

MINUTES OF April 6, 2010
COMMISSION CONFERENCE
COMMENCED: 9:33 am
ADJOURNED: 9:37 am

COMMISSIONERS PARTICIPATING: Chairman Argenziano (via telephone)
Commissioner Edgar
Commissioner Skop
Commissioner Klement
Commissioner Stevens

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

1 **Approval of Minutes**
February 9, 2010 Regular Commission Conference
March 2, 2010 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO. **CASE**

2** **Consent Agenda**

PAA A) Application for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
090456-TX	Discount Phone Services, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
100103-TX	Tallahassee Community College	03/05/2010

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

DECISION: The recommendation was approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

3**

Docket No. 100084-EI – Initiation of rulemaking to adopt Rule 25-6.0424, F.A.C.,
Petition for Mid-Course Correction.

Rule Status: Proposal May Be Deferred

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Cowdery

ECR: Hinton, Lester, Hewitt

Issue 1: Should the Commission propose the adoption of Rule 25-6.0424, F.A.C.,
Petition for Mid-Course Correction?

Recommendation: Yes, the Commission should propose the adoption of this rule as set
forth in Attachment A of staff's memorandum dated March 25, 2010.

Issue 2: Should this docket be closed?

Recommendation: Yes.

DECISION: This item was deferred to the May 18, 2010, Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

4**

Docket No. 090146-EQ – Petition by Tampa Electric Company for approval of extension of small power production agreement with City of Tampa.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Brown

ECR: Lee

RAD: Matthews, Ellis

Issue 1: Should the Commission acknowledge Tampa Electric Company's withdrawal of its petition for approval of extension of small power production agreement?

Recommendation: Yes, the Commission should acknowledge Tampa Electric Company's voluntary withdrawal of its petition for approval of extension of small power production agreement 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.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

5**PAA

Docket No. 090428-EI – Joint petition of Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc. for approval of amendment to territorial agreement to modify territorial boundary line in four areas of Pasco and Hernando Counties.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: GCL: Brown

ECR: Rieger

Issue 1: Should the Commission approve the joint petition to amend the territorial agreement between Progress Energy Florida, Inc. (PEF) and Withlacoochee River Electric Cooperative (WREC)?

Recommendation: Yes. The joint petition for approval of the amended territorial agreement between PEF and WREC is in the public interest and should be approved.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

6**

Docket No. 090313-PU – Complaint of Mad Hatter Utility, Inc., and Paradise Lakes Utility, LLC against Verizon Florida LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Stevens

Staff: GCL: Brooks

RAD: Curry, Kennedy

Issue 1: Should the Commission acknowledge Mad Hatter Utility, Inc. and Paradise Lakes Utility, LLC's notice of voluntary dismissal, with prejudice?

Recommendation: Yes, the Commission should acknowledge Mad Hatter Utility, Inc. and Paradise Lakes Utility, LLC's notice of voluntary dismissal, with prejudice.

Issue 2: Should this docket be closed?

Recommendation: Yes, there is nothing further in the docket for this Commission to address, and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

7**PAA

Docket No. 090552-TL – Petition for modification of Service Guarantee Program by Embarq Florida, Inc. d/b/a Centurylink.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: M. Watts

GCL: Tan

SSC: Vickery

Issue 1: Should the Commission approve Embarq Florida, Inc. d/b/a CenturyLink's request to modify its existing Service Guarantee Program, pursuant to the changes to the service quality rules necessitated by Chapter 2009-226, Laws of Florida?

Recommendation: Yes, the Commission should approve Embarq Florida, Inc. d/b/a CenturyLink's request to modify its existing Service Guarantee Program, pursuant to the changes to the service quality rules necessitated by Chapter 2009-226, Laws of Florida.

