

MINUTES OF April 10, 2012
COMMISSION CONFERENCE
COMMENCED: 9:33 a.m.
ADJOURNED: 10:24 a.m.

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

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

1 **Approval of Minutes**
 March 13, 2012, Regular Commission Conference

DECISION: The minutes were approved.

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

ITEM NO.

CASE

2**

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: King, Miller

Issue 1: Should the Commission acknowledge QCC's Voluntary Dismissal with Prejudice of Lightyear Network Solutions, LLC?

Recommendation: Yes, the Commission should acknowledge QCC's Voluntary Dismissal with Prejudice of Lightyear Network Solutions, LLC.

Issue 2: Should this docket be closed?

Recommendation: No. If Issue 1 is approved, Lightyear should be dismissed from the instant complaint. There are additional Respondents, therefore, staff recommends that Docket No. 090538-TP remain open.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

3**

Docket No. 110200-WU – Application for increase in water rates in Franklin County by Water Management Services, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: GCL: Jaeger, Barrera

ECR: T. Brown, Fletcher, Maurey

Issue 1: What action should the Commission take on the Office of Public Counsel's (OPC's) Motion for an Administrative Hearing on Water Management Services, Inc's Application for Rate Increase?

Recommendation: OPC's Motion for an Administrative Hearing should be denied, and the rate application should continue to be processed using the proposed agency action process.

Issue 2: Should this docket be closed?

Recommendation: No, the docket should remain open for the continued processing of this rate case.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4**PAA

Docket No. 100461-EI – Petition for approval of nuclear decommissioning cost study, by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: L'Amoreaux, Bulecza-Banks, Cicchetti, Franklin
GCL: Klancke

Issue 1: Should the currently approved annual nuclear decommissioning accruals for Progress Energy Florida be revised?

Recommendation: No. A review of the PEF's current site-specific decommissioning cost study indicates that decommissioning base cost estimates have increased since the 2005 cost study. However, as discussed in Issue 4, assumptions relating to escalation rates and inflation forecasts, support the position that the currently approved zero annual decommissioning accrual does not need to be revised at this time. Additionally, staff recommends that the assumptions included in PEF's 2010 decommissioning study are reasonable.

Issue 2: Should a contingency allowance be applied to the estimated costs of decommissioning, and if so, what should the percentage be?

Recommendation: Yes. Staff recommends that a contingency allowance should be applied to the costs of decommissioning CR3. A 17.24 percent contingency factor for CR3 is reasonable and should be approved.

Issue 3: Should the total estimated cost of nuclear decommissioning include a provision for on-site storage of spent fuel beyond the termination of the operating licenses of each nuclear unit?

Recommendation: Yes, staff recommends that it is prudent for the total estimated costs of nuclear decommissioning to include the costs for interim storage of spent fuel incurred after the retirement of this nuclear unit. However, this amount should continue to be reviewed in subsequent decommissioning studies.

Issue 4: What is the appropriate annual accrual in equal dollar amounts necessary to recover future decommissioning costs over the remaining life of each nuclear power plant for PEF?

Recommendation: Staff recommends a continuation of the suspension of the accrual for nuclear decommissioning as approved by the Commission in Order No. PSC-02-0655-AS-E and Order No. PSC-05-0945-S-EI. Accordingly, the appropriate jurisdictional annual accrual amount necessary to recover future decommissioning costs over the remaining life of the CR3 nuclear unit is zero. Additionally, staff recommends that the assumptions included in PEF's 2010 decommissioning study to determine the annual accrual are reasonable.

ITEM NO.

CASE

4**PAA

Docket No. 100461-EI – Petition for approval of nuclear decommissioning cost study, by Progress Energy Florida, Inc.

(Continued from previous page)

Issue 5: Should the amortization expense associated with the unrecovered value of Materials and Supplies inventories that will exist at the nuclear site following shut down (EOL M&S inventories) be revised?

Recommendation: Yes. Staff recommends that the jurisdictional annual amortization expense associated with EOL M&S inventories for PEF should be decreased by \$0.1 million, effective January 1, 2011. The amortization of EOL M&S inventories should be included in subsequent decommissioning studies so the related annual accruals can be revised if warranted.

Issue 6: Should the amortization expense associated with the cost of the last core of nuclear fuel be revised?

Recommendation: No. PEF's amortization expense associated with the cost of last core of nuclear fuel (Last Core) does not warrant revision at this time. PEF should address the costs associated with the Last Core in subsequent decommissioning studies so the related annual accruals can be revised, if warranted.

Issue 7: What should be the effective date for adjusting the annual decommissioning accrual amounts, amortization of nuclear EOL M&S inventories, and amortization of the costs associated with the Last Core?

