

MINUTES OF April 26, 2011
COMMISSION CONFERENCE
COMMENCED: 9:37 am
ADJOURNED: 10:32 am

COMMISSIONERS PARTICIPATING: Chairman Graham
Commissioner Edgar
Commissioner Brisé
Commissioner Balbis
Commissioner Brown

Parties were allowed to address the Commission on items designated by double asterisks (**).

1 **Approval of Minutes**
 April 5, 2011, Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

2**PAA

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>
110079-TP	Conextel, Inc.	12/31/2010

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

DECISION: The recommendation was approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

3**

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): The current contract with Sprint expires May 31, 2012. Significant time is needed to issue the RFP, evaluate proposals, and set-up the system.

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: RAD: Kennedy, Casey

GCL: Miller

Issue 1: Should the Request for Proposal be issued?

Recommendation: Yes. The Commission should issue the Request for Proposal, as set forth in Attachment A of staff's memorandum dated April 14, 2011.

DECISION: The recommendation was approved with the following modification to Attachment A, page 14, "t": The PRC consists of designated PRC staff and designated advisory committee. An additional modification was made to Attachment A, page 40, no. 61., Insurance Coverage: During the term of the contract, the provider shall provide insurance coverage for itself and all of its employees used in connection with the performance of services under this Agreement and ensure that all subcontractors shall be similarly covered as provided herein. Such policies shall be issued by a financially sound carrier and/or carriers duly authorized to do business in the State of Florida. Such insurance coverage shall hold the FPSC harmless from any act, negligence or omission on the part of provider, its employees, agents or subcontractors and their employees in the execution or performance of the obligations assumed hereunder. This insurance will include Worker's Compensation as required by law and comprehensive general liability and bodily injury insurance in amounts no less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. which was attached to the vote sheet. Both modifications were read into the record at the Commission Conference.

Issue 2: Should this docket be closed?

Recommendation: No.

DECISION: The recommendation was approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

4

Docket No. 090538-TP – Amended 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; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Lightyear Network Solutions, LLC; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; STS Telecom, LLC; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Tan

RAD: Gowen, Trueblood

(Participation at the Discretion of the Commission.)

Issue 1: Should the Movants' Request for Oral Argument be granted?

Recommendation: No. The Commission should deny the Movants' Request for Oral Argument.

DECISION: The recommendation was denied, oral argument was approved.

Issue 2: Should the Commission grant the Motion for Reconsideration of the Commission's Order reconsider its decision on Movants' Motion to Dismiss?

Recommendation: No. The Commission should deny Movants' Motion for Reconsideration of Order No. PSC-11-0145-FOF-TP.

DECISION: The recommendation was approved.

Issue 3: 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 2 and grants the Movants' Motion For Reconsideration, the Movants should be removed as parties and the docket should remain open for staff to address the status of the remaining parties.

DECISION: The recommendation was approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

5**PAA

Docket No. 110025-TP – Bankruptcy cancellation by Florida Public Service Commission of CLEC Certificate No. 8489 and IXC Registration No. TK184, issued to CommPartners, LLC, effective December 31, 2010.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Earnhart

GCL: Evans

Issue 1: Should the Commission grant CommPartners, LLC, as set forth in Attachment A of staff's memorandum dated April 14, 2011, cancellation of its competitive local exchange telecommunications company (CLEC) Certificate No. 8489 and intrastate interexchange telecommunication company (IXC) tariff, and remove the company's name from the IXC register, with an effective date of December 31, 2010, due to bankruptcy; direct the Division of Administrative 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 and intrastate interexchange telecommunications services in Florida?

Recommendation: Yes, the Commission should grant CommPartners, LLC, as set forth in Attachment A of staff's memorandum dated April 14, 2011, cancellation of its competitive local exchange telecommunications company (CLEC) Certificate No. 8489 and intrastate interexchange telecommunication company (IXC) tariff, and remove the company's name from the IXC register, with an effective date of December 31, 2010, due to bankruptcy; direct the Division of Administrative 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 and intrastate interexchange telecommunications services in Florida.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

6**

Docket No. 110089-EQ – Petition for approval of revisions to renewable energy tariff, by Florida Public Utilities Company.

Docket No. 110091-EQ – Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

Docket No. 110092-EI – Petition for approval of amended standard offer contract, by Progress Energy Florida, Inc.

Docket No. 110093-EI – Petition for approval of revisions to standard offer contract and rate schedules COG-1 and COG-2, by Tampa Electric Company.

Docket No. 110095-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 revised tariff schedule REF-1, by Gulf Power Company.

Critical Date(s): 05/31/11 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown (110089-EQ, 110092-EI, and 110093-EI)
Administrative (110091-EQ and 110095-EQ)

Staff: RAD: Ellis, Graves, Lewis, Ma, Matthews

ECR: Kummer

GCL: Evans, Harris, Murphy, Tan

Issue 1: Should the Commission suspend the revised Standard Offer Tariffs filed by the electric investor-owned utilities?

Recommendation: Yes.

Issue 2: Should these dockets be closed?

Recommendation: No. If the Commission approves Issue 1, these dockets should remain open to allow staff adequate time to review the filings and bring a recommendation back to the Commission on the merits of the filings.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

7

Docket No. 100009-EI – Nuclear cost recovery clause.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Breman, Laux

GCL: Young, Williams

RAD: Garl

(Oral Argument Not Requested - Participation at the Discretion of the Commission)

Issue 1: Should the Commission grant PCS Phosphate's Motion for Reconsideration?

Recommendation: No. In reaching its conclusion that it did not have the authority to require a risk sharing mechanism that would provide an incentive for a utility to complete a project within an appropriate, established cost threshold, the Commission considered and evaluated all the relevant Florida Statutes and case law, the parties' briefs, and record evidence. Because the Commission did not overlook or fail to consider the relevant Florida Statutes, case law, parties' briefs, or evidence in the record, the motion for reconsideration should be denied.

Issue 2: Should this docket be closed?

Recommendation: Yes. Upon expiration of the time for appeal, if no appeal has been taken, this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

8**PAA

Docket No. 100358-EI – Investigation into the design of Commercial Time-of-Use rates by Florida Power & Light, pursuant to Order No. PSC-10-0153-FOF-EI.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper, Kummer

GCL: Crawford

RAD: Ma

Issue 1: Should the Commission order FPL to file a new commercial TOU rate?

Recommendation: No, there is not enough evidence at this time that would support a new TOU rate for commercial customers. However, FPL should further investigate whether fuel TOU factors based on marginal costs and/or summer and winter differentiation would benefit customers and provide system benefits and report back in testimony filed in the 2011 fuel proceeding.

Issue 2: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the PAA files a protest within 21 days of the issuance of the order, a consummating order will be issued. Once this action is complete, this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

9**

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

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.

DECISION: The recommendations were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

ITEM NO.

CASE

10

Docket No. 100304-EU – Petition to resolve territorial dispute with Gulf Power Company in Okaloosa County by Choctawhatchee Electric Cooperative, Inc.

Critical Date(s): None

Commissioners Assigned: Graham, Edgar, Brisé

Prehearing Officer: Brisé

Staff: GCL: Jaeger

ECR: Rieger, Williams

(Participation is at the Discretion of the Commission)

Issue 1: Should the Commission grant Gulf's Motion for Summary Final Order?

Recommendation: No, Gulf has not satisfied the requirements for a Summary Final Order, and its Motion should be denied.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, the docket should remain open until the territorial dispute is resolved.

DECISION: Item No. 10 was withdrawn.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown