

**MINUTES OF January 24, 2012**  
**COMMISSION CONFERENCE**  
**COMMENCED: 9:31 am**  
**ADJOURNED: 9:57 am**

**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\*\*                   **Consent Agenda**

PAA                   A) Request for Cancellation of Certificates of Authority to Provide Telecommunications Service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>	<u>EFFECTIVE DATE</u>
110318-TP	FL - CLEC LLC	8705	12/09/2011
	FL - CLEC LLC	8706	12/09/2011

**Recommendation:** The Commission should approve the action requested in the docket referenced above and close this docket.

**DECISION:** The recommendation was approved.

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

**ITEM NO.**

**CASE**

---

2

**Docket No. 110041-EI** – Petition for approval of Amendment No. 1 to generation services agreement with Gulf Power Company, by Florida Public Utilities Company.

**Critical Date(s):** PPA Amendment is expressly conditioned upon the receipt of an approval order by March 31, 2012.

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** GCL: Robinson

RAD: Graves, Ma

ECR: Draper, Lee, Lester

**(Oral Argument Requested. Participation at the Commission's discretion.)**

**Issue 1:** Should the Commission grant FPUC and City of Marianna's requests for oral argument?

**Recommendation:** Yes. The Commission should grant FPUC and the City of Marianna's requests for oral argument. Oral argument should be limited to 5 minutes per party.

**DECISION:** The recommendation was approved.

**Issue 2:** Should FPUC's Motion to Dismiss the City of Marianna's petition for formal hearing be granted?

**Recommendation:** Yes. The Commission should grant FPUC's Motion to Dismiss the City of Marianna's petition for formal hearing without prejudice.

**DECISION:** The recommendation was denied and the case was dismissed with prejudice.

**Issue 3:** Should the docket be closed?

**Recommendation:** Yes. If the Commission agrees with staff regarding Issue 2, then the City of Marianna's Petition Protesting Proposed Agency Action Order No. PSC-11-0269-PAA-EI and Requesting Formal Proceeding should be dismissed without prejudice. The docket should be closed, and a Consummating Order should be issued reviving Order No. PSC-11-0269-PAA-EI and making it final and effective.

**DECISION:** The recommendation was approved, noting the vote on Issue 2.

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

**ITEM NO.**

**CASE**

---

3\*\*

**Docket No. 100459-EI** – Petition for authority to implement a demonstration project consisting of proposed time-of-use and interruptible rate schedules and corresponding fuel rates in the Northwest Division on an experimental basis and request for expedited treatment, by Florida Public Utilities Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Balbis

**Staff:** GCL: Bennett

ECR: Draper, Lee

**(Oral Argument Requested. )**

**Issue 1:** Should the Commission grant the City of Marianna and FPUC’s requests for oral argument?

**Recommendation:** Yes. The Commission should grant the requests for oral argument. Oral argument should be limited to 5 minutes per side.

**Issue 2:** Should FPUC’s Motion to Dismiss the City of Marianna’s petition for formal hearing be granted?

**Recommendation:** Yes. FPUC’s Motion to Dismiss should be granted, with prejudice. The City has not pled facts sufficient to demonstrate that it has suffered an injury in fact or that the nature of these proceedings is designed to protect any injury the City has alleged. Moreover, the amended petition does not comply with Rule 28-106.201, F.A.C., because it does not contain “an explanation of how the petitioner’s substantial interests will be affected by the agency determination,” nor does it contain “a concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant a reversal or modification of the agency’s proposed action.” Proposed Agency Action Order, Order No. PSC-11-0112-TRF-EI should be deemed final and effective.

**Issue 3:** Should the docket be closed?

**Recommendation:** Yes. If the Commission agrees with staff regarding Issue 2, then the City of Marianna’s Amended Petition Protesting Proposed Agency Action Order No. PSC-11-0112-TRF-EI should be dismissed with prejudice. Order No. PSC-11-0112-TRF-EI should become final and effective.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

---

4\*\*

**Docket No. 110071-TP** – Emergency Complaint of Express Phone Service, Inc. against Bellsouth Telecommunications, Inc. d/b/a AT&T Florida regarding interpretation of the parties' interconnection agreement.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Balbis

**Staff:** GCL: Tan

RAD: King

**Issue 1:** Should the Commission acknowledge Express Phone Service's December 27, 2011, Notice of Voluntary Dismissal without Prejudice?