Recommendation: If the staff recommendations in Issues 1 – 4 are approved, there is no change to the current approved zero decommissioning accrual. Therefore, the effective date for adjusting the annual decommissioning accrual is moot. If staff's recommendations in Issues 5 and 6 are approved, the effective date for amortization of nuclear EOL M&S and Last Core would be January 1, 2011 and January 1, 2010, respectively.

Issue 8: When should PEF file its next nuclear decommissioning study?

Recommendation: The next decommissioning cost study for PEF should be filed no later than July 31, 2017, and should include an update of the amortization of EOL M&S inventories and the Last Core.

Issue 9: 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.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5**PAA

Docket No. 110262-EI – Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company. (Deferred from the March 13, 2012, Commission Conference. Revised Recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: Wu

GCL: Murphy

Issue 1: Should the Commission approve TECO's Petition for approval of the BB Gypsum Storage Facility Program and the recovery of the associated costs through the ECRC, pursuant to Section 366.8255, F.S.?

Recommendation: Yes. TECO's proposed BB Gypsum Storage Facility Program satisfies the statutory requirements specified in Section 366.8255, F.S., and meets the criteria for ECRC cost recovery.

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.

DECISION: Item 5 was deferred to the May 8, 2012, Commission Conference.

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

ITEM NO.

CASE

6**PAA

Docket No. 110232-GU – Petition for approval of 2011 Depreciation Study by Peoples Gas System.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: ECR: Ollila, Cicchetti, L'Amoreaux

GCL: Brown

Issue 1: Should currently prescribed depreciation rates of Peoples Gas System be revised?

Recommendation: Yes. A review of the Company's plans and activities indicates a need for a revision to the currently prescribed depreciation rates.

Issue 2: What should be the implementation date for new depreciation rates?

Recommendation: Staff recommends approval of the Company's proposed January 1, 2012, date of implementation for revised depreciation rates.

Issue 3: What are the appropriate depreciation rates?

Recommendation: The appropriate depreciation rates are contained in Attachment A of staff's memorandum dated March 29, 2012. Staff recommends retaining Account 386.00 – Other Property Customer Premise with a 15-year average service life. Staff recommends closing Account 392.02 – Airplanes.

Issue 4: Should the current amortization of investment tax credits (ITCs) and flow back of excess deferred income taxes (EDITs) be revised to reflect the approved depreciation rates and capital recovery schedules, if any?

Recommendation: Yes. The current amortization of ITCs and the flowback of EDITs should be revised to match the actual recovery periods for the related property. The Company should file detailed calculations of the revised ITC amortization and flowback of EDITs at the same time it files its surveillance report covering the period ending December 31, 2012.

Issue 5: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the Commission's 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: Brisé, Edgar, Graham, Balbis, Brown

ITEM NO.

CASE

7**PAA

Docket No. 110271-GU – Petition for approval of transportation service agreement with Florida Public Utilities Company, by Peninsula Pipeline Company, Inc.

Docket No. 110277-GU – Joint petition for approval of territorial agreement in Nassau and Duval Counties by Peoples Gas System and Florida Public Utilities Company; gas transportation agreement by Peoples Gas System and Peninsula Pipeline Company, Inc.; and application for approval of tariff revisions to reflect service in Nassau and Okeechobee Counties, by Florida Public Utilities Company

Critical Date(s): 05/22/12 (8-Month Effective Date for tariff)

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham

Staff: ECR: Draper, Rieger; Daniel, Kummer

GCL: Barrera

Issue 1: Should the Commission approve the Joint Petition for the Territorial Agreement in Nassau and Duval Counties between Peoples and FPUC, as well as FPUC’s tariff modifications to extend service in Nassau and Okeechobee Counties?

Recommendation: The Joint Petition for the Territorial Agreement in Nassau and Duval Counties between Peoples and FPUC is in the public interest and should be approved, pursuant to Section 366.04(3)(a), F.S. In addition, FPUC’s tariff modifications reflecting its extension of service into unserved areas in Nassau and Okeechobee Counties are appropriate and should be approved.

DECISION: The recommendation was approved with oral modification to add the following clarifying paragraph to the FPUC Tariff Modifications section:

Staff notes that the addition of Okeechobee County to the proposed tariff’s description of the territory served only represents a notice from the Utility that it intends to provide service in that area. FPUC currently has no firm contracts for service in the area. Staff therefore recommends that any order approving the proposed tariff include language noting that Commission approval does not convey any exclusive territorial rights to the FPUC utility for that county, nor does it preclude another utility from challenging FPUC's right to serve Okeechobee County under Section 366.04(3), F.S. and Rule 25-6.0441, FAC., when service is requested in the future.

ITEM NO.

CASE

7**PAA

Docket No. 110271-GU – Petition for approval of transportation service agreement with Florida Public Utilities Company, by Peninsula Pipeline Company, Inc.

