

MINUTES OF May 18, 2010
COMMISSION CONFERENCE
COMMENCED: 9:33 am
ADJOURNED: 9:56 am

COMMISSIONERS PARTICIPATING: Chairman Argenziano
Commissioner Edgar
Commissioner Skop
Commissioner Klement
Commissioner Stevens

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

1** **Consent Agenda**

PAA A) Applications for certificates to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
100096-TX	MBC Telecom LLC
100146-TX	MassComm Inc. d/b/a Mass Communications

PAA B) Request for cancellation of an alternative access vendor certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
100240-TA	Latin American Nautilus Service Inc	4/27/2010

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

2**PAA

Docket No. 090245-TP – Petition for limited designation as eligible telecommunications carrier (ETC) by Virgin Mobile USA, L.P. (Deferred from the May 4, 2010, Commission Conference, revised recommendation filed.)

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 May 6, 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:

- 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 FPSC'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

2**PAA

Docket No. 090245-TP – Petition for limited designation as eligible telecommunications carrier (ETC) by Virgin Mobile USA, L.P. (Deferred from the May 4, 2010, Commission Conference, revised recommendation filed.)

(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: The recommendations were approved, noting that Trac Phone had removed their comments. Staff was given instructions to expressly state in the order that, if Virgin Mobile should decide in the future to seek high-cost universal service fines, it should be required to file a petition to make a showing that it would be in the public interest to grant such request. Staff made an oral modification to their recommendation at the Commission Conference.

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. (Deferred from the April 4, 2010 Commission Conference, revised recommendation filed)

Rule Status: Proposed (may be deferred)

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Cowdery

ECR: Hinton, Lester, Franklin, 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 May 6, 2010.

Issue 2: Should this docket be closed?

Recommendation: Yes.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4**

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.

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.

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

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

Critical Date(s): 05/28/10 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Ellis, S. Brown

GCL: M. Brown, Tan

Issue 1: Should the Commission suspend the revised standard offer tariffs filed by Gulf Power Company, Tampa Electric Company, Progress Energy Florida, and Florida Power & Light Company?

Recommendation: Yes.

Issue 2: Should these dockets be closed?

Recommendation: No. If the Commission approves Issue 1, these dockets should remain open to allow staff adequate time to review the filings and bring a recommendation back to the Commission on the merits of the filings.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5**

Docket No. 100024-EI – Petition for approval of standard interconnection agreement for non-export, parallel operators, by Gulf Power Company.

Critical Date(s): 09/12/10 (8 month effective date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Clemence

GCL: Brown

Issue 1: Should the Commission approve the standard interconnection agreement for non-export, parallel operators and the associated revised tariff sheets filed by Gulf Power Company?

Recommendation: Yes. The proposed parallel, non-export interconnection agreement protects Gulf, its ratepayers, and interested customers by setting standards, procedures and limits for customers wishing to interconnect backup generation. The agreement will allow customers who choose to install backup generation to run their generators while still receiving power from the company. The customer will not be able to send power back to the grid.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation to approve the proposed standard interconnection agreement for non-export, parallel operators filed by Gulf, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 100024-EI should be closed upon issuance of a Consummating Order, and the tariff filed by Gulf should be effective as of the date of the Commission's vote. If Issue 1 is approved, this tariff should become effective on May 18, 2010. If a protest is filed within 21 days of the issuance of the Commission's order, the tariff should remain in effect pending resolution of the protest. Potential signatories to the tariff should be aware that Gulf's tariff 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, Klement, Stevens

ITEM NO.

CASE

6**PAA

Docket No. 100118-TC – Request for cancellation of PATS Certificate No. 8471 by Pinnacle Payphone Corporation, effective March 3, 2010.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Pruitt
GCL: Brooks

Issue 1: Should the Commission deny Pinnacle a voluntary cancellation of pay telephone service (PATS) Certificate No. 8471 and cancel the certificate on the Commission's own motion, with an effective date of March 3, 2010?

Recommendation: Yes. Staff recommends Pinnacle's request for voluntary cancellation of the company's PATS certificate should be denied. Pinnacle owes the 2010 RAF (\$100), along with statutory late payment charges for 2005 (\$3) and 2009 (\$6) for a total of \$109. Accordingly, staff believes it is appropriate to involuntarily cancel the company's certificate, effective March 3, 2010, on the Commission's own motion for failure to comply with Rule 25-24.514, Florida Administrative Code, and pursuant to Section 364.336, F.S.

ITEM NO.

CASE

6**PAA

Docket No. 100118-TC – Request for cancellation of PATS Certificate No. 8471 by Pinnacle Payphone Corporation, effective March 3, 2010.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation should 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, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), F.S., any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, F.S., hearing, the facts should be deemed admitted and the right to a hearing waived.

If the company pays the RAF, including any accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's PATS certificate will be voluntary. If the company fails to pay the RAF, including any accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's PATS certificate should be cancelled administratively. The collection of the unpaid RAF, including any accrued statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts.

