending final analysis of the pilot program.

**ITEM NO.**

**CASE**

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11\*\*

**Docket No. 070297-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Tampa Electric Company.

**Docket No. 070298-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Progress Energy Florida, Inc.

**Docket No. 070299-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Gulf Power Company.

**Docket No. 070300-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Public Utilities Company.

**Docket No. 070301-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Power & Light Company.

**Critical Date(s):** 08/02/07 (90-day statutory deadline for petition for waiver – Issue 2)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Breman, Ballinger, Draper, Kummer, Lewis, McNulty, Wilson

CMP: Fisher, Harvey, Moses, Salak, Vinson

GCL: Holley, Young, Teitzman, Mann

RCA: Mills

**Issue 1:** Should Docket Nos. 070297-EI, 070298-EI, 070299-EI, and 070301-EI be scheduled directly for a formal administrative hearing?

**Recommendation:** Yes. Additional support for each Storm Hardening Plans will be necessary to verify that the scope of each Storm Hardening Plan satisfies the intent of Rule 25-6.0342, Florida Administrative Code. Docket Nos. 070297-EI, 070298-EI, 070299-EI, and 070301-EI should be scheduled directly for a formal administrative hearing, thereby allowing staff to conduct formal discovery and to ensure adequate participation by intervenors and third-party attachers. As part of the hearing process, staff should conduct a series of informal workshops to allow parties and staff to identify disputed issues and potential areas for stipulation.

PAA

**Issue 2:** Should the Commission grant FPUC's petition for a temporary waiver from Rule 25-6.0342(2), Florida Administrative Code?

**Recommendation:** Yes. FPUC's petition for a temporary waiver from Rule 25-6.0342(2), Florida Administrative Code, seeking an additional 60 days to file its Storm Hardening Plan should be granted. FPUC should file its 2007 Storm Hardening Plan by July 6, 2007. If FPUC fails to file its 2007 Storm Hardening Plan with the Commission on or before July 6, 2007, staff recommends that a show cause proceeding should be initiated.

**Issue 3:** Should these dockets be closed?

**Recommendation:** Docket Nos. 070297-EI, 070298-EI, 070299-EI, and 070301-EI should remain open pending the Commission's review of each 2007 Storm Hardening

ITEM NO.

CASE

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11\*\*

**Docket No. 070297-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Tampa Electric Company.

**Docket No. 070298-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Progress Energy Florida, Inc.

**Docket No. 070299-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Gulf Power Company.

**Docket No. 070300-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Public Utilities Company.

**Docket No. 070301-EI** – Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Power & Light Company.

(Continued from previous page)

Plan. If no timely protest is received to the proposed agency action on FPUC's request for waiver in Docket No. 070300-EI, the Order granting FPUC's waiver will become final upon the issuance of Consummating Order. Docket No. 070300-EI should remain open pending the Commission's review of FPUC's 2007 Storm Hardening Plan.

**ITEM NO.**

**CASE**

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12\*\*PAA

**Docket No. 070041-SU** – Application for limited proceeding rate increase in Monroe County by Key Haven Utility Corporation.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Rendell

CMP: Wright

GCL: Holley

**Issue 1:** What is the appropriate increase in revenues for this utility?

**Recommendation:** The appropriate wastewater increase should be \$99,287 which results in an increase over test year revenues of 27.49%.

**Issue 2:** What are the appropriate wastewater rates for Key Haven Utility Corporation?

**Recommendation:** The recommended rates should be designed to allow the utility the opportunity to generate additional annual revenues of \$99,287 for wastewater service. This results in a wastewater increase of 27.49%. The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates. 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, provided 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 changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

**Issue 3:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

**Recommendation:** The wastewater rates should be reduced as shown on Schedule No. 2 of staff's June 7, 2007, memorandum, to remove rate case expense, grossed up for regulatory assessment fees, which is being amortized over a four-year period. The decrease in wastewater rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction.

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

**Recommendation:** If a protest is not received from a substantially affected person within 21 days of issuance of the Proposed Agency Action Order, the order will become final. This docket should be closed at the conclusion of the protest period, if no protest is filed, and upon staff's approval of the revised tariff sheets.