

FLORIDA PUBLIC SERVICE COMMISSION

ADDENDUM

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: Tuesday, May 14, 2013, 9:30 a.m.

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

DATE ISSUED: May 10, 2013

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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In accordance with the American with Disabilities Act, persons needing a special accommodation to participate at this proceeding should contact the Office of Commission Clerk no later than five days prior to the conference at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, via 1-800-955-8770 (Voice) or 1-800-955-8771 (TDD), Florida Relay Service. Assistive Listening Devices are available at 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 *Conferences & Meeting Agendas*, then *Audio and Video Event Coverage*.

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ITEM NO.

CASE

1**

Consent Agenda

PAA

A) Request for Approval of Transfer of Control and Certificate of Necessity of Rightlink USA, Inc., holder of Certificate of Necessity No. 8112, from Michael Ukwendo to Min-Su Kang..

DOCKET NO. COMPANY NAME

130018-TX Rightlink USA, Inc.

from

Michael Ukwendo to Min-Su Kang

PAA

B) Application for Certificate of Authority to Provide Telecommunications Service.

DOCKET COMPANY NAME CERT.NO.

130071-TX TNCI Operating Company LLC 8841

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

ITEM NO.

CASE

2**PAA

Docket No. 120054-EM – Complaint of Robert D. Reynolds and Julianne C. Reynolds against Utility Board of the City of Key West, Florida d/b/a Keys Energy Services regarding extending commercial electrical transmission lines to each property owner of No Name Key, Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: GCL: Brown
ENG: Rieger

(Proposed Agency Action for Issues 3-5.)

Issue A has been added to the original Recommendation filed May 2, 2013:

Issue A: Should the Commission grant Ms. Roemmele Putney’s Motion for Stay of Proceedings?

Recommendation: No. The Commission should deny the motion. The motion does not meet the established criteria for a stay pending judicial review set out in Rule 25-22.061, F.A.C.

Issue 1: Should the Commission entertain oral argument on Monroe County’s Motion to Dismiss?

Recommendation: No. Oral Argument was not requested pursuant to Rule 25-22.0022, Florida Administrative Code (F.A.C.). The Commission does have the discretion, however, to allow oral argument if it so chooses.

Issue 2: Should the Commission deny the County’s Motion to Dismiss the Reynolds’ Amended Complaint?

Recommendation: Yes. The Commission should deny the County’s Motion to Dismiss the Amended Complaint. The complaint states a cause of action upon which relief can be granted.

Issue 3: Does the Commission have jurisdiction to resolve the Reynolds’ complaint?

Recommendation: Yes. The Commission has jurisdiction to resolve the Reynolds’ complaint, and that jurisdiction is exclusive and preemptive.

Issue 4: Are the Reynolds and No Name Key property owners entitled to receive electric power from Keys Energy under the terms of the Commission’s Order No. 25127 approving the 1991 territorial agreement between Keys Energy and the Florida Keys Electric Cooperative?

Recommendation: Yes. The Reynolds and No Name Key Property Owners are entitled to receive electric power from Keys Energy under the terms of the Commission’s Order No. 25127.

ITEM NO.

CASE

2**PAA

Docket No. 120054-EM – Complaint of Robert D. Reynolds and Julianne C. Reynolds against Utility Board of the City of Key West, Florida d/b/a Keys Energy Services regarding extending commercial electrical transmission lines to each property owner of No Name Key, Florida.

(Continued from previous page)

Issue 5: How should the Commission dispose of the Reynolds' complaint?

Recommendation: The Commission should grant the ultimate relief the Reynolds have requested and order that the customers located on No Name Key in Keys Energy's service territory are entitled to receive electric service from Keys Energy. The Commission should find that its determination of the issues in the Reynolds complaint is exclusive and preemptive.

Issue 6: Should this docket be closed?

Recommendation: If the Commission denies staff's recommendation in Issue 2, this docket should be closed. If the Commission grants staff's recommendation in Issue 2, and if no person whose substantial interests are affected by the proposed agency action files a protest of Issues 3-5 within 21 days of the issuance of the Order, this docket should be closed.

ITEM NO.

CASE

3**PAA

Docket No. 110013-TP – Request for submission of proposals for relay service, beginning in June 2012, for the deaf, hard of hearing, deaf/blind, or speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

Critical Date(s): July 1, 2013 - Effective date of FTRI Budget. Notification of any change in the TASA surcharge must be made to carriers prior to July 1, 2013.

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: TEL:

Williams

GCL:

Miller

Issue 1: Should the Commission approve FTRI's proposed budget as outlined in Attachment A of staff's memorandum dated May 2, 2013, for the fiscal year 2013-2014, effective July 1, 2013, and should the Commission maintain the current Telecommunications Relay Service (TRS) surcharge of \$0.11 per month?

