

MINUTES OF July 13, 2010
COMMISSION CONFERENCE
COMMENCED: 9:34 am
ADJOURNED: 10:45 am

COMMISSIONERS PARTICIPATING: Chairman Argenziano
Commissioner Edgar
Commissioner Skop

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

1** **Consent Agenda**

PAA A) Application for Certificate to Provide Pay Telephone Service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
100316-TC	Ginnie Springs Outdoors, LLC

PAA B) Request for Cancellation of a Competitive Local Exchange Telecommunications Certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
100333-TX	Verizon Avenue Corp.	6/17/2010

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

ITEM NO.

CASE

2**

Docket No. 100164-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): 12/01/10 (8 Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Ellis

GCL: Brown, Tan

Issue 1: Should the Commission approve the standard offer contract filed by Gulf Power Company?

Recommendation: Yes. The standard offer contract and related tariffs comply with Rules 25-17.200 through 25-17.310, F.A.C., and the Commission should approve it.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by Gulf, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 100164-EQ should be closed, and the standard offer contracts and tariffs filed by Gulf should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that Gulf's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

3**

Docket No. 100167-EI – Petition for approval of revisions to standard offer contract and rate schedules COG-1 and COG-2, by Tampa Electric Company.

Critical Date(s): 12/26/10 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: S. Brown

GCL: M. Brown, Tan

Issue 1: Should the Commission approve the standard offer contract filed by Tampa Electric Company?

Recommendation: Yes. The standard offer contract and related tariffs comply with Rules 25-17.200 through 25-17.310, F.A.C.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by Tampa Electric, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 100167-EQ should be closed, and the standard offer contracts and tariffs filed by Tampa Electric should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that Tampa Electric's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

4**

Docket No. 100168-EI – Petition for approval of amended standard offer contract, by Progress Energy Florida.

Critical Date(s): 12/26/10 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: S. Brown

GCL: M. Brown, Tan

Issue 1: Should the Commission approve the amended standard offer contract filed by Progress Energy Florida?

Recommendation: Yes. The standard offer contract and related tariffs comply with Rules 25-17.200 through 25-17.310, F.A.C.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by Progress, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 100168-EQ should be closed, and the standard offer contracts and tariffs filed by Progress should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that Progress' tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

5**

Docket No. 100169-EI – Petition for approval of a renewable energy tariff and standard offer contract, by Florida Power & Light Company.

Critical Date(s): 12/26/10 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: S. Brown

GCL: M. Brown, Tan

Issue 1: Should the Commission approve the standard offer contract filed by Florida Power & Light Company?

Recommendation: Yes. The standard offer contract and related tariffs comply with Rules 25-17.200 through 25-17.310, F.A.C.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by FPL, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 100169-EQ should be closed, and the standard offer contracts and tariffs filed by FPL should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that FPL's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

5A

Docket No. 100021-TP – Complaint and petition for relief against LifeConnex Telecom, LLC f/k/a Swiftel, LLC by BellSouth Telecommunications, Inc. d/b/a AT&T Florida.

Critical Date(s): Emergency Motion - Discontinuance/Termination on July 21, 2010

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Murphy, Teitzman

RAD: Curry, Bates, Watts

(Interim Procedural Order - Oral Argument Requested - Participation is at the Commissioner's Discretion)

Issue 1: Should LifeConnex Telecom, LLC's Request for Oral Argument be granted?

Recommendation: Yes, LifeConnex Telecom, LLC's Request for Oral Argument should be granted. Staff recommends allowing each side ten minutes to address the Commission on this matter.

Issue 2: Should the Commission grant LifeConnex Telecom, LLC's Request for Emergency Relief?

Recommendation: Yes, with conditions. The Commission should grant LifeConnex Telecom, LLC's Request for Emergency Relief, with the following specific conditions: LifeConnex Telecom, LLC shall fully comply with all terms of the parties' Interconnection Agreement from July 13, 2010, onward; and in the event of non-compliance, LifeConnex Telecom, LLC shall take certain actions to provide notice of discontinuance to its customers sufficient to allow them to find alternative service. Any amounts currently in dispute should be resolved through the hearing process.

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open pending the resolution of AT&T's underlying Complaint and Petition for Relief.

DECISION: The recommendations were approved with the modification that LifeConnex was directed to provide a bond in the amount of 1.4 million dollars. Chairman Argenziano dissented.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

6

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

(Oral Argument Requested - Participation at Commission's Discretion)

Issue 1: Should Virgin Mobile's Request for Oral Argument be granted?

