

**MINUTES OF August 17, 2010
COMMISSION CONFERENCE**

COMMENCED:

ADJOURNED:

COMMISSIONERS PARTICIPATING: Chairman Argenziano (via telephone)
Commissioner Edgar
Commissioner Skop
Commissioner Graham
Commissioner Brisé

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

1**

Consent Agenda

PAA A) Applications for Certificate to Provide Competitive Local Exchange Telecommunications Service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
100323-TX	IBC Telecom Corp.
100328-TX	Clear Rate Communications, Inc.
100362-TX	Florida Hearing and Telephone Corporation d/b/a Florida Hearing and Telephone

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, Graham, Brisé

ITEM NO.

CASE

2**PAA

Docket No. 100186-EG – Petition for approval of natural gas residential energy conservation programs, by Associated Gas Distributors of Florida. (Deferred from the August 3, 2010 Commission Conference)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RAD: Garl

GCL: M. Brown

Issue 1: Should the Commission approve changes to cash allowances offered by the AGDF member companies' residential gas conservation programs?

Recommendation: Yes, in part. The existing programs remain cost-effective with the proposed incentive changes, may increase participation, and will not create an undue impact on residential rates. However, the addition of the Gas Service Reactivation allowance should not be approved because it is a marketing, rather than a conservation measure.

Issue 2: 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: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

3**PAA

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

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: APA: Harvey, Hallenstein

GCL: Teitzman, Evans

Issue 1: Should the Commission approve the March 22, 2010, Settlement Agreement and the August 2, 2010, Second Revised SQM and SEEM Plans?

Recommendation: Yes. Staff recommends that the Commission approve the March 22, 2010, Settlement Agreement and the August 2, 2010, Second Revised SQM and SEEM Plans.

Issue 2: Should the Commission grant AT&T's October 16, 2009 Motion for Expedited Approval of Lifeline Outreach funding and modification of SEEM penalty payments?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1, staff believes AT&T's Motion is rendered moot. Additionally, AT&T should retain the Tier 2 payments that have accrued since January 2010, and deposit \$250,000 in the AT&T Florida Community Service Fund.

Issue 3: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation, the resulting Order will be issued as a Proposed Agency Action. The Order will become final upon issuance of a Consummating Order, if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. The revisions to the SQM and SEEM Plans should be implemented within 60 days from the date of the consummating order. This docket should remain open pending the implementation of the Commission's decision and for purposes of future performance measure monitoring.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

4**PAA

Docket No. 100143-EI – Evaluation of study by Florida Power & Light Company on prepayment billing option for retail customers. (Deferred from the August 3, 2010 Commission Conference)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper, Buys, Davis, Kummer, Maurey

GCL: Bennett, Jackson

Issue 1: What further action, if any, should the Commission take on FPL's prepayment study filed on March 1, 2010?

Recommendation: The Commission should take no further action.

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 administratively.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

5**

Docket No. 090368-EI – Review of the continuing need and costs associated with Tampa Electric Company's 5 Combustion Turbines and Big Bend Rail Facility.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Chase, Draper, Slemkewicz

RAD: Ballinger, S. Brown, Ellis

GCL: Young

Issue 1: Should the Commission approve the proposed Stipulation and Settlement Agreement?

Recommendation: Yes, the Stipulation is in the public interest and should be approved. TECO should be required to file revised tariff sheets for administrative approval by staff to reflect the reduced rates for the Interruptible Service class effective January 1, 2011.

Issue 2: Should this docket be closed?

Recommendation: Yes, if staff's recommendation on Issue 1 is approved, this docket should be closed.

DECISION: The recommendations were approved. Chairman Argenziano dissented.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

6**PAA

Docket No. 100282-EU – Joint petition for approval of amended territorial agreement in Citrus County by Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: Rieger, J. Williams

GCL: A. Williams

Issue 1: Should the Commission grant the joint petition of PEF and WREC to amend the territorial agreement and modify the territory boundary in Citrus County?

Recommendation: Yes. The proposed territorial amendment is in the public interest and should be approved by the Commission.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose interests are substantially affected timely files a protest to the Commission's proposed agency action order, this docket should be closed upon issuance of a consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

7**

Docket No. 100342-GU – Petition for approval of tariff modifications for discontinuance of service for non-payment of bills, by Peoples Gas System.

Critical Date(s): 08/30/10 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper

GCL: Saylor

Issue 1: Should the Commission approve PGS' proposed tariff modifications (Tariff Sheet Nos. 5.401-1 and 5.401-2)?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on August 17, 2010. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

8**

Docket No. 100156-WU – Application of Sunshine Utilities of Central Florida, Inc. to amend its Water Certificate No. 363-W to include additional territory in Marion County, FL (Sandy Acres).