Recommendation: Staff recommends that the Commission approve FTRI's proposed budget operating revenue of \$8,771,408, and proposed budget expenses, with staff's suggested modifications, of \$10,110,295, for fiscal year 2013-2014, effective July 1, 2013. Staff also recommends that the TRS surcharge be maintained at \$0.11 per month for the fiscal year 2013-2014, effective July 1, 2013. The Commission should order all telecommunications companies to continue to bill the \$0.11 surcharge for the fiscal year 2013-2014, effective July 1, 2013.

Issue 2: Should this docket be closed?

Recommendation: No. A Consummating Order should be issued unless a person whose substantial interest are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. The docket should remain open to address all matters related to relay service throughout the life of the contract.

ITEM NO.

CASE

4**PAA

Docket No. 130066-TX – Bankruptcy cancellation by Florida Public Service Commission of Certificate of Necessity No. 8164, issued to Astro Tel, Inc., effective March 27, 2013.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL:

Corbari, Teitzman

TEL:

Earnhart, Casey

Issue 1: Should the Commission grant Astro Tel, Inc., as set forth in Attachment A, of staff's memorandum dated May 2, 2013, cancellation of its local exchange telecommunications company Certificate No. 8164, with an effective date of March 27, 2013, due to bankruptcy; direct the Division of Administrative and Information Technology Services to request permission from the Florida Department of Financial Services to write off any unpaid Regulatory Assessment Fees, including statutory late payment charges, instead of requesting collection services; and require the company to immediately cease and desist providing local exchange services in Florida?

Recommendation: Yes, the Commission should grant Astro Tel, Inc., as set forth in Attachment A of staff's memorandum dated May 2, 2013, cancellation of its local exchange telecommunications company Certificate No. 8164, with an effective date of March 27, 2013, due to bankruptcy; direct the Division of Administrative and Information Technology Services to request permission from the Florida Department of Financial Services to write off any unpaid Regulatory Assessment Fees, including statutory late payment charges, instead of requesting collection services; and require the company to immediately cease and desist providing competitive local exchange services in Florida.

Issue 2: Should this docket be closed?

Recommendation: Yes, this docket should be closed if no protest is filed within 21 days and upon issuance of a Consummating Order.

ITEM NO.

CASE

5**PAA

Docket No. 000121B-TP – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (CENTURYLINK FLORIDA TRACK)

Critical Date(s): CenturyLink requests implementation by June 30, consistent with its timetable in Nevada.

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: TEL:

Fogleman

GCL:

Teitzman, Corbari

Issue 1: Should the Commission approve CenturyLink’s proposed revisions to its Florida wholesale Performance Measurement Plan as summarized in Attachment 1 of staff’s memorandum dated May 2, 2013, and detailed in CenturyLink’s proposal filed on February 1, 2013, and amended on March 15, 2013?

Recommendation: Yes. Staff recommends that the Commission approve CenturyLink’s proposed revisions to its Florida wholesale Performance Measurement Plan as summarized in Attachment 1 of staff’s memorandum dated May 2, 2013, and detailed in CenturyLink’s proposal filed on February 1, 2013, and amended on March 15, 2013. Staff also recommends that clarifying language be added to Measure 17a specifying that a trouble ticket will be captured in the month that it is closed. Staff further recommends that implementation of the revisions to CenturyLink’s Florida Performance Measurement Plan become effective beginning with the July 2013 data month to enable simultaneous implementation of the changes with CenturyLink’s Nevada Performance Measurement Plan.

Issue 2: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order. Any protest of the Commission’s decision in this matter should identify with specificity the item or measure being protested, and any such protest should not prevent the remainder of the Order from becoming final and effective. Thereafter, this docket should remain open for the Commission to conduct periodic reviews of CenturyLink’s Performance Measurement Plan and to complete any third-party audits as outlined in Order No. PSC-03-0067-PAA-TP.

ITEM NO.

CASE

6**PAA

Docket No. 130075-TX – Request for relinquishment of eligible telecommunications carrier (ETC) designation in Florida, by Easy Telephone Services Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: TEL:

Beard

GCL:

Corbari, Teitzman

Issue 1: Should the Commission grant Easy Telephone’s request for relinquishment of its ETC designation in AT&T Florida’s non-rural wire centers without prejudice?

Recommendation: Yes, the Commission should grant Easy Telephone’s request for relinquishment of its ETC designation in AT&T Florida’s non-rural wire centers without prejudice.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency actions 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

7**PAA

Docket No. 120285-SU – Application to transfer wastewater facilities and Certificate No. 137-S in Brevard County from Colony Park Utilities, Inc. to Colony Park Development Utilities, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: AFD:	Smith, Fletcher, Maurey
ECO:	Roberts, Hudson
ENG:	Simpson, Watts
GCL:	Lawson

(Proposed Agency Action for Issue 2.)