Recommendation: Yes, Virgin Mobile's Request for Oral Argument should be granted. Staff recommends allowing each side five minutes.

Issue 2: Should Virgin Mobile's Motion to Dismiss with prejudice Organize Now, Lloyd Moore and Gracie Fowler's Petition for Formal Proceeding be granted?

Recommendation: Yes. Staff recommends that the Commission grant Virgin Mobile's Motion to Dismiss, with prejudice. The Joint Petitioners' Petition for Formal Proceeding fails to adequately allege standing to proceed in this matter.

Issue 3: Should this docket be closed?

Recommendation: Yes, if the Commission approves staff's recommendation, PAA Order No. PSC-10-0323-PAA-TP should be made final and the docket should be closed after time for appeal has run. If the Commission denies staff's recommendation, this docket should be set for hearing.

DECISION: This item was withdrawn.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

7**PAA

Docket No. 100335-TX – Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to the transfer of customers from Global Crossing Telemanagement, Inc. to Global Crossing Local Services, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Curry

GCL: Evans

Issue 1: Should the Commission approve the request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to the transfer of customers from Global Crossing Telemanagement, Inc. to Global Crossing Local Services, Inc.?

Recommendation: Yes, the Commission should approve the request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C. Any waiver approved by the Commission should only apply to the specific set of customers identified in the petition. The Petitioners should be required to provide the Commission notification of the actual date when the transaction is consummated. If for any reason the transaction is not consummated, any waiver approved by the Commission shall be null and void.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. If the Commission's Order is not protested, this docket should be closed administratively upon notification from the Petitioners that the transaction is complete.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

8**

Docket No. 100150-TL – 2011 State Annual certification of rural telecommunications carriers pursuant to 47 C.F.R. 54.314, High Cost Universal Service.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RAD: Polk, Casey

GCL: Teitzman

Issue 1: Should the Florida Public Service Commission (FPSC or Commission) certify to the FCC and to the USAC that for the year 2011 Windstream Florida, Inc., Frontier Communications of the South, LLC, GTC, Inc. d/b/a FairPoint Communications, ITS Telecommunications Systems, Inc., Northeast Florida Telephone Company d/b/a NEFCOM, Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone, and Smart City Telecommunications, LLC d/b/a Smart City Telecom will only use the federal high-cost support they receive for the provision, maintenance and upgrading of facilities and services for which the support is intended?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed and subsequent annual certifications of rural telephone companies should be addressed in a new docket.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

9**PAA

Docket No. 090507-TP – Petition for designation as eligible telecommunications carrier (ETC) by T-Mobile South LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RAD: Polk, Casey, Fogleman

GCL: Murphy

Issue 1: Should T-Mobile be granted ETC designation in the state of Florida?

Recommendation: Yes. Staff recommends that T-Mobile's petition for ETC designation in the non-rural AT&T and Verizon wire centers listed in Attachment A of staff's memorandum dated June 30, 2010, be granted. If the Commission approves T-Mobile for ETC status, staff will review T-Mobile's commitment to Florida's Lifeline program during T-Mobile's annual certification for High-Cost Universal Service Funds.

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 with the modification that during annual certification of ETC status, that T-Mobile demonstrate that the amount of high cost support would be invested in infrastructure within the State of Florida.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

10**PAA

Docket No. 090510-TP – Petition for designation as eligible telecommunications carrier (ETC) by T-Mobile South LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RAD: Polk, Casey, Fogleman

GCL: Murphy

Issue 1: Should T-Mobile be granted eligible telecommunications carrier status in certain rural telephone company study areas located entirely in T-Mobile's licensed area in the state of Florida?

Recommendation: Yes. Staff recommends that T-Mobile's petition for ETC designation in the rural wire centers of CenturyLink, Frontier, Indiantown, NEFCOM, TDS, Smart City, and Windstream, identified in Attachment A of staff's memorandum dated June 30, 2010, be granted. If the Commission approves T-Mobile for ETC status, staff will review T-Mobile's commitment to Florida's Lifeline program during T-Mobile's annual certification for High-Cost Universal Service Funds.