Docket No. 110277-GU – Joint petition for approval of territorial agreement in Nassau and Duval Counties by Peoples Gas System and Florida Public Utilities Company; gas transportation agreement by Peoples Gas System and Peninsula Pipeline Company, Inc.; and application for approval of tariff revisions to reflect service in Nassau and Okeechobee Counties, by Florida Public Utilities Company

(Continued from previous page)

Issue 2: Should the Commission approve the revised Transportation Service Agreement between FPUC and PPC as filed on February 8, 2012, in Docket No. 110271-GU?

Recommendation: Yes. The revised Transportation Service Agreement between FPUC and PPC (revised agreement) as filed on February 8, 2012, in Docket No. 110271-GU, should be approved.

DECISION: The recommendation was approved.

Issue 3: Should the Commission approve the Gas Transportation Agreement between Peoples and PPC as filed on January 26, 2012, in Docket No. 110277-GU?

Recommendation: Yes. The Gas Transportation Agreement (agreement) between Peoples and PPC as filed on January 26, 2012, in Docket No. 110277-GU, should be approved.

DECISION: The recommendation was approved.

Issue 4: Should these dockets be closed?

Recommendation: Yes, if the Commission approves Issues 1, 2, and 3, the agreements should go into effect as requested and the modified tariffs should be approved administratively unless a protest is received within the specified time frame. The tariffs should become effective on April 10, 2012.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

8**PAA

Docket No. 090445-WS – Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Indian River, Okeechobee and St. Lucie counties by Grove Land Utilities, LLC. (Deferred from the March 27, 2012, Commission Conference. Revised Recommendation Filed.)

Critical Date(s): 04/12/12 (Statutory deadline for original certificate pursuant to Section 367.031, Florida Statutes)

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: Brady, Rieger

GCL: Jaeger

(Proposed Agency Action for Issues 3 - 6)

Issue 1: Should the Commission approve the Indian River Agreement and the St. Lucie Agreement?

Recommendation: Yes. The Commission should approve the Agreements.

Issue 2: Should the application for original water and wastewater certificates by Grove Land Utilities, LLC be approved?

Recommendation: Yes. Grove Land should be granted Certificate Nos. 658-W and 563-S to serve the territory described in Attachment C of staff's memorandum dated March 29, 2012, effective the date of the Commission's vote. The resultant order should serve as the utility's water and wastewater certificates and it should be retained by the utility. Grove Land should be required to file executed copies of its water and wastewater lease agreements, containing a legal description of the lease sites, within 30 days after the date of the order granting the certificates.

Issue 3: What are the appropriate potable water and wastewater rates and return on investment for Grove Land Utilities, LLC?

Recommendation: Grove Land's potable water and wastewater rates shown on Schedule Nos. 1 and 2 of staff's memorandum dated March 29, 2012, respectively, are reasonable and should be approved. The approved rates should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Grove Land should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. A return on equity of 11.16 percent plus or minus 100 basis points should also be approved.

ITEM NO.

CASE

8**PAA

Docket No. 090445-WS – Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Indian River, Okeechobee and St. Lucie counties by Grove Land Utilities, LLC. (Deferred from the March 27, 2012, Commission Conference. Revised Recommendation Filed.)

(Continued from previous page)

Issue 4: What are the appropriate water and wastewater service availability policy and charges for Grove Land Utilities, LLC?

Recommendation: Grove Land's proposed service availability policy and charges shown on Schedule Nos. 1 and 2 of staff's memorandum dated March 29, 2012, should be approved. The approved charges should be effective for connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Grove Land should be required to collect its approved service availability charges until authorized to change them by the Commission in a subsequent proceeding.

Issue 5: Should Grove Land Utilities, LLC's proposed miscellaneous service charges be approved?

Recommendation: Yes. Grove Land's proposed miscellaneous service charges should be approved and effective for services rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Grove Land should be required to charge its approved miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding.

Issue 6: What is the appropriate Allowance for Funds Used During Construction (AFUDC) rate for Grove Land Utilities, LLC?

Recommendation: An annual AFUDC rate of 8.06 percent and a discounted monthly rate of 0.64806124 percent should be approved and applied to the qualified construction projects beginning on or after the date the certificates of authorization are issued.

Issue 7: Should this docket be closed?

Recommendation: No. The certification portion of this recommendation will become final agency action upon the Commission's vote. The docket should remain open pending receipt of executed copies of Grove Land's water and wastewater lease agreements, containing a legal description of the lease sites. If no timely protest to the proposed agency action portion of this recommendation with respect to initial rates and charges is filed with the Commission by a substantially affected person, a Consummating Order should be issued. Following the expiration of the protest period with no timely protest, the issuance of a Consummating Order, and the utility's submission of the lease agreements, the docket should be closed administratively.

DECISION: The recommendations were approved.

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