Issue 1: Should the Commission approve the transfer of Colony Park Utilities, Inc. and wastewater Certificate No. 137-S to Colony Park Development Utilities, LLC?

Recommendation: Yes. The transfer is in the public interest and should be approved effective the date of the Commission vote. The territory being transferred is described in Attachment A of staff's memorandum dated May 2, 2013. The resultant order should serve as Colony Park Development's wastewater certificate and should be retained as such. Pursuant to Rule 25-9.044(1), Florida Administrative Code (F.A.C.), the Utility's existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475(1), F.A.C. Colony Park Development will be responsible for annual reports and regulatory assessment fees (RAFs) for 2012 and all future years.

Issue 2: What is the appropriate net book value for Colony Park Development for transfer purposes, and should an acquisition adjustment be approved?

Recommendation: The net book value of Colony Park Development's wastewater system for transfer purposes is \$58,675, as of December 31, 2011. An acquisition adjustment should not be included in rate base. Within 30 days of the final order, Colony Park Development should be required to provide general ledgers that show its books have been updated to reflect the Commission-approved balances as of December 31, 2011, along with a statement that these adjustments will also be reflected in the Utility's 2012 annual report.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no protest to the proposed agency action issue is filed by a substantially affected person within 21 days of the date of the order, the docket should be closed upon the issuance of a consummating order.

ITEM NO.

CASE

8**PAA

Docket No. 130006-WS – Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: AFD: Buys, Cicchetti, Makki, Prestwood

GCL: Klancke

Issue 1: What is the appropriate range of returns on common equity for water and wastewater utilities, pursuant to Section 367.081(4)(f), Florida Statutes?

Recommendation: Staff recommends that the current 2011 leverage formula authorized by the Commission in Order No. PSC-12-0339-PAA-WS continue to be used until the leverage formula is readdressed in 2014. Accordingly, staff recommends the following leverage formula:

$$\text{Return on Common Equity} = 7.13\% + (1.610 \div \text{Equity Ratio})$$

Where the Equity Ratio = Common Equity ÷ (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 8.74% @ 100% equity to 11.16% @ 40% equity

Additionally, staff recommends that the Commission cap returns on common equity at 11.16 percent for all WAW utilities with equity ratios less than 40 percent. Staff believes that this will discourage imprudent financial risk. This cap is consistent with the methodology in Order No. PSC-08-0846-FOF-WS.

Issue 2: Should this docket be closed?

Recommendation: No. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant.

ITEM NO.

CASE

9**

Docket No. 130047-WS – Application for amendment of water and wastewater Certificate Nos. 631-W and 540-S, to extend service area, in Sumter County by Central Sumter Utility Company, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: ENG:

Rieger

ECO:

Thompson

GCL:

Lawson

Issue 1: Should the Commission approve Central Sumter’s application for amendment of Certificate Nos. 631-W and 540-S to extend its water and wastewater territory in Sumter County?

Recommendation: Yes. It is in the public interest to amend Certificate Nos. 631-W and 540-S to include the territory as described in Attachment A of staff’s memorandum dated May 2, 2013, effective the date of the Commission’s vote. The resultant order should serve as Central Sumter’s amended certificates and should be retained by the Utility. The Utility should charge the customers in the territory added herein the rates and charges contained in its current tariffs until a change is authorized by the Commission in a subsequent proceeding.

Issue 2: Should this docket be closed?

Recommendation: Yes. If staff’s recommendation in Issue 1 is approved, no further action is required and the docket should be closed.

ITEM NO.

CASE

10**PAA

Docket No. 130067-WU – Application for grandfather certificate to operate water utility in Charlotte County by Bocilla Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ENG: Rieger, Lewis
ECO: Bruce
GCL: Gilcher, Crawford

(Proposed Agency Action for Issues 3-5.)

Issue 1: Should Bocilla Utilities, Inc.’s application for a grandfather water certificate in Charlotte County be acknowledged?

Recommendation: Yes. Bocilla’s application should be acknowledged and the Utility should be issued Certificate No. 662-W, effective February 12, 2013, to serve the territory described in Attachment A of staff’s memorandum dated May 2, 2013. The resultant order should serve as Bocilla’s certificate and should be retained by the Utility.

Issue 2: What rates and charges should be approved for Bocilla Utilities, Inc.?

Recommendation: The Utility’s rates and charges that were in effect when Charlotte County transferred jurisdiction to the Commission, shown on Schedule No. 1 of staff’s memorandum dated May 2, 2013, excluding miscellaneous service charges, non-sufficient funds (NSF) fees, and meter test deposits should be approved. The rates and charges should be effective for services rendered on or after the stamped approval date on the tariff, pursuant to Rule 25-30.475, F.A.C. The Utility should be required to charge the approved rates and charges until authorized to change them by this Commission in a subsequent proceeding.