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Simpson, Williams

GCL: Holley

Issue 1: Should Sunshine’s application for amendment of Certificate No. 363-W be granted?

Recommendation: Yes. The Commission should approve Sunshine’s application to include the additional territory shown in Attachment A of staff’s memorandum dated August 5, 2010. Sunshine should charge the customers in the new territory the rates and charges contained in its tariffs until authorized to change 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.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

9**PAA

Docket No. 090366-WU – Application for certificate to operate water utility in Marion County by ARMA WATER SERVICE, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham

Staff: ECR: Daniel, Walden, Kaproth

GCL: Brown

(Proposed Agency Action for Issues 2, 3, and 4.)

Issue 1: Should the Utility's application for a water certificate be approved?

Recommendation: Yes, Arma should be granted Certificate No. 652-W to serve the territory described in Attachment A of staff's memorandum dated August 5, 2010, effective the date of the Commission's vote. The resultant order should serve as Arma's water certificate and it should be retained by the Utility.

Issue 2: What are the appropriate initial water rates?

Recommendation: The monthly water service rates proposed by Arma and shown on Schedule No. 1 of staff's memorandum dated August 5, 2010, are reasonable and should be approved. Arma should be required to file a proposed customer notice and tariff sheets reflecting the Commission-approved rates for staff approval. Within ten days after the Consummating Order is issued in this docket, Arma should provide the staff-approved notice to all its customers. Within ten days after the notice is provided to customers, Arma should file an affidavit attesting to the date that the customer notice was provided and attaching a copy of the customer notice. The docket should remain open until the affidavit of noticing is filed and verified by staff. 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. Arma should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding.

Issue 3: What are the appropriate service availability policy and charges?

Recommendation: The service availability policy and charges proposed by Arma and shown on Schedule No. 1 of staff's memorandum dated August 5, 2010, are consistent with the guidelines contained in Rule 25-30.580(1)(a), F.A.C. and should be approved. Arma should include the approved service availability charges in its proposed customer notice and tariff sheets as required to be filed for staff approval in Issue 1. The approved service availability policy and 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. Arma should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding.

ITEM NO.

CASE

9**PAA

Docket No. 090366-WU – Application for certificate to operate water utility in Marion County by ARMA WATER SERVICE, LLC.

(Continued from previous page)

Issue 4: Should Arma's request for authority to collect initial customer deposits and to apply certain miscellaneous service charges be approved?

Recommendation: Yes. Arma's requests for authority to collect initial customer deposits and to apply certain miscellaneous service charges shown on Schedule 1 of staff's memorandum dated August 5, 2010, are reasonable and should be approved. Arma should include the approved initial customer deposits and miscellaneous service charges in its proposed customer notice and tariff sheets as required to be filed for staff approval in Issue 1. The approved customer deposits and miscellaneous service charges 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. Arma should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding.

Issue 5: Should this docket be closed?

Recommendation: No. If no timely protest to the proposed agency actions in Issues 2, 3, or 4 is filed with the Commission by a substantially affected person, a Consummating Order should be issued. The docket should remain open pending verification by staff that notice has been appropriately given by Arma to customers of the Commission-approved rates and charges in Issues 2, 3, and 4. Upon verification of the noticing, the docket should be administratively closed.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

10**

Docket No. 100038-WU – Application to implement a backflow maintenance program by Sunny Shores Water Co.

Critical Date(s): 10/18/2010 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Deason, Fletcher, Maurey, Walden
GCL: Brown

Issue 1: Should the Utility's proposed tariff sheet allowing it to charge for the annual inspections/certification of backflow prevention devices as required by Manatee County Resolution R-187-25 and DEP Rules 62-555.330 and 62-555.360, F.A.C., be approved as filed?

Recommendation: Yes. Sunny Shores' proposed tariff sheet allowing it to charge for the service of inspections/certification of backflow prevention on an annual basis as required by Manatee County Resolution R-187-25 and DEP Rules 62-555.330 and 62-555.360, F.A.C., should be approved. The Utility should file a proposed customer notice to reflect the Commission-approved tariff sheet. The approved tariff sheet should be effective for service rendered on or after the stamped approval date of the new tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the charge for inspection should not be implemented until staff has approved the proposed customer notice. The Utility should distribute the notice to the customers no later than with the first bill following the effective date of the tariff and should provide proof of the date the notice was given no less than 10 days after the date of the notice.

Issue 2: Should the docket be closed?

