

# FLORIDA PUBLIC SERVICE COMMISSION

## COMMISSION CONFERENCE AGENDA

**CONFERENCE DATE AND TIME:** Tuesday, February 22, 2011, 9:30 a.m.

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

**DATE ISSUED:** February 11, 2011

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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.

Agendas, staff recommendations, vote sheets, transcripts, and conference minutes are available from the PSC Web site, <http://www.floridapsc.com>, by selecting *Agenda & Hearings* and *Agenda Conferences of the FPSC*. By selecting the docket number, you can advance to the *Docket Details* page and the Document Index Listing for the particular docket. If you have any questions, contact the Office of Commission Clerk at (850) 413-6770 or e-mail the clerk at [Clerk@psc.state.fl.us](mailto:Clerk@psc.state.fl.us).

Any person requiring some accommodation at this conference because of a physical impairment should call the Office of Commission Clerk at least 48 hours before the conference. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD). Assistive Listening Devices are available in the Office of Commission Clerk, Betty Easley Conference Center, Room 110.

The Commission Conference has a live video broadcast the day of the conference, which is available from the PSC's Web site. Upon completion of the conference, the video will be available from the Web site by selecting *Agenda and Hearings* and *Audio and Video Event Coverage*.

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<u>ITEM NO.</u>	<u>CASE</u>
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1	<b>Approval of Minutes</b> January 11, 2011 Regular Commission Conference January 25, 2011 Regular Commission Conference
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2**	<b>Consent Agenda</b>
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PAA	A) Application for Certificate to Provide Competitive Local Exchange Telecommunications Service.
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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
100447-TX	Voxbeam Telecommunications Inc.

PAA	B) Requests for Cancellation of Competitive Local Exchange Telecommunications Certificates.
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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
110038-TX	Discount Phone Services, Inc.	12/31/2010
110045-TX	CloseCall America, Inc	12/31/2010

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

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3

**Docket No. 090538-TP** – Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Cox Florida Telcom, L.P.; Broadwing Communications, LLC; and John Does 1 through 50 (CLECs whose true names are currently unknown) for rate discrimination in connection with the provision of intrastate switched access services in alleged violation of Sections 364.08 and 364.10, F.S. (Deferred from the February 8, 2011 Commission Conference.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Tan

RAD: Gowen, Trueblood

**(Oral Argument Not Requested; Participation is at the Discretion of the Commission.)**

**Issue 1:** Should the Joint Motion to Dismiss Qwest's First and Second Claims for Relief and Request for Reparations in the Form of Refunds be granted?

**Recommendation:** No. The Commission should deny the Movants' Motion to Dismiss because Qwest has stated a cause of action for which relief may be granted.

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

**Recommendation:** No. If the Commission accepts staff's recommendation, this docket should not be closed until after an evidentiary hearing has been held and a final order issued. If the Commission denies staff's recommendation in Issue 1 and grants the Movants' Motion to Dismiss, the Movants should be removed as parties and the docket should remain open.

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4\*\*PAA

**Docket No. 110029-TX** – Compliance investigation of Easy Telephone Services Company for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Curry

GCL: Evans, Tan

**Issue 1:** Should the Commission accept Easy Telephone Services Company's settlement offer to resolve one-hundred six (106) apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection?

**Recommendation:** Yes, the Commission should accept Easy Telephone Services Company's settlement offer to resolve one-hundred six (106) apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection.

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

**Recommendation:** If the Commission approves staff's recommendation on Issue 1 this docket should remain open pending the receipt of the \$106,000 settlement payment. The payment should be received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The payment should be made payable to the Florida Public Service Commission and should identify the docket number and the company's name. Upon receipt of the payment, the Commission shall forward it to the Division of Financial Services to be deposited into the General Revenue Fund. If Easy Tel fails to pay the \$106,000 settlement within fourteen (14) calendar days after the issuance of the Consummating Order, its CLEC Certificate No. 7300 should be revoked. This docket should be closed administratively upon receipt of the settlement payment or revocation of the CLEC certificate.

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5\*\*PAA

**Docket No. 110027-TI** – Compliance investigation of Optic Internet Protocol, Inc. for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: M. Watts

GCL: P. Evans, M. Brown

**Issue 1:** Should the Commission penalize Optic Internet Protocol, Inc. \$10,000 per apparent violation, for a total of \$1,460,000 for 146 apparent violations of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection?

**Recommendation:** Yes, Optic Internet Protocol, Inc. should be penalized \$10,000 per apparent violation, for a total of \$1,460,000 for 146 apparent violations of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection. If Optic Internet Protocol, Inc. fails to request a hearing, pursuant to Section 120.57, F.S., within the 21-day response period, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If the company fails to pay the amount of the penalty within fourteen calendar days after issuance of the Consummating Order, registration number TK171 should be removed from the register, the company's tariff should be cancelled, and the company should also be required to immediately cease and desist from providing intrastate interexchange telecommunications service within Florida.

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

**Recommendation:** The Order issued from this recommendation will become final 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 Order. If the Commission's Order is not protested, the docket should be closed administratively upon either receipt of the payment of the penalty or upon the removal of the company's registration number from the register and cancellation of the company's tariff. If the company's registration is cancelled, OIP's underlying carrier should be notified to discontinue providing wholesale services to OIP in Florida.

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**Docket No. 100400-WU** – Investigation of rates of O&S Water Company, Inc. in Osceola County for possible overearnings.