**Recommendation:** Yes, the Commission should acknowledge Express Phone's December 27, 2011, Notice of Voluntary Dismissal without Prejudice.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If Issue 1 is approved, there is nothing further for the Commission to consider in this docket. Therefore, staff recommends that Docket No. 110071-TP be closed.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

---

5\*\*PAA

**Docket No. 110272-EU** – Joint petition for approval of a territorial agreement in Lake County between City of Leesburg, a Florida municipality and Sumter Electric Cooperative, Inc., a Florida Cooperative.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** GCL: Barrera

ECR: Rieger

**Issue 1:** Should the Commission approve the joint petition of a territorial agreement in Lake County between Leesburg and SECO?

**Recommendation:** Yes. The joint petition of a territorial agreement between Leesburg and SECO 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: Brisé, Edgar, Graham, Balbis, Brown

**ITEM NO.**

**CASE**

---

6\*\*PAA

**Docket No. 110305-EI** – Initiation of formal proceedings of Complaint No. 1006767E of Edward McDonald against Tampa Electric Company, for alleged improper billing.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Balbis

**Staff:** GCL: Robinson  
ECR: Draper  
SRC: Forsman, Hicks

**Issue 1:** Should the Commission grant Mr. McDonald the relief sought in his petition?

**Recommendation:** No. Staff recommends that the Commission deny Mr. McDonald's petition as it does not demonstrate that (1) TECO's attempt to collect the \$915.94 violates any statutes, rules, or Orders; (2) TECO's calculation of the \$915.94 is incorrect; and (3) TECO is liable for the \$3,500 that the bank recalled because Mr. McDonald made the payments from his mother's account without proper authorization.

**Issue 2:** Should the 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 should be closed upon issuance of a consummating order.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

---

7

**Docket No. 110306-TP** – Request for emergency relief and complaint of FLATEL, Inc. against BellSouth Telecommunications, Inc. d/b/a AT&T Florida to resolve interconnection agreement dispute.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Balbis

**Staff:** GCL: Robinson

RAD: Hawkins, Lowery

**(Oral Argument not Requested. Participation at Commission's Discretion.)**

**Issue 1:** Should the Commission grant AT&T Florida's Motion to Dismiss?

**Recommendation:** Yes. Staff recommends that the Commission grant AT&T Florida's dismissal motion, as the Commission lacks authority to grant an injunction, and further, FLATEL's petition is moot.

**Issue 2:** Should the docket be closed?

**Recommendation:** Yes. If the Commission agrees with staff's recommendation for issue 1, then FLATEL's petition should be dismissed without prejudice and the docket should be closed.

**DECISION:** Item 7 was deferred to the February 14, 2012, Commission conference.

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

**ITEM NO.**

**CASE**

---

8\*\*

**Docket No. 110312-EQ** – Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

**Critical Date(s):** 01/26/12 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Garl, Brown

ECR: A. Roberts

GCL: Robinson

**Issue 1:** Should the Commission suspend the revised renewable energy tariff filed by FPL?

**Recommendation:** Yes. The Commission should suspend the revised renewable energy tariff filed by FPL.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. If the Commission approves Issue 1, this docket should remain open to allow staff adequate time to review the petition and make a recommendation to the Commission on the merits of the petition.

**DECISION:** The recommendations were approved.

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



**ITEM NO.**

**CASE**

---

9\*\*PAA

**Docket No. 110207-EI** – 2011 depreciation study by Florida Public Utilities Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brown

**Staff:** ECR: L'Amoreaux, Wu, Cicchetti

GCL: Brown

**Issue 1:** Should the current depreciation rates for Florida Public Utilities Company be changed?

**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 revised 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 recommended lives, net salvages, reserves, resultant depreciation rates, and recovery schedules are shown on Attachment A of staff's memorandum dated January 11, 2012. The result is a decrease in annual depreciation expense of approximately \$227,343, based on the estimated January 1, 2012, investment shown on Attachment B of staff's memorandum dated January 11, 2012.