Issue 3: Should Bocilla be authorized to collect meter test deposits, and, if so, what are the appropriate deposits?

Recommendation: Yes. The Utility should be required to file revised tariffs to reflect meter test deposits consistent with Rule 25-30.266(2)(a), F.A.C. The revised tariffs should be approved upon staff’s verification that the tariffs are consistent with the Commission’s decision. If revised tariffs are filed and approved, the meter test deposits should be effective on or after the stamped approval date on the revised tariffs, pursuant to Rule 25-30.475, F.A.C., if no protest is filed and provided customers have been noticed. The Utility should be required to charge the approved meter test deposit until authorized to change them by this Commission in a subsequent proceeding.

ITEM NO.

CASE

10**PAA

Docket No. 130067-WU – Application for grandfather certificate to operate water utility in Charlotte County by Bocilla Utilities, Inc.

(Continued from previous page)

Issue 4: Should Bocilla be authorized to collect NSF fees, and, if so, what are the appropriate fees?

Recommendation: Yes. The Utility should be required to file revised tariffs to reflect NSF fees as set forth in Sections 68.065 and 832.08(5), F.S. The revised tariffs should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariffs are filed and approved, the NSF fees should be effective on or after the stamped approval date on the revised tariffs, pursuant to Rule 25-30.475, F.A.C., if no protest is filed and provided customers have been noticed. The Utility should be required to charge the approved NSF fees until authorized to change them by this Commission in a subsequent proceeding.

Issue 5: Should Bocilla be authorized to collect miscellaneous service charges, and, if so, what are the appropriate charges?

Recommendation: Yes. The Utility should be required to file revised tariffs to reflect miscellaneous service charges of \$25 during normal hours and \$50 after hours as shown on Schedule No. 1, page 2 of 2 of staff's memorandum dated May 2, 2013. The revised tariffs should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariffs are filed and approved, the miscellaneous service charges should be effective on or after the stamped approval date on the revised tariffs, pursuant to Rule 25-30.475, F.A.C., if no protest is filed and provided customers have been noticed. The Utility should be required to charge the approved miscellaneous service charges until authorized to change them by this Commission in a subsequent proceeding.

Issue 6: Should this docket be closed?

Recommendation: No. The certification portion of this recommendation will become final agency action upon the Commission's vote. If no person whose substantial interests are affected by the proposed agency action portion of this recommendation, Issues 3, 4, and 5, files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets have been filed by the Utility and approved by staff. Once this action is complete, this docket should be closed administratively.

ITEM NO.

CASE

11**

Docket No. 130040-EI – Petition for rate increase by Tampa Electric Company.

Critical Date(s): 06/04/13 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: ECO:

Draper

GCL:

M. Brown

Issue 1: Should TECO's request for a \$134.8 million permanent base rate increase and its associated tariff revisions be suspended pending a final decision in this docket?

Recommendation: Yes. The \$134.8 million permanent base rate increase and its associated tariff revisions requested by TECO should be suspended pending a final decision in this docket.

Issue 2: Should this docket be closed?

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

ITEM NO.

CASE

12

Docket No. 100437-EI – Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: GCL: Young, Klancke, Lawson, Tan, Gilcher
ENG: Ballinger
AFD: Willis

(Decision for Motion for Reconsideration - Oral Argument Requested)

Issue 1: Should OPC's Motion for Reconsideration and Request for Oral Argument be barred from consideration due to lack of timeliness?

Recommendation: Yes, staff recommends that the Commission find that OPC's Motion for Reconsideration and Request for Oral Argument are barred because they are untimely and outside the jurisdictional time period afforded to a party to seek reconsideration of a Commission order. The Commission does not have authority to waive the jurisdictional time period and adjudicate OPC's motion and request on the merits. Staff notes that if the Commission agrees with Issue 1, Issues 2, 3, and 4 are moot.

Issue 2: Should the Commission grant OPC's Request for Oral Argument?

Recommendation: No. If the Commission denies staff's recommendation on Issue 1, staff does not believe that the Commission should grant oral argument on OPC's Motion for Reconsideration, as the issues set forth in OPC's Motion for Reconsideration are clear. Staff does not believe that oral argument is necessary to aid the Commission in its deliberation.

Issue 3: Should the Commission grant OPC's Motion for Reconsideration of Commission Order No. PSC-13-0175-PCO-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 Prehearing Officer failed to consider in Order No. PSC-13-0175-PCO-EI.

Issue 4: Should this docket be closed?

Recommendation: No. This docket should remain open pending the resolution of the underlying issues in this proceeding.