

# FLORIDA PUBLIC SERVICE COMMISSION

## COMMISSION CONFERENCE AGENDA

**CONFERENCE DATE AND TIME:** Tuesday, February 12, 2008, 9:30 a.m.

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

**DATE ISSUED:** February 1, 2008

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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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Agenda for  
Commission Conference  
February 12, 2008

**ITEM NO.**

**CASE**

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1

**Approval of Minutes**  
January 8, 2008 Regular Commission Conference

**ITEM NO.**

**CASE**

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2\*\*

**Docket No. 060638-EI** – Petition for approval of storm cost recovery surcharge to recover costs associated with mandatory storm preparedness initiatives, by Florida Public Utilities Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Brown, Fleming

ECR: Colson, Breman, Bulecza-Banks, Kummer, Lee, Lewis, McNulty,  
Slemkewicz

**Issue 1:** Should the Commission acknowledge Florida Public Utility Company's voluntary withdrawal of its Petition for approval of storm cost recovery surcharge to recover costs associated with mandatory storm preparedness?

**Recommendation:** Yes, the Commission should acknowledge Florida Public Utility Company's voluntary withdrawal of its Petition for approval of storm cost recovery surcharge as a matter of right.

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

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

**ITEM NO.**

**CASE**

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3\*\*PAA

**Docket No. 070738-TL** – Joint petition of BellSouth Telecommunications, Inc. d/b/a AT&T Florida and ITS Telecommunications Systems, Inc. to transfer territories in Martin County and to amend certificates.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Pruitt  
GCL: Poblete

**Issue 1:** Should the petition filed by AT&T and ITS for approval of a territorial agreement to modify the Stuart Exchange and the Indiantown Exchange boundaries and to amend the companies' local exchange certificates be approved?

**Recommendation:** Yes. The petition filed by AT&T and ITS should be approved because it meets the requirements of Rule 25-4.005, F. A. C., Transfer of Certificate of Public Convenience and Necessity as to All or Portion of Service Area. AT&T and ITS should file tariffs reflecting the exchange boundaries changes within 60 days of the issuance of the consummating order.

**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, a consummating order should be issued. The docket should be closed administratively upon filing with the Division of Competitive Markets and Enforcement, within 60 days of the issuance of the consummating order, tariffs reflecting the exchange boundaries changes.

**ITEM NO.**

**CASE**

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4\*\*PAA

**Docket No. 080065-TX** – Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Casey, Mann

GCL: Tan

**Issue 1:** Should the Commission order VCI to refund excess E911 fees collected from customers?

**Recommendation:** Yes. Staff recommends that the Commission order VCI to provide staff with a revised worksheet showing the total amount of E911 overcharges since VCI received certification in Florida. The worksheet should be provided within 30 days of the Commission Order, and VCI should refund those overcharges within ninety days of the Commission Order in accordance with Rule 25-4.114, Florida Administrative Code. In addition, a preliminary refund report should be made within 30 days after the date the refund is completed and again 90 days thereafter. A final report should be made after all administrative aspects of the refund are completed. Unclaimed refunds and refunds less than one dollar should be remitted to this Commission for deposit in the state of Florida General Revenue Fund.

**Issue 2:** Should VCI's eligible telecommunications carrier status be rescinded?

**Recommendation:** Yes, VCI's eligible telecommunications carrier status should be rescinded if this Proposed Agency Action becomes final upon issuance of a consummating order. Staff also recommends that if the Commission approves staff's recommendation, results of staff's investigation along with the Commission Order should be forwarded to the USAC, the FCC, and the Department of Justice for further follow-up to recover federal Universal Service Funds obtained by VCI through misrepresentations made to the USAC.

**Issue 3:** Should the Commission cancel Vilaire Communications, Inc.'s Competitive Local Exchange Company Certificate No. 8611 for its demonstrated lack of technical, financial, and managerial capability to operate a telecommunications company in Florida?