This docket should be closed administratively either as a voluntary cancellation upon receipt of the payment of the RAFs, including any accrued statutory late payment charges, or cancelled involuntarily on the Commission's own motion. Upon cancellation of the PATS certificate, the company should be required to immediately cease and desist providing telecommunications service in Florida.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 090319-EI – Depreciation and dismantlement study at December 31, 2009, by Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Lee, Davis, L'Amoreaux, Maurey, Ollila, Springer
GCL: Fleming

Issue 1: Should Gulf's current depreciation rates, amortization and capital recovery schedules, and provision for dismantlement be changed?

Recommendation: Yes. A review of the Company's planning and activity indicates the need for revising its depreciation rates, amortization and capital recovery schedules, and provision for dismantlement.

Issue 2: What should be the implementation date for the recommended depreciation rates, amortization and capital recovery schedules, and dismantlement provision?

Recommendation: Staff recommends approval of the Company's proposed January 1, 2010 date of implementation for the new depreciation rates, amortization and capital recovery schedules, and dismantlement provision.

Issue 3: What, if any, capital recovery schedules should be approved?

Recommendation: Staff recommends the capital recovery schedules shown on Attachment A, page 21, of staff's memorandum dated May 6, 2010. These schedules address the recovery of near-term unrecovered retiring investments. The designated recovery periods closely match the remaining period the related assets will provide service to the public. The investments and associated reserves, including any reserve allocations addressed in Issue 4, should be withdrawn from their parent accounts and placed in separate subaccounts or categories. Monthly expenses for each schedule should be determined by dividing the net plant for each month by the planned remaining months in service. This mechanism will adjust for any shifts in plans or unexpected salvage. The annual expense impact over the four-year period covered by the recovery schedules would be zero dollars due to the recommended reserve allocations discussed in Issue 4.

Issue 4: What, if any, corrective reserve allocations should be made?

Recommendation: Staff recommends the corrective reserve allocations shown on Attachment B, page 22, of staff's memorandum dated May 6, 2010, to correct the quantified reserve imbalances.

ITEM NO.

CASE

7**PAA

Docket No. 090319-EI – Depreciation and dismantlement study at December 31, 2009, by Gulf Power Company.

(Continued from previous page)

Issue 5: What are the appropriate depreciation rates and amortization schedules?

Recommendation: Staff's recommended lives, net salvage values, reserves, and resultant depreciation rates are shown on Attachment C, pages 23-24, of staff's memorandum dated May 6, 2010. The rates, based on actual January 1, 2010 investments, would result in annual expenses of approximately \$110.9 million as summarized on Attachment D, pages 25-26, of staff's memorandum dated May 6, 2010. This represents an increase of approximately \$1.7 million compared to the effect from rates currently ordered. Excluding Plant Scherer, recommended depreciation rates result in annual expenses of approximately \$105.6 million, or an increase of approximately \$0.7 million compared to current approved depreciation rates.

Issue 6: What is the appropriate annual accrual for dismantlement?

Recommendation: Staff recommends an annual provision for dismantlement of \$9,591,938, beginning January 1, 2010, as shown on Attachment E, page 27, of staff's memorandum dated May 6, 2010. This represents an increase of \$4,352,695 over the current approved annual accrual. The recommended accrual related to Scherer Unit 3 includes \$98,878 associated with unit power sale (UPS) contracts.

Issue 7: 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, amortizations, and capital recovery schedules?

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 utility 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, 2010.

Issue 8: 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 deferred to the June 29, 2010, Commission Conference.

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

ITEM NO.

CASE

8**PAA

Docket No. 100079-EC – Request for approval for new prepaid metering rates and changes to net metering rates and miscellaneous charges by Choctawhatchee Electric Cooperative, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Klement

Staff: ECR: Thompson

GCL: Brown

Issue 1: Should the Commission approve CHELCO's new prepaid account notification charge, and changes to its net metering rates and miscellaneous charges?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the Commission's order in this docket files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. If a protest is timely filed, the tariff should remain in effect with revenues held subject to refund, pending resolution of the protest.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**

Docket No. 100166-EI – Petition for approval of revised underground residential and commercial differential tariffs, by Florida Power & Light Company.

Critical Date(s): 05/31/10 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper, A. Roberts

GCL: Jaeger

Issue 1: Should the Commission suspend FPL's proposed tariff sheets Nos. 6.090, 6.095, 6.100, 6.110, 6.115, 6.120, 6.125, 6.130, and 9.715, regarding construction of underground residential development?

Recommendation: Yes.

Issue 2: Should the Commission suspend FPL's proposed tariff sheets Nos. 6.510, 6.520, 6.530, and 6.540, regarding construction of underground commercial/industrial facilities?

Recommendation: Yes.

Issue 3: Should this docket be closed?

Recommendation: No.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**

Docket No. 100165-EI – Request to revise 2010 overhead/underground residential differential cost data by Gulf Power Company.

