

# FLORIDA PUBLIC SERVICE COMMISSION

## COMMISSION CONFERENCE AGENDA

**CONFERENCE DATE AND TIME:** Tuesday, August 28, 2007, 9:30 a.m.

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

**DATE ISSUED:** August 17, 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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**ITEM NO.** **CASE**

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1 **Approval of Minutes**  
 July 31, 2007 Regular Commission Conference

2\*\* **Consent Agenda**

PAA A) Request for cancellation of a competitive local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
070386-TX	Intelogistics Corp.	3/19/2007

PAA B) Applications for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
070500-TX	DialTone & More, Inc.
070531-TX	Sage Telecom, Inc.
070533-TX	KG Communications, LLC d/b/a KG Communications

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

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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 - Sprint waived two-month notification requirement

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** CMP: Moses, Casey

GCL: Tan, Wiggins

This item has been deferred.

**ITEM NO.**

**CASE**

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4\*\*

**Docket No. 050531-EU** – Petition to initiate rulemaking to adopt Rule 25-6.0186, F.A.C., Bulk Power System Reliability Standards, by Florida Reliability Coordinating Council, Inc.

**Rule Status:** Petition for Rulemaking - Withdrawal

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Gervasi, Brown  
ECR: Lewis

**Issue 1:** Should FRCC's Notice of Withdrawal of Petition to Initiate Rulemaking be acknowledged?

**Recommendation:** Yes. The Notice of Withdrawal of Petition to Initiate Rulemaking should be acknowledged.

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

**Recommendation:** Yes, because no further action is necessary, this docket should be closed.

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5\*\*

**Docket No. 070183-WS** – Proposed adoption of Rule 25-30.4325, F.A.C., Water Treatment Plant Used and Useful Calculations.

**Critical Date(s):** 90-day deadline; item cannot be deferred

**Rule Status:** Proposed

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** GCL: Gervasi, Jaeger

ECR: Redemann, Rendell, Rieger

**Issue 1:** Should the Office of Public Counsel's request for a formal evidentiary hearing be granted?

**Recommendation:** Yes. The Office of Public Counsel's request should be granted. Accordingly, the rulemaking proceeding should be suspended pending the completion of a formal evidentiary hearing on the matter and resumed upon the conclusion of the formal evidentiary proceeding, pursuant to subsection 120.54(3)(c)2., Florida Statutes.

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

**Recommendation:** No. This docket should remain open pending the completion of a formal evidentiary proceeding and subsequent completion of the rulemaking proceeding.

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6

**Docket No. 070232-EQ** – Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities or small qualifying facilities and approval of tariff schedule REF-1, by Gulf Power Company.

**Docket No. 070234-EQ** – Petition for approval of renewable energy tariff standard offer contract, by Florida Power & Light Company.

**Docket No. 070235-EQ** – Petition for approval of standard offer contract for purchase of firm capacity and energy from renewable energy producer or qualifying facility less than 100 kW tariff, by Progress Energy Florida, Inc.

**Docket No. 070236-EQ** – Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Ballinger, Baxter, Brown, Maurey

GCL: Holley

**(Oral Argument Not Requested)**

**Issue 1:** Should the Commission grant the IOUs' Motion for More Definite Statement, or in the Alternative, Motion to Dismiss FICA's Petition for Formal Hearing and for Leave to Intervene?

**Recommendation:** The Commission should grant the IOUs' Alternative Motion to Dismiss. FICA's Petition is not in substantial compliance with Rule 28-106.201, Florida Administrative Code, and should therefore be dismissed without prejudice. If FICA files an Amended Petition, it should be filed within ten days of the Commission's Order. If the Commission grants the Alternative Motion to Dismiss, the IOUs' Motion for More Definite Statement will be rendered moot.

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

**Recommendation:** No. If the Commission approves staff's recommendation in Issue 1, Docket Nos. 070232-EQ, 070234-EQ, 070235-EQ, and 070236-EQ should remain open to allow FICA to file its Amended Petition.



**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 070401-TX** – Request for cancellation of CLEC Certificate No. 7180 by Telephone Systems of Georgia, Inc., effective July 3, 2007.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Isler

GCL: McKay

**Issue 1:** Should the Commission deny Telephone Systems of Georgia, Inc., a voluntary cancellation of its CLEC Certificate No. 7180 and cancel the certificate on the Commission's own motion with an effective date of July 3, 2007?

**Recommendation:** Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff memorandum dated August 16, 2007.

**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 pays the Regulatory Assessment Fee prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's competitive local exchange telecommunications certificate will be voluntary. If the company fails to pay the Regulatory Assessment Fee prior to the expiration of the Proposed Agency Action Order, then the company's competitive local exchange telecommunications certificate should be cancelled administratively, and the collection of the past due Regulatory Assessment Fee should be referred to the Florida Department of Financial Services for further collection efforts. If the company's competitive local exchange telecommunications 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 Fee or upon cancellation of the company's competitive local exchange telecommunications certificate.