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.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

8**PAA

Docket No. 090550-TL – Petition for variance from Rules 25-4.0185 and 25-4.073, F.A.C. by Verizon Florida LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: M. Watts

GCL: Tan

SSC: Moses

Issue 1: Should the Commission approve Verizon Florida LLC's request for variance from certain requirements of Rules 25-4.0185 and 25-4.073, F.A.C., to allow it to report answer time performance measurements for all residential lines instead of just basic local telecommunications service lines until June 30, 2010, and should the Commission authorize staff to administratively approve another six month extension if needed?

Recommendation: The Commission should approve Verizon Florida LLC's request for variance from the answer time requirements of Rules 25-4.0185 and 25-4.073, F.A.C., to allow it to report answer time performance measurements for all residential lines instead of just basic local telecommunications service lines until June 30, 2010 and authorize staff to administratively approve another six month extension if needed.

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 administratively upon notification by Verizon that the software modifications have been completed.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

9**PAA

Docket No. 090245-TP – Petition for limited designation as eligible telecommunications carrier (ETC) by Virgin Mobile USA, L.P.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: RAD: Beard, Casey

GCL: Tan

Issue 1: Should Virgin Mobile be granted limited ETC status in Florida for the purpose of offering Lifeline discounts to qualifying consumers in Florida?

Recommendation: Yes. Staff recommends that Virgin Mobile be granted limited ETC designation status in the AT&T, Verizon, and CenturyLink wire centers listed in Attachment B of staff's memorandum dated March 25, 2010, for the sole purpose of offering Lifeline discounts to qualifying consumers in Florida. Granting of ETC designation should be contingent on Virgin Mobile providing the following:

- Certification from every Public Service Answering Point (PSAP) in Florida, confirming that Virgin Mobile provides its customers with access to basic and E911 service; Virgin Mobile should be allowed to self certify compliance with the 911 and E911 availability if, within 90 days of Virgin Mobile's request, a PSAP has not provided the certification and the PSAP has not made an affirmative finding that Virgin Mobile does not provide its customers with access to 911 and E911 service within the PSAP's service area;
- E911 compliant handsets should be provided to Virgin Mobile's new Lifeline customers and Virgin Mobile should replace any non-compliant handsets for its existing customers who are approved as Lifeline customers at no charge;
- Each Lifeline customer shall receive 200 free anytime minutes each month;
- Self-certification of Virgin Mobile Lifeline customers under penalty of perjury once service has been activated. In addition to the PSC's annual Lifeline verification eligibility requirement, annual certification verifying that the head of household is only receiving Lifeline discounts from Virgin Mobile;
- Tracking of Lifeline customer's primary residential address and certification that there is only one customer receiving Virgin Mobile Lifeline at each residential address;
- Virgin Mobile should deal directly with its customers who do not utilize the Lifeline Automatic Enrollment function, to certify and verify Lifeline eligibility; and
- Submission of a quarterly report showing the number of customers who have been deactivated for not having any activity on their phone in a 60-day period, not passing annual verification, and voluntarily being deactivated.

ITEM NO.

CASE

9**PAA

Docket No. 090245-TP – Petition for limited designation as eligible telecommunications carrier (ETC) by Virgin Mobile USA, L.P.

(Continued from previous page)

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.

DECISION: This item was withdrawn.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

10**PAA

Docket No. 100112-TX – Investigation and determination of appropriate method for refunding apparent overcharges by EveryCall Communications, Inc. due to overbilling on local number portability fees.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: M. Watts, Beard

ECR: Buys

GCL: Brooks

Issue 1: Should the Commission approve EveryCall Communications, Inc.'s refund of \$1,567.46, plus interest in the amount of \$5.06, for a total of \$1,572.52, to the affected customers during the June 2010 billing cycle; require the company to remit any unrefundable monies to the Commission by October 29, 2010, for deposit in the General Revenue Fund; and require the company to submit a refund report by October 29, 2010, to the Commission stating, (1) how much was refunded to its customers, (2) the total number of customers receiving refunds, and (3) the amount of money determined to be unrefundable?