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 with the modification that during annual certification of ETC status, that T-Mobile demonstrate that the amount of high cost support would be invested in infrastructure within the State of Florida.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

11**PAA

Docket No. 100289-PU – Request for authorization to maintain accounting records outside of the State of Florida, pursuant to Rules 25-6.015(1) and 25-7.015(1), F.A.C., by Florida Public Utilities Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: APA: Prestwood

GCL: Jaeger

Issue 1: Pursuant to Rules 25-6.015(1) and 25-7.015(1), F.A.C., should the Commission authorize FPUC to keep certain accounting records out-of-state?

Recommendation: Yes, the Commission should approve FPUC's request to keep certain records out-of-state.

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

ITEM NO.

CASE

12**PAA

Docket No. 100133-EI – Review of Florida Power & Light Company's current allowance for funds used during construction rate.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Donoho, Salnova, Springer

GCL: Young

Issue 1: Should the Commission approve FPL's request to decrease its AFUDC rate from 7.41 percent to 6.41 percent?

Recommendation: Yes. The appropriate AFUDC rate for FPL is 6.41 percent based on a 13-month average capital structure for the period ended March 31, 2010.

Issue 2: What is the appropriate monthly compounding rate to achieve the requested 6.41 percent annual rate?

Recommendation: The appropriate monthly compounding rate to maintain an annual rate of 6.41 percent is 0.519087 percent.

Issue 3: Should the Commission approve FPL's requested effective date of April 1, 2010, for implementing the revised AFUDC rate?

Recommendation: Yes. The revised AFUDC rate should be effective as of April 1, 2010, for all purposes except for Rule 25-6.0423, F.A.C., Nuclear or Integrated Gasification Combined Cycle Power Plant Recovery. For the purposes of Rule 25-6.0423, F.A.C., 7.42 percent is the appropriate AFUDC rate to be utilized for compounding carrying costs for power plant need petitions submitted on or before December 31, 2010.

Issue 4: 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

ITEM NO.

CASE

13**PAA

Docket No. 080366-GU – Petition for rate increase by Florida Public Utilities Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Slemkewicz

GCL: Jaeger

Issue 1: Has FPUC completed its one-time refund of the difference between the PAA rates approved by Order No. PSC-09-0375-PAA-GU and the Stipulation rates approved in Order No. PSC-09-0848-S-GU? If not, what is the appropriate disposition of any remaining refund amount?

Recommendation: No, there is a remaining refund amount of \$1,739. The Commission should require FPUC to add the remaining refund amount of \$1,739 to its storm damage reserve.

Issue 2: Should this docket be closed?

Recommendation: Yes. At the conclusion of the protest period, if no protest is filed by a substantially affected person, this docket should be closed upon the issuance of a consummating order. In addition, the \$6,000,000 corporate undertaking guaranteed by Florida Public Utilities Company, the consolidated entity, should be released.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

14**

Docket No. 100313-WS – Application for authority to collect non-sufficient funds charges, pursuant to Sections 68.065 and 832.08(5), F.S., by Utilities, Inc.

Critical Date(s): 07/30/10 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Bruce, Stallcup, Kummer

GCL: Leveille, Williams

Issue 1: Should UI's request for approval of an NSF fee be granted?

Recommendation: Yes. UI's requested NSF fee should be approved. The NSF fee should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.). Furthermore, the fees should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given no less than 10 days after the date of the notice.

Issue 2: Should this docket be closed?

Recommendation: No. If a protest is filed by a substantially affected person within 21 days of issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket will become final upon the issuance of a consummating order. However, this docket should remain open to allow staff to verify that the revised tariff sheets and customer notice have been filed by UI and approved by staff. Once staff has verified that the revised tariff sheets and customer notice have been filed by UI and approved, the docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop

ITEM NO.

CASE

15**

Docket No. 100182-WS – Application for transfer of majority organizational control of Indiantown Company, Inc., holder of Certificate Nos. 387-W and 331-S in Martin County, from Linda M. Post and David Ralicki, trustees of the Robert Post Marital Trust, Postco, Inc., to Jeffrey S. Leslie.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Brady, Donoho, Marsh, Simpson

GCL: Sayler

Issue 1: Should the transfer of majority organizational control be approved?

Recommendation: Yes, the transfer of majority organizational control of Indiantown's parent, Postco, Inc., from the Trust to Jeffrey S. Leslie is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as the utility's Certificate Nos. 387-W and 331-S and should be retained by the utility. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

Issue 2: Should this docket be closed?

Recommendation: Yes, because no further action is necessary, this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Argenziano, Edgar, Skop