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8\*\*PAA

**Docket No. 070402-TI** – Acknowledgment of cancellation of IXC Registration No. TI983 by Telephone Systems of Georgia, Inc., effective July 3, 2007.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Isler

GCL: McKay

**Issue 1:** Should the Commission deny Telephone Systems of Georgia, Inc., a voluntary cancellation of its IXC tariff and Registration No. TI983 and cancel the tariff and remove the company's name from the register on the Commission's own motion with an effective date of July 3, 2007?

**Recommendation:** Yes. The company should be denied a voluntary cancellation as listed on Attachment A of staff's memorandum dated August 16, 2007.

**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 pays the Regulatory Assessment Fees, including statutory late-payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's tariff and the removal of its name from the register will be voluntary. If the company fails to pay the Regulatory Assessment Fees, including statutory late-payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's IXC tariff should be cancelled administratively and its name removed from the register, 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 IXC tariff is 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 intrastate interexchange telecommunications 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 IXC tariff and removal of its name from the register.

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**CASE**

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9\*\*PAA

**Docket No. 070357-TL** – Petition for relief from carrier-of-last-resort (COLR) obligations pursuant to Florida Statutes 364.025(6)(d) for Cabana South Beach Apartments, Phase II, in Alachua County, by BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast.

**Critical Date(s):** 09/02/07 (90-day Statutory Deadline)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** CMP: Buys, Higgins

GCL: Wiggins, Mann

**Issue 1:** Should the Commission grant AT&T Florida's Petition for relief from its carrier-of-last-resort obligation pursuant to Section 364.025(6)(d), Florida Statutes, for the provision of service at the development known as Cabana South Beach Apartments, Phase II, located in Alachua County, Florida?

**Recommendation:** Yes. On a going forward basis, AT&T Florida should be relieved from its carrier-of-last-resort obligation to provide basic local telecommunications service to the tenants in Phase II of the development known as Cabana South Beach Apartments, located in Alachua County, Florida, based solely on the fact that the developer has restricted AT&T Florida's access to the property.

**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. If the Commission's Order is not protested, this docket should be closed administratively upon issuance of the Consummating Order.

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 070390-TL** – Petition for waiver of Order PSC-96-0012-FOF-TL and request to establish modified price regulation categories by Embarq Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Bates, Simmons

GCL: McKay, Wiggins

**Issue 1:** Should the Commission grant Embarq’s Petition for Waiver of Order No. PSC-06-0012-FOF-TL and reduce the number of nonbasic service categories from ten (10) to five (5)?

**Recommendation:** Yes. The Commission should grant Embarq’s Petition for Waiver of Order No. PSC-06-0012-FOF-TL and reduce the number of nonbasic service categories from ten (10) to five (5) for Embarq.

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

**Recommendation:** Yes, 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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11\*\*PAA

**Docket No. 060158-TL** – Investigation of protection of customer proprietary network information by incumbent local exchange companies.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Moses

GCL: Tan

**Issue 1:** Should this docket be closed?

**Recommendation:** Yes. This docket should be closed because recent enactments of federal and state law effectively address unauthorized use or disclosure of Customer Proprietary Network Information and provides criminal punishment.

**ITEM NO.**

**CASE**

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12\*\*

**Docket No. 070056-EG** – Petition for approval of extension and permanent status of price responsive load management pilot program, by Tampa Electric Company.

**Critical Date(s):** 08/31/07 (Currently authorized Pilot Program Expires)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Sickel, Draper

GCL: Fleming

**Issue 1:** Should Tampa Electric Company's (TECO) petition to convert its Pilot Residential Price Response Load Management Program to a permanent program be approved?

**Recommendation:** Yes. The pilot program demonstrated that the Price Response Load Management Program is monitorable and cost effective. The energy savings and demand reductions of the permanent program will contribute toward meeting or exceeding the numeric conservation goals approved for TECO. Staff also recommends that TECO be allowed to request recovery of costs of the permanent program through the Energy Conservation Cost Recovery (ECCR) clause.

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

**Recommendation:** Yes. If Issue 1 is approved, this tariff should become effective on August 28, 2007. If a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

**ITEM NO.**

**CASE**

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13\*\*

**Docket No. 070001-EI** – Fuel and purchased power cost recovery clause with generating performance incentive factor.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** ECR: Lester, Draper, Matlock, McNulty

GCL: Bennett, Young

**Issue 1:** Should the Commission approve FPUC's petition for mid-course corrections to its authorized fuel and purchased power cost recovery factors allowing FPUC to collect its estimated 2007 under recoveries for the Fernandina Beach Division (\$915,677) and the Marianna Division (\$690,530) before 2008?

**Recommendation:** Yes. The Commission should approve FPUC's petition. Accordingly, the Commission should approve FPUC's increases to its cost recovery factors to collect its estimated 2007 under recoveries for its Fernandina Beach Division (\$916,677) and its Marianna Division (\$690,530). Staff recommends the Commission approve FPUC's proposed rate class recovery factors as more specifically set forth in Attachment A.