Recommendation: Yes, the Commission should approve EveryCall's refund. As required by Rule 25-4.114, F.A.C., for those customers still on the system, a credit shall be made on the bill. For customers entitled to a refund but no longer on the system, the company shall mail a refund check to the last known billing address except that no refund for less than \$1.00 will be made to these customers. At the end of the refund period, any amount not refunded, including interest, should be remitted to the Commission for deposit in the General Revenue Fund.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. The company should submit its final report, identified by docket number, by October 29, 2010. If any monies are not refunded, EveryCall should submit payment of these monies to the Commission at the time it submits its final report, and the Commission shall deposit these monies in the General Revenue Fund. Upon receipt of the final report, this docket should be closed administratively if no timely protest has been filed.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

11**

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

Docket No. 080244-EI – Petition for approval of underground conversion tariff revisions, by Florida Power & Light Company.

Docket No. 080522-EI – Petition and Complaint of the Municipal Underground Utilities Consortium, the Town of Palm Beach, the Town of Jupiter Inlet Colony, and the City of Coconut Creek for relief from unfair charges and practices of Florida Power & Light Company.

Critical Date(s): 07/20/2010 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Draper, Kummer

GCL: Saylor, Jaeger

Issue 1: Should the Commission approve FPL's proposed settlement agreement in Docket Nos. 070231-EI, 080244-EI, and 080522-EI and associated Tariff Sheet Nos. 6.100, 6.300, and 9.725?

Recommendation: Yes, the Commission should approved the proposed settlement agreement and associated tariff sheets. The Commission should also accept the report attached to the petition in this docket as satisfying the reporting requirement of Order No. PSC-09-0755-TRF-EI.

Issue 2: Should these dockets be closed?

Recommendation: Yes.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

12**

Docket No. 100134-EI – Review of Progress Energy Florida, Inc.'s current allowance for funds used during construction rate.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Slemkewicz, Maurey

GCL: Brubaker

Issue 1: Should the Commission initiate a proceeding to revise PEF's current Allowance for Funds Used During Construction (AFUDC) rate?

Recommendation: Yes. The Commission should initiate a proceeding to revise PEF's current AFUDC rate and require PEF to file the schedules prescribed in Rule 25-6.0141(4), F.A.C., for the period ending March 31, 2010, with an effective date of April 1, 2010. The schedules should include the appropriate rate case adjustments consistent with the determinations reflected in Order No. PSC-10-0131-FOF-EI. The schedules should be filed no later than May 20, 2010.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the review of the required AFUDC filing and the subsequent filing of a recommendation in this docket.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

13

Docket No. 090462-WS – Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas and Seminole Counties by Utilities, Inc. of Florida.

Critical Date(s): 60-Day Suspension Date Waived by Company to 04/06/10

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Wright, Bulecza-Banks, Daniel, Deason, Fletcher, Linn, Rieger, Salnova, Walden

GCL: Young

(Decision on Suspension of Rates and on Interim Rates - Participation is at the Discretion of the Commission)

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

Recommendation: Yes. UIF’s proposed final water and wastewater rates should be suspended.

Issue 2: Should any interim revenue increase be approved?

Recommendation: Yes, the Utility should be authorized to collect annual water and wastewater revenues as indicated below:

<u>County</u>	<u>Adjusted Test Year Revenues</u>	<u>Revenue Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Marion - Water	\$180,504	\$0	\$175,317	N/A
Marion - Wastewater	\$39,829	\$12,040	\$51,869	30.23%
Orange – Water	\$100,789	\$15,579	\$116,368	15.46%
Pasco – Water	\$806,112	\$386,802	\$1,192,914	47.98%
Pasco -Wastewater	\$446,272	\$253,166	\$699,438	56.73%
Pinellas – Water	\$99,904	\$34,827	\$134,731	34.86%
Seminole - Water	\$779,689	\$177,124	\$956,813	22.72%
Seminole - Wastewater	\$743,954	\$62,074	\$806,028	8.34%

ITEM NO.