Recommendation: Yes. If no timely protest to the order is filed by a substantially affected person within 21 days, a Consummating Order should be issued and the docket should be closed. In the event there is a timely protest, this docket should remain open pending resolution of the protest.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé

ITEM NO.

CASE

11

Docket No. 080677-EI – Petition for increase in rates by Florida Power & Light Company.

Docket No. 090130-EI – 2009 depreciation and dismantlement study by Florida Power & Light Company. (Deferred from the August 3, 2010 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: Argenziano, Edgar, Skop

Prehearing Officer: Skop

Staff: ECR: P. Lee, Draper, Kummer, Maurey, Gardner, Slemkewicz, Prestwood,
Lester

GCL: Bennett

(Interested Persons May Participate in Issue 9 Only. Oral Argument has not been requested for Issues 1-8. Participation of parties for Issues 1 - 8 is at the discretion of the Commission.)

Issue 1: Should the Commission grant FPL's Motion for Leave to file a Response to SFHHA's Response?

Recommendation: No. FPL's Motion for Leave to file a Response to SFHHA's Response is not permitted, pursuant to Rule 25-22.060, F.A.C.

Issue 2: Should the Commission reconsider Issue 46 because the Commission ordered a one-time refund of the over-recovery in the fuel docket?

Recommendation: Yes. The Commission should reconsider Issue 46 and recognize the impact on the 2010 test year of the fuel docket decision to refund the 2009 over-recovery in one month rather than ratably over a twelve-month period. As a result, the \$101,971,000 adjustment to reduce working capital should be revised to \$73,827,000, a change of \$28,144,000.

Issue 3: Should the Commission reconsider Issue 89 regarding the impact of the minimum late payment charge?

Recommendation: Yes. The Commission should reconsider its decision on Issue 89 regarding the level of late payment charge (LPC) revenue. This adjustment will result in a decrease in the projected test year LPC revenues of \$25,776,146.

Issue 4: Should the Commission reconsider Issue 103 regarding salaries and employee benefits?

Recommendation: Yes. The Commission should reconsider Issue 103 regarding the executive incentive compensation of \$12,700,000 that had been removed through the allocation to affiliates. As a result, the \$49,510,136 net adjustment decrease to the 2010 test year operating and maintenance (O&M) expenses should be revised to a \$36,810,136 net adjustment decrease. This represents a \$12,700,000 million reduction to the approved adjustment of \$49,510,136.

ITEM NO.

CASE

11

Docket No. 080677-EI – Petition for increase in rates by Florida Power & Light Company.

Docket No. 090130-EI – 2009 depreciation and dismantlement study by Florida Power & Light Company. (Deferred from the August 3, 2010 Commission Conference.)

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Issue 5: Should the Commission reconsider Issue 109 regarding the 2010 test year charge from FiberNet to FPL?

Recommendation: Yes. The Commission should reconsider its decision on the FiberNet equipment lease charge to FPL. This adjustment will result in an increase in the allowed lease payment of \$585,000 and a corresponding increase of the same amount in FPL's 2010 test year revenue requirements.

Issue 6: Should the Commission clarify its Final Order as it relates to the computation of test year depreciation expense?

Recommendation: No. The Commission should not clarify its Final Order as it relates to the computation of test year depreciation expense.

Issue 7: How should FPL be required to implement any change to the 2010 test year revenue requirements?

Recommendation: FPL should implement the \$41,902,170 net change in revenue requirements identified in Issues 2 through 6 by offsetting the increase or decrease against the depreciation reserve surplus. In order to offset the calculated \$41,902,170, both the remaining \$894,600,000 reserve surplus and the test year depreciation expense should be reduced by \$43,851,218 and the test year accumulated depreciation should be increased by \$21,925,609.

Issue 8: Should the Commission grant FIPUG's motion for reconsideration?

Recommendation: No. FIPUG's Motion for Reconsideration should be denied.

Issue 9: Should the Commission grant Thomas Saporito's Petition for Base Rate Proceeding?

Recommendation: No. The Commission should not grant the Petition for Base Rate Proceeding. The petition does not meet the requirements of Rule 28-106.201, F.A.C., because it fails to allege any material issue of disputed facts.

Issue 10: Should this docket be closed?

Recommendation: Yes. The docket should be closed upon the expiration of the time for appeal.

DECISION: The recommendation for Issue No. 2 was denied with Commissioner Edgar dissenting on procedural basis. The recommendations for Issue Nos. 1, 3 through 10 were deferred to a later Commission Conference.

Commissioners participating: Argenziano, Edgar, Skop, Graham, Brisé