**Issue 4:** Should the Commission make any corrective reserve allocations between accounts?

**Recommendation:** Yes. Staff recommends the reserve allocations shown in Table 4-1 of staff's memorandum dated January 11, 2012. These allocations bring these accounts more in line with their theoretically correct reserve levels.

**Issue 5:** 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?

**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, 2011.

**Issue 6:** 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.

**ITEM NO.**

**CASE**

---

9\*\*PAA

**Docket No. 110207-EI** – 2011 depreciation study by Florida Public Utilities Company.

(Continued from previous page)

DECISION: The recommendations were approved.

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

**ITEM NO.**

**CASE**

---

10\*\*

**Docket No. 110320-GU** – Petition for approval of Cast Iron/Bare Steel Pipe Replacement Rider (Rider CI/BSR), by Peoples Gas System.

**Critical Date(s):** 02/14/12 (60-Day Suspension Date)  
08/14/12 (8-Month Effective Date)

**Commissioners Assigned:** All Commissioners  
**Prehearing Officer:** Administrative

**Staff:** ECR: Kummer, Higgins, Mouring, Slemkewicz, Trueblood  
GCL: Brown  
SRC: Black, Moses

**Issue 1:** Should PGS's petition for approval of a Cast Iron/Bare Steel Pipe Replacement Rider be suspended?

**Recommendation:** Yes.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. The docket should remain open to allow further review and a subsequent recommendation on final action by the Commission.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

---

11\*\*PAA

**Docket No. 120005-WS** – Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.

**Critical Date(s):** March 31, 2012 - Statutory Reestablishment Deadline

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Fletcher, Maurey

GCL: Klancke

**Issue 1:** Which index should be used to determine price level adjustments?

**Recommendation:** The Gross Domestic Product Implicit Price Deflator Index is recommended for use in calculating price level adjustments. Staff recommends calculating the 2012 price index by using a fiscal year, four quarter comparison of the Implicit Price Deflator Index ending with the third quarter 2011.

**Issue 2:** What rate should be used by water and wastewater utilities for the 2012 Price Index?

**Recommendation:** The 2012 Price Index for water and wastewater utilities should be 2.41 percent.

**Issue 3:** How should the utilities be informed of the indexing requirements?

**Recommendation:** Pursuant to Rule 25-30.420(1), F.A.C., the Office of Commission Clerk, after the expiration of the Proposed Agency Action (PAA) protest period, should mail each regulated water and wastewater utility a copy of the PAA order establishing the index containing the information presented in Form PSC/ECR 15 (4/99) and Appendix A (Attachment 1 of staff's memorandum dated January 11, 2012). A cover letter from the Director of the Division of Economic Regulation should be included with the mailing of the order (Attachment 2 of staff's memorandum dated January 11, 2012). If a protest is filed and a hearing is held, the Office of Commission Clerk should mail each regulated water and wastewater utility a copy of the final order establishing the index which should contain the information presented in Form PSC/ECR 15 (4/99) and Appendix A (Attachment 1 of staff's memorandum dated January 11, 2012). A cover letter from the Director of the Division of Economic Regulation should be included with the mailing of the order (Attachment 2 of staff's memorandum dated January 11, 2012).

**ITEM NO.**

**CASE**

---

11\*\*PAA

**Docket No. 120005-WS** – Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.

(Continued from previous page)

**Issue 4:** Should this docket be closed?

**Recommendation:** Yes, this docket should be closed upon the issuance of the Consummating Order if no substantially affected person files a timely protest within the 14-day protest period after issuance of the PAA Order. Any party filing a protest should be required to prefile testimony with the protest.

**DECISION:** The recommendations were approved.

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