**Issue 2:** What is the appropriate effective date for FPUC's revised cost-recovery factors?

**Recommendation:** The effective date of the revised cost-recovery factors should be September 28, 2007.

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

**Recommendation:** No. The Fuel and Purchased Power Cost Recovery Clause is an on-going docket and should remain open.

**ITEM NO.**

**CASE**

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14

**Docket No. 060368-WS** – Application for increase in water and wastewater rates in Alachua, Brevard, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

**Critical Date(s):** 03/26/08 - Twelve Month Statutory Deadline

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** ECR: Rendell, Bulecza-Banks, Lingo, Willis

GCL: Gervasi, Fleming, Jaeger

**(Decision Prior to Hearing - Oral Argument Requested on Issue 2 – Interested Persons May Participate on Issues 3-8)**

**Issue 1:** Should OPC and AUF's Requests for Oral Argument on the Joint Motion to Dismiss filed by OPC and the AG be granted?

**Recommendation:** Yes. The Requests for Oral Argument on the Joint Motion to Dismiss should be granted. Parties should be allotted up to 15 minutes for each side (OPC/AG and AUF) to address the Commission on Issue 2.

**Issue 2:** Should the Joint Motion to Dismiss AUF's request for an increase in water and wastewater rates filed by OPC and the AG be granted?

**Recommendation:** Yes. The Joint Motion to Dismiss should be granted. AUF's Minimum Filing Requirements (MFRs) regarding its operating expenses are irreparably flawed, the utility has failed to provide sufficient or timely supporting documentation in response to discovery and audit requests to support its rate request, and failed to fully comply with two Orders compelling discovery responses by dates certain. AUF's request for a general rate increase should also be dismissed because the MFRs are irreparably flawed with respect to 1) projected plant additions and 2) engineering data. In addition, AUF has not provided sufficient documentation regarding the historical number of bills rendered or the number of gallons sold during either the 2005 test year or during 2006, its 2005 and 2006 gallons data are irreparably flawed, and AUF has failed to support its 2006 and 2007 billing determinants projections.



ITEM NO.

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14

**Docket No. 060368-WS** – Application for increase in water and wastewater rates in Alachua, Brevard, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

(Continued from previous page)

\*\* **Issue 3:** What are the appropriate water and wastewater rates for AUF?

**Recommendation:** AUF's appropriate water and wastewater rates should be the rates in effect prior to the approval of interim rates. The utility should file tariff sheets and proposed customer notices to reflect the Commission-approved rates for the respective systems within 20 days of the Commission vote. The appropriate rates are listed in Schedule 1-A for water and Schedule 1-B for wastewater for the respective systems in staff's memorandum dated August 16, 2007. The approved rates should be effective for service rendered on or after the stamped approval date on the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

\*\* **Issue 4:** Should AUF be required to refund any interim revenues collected?

**Recommendation:** Yes. The interim revenue increase granted in Order No. PSC-06-0668-FOF-WS should be refunded with interest, pursuant to Rule 25-30.360, F.A.C. Further, pursuant to Rule 25-30.360(7), F.A.C., AUF should be required to file the appropriate refund reports.

\*\* **Issue 5:** Should AUF be ordered to show cause in writing, within 21 days, why it should not be fined for its apparent failure to comply with Rule 25-30.261(1), F.A.C., which requires meters to be read on the corresponding day of each meter reading period?

**Recommendation:** Yes. AUF should be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$10,000 for its apparent failure to comply with Rule 25-30.261(1), F.A.C. The order to show cause should incorporate the conditions stated in the staff analysis in staff's memorandum dated August 16, 2007.

\*\* **Issue 6:** Should AUF be ordered to show cause in writing, within 21 days, why it should not be fined for its apparent failure to comply with Rule 25-22.032, F.A.C., concerning customer complaints?

**Recommendation:** Yes. AUF should be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$10,000 for its apparent failure to comply with Rule 25-22.032(6)(b), F.A.C. The order to show cause should incorporate the conditions stated in the staff analysis in staff's memorandum dated August 16, 2007.

ITEM NO.

CASE

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14

**Docket No. 060368-WS** – Application for increase in water and wastewater rates in Alachua, Brevard, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

(Continued from previous page)

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**Issue 7:** If the Commission denies staff's recommendation to dismiss AUF's request for a general rate increase in Issue 2 of this recommendation, should AUF be ordered to show cause in writing, within 21 days, why it should not be fined for its apparent failure to comply with Order Nos. PSC-07-0592-PCO-WS and PSC-07-0598-PCO-WS, compelling discovery responses?

**Recommendation:** Yes. If the Commission denies staff's recommendation to dismiss AUF's request for a general rate increase in Issue 2 of this recommendation, AUF should be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$5,000 for its apparent failure to comply with Order Nos. PSC-07-0592-PCO-WS and PSC-07-0598-PCO-WS. The order to show cause should incorporate the conditions stated below in the staff analysis. If the Commission dismisses the rate case in Issue 2, this issue need not be ruled upon.

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**Issue 8:** Should this docket be closed?

**Recommendation:** No. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff, that the interim refund has been completed and verified by staff, and for the disposition of the show cause portions of the order. If the utility responds to the show cause order by remitting the fines, the show cause matter should be considered resolved and the docket should be closed administratively upon staff's verification of the above items. If the utility timely responds in writing to the show cause order, the docket should remain open pending final disposition of the show cause issues.