**Docket No. 100440-WU** – Application for transfer of water facilities in Osceola County from O&S Water Company, Inc., to Tohopekaliga Water Authority and cancellation of Certificate No. 510-W.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Jones-Alexis, Fletcher, Kaproth, Maurey, Prestwood, Slemkewicz

GCL: Williams, Crawford

**Issue 1:** Should the Commission acknowledge the transfer of O&S' water facilities and territory to TWA as a matter of right and cancel Certificate No. 510-W?

**Recommendation:** Yes. The Commission should acknowledge the transfer of O&S' water facilities and territory as a matter of right, pursuant to Section 367.071(4)(a), F.S., and cancel Certificate No. 510-W effective December 8, 2010.

**Issue 2:** Should the Commission initiate an overearnings investigation of O&S, as ordered in Order No. PSC-10-0656-FOF-WU in Docket No. 100400-WU?

**Recommendation:** No. If the Commission acknowledges the transfer of O&S to TWA and cancels Certificate No. 510-W, the Commission should close the overearnings investigation of O&S as initiated by Order No. PSC-10-0656-FOF-WU, and any funds held subject to refund should be released to the Utility.

**Issue 3:** Should Docket Nos. 100400-WU and 100440-WU be closed?

**Recommendation:** Yes. If the Commission approves staff's recommendations in Issues 1 and 2, Docket Nos. 100400-WU and 100440-WU should be closed, as no further action is required.

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7

**Docket No. 100426-WS** – Application for increase in water and wastewater rates in Lake County by Lake Utility Services, Inc.

**Critical Date(s):** 02/25/11 (60-day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Balbis

**Staff:** ECR: Fletcher, Buys, Cicchetti, Maurey, Williams

GCL: Saylor

**(Decision on Interim Rates; Participation is Limited to Commissioners and Staff.)**

**Issue 1:** Should the Utility's proposed final water and wastewater rates be suspended?

**Recommendation:** Yes. LUSI's proposed final water and wastewater rates should be suspended.

**Issue 2:** Should any interim revenue increase be approved?

**Recommendation:** Yes, LUSI should be authorized to collect annual water revenues as indicated below:

	Adjusted Test Year Revenues	\$ Increase	Revenue Requirement	% Increase
Water	\$4,170,103	\$1,332,875	\$5,502,978	31.96%

**Issue 3:** What are the appropriate interim water rates?

**Recommendation:** The water service rates for LUSI in effect as of December 31, 2009, should be increased by 32.56 percent, to generate the recommended revenue increase for the interim period. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1)(a), F.A.C. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission's decision, the proposed customer notice is adequate, the required security has been filed, and the customers have received the notice. The Utility should provide proof of the date notice was given within 10 days after the date of notice.

**Issue 4:** What is the appropriate security to guarantee the interim increase?

**Recommendation:** The Utility should be required to open an escrow account or file a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, the Utility should deposit 24.22 percent of water revenues into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$778,078. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and in accordance with Rule 25-30.360, F.A.C.



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7

**Docket No. 100426-WS** – Application for increase in water and wastewater rates in Lake County by Lake Utility Services, Inc.

(Continued from previous page)

**Issue 5:** Should the docket be closed?

**Recommendation:** No. The docket should remain open pending the Commission's PAA decision on the Utility's requested rate increase.

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8

**Docket No. 100104-WU** – Application for increase in water rates in Franklin County by Water Management Services, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** Graham, Edgar (for this decision)

**Prehearing Officer:** Graham

**Staff:** GCL: Jaeger, Sayler

ECR: Hudson, Fletcher, Maurey

**(Oral Argument Not Requested - Participation of Parties is at Discretion of the Commission.)**

**Issue 1:** Should the Commission grant the Office of Public Counsel's Motion for Reconsideration of a portion of Order No. PSC-11-0010-SC-WU?

**Recommendation:** No. The Commission did not overlook or fail to consider a point of fact or law in rendering Order No. PSC-11-0010-SC-WU; therefore, OPC's Motion for Reconsideration should be denied.

**Issue 2:** Should the Commission grant the Office of Public Counsel's Motion for Clarification of a portion of Order No. PSC-11-0010-SC-WU?

**Recommendation:** Yes. The Commission should clarify that the tool of imputation advocated by OPC is available if needed to protect customers. Further, the Commission should find that the parameters of the cash flow audit that it directed staff to begin are adequate.

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

**Recommendation:** No, this docket should remain open until: (1) staff confirms that the appropriate refunds have been made; (2) the appropriate notices and tariffs have been filed and approved by staff; and (3) the show cause proceedings are concluded. Upon those events being completed, the docket may be closed administratively.

**ITEM NO.**

**CASE**

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9

**Docket No. 090501-TP** – Petition for arbitration of certain terms and conditions of an interconnection agreement with Verizon Florida, LLC by Bright House Networks Information Services (Florida), LLC.

**Critical Date(s):** None

**Commissioners Assigned:** Edgar, Brisé (for this decision)

**Prehearing Officer:** Brisé

**Staff:** RAD: Bloom, Trueblood

GCL: Murphy

**(Motion For Reconsideration of Final Post Hearing Order)**

**Issue 1:** Should the Commission grant the Bright House Amended Request for Oral Argument?

**Recommendation:** No. The Commission should deny the Bright House Amended Request for Oral Argument.

**Issue 2:** Should the Commission reconsider its Decision regarding Issue 7?

**Recommendation:** No. The Commission should deny the Bright House Motion for Reconsideration of Issue 7.

**Issue 3:** Should the Commission grant Bright House's Motion to Reconsider Issues 24 and 36?

**Recommendation:** No. The Commission should deny Bright House's Motion to Reconsider Issues 24 and 36.

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

**Recommendation:** No. This Docket should remain open pending the filing and administrative review of an interconnection agreement which conforms to the decisions reached by the Commission in this Docket.