CASE

13

Docket No. 090462-WS – Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas and Seminole Counties by Utilities, Inc. of Florida.

(Continued from previous page)

Issue 3: What are the appropriate interim water and wastewater rates?

Recommendation: The service rates for UIF in effect as of December 31, 2005, should be increased as shown below to generate the recommended revenue increase for the interim period.

<u>County</u>	<u>Increase</u>
Marion - Water	N/A
Marion - Wastewater	30.31%
Orange – Water	15.67%
Pasco – Water	48.62 %
Pasco – Wastewater	56.78%
Pinellas – Water	35.07%
Seminole – Water	23.10%
Seminole - Wastewater	8.36%

The rates, as shown on Schedules No. 4-A and 4-B of staff’s memorandum dated March 25, 2010, 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 the required security has been filed and proper notice has been received by the customers. The Utility should provide proof to staff of the date notice was given within 10 days after the date of the notice.

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

Recommendation: A corporate undertaking is acceptable contingent upon receipt of the written guarantee of the parent company, Utilities, Inc. (UI), and written confirmation of UI’s continued attestation that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states. UI should be required to file a corporate undertaking on behalf of its subsidiaries to guarantee any potential refunds of revenues collected under interim conditions. UI’s maximum amount of revenue that needs to be protected is \$714,789 subject to refund in this docket. 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 undertaken in accordance with Rule 25-30.360, F.A.C.

ITEM NO.

CASE

13

Docket No. 090462-WS – Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas and Seminole Counties by Utilities, Inc. of Florida.

(Continued from previous page)

Issue 5: Should this docket be closed?

Recommendation: No. The docket should remain open pending the Commission's final action on the Utility's requested rate increase.

DECISION: This item was deferred to the April 20, 2010, Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

14**

Docket No. 090429-WU – Request for approval of imposition of miscellaneous service charges, delinquent payment charge and meter tampering charge in Lake County, by Pine Harbour Water Utilities, LLC.

Critical Date(s): 04/07/10 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Deason, Bulecza-Banks, Fletcher

GCL: Klancke

Issue 1: Should Pine Harbour’s proposed tariff sheet to establish miscellaneous service charges, a delinquent payment charge, and a meter tampering fee be approved as filed?

Recommendation: No. The Utility’s requested miscellaneous service charges, delinquent payment charge, and meter tampering fee should not be approved as filed. However, in the interest of administrative efficiency, if the Utility were to file a revised tariff sheet consistent with staff’s analysis within 30 days of the consummating order being issued, staff requests administrative authority to approve that tariff sheet. The revised tariff sheet should be implemented on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(2), Florida Administrative Code (F.A.C.), provided the notice has been approved by staff. Within 10 days of the date the order is final, Pine Harbour should be required to provide notice of the tariff changes to all customers. The Utility should provide staff with proof that the customers have received notice within 10 days after the date the notice is sent.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is denied and the Utility files a revised tariff sheet consistent with staff’s analysis within 30 days of the consummating order being issued, staff should administratively approve that tariff sheet and customer notice. If a protest is filed within 21 days of the issuance date of the Order, the revised tariff should remain in effect with all increased charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens

ITEM NO.

CASE

15

Docket No. 090372-EQ – Petition for approval of negotiated purchase power contract with FB Energy, LLC by Progress Energy Florida.

Critical Date(s): None

Commissioners Assigned: Edgar, Skop, Stevens

Prehearing Officer: Stevens

Staff: GCL: Brubaker

RAD: Brown

(Oral argument not requested; participation is at the Commission's discretion.)

Issue 1: Should the Commission grant Florida Biomass Energy, LLC's Motion to Dismiss?

Recommendation: Yes. The Commission should grant Florida Biomass Energy, LLC's Motion to Dismiss because Funding Group, LLC lacks standing to pursue its protest and request for a hearing.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, Order No. PSC-09-0852-PAA-EQ should be considered final and this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Klement, Stevens