**ITEM NO.**

**CASE**

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4\*\*PAA

**Docket No. 080065-TX** – Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.

(Continued from previous page)

**Recommendation:** Yes. Staff recommends the Commission cancel Vilaire Communications, Inc.'s Competitive Local Exchange Company Certificate No. 8611 for its demonstrated lack of technical, financial, and managerial capability to operate a telecommunications company in Florida, effective as of the date of the consummating order. VCI should continue to have an obligation to pay the applicable regulatory assessment fees (RAFs) and refund the E911 overcharges addressed in Issue 2. If Vilaire Communications, Inc. certificate is cancelled and the company does not pay its RAFs, the collection of the RAFs should be referred to the Florida Department of Financial Services, for further collection efforts.

**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 Vilaire Communications, Inc.'s customers to AT&T-Florida, Inc.?

**Recommendation:** If the Commission approves Issue 3, staff recommends that the Commission waive the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, to allow VCI's customers who do not select another carrier to seamlessly transfer over to AT&T effective as of the date of the consummating order. AT&T should be ordered to serve VCI's existing Lifeline customers during a transitional period where former VCI customers can choose to stay with AT&T at AT&T's existing Lifeline rates and terms or select another carrier of their choice. AT&T should also be required to provide the Commission with all necessary customer information of current VCI customers to allow the Commission to contact them.

**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 Commission's decision should become final and effective upon issuance of a Consummating Order. This docket should remain open in order for VCI to complete the required refund of excess E911 overcharges and verify the transition of VCI customers to AT&T, after which time, this docket should be closed administratively.



**ITEM NO.**

**CASE**

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5\*\*PAA

**Docket No. 070646-TL** – Petition for approval to revise customer contact protocol by BellSouth Telecommunications, Inc. d/b/a AT&T Florida. (Deferred from the January 29, 2008, Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** CMP: Lee, King

GCL: McKay, Teitzman

**Issue 1:** Should AT&T Florida's petition to revise its customer contact protocol be approved?

**Recommendation:** Yes. AT&T Florida should be permitted to revise its customer contact protocol by eliminating the scripting requirement for intraLATA long distance service.

**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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6\*\*PAA

**Docket No. 070671-TL** – Petition for approval to eliminate intraLATA toll customer contact protocols, by Verizon Florida LLC.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrian

**Staff:** CMP: Lee, King

GCL: McKay, Teitzman

**Issue 1:** Should Verizon Florida's petition to eliminate intraLATA toll customer scripting requirements from its customer contact protocols be approved?

**Recommendation:** Yes. Verizon Florida should be permitted to eliminate the scripting requirements for intraLATA long distance service from its customer contact protocols.

**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\*\*

**Docket No. 060677-TL** – Joint petition to implement practices and procedures with Department of Children and Families to automatically enroll eligible customers in Lifeline telephone program, by Citizens of Florida and AARP.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrin

**Staff:** CMP: Williams, Casey

GCL: Teitzman

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

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

**ITEM NO.**

**CASE**

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8\*\*PAA

**Docket No. 070726-EQ** – Petition for approval of second negotiated power purchase contract for purchase of firm capacity and energy with BG&E of Florida, LLC, by Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Graves, Breman

GCL: Fleming

**Issue 1:** Should the petition submitted by Progress Energy Florida (PEF) requesting approval of a negotiated contract (the contract) with a qualifying facility, BG&E of Florida, LLC (BG&E), be approved?

**Recommendation:** Yes. The rates, terms, and conditions of the contract can reasonably be expected to contribute toward the deferral or avoidance of additional capacity construction by PEF. Payments pursuant to the contract are estimated to result in a net present value savings of \$45 million based on current fuel forecasts.

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

**Recommendation:** Yes, this docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.

**ITEM NO.**

**CASE**

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9

**Docket No. 070231-EI** – Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrin

**Staff:** ECR: Baxter, Colson

GCL: Jaeger

**(Motion to Dismiss Prior to Hearing - Participation is at Discretion of the Commission.)**

**Issue 1:** Should the Commission grant FPL's Motion to Dismiss?

**Recommendation:** No. The Commission should find that the Protestors have standing. Further, the Protestors have stated viable claims for relief in the matter of the proper calculation of the underground differential for new subdivisions, pursuant to Rule 25-6.078, F.A.C. Thus, the Motion to Dismiss should be denied with respect to the Protestors' Issues 1, 2, 3, and 5. The Commission should grant FPL's petition to dismiss Issue 4 of the Protestors concerning the Governmental Adjustment Factor (GAF). FPL did not propose any changes to the application of the GAF in this docket and that matter is unrelated to the proper calculation of differentials for new construction at issue here.

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

**Recommendation:** If the Commission approves staff's recommendation, the docket should remain open for the processing of the Protest.

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 070729-EI** – Petition for approval of three performance guaranty agreements by Tampa Electric Company.

**Critical Date(s):** 02/15/08 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Draper  
GCL: Bennett

**Issue 1:** Should the Commission suspend TECO's proposed Performance Guaranty Agreements?

**Recommendation:** Yes.

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

**Recommendation:** No. The docket should remain open pending the Commission's decision on the proposed tariff revision.

**ITEM NO.**

**CASE**

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11

**Docket No. 060658-EI** – Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million. (Deferred from the January 29, 2008, Commission Conference; revised recommendation filed.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrin

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

CMP: Coston, Fisher, Vinson

GCL: Bennett, Young

**(Decision on Motion for Reconsideration - Oral Argument Requested - Participation Dependent on Commission Vote on Issue 1.)**

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

**Recommendation:** No. The Commission should deny OPC's request for oral argument on its motion for reconsideration. The issues are thoroughly addressed in the parties' pleadings and oral argument would not aid the Commission in its decision.

**Issue 2:** Should the Commission grant OPC's Motion for Reconsideration of Order No. PSC-07-0816-FOF-EI?

**Recommendation:** No. The Commission should deny the motion for reconsideration. OPC has failed to identify a point of fact or law that was overlooked or which the Commission failed to consider in Order No. PSC-07-0816-FOF-EI.

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

**Recommendation:** Yes. This docket should be closed upon the expiration of the time for appeal.

**ITEM NO.**

**CASE**

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12\*\*

**Docket No. 070592-GU** – Petition for rate increase by St. Joe Natural Gas Company, Inc.

**Critical Date(s):** 02/19/08 (60-Day Suspension Date)

05/21/08 (5-Month Effective Date (PAA Rate Case))

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Slemkewicz, Draper, Maurey, Springer

GCL: Brown

**Issue 1:** Should the \$627,026 permanent base rate increase and its associated tariff revisions requested by St. Joe Natural Gas Company, Inc. be suspended pending a final decision in this docket?

**Recommendation:** Yes. The \$627,026 permanent base rate increase and its associated tariff revisions requested by St. Joe Natural Gas Company, Inc. should be suspended pending a final decision in this docket

**Issue 2:** Is SJNG's proposed 2006 interim test year rate base of \$3,330,861 appropriate?

**Recommendation:** No. The appropriate 2006 interim test year rate base is \$3,077,180.

**Issue 3:** Are SJNG's proposed return on equity of 11.50 percent and overall cost of capital of 6.75 percent appropriate for the purpose of determining interim rates?

**Recommendation:** No. The appropriate return on equity and overall cost of capital are 10.50 percent and 5.60 percent, respectively.

**Issue 4:** Is SJNG's proposed 2006 interim test year net operating income of \$54,079 appropriate?

**Recommendation:** No. The appropriate 2006 interim test year net operating income is \$74,410.

**Issue 5:** Is SJNG's proposed net operating income multiplier of 1.6114 appropriate?

**Recommendation:** Yes. The appropriate net operating income multiplier is 1.6114.

**Issue 6:** Should SJNG's requested interim rate increase of \$274,981 and percentage increase factor of 26.35 percent be granted?

**Recommendation:** No. SJNG should be granted an interim rate increase of \$157,775, a percentage increase factor of 15.12 percent.

**Issue 7:** How should the interim revenue increase for SJNG be distributed among the rate classes?

**Recommendation:** Any interim revenue increase approved should be applied evenly to all rate classes based on their base rate revenues, as required by Rule 25-7.040, Florida Administrative Code, and should be recovered on a cents-per-therm basis. The interim rates should be made effective for all meter readings made on or after thirty days from the date of the vote approving any interim increase. The Company should give notice to customers of the interim increase commencing with the first bill for service that reflects the increase. A copy of the notice should be submitted to staff for approval prior to its use.



**ITEM NO.**

**CASE**

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12\*\*

**Docket No. 070592-GU** – Petition for rate increase by St. Joe Natural Gas Company, Inc.

(Continued from previous page)

**Issue 8:** What is the appropriate security to guarantee the amount collected subject to refund?

**Recommendation:** A corporate undertaking in the amount of \$52,592 guaranteed by SJNG is appropriate. Interim rates are subject to refund with interest, pending the final order in the permanent rate relief request.

**Issue 9:** Should this docket be closed?

**Recommendation:** No, this docket should remain open to process the Company's revenue increase request.

**ITEM NO.**

**CASE**

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13\*\*PAA

**Docket No. 080029-PU** – Petition for authority to use deferral accounting for creation of a regulatory asset or regulatory liability to record charges or credits that would have otherwise been recorded in equity pursuant to balance sheet treatment required by Statement of Financial Accounting Standards (SFAS) No. 158, by Florida Public Utilities Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Slemkewicz, Bulecza-Banks, Kyle, Maurey

GCL: Brown

**Issue 1:** Should the Commission authorize Florida Public Utilities Company to use deferral accounting to create a regulatory asset or liability to recognize and offset the balance sheet treatment for pension and other postretirement benefit costs the Company must record in accordance with Statement of Financial Accounting Standards (FAS) 158?

**Recommendation:** Yes. The Commission should authorize Florida Public Utilities Company to use deferral accounting to create a regulatory asset or liability to recognize and offset the balance sheet treatment for pension and other postretirement benefit costs the Company must record in accordance with Statement of Financial Accounting Standards (FAS) 158. Further, the Commission should find that the approval to record the regulatory asset or liability for accounting purposes does not limit the Commission's ability to review the amounts for reasonableness in future rate proceedings.

**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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14\*\*PAA

**Docket No. 060122-WU** – Joint petition for approval of stipulation on procedure with Office of Public Counsel, and application for limited proceeding increase in water rates in Pasco County, by Aloha Utilities, Inc. (Deferred from the January 29, 2008, Commission Conference; revised recommendation filed.)

**Critical Date(s):** 2/12/08 (Settlement Order Deadline)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Fletcher, Bulecza-Banks, Walden

GCL: Hartman

**Issue 1:** Is a phased-in approach appropriate for the limited proceeding?

**Recommendation:** Yes, this limited proceeding should be trifurcated into three phases as set forth in the analysis portion of staff's memorandum dated February 1, 2008.

**Issue 2:** Should phase one costs requested in Aloha's limited proceeding application be approved?

**Recommendation:** Yes. However, several adjustments to the utility's filing are necessary, as detailed in analysis portion of staff's memorandum dated February 1, 2008.

**Issue 3:** What is the appropriate cost of capital for this limited proceeding?

**Recommendation:** Based on the recommended return of equity of 12.01% with an allowed range of plus or minus 100 basis points to be recognized for ratemaking purposes, the appropriate weighted cost of capital is 7.03%.

**Issue 4:** What are the appropriate 2008 and 2009 revenue increases for phase one?

**Recommendation:** The appropriate 2008 and 2009 revenue increases for phase one should be \$3,502,447 and \$332,387, respectively, as shown on Schedule No. 1 of staff's memorandum dated February 1, 2008.

**Issue 5:** What are the appropriate 2008 and 2009 rates for phase one?

**Recommendation:** The appropriate 2008 and 2009 rates for phase one are shown on Schedule No. 4 of staff's memorandum dated February 1, 2008. The 2008 rates should not be implemented until Aloha provides proof that the Florida Department of Environmental Protection (FDEP) has certified the completion of the tie-in facilities with Pasco County. The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates approved by the Commission, pursuant, to Rule 25-22.0407(10), F.A.C. to reflect the appropriate rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C., provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

**Issue 6:** Should this docket be closed?

**Recommendation:** No. This docket should remain open pending the resolution of phase two and phase three requested costs.