Critical Date(s): 05/31/10 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper, A. Roberts

GCL: Jaeger

Issue 1: Should the Commission suspend Gulf's proposed tariff sheets Nos. 4.25, 4.26, 4.26.1, and 4.26.2 regarding construction of underground residential facilities?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: No.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

11**

Docket No. 100042-EI – Petition for approval of revised lighting tariff by Tampa Electric Company.

Critical Date(s): 8 months expire September 20, 2010

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: A. Roberts

GCL: Brown

Issue 1: Should the Commission approve TECO's request to revise tariff sheet Nos. 6.805, 6.806, and 6.810 for proposed new Metal Halide fixtures under Rate Schedule LS-1?

Recommendation: Yes.

Issue 2: What is the appropriate effective date for the revised tariffs?

Recommendation: The appropriate effective date for the revised tariffs is May 18, 2010.

Issue 3: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the docket should be closed if no person whose interests are substantially affected by the Commission's decision files a protest within the 21-day protest period. If a protest is filed the tariffs should remain in effect pending resolution of the protest, with revenues held subject to refund. If no timely protest is filed, this docket should be closed upon issuance of the consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

12**PAA

Docket No. 100011-WU – Application for grandfather certificate to operate water utility in St. Johns County by Wildwood Water Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Stevens

Staff: ECR: Brady, Williams, Slemkewicz

GCL: Holley

(Proposed Agency Action for Issue 3)

Issue 1: Should the application for a grandfather water certificate in St. Johns County by Wildwood Water Company be acknowledged?

Recommendation: Yes, Wildwood Water Company's application should be acknowledged and the utility should be issued Certificate No. 648-W, effective January 16, 2009, to serve the territory described in Attachment A of staff's memorandum dated May 6, 2010. Based on extensions that were granted, Wildwood was required to file an annual report and pay regulatory assessment fees (RAFs) for the period of jurisdiction from January 16, 2009, through December 31, 2009, by April 30, 2010, and by March 31st of every year beyond that for the prior calendar year. As of the filing date of staff's memorandum dated May 6, 2010, the utility has not paid its RAFs nor has it filed its annual report. Therefore, Wildwood should be directed to file its RAFs and annual report no later than June 1, 2010, and pay the associated penalties and interest from April 30, 2010, through the actual date of the filings.

Issue 2: What rates and charges should be approved for Wildwood Water Company?

Recommendation: The utility's rates and charges that were in effect when St. Johns County transferred jurisdiction to the Commission, as shown on Schedule 1 of staff's memorandum dated May 6, 2010, should be approved. Wildwood should be required to charge the approved rates and charges until authorized to change in a subsequent Commission proceeding. The rates should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.).

Issue 3: What is the appropriate late payment charge for Wildwood Water Company?

Recommendation: A \$5.00 late payment charge should be approved. Once a consummating order is issued, the utility should be required to give notice to its customers of the Commission-approved late payment charge. An affidavit of the noticing should be provided to staff prior to closing the docket. Wildwood should be required to charge the approved late payment charge until authorized to change in a subsequent Commission proceeding. The charge 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.

ITEM NO.

CASE

12**PAA

Docket No. 100011-WU – Application for grandfather certificate to operate water utility in St. Johns County by Wildwood Water Company.

(Continued from previous page)

Issue 4: Should this docket be closed?

Recommendation: Yes. If no timely protest to the proposed agency action in Issue 3 is filed with the Commission by a substantially affected person, a consummating order should be issued. The docket should be closed upon the issuance of the consummating order and verification that notice has been given to customers of the Commission-approved late payment charge.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

13**

Docket No. 100147-WS – Application for transfer of water and wastewater facilities to Florida Governmental Utility Authority, and cancellation of Certificate Nos. 157-W and 107-S, by Lindrick Service Corporation.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Williams, Slemkewicz

GCL: Holley

Issue 1: Should the transfer of the water and wastewater facilities of Lindrick Service Corporation to the Florida Governmental Utility Authority be acknowledged, as a matter of right, and Certificate Nos. 157-W and 107-S be cancelled?

Recommendation: Yes. The transfer of the Lindrick water and wastewater territory and facilities to the Florida Governmental Utility Authority should be acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 157-W and 107-S should be cancelled effective March 10, 2010, which was the closing date of the sale. Lindrick is still responsible for the payment of RAFs on revenues for the period January 1, 2010, through March 9, 2010, with a due date of July 30, 2010. However, the utility is not required to file an annual report for 2010.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed because no further action is necessary.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14**

Docket No. 100170-WS – Application for authority to collect non-sufficient funds charges, pursuant to Sections 68.065 and 832.08(5), F.S., by Pluris Wedgefield, Inc.

Critical Date(s): 06/01/10 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Linn, Fletcher, Maurey

GCL: Williams

Issue 1: Should the Utility's request for approval of a Non-Sufficient Funds fee be granted?

Recommendation: Yes. The Utility's requested Non-Sufficient Funds (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.).

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 the Utility and approved by staff. Once staff has verified that the revised tariff sheets and customer notice have been filed by the Utility and approved, the docket should be closed administratively.

DECISION: The recommendations were approved.

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