

**MINUTES OF March 4, 2008  
COMMISSION CONFERENCE**

**COMMENCED: 9:35 a.m.**  
**ADJOURNED: 10:55 a.m.**  
**COMMENCED: 11:10 a.m.**  
**ADJOURNED: 12:20 p.m.**  
**COMMENCED: 12:35 p.m.**  
**ADJOURNED: 1:10 p.m.**  
**COMMENCED: 1:15 p.m.**  
**ADJOURNED: 2:10 p.m.**

**COMMISSIONERS PARTICIPATING:** Chairman Carter  
Commissioner Edgar  
Commissioner McMurrian  
Commissioner Argenziano  
Commissioner Skop

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

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1\*\*                    **Consent Agenda**

PAA                    A) Request for approval of transfer and name change on a pay telephone company.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
070741-TC	Payphones Plus, Inc.
	to
	Payphones Plus Plus, LLC

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
080059-TX	Applied Technology Solutions, Inc.
080060-TX	M Telecom, LLC
080069-TX	ATC Outdoor DAS, LLC

ITEM NO. CASE

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1\*\* Consent Agenda  
  
(Continued from previous page)

PAA C) Requests for cancellation of competitive local exchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
080018-TX	Net One International, Inc.	12/31/2007
080033-TP	City of Tallahassee	12/31/2007
080067-TX	Global Dialtone, Inc. d/b/a Atlantic Phone	12/31/2007
080077-TP	Wireless One Network Management, L.P.	12/31/2007

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
080033-TP	City of Tallahassee	12/31/2007

PAA E) Requests for cancellations of shared tenant services certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
080033-TP	City of Tallahassee	12/31/2007
080084-TP	Sunshine State Communications, Inc.	12/31/2007

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

DECISION: The recommendation was approved.

Commissioners participating: Carter, Edgar, McMurrian, Argenziano, Skop

**ITEM NO.**

**CASE**

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2

**Docket No. 070674-EI** – Proposed amendment of Rule 25-6.065, F.A.C., Interconnection and Net Metering of Customer-Owned Renewable Generation.

**Critical Date(s):** Adoption should not be deferred

**Rule Status:** Adoption

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrian

**Staff:** GCL: Gervasi, Miller

ECR: Colson, Futrell, Hinton, Kummer, Webb

**Issue 1:** Should the IOUs' request to participate on this item at the agenda conference be granted?

**Recommendation:** No, pursuant to Rule 25-22.0021(5), F.A.C., the IOUs' request to participate at the agenda conference should be denied.

**Issue 2:** Should the Commission adopt the changes to proposed Rule 25-6.065, Florida Administrative Code, as suggested by the IOUs?

**Recommendation:** No. The Commission should adopt the proposed rule without the suggested changes.

**Issue 3:** Should proposed Rule 25-6.065 be filed for adoption with the Secretary of State and the docket be closed?

**Recommendation:** Yes, the rule as approved by the Commission should be filed for adoption with the Secretary of State and the docket should be closed.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, McMurrian, Argenziano, Skop

**ITEM NO.**

**CASE**

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3\*\*

**Docket No. 070691-TP** – Complaint and request for emergency relief against Verizon Florida, LLC for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Bright House Networks Information Services (Florida), LLC, and its affiliate, Bright House Networks, LLC.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Mann, Poblete

CMP: Beard, Hallenstein, Casey

**Issue 1:** Should the Commission grant Verizon's Request for Oral Argument?

**Recommendation:** Yes. Staff recommends that the Commission grant Verizon's Request for Oral Argument, because staff believes that it would be beneficial for both parties to orally address Verizon's Motion to Dismiss. Staff recommends allowing each party five minutes to present its argument, if granted.

**Issue 2:** Should the Commission grant Verizon's Motion to Dismiss Bright House's Petition for failing to state a claim for which relief can be granted or, alternatively to dismiss the Petition for the independent reason that Bright House should not be allowed to pursue collateral claims before this Commission and the FCC simultaneously?

**Recommendation:** No. Staff recommends that Verizon's primary Motion to Dismiss, as well as its alternative reason to dismiss, be denied, because Bright House's Petition does state a cause of action upon which relief may be granted and Verizon has presented no sufficient basis to conclude that dismissal for Verizon's stated independent reason would be appropriate.

**Issue 3:** Should the Commission grant Verizon's Motion in the Alternative - - to grant a Stay of these proceedings pending resolution of the matter filed with the FCC?

**Recommendation:** No. The Commission should not grant a stay of these proceedings pending resolution of the matter filed with the FCC.

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

**Recommendation:** No. If the Commission approves staff's recommendation in Issue 2, this Docket should be held open pending further proceedings.

**DECISION:** The recommendation on issues 1, 2, and 4 were approved by all Commissioners. Commissioners Carter, Edgar, Argenziano, and Skop approved Issue 3. Commissioner McMurrian dissented on Issue 3 only.

Commissioners participating: Carter, Edgar, McMurrian, Argenziano, Skop

**ITEM NO.**

**CASE**

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4\*\*PAA

**Docket No. 080064-WU** – Complaint against East Marion Sanitary Systems Inc. by Mabelle Gregorio, Angela and Dennis Fountain, and Terry Will.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Fleming

ECR: Daniel, Kaproth, Redemann

RCA: Hicks, Vandiver

**Issue 1:** What disposition should be taken to resolve the complaint of Ms. Mabelle Gregorio against East Marion Sanitary Systems, Inc.?

**DECISION:** The recommendation was modified and approved with the addition of the calculation of interest.

**Recommendation:** East Marion should refund \$824.00 to Ms. Gregorio and provide a statement to the Commission that the refund was made within 30 days of the Commission's order becoming final.

**Issue 2:** What disposition should be taken to resolve the complaint of Angela and Dennis Fountain against East Marion Sanitary Systems, Inc.?

**Recommendation:** East Marion should refund \$527.00 to Angela and Dennis Fountain and provide a statement to the Commission that the refund was made within 30 days of the Commission's order becoming final.

**DECISION:** The recommendation was modified and approved with the addition of the calculation of interest.

**Issue 3:** What disposition should be taken to resolve the complaint of Terry Will against East Marion Sanitary Systems, Inc.?

**Recommendation:** East Marion should refund \$45.00 to Terry Will for the overcharge on the reconnection charge and provide a statement to the Commission that the refund was made within 30 days of the Commission's order becoming final. Further, staff recommends that the utility be required to provide a statement to the Commission that Mr. Will's bill was credited \$37.00 for the excess customer deposit within 30 days of the Commission's order becoming final.

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**CASE**

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4\*\*PAA

**Docket No. 080064-WU** – Complaint against East Marion Sanitary Systems Inc. by Mabelle Gregorio, Angela and Dennis Fountain, and Terry Will.

(Continued from previous page)

DECISION: The recommendation was modified and approved with the addition of the calculation of interest.

**Issue 4**: Should East Marion Sanitary Systems, Inc. be ordered to show cause in writing, within 21 days, why it should not be fined for its apparent violation of Section 367.081(1), F.S., and Rules 25-30.135(2) and 25-30.311(7), F.A.C., for charging rates and charges not authorized by the Commission?

**Recommendation**: Yes. East Marion should be ordered to show cause in writing, within 21 days why it should not be fined a total of \$1,500 for its apparent violation of Section 367.081(1), F.S., and Rules 25-30.135(2) and 25-30.311(7), F.A.C., charging rates and charges not authorized by the Commission. The order to show cause should incorporate the conditions stated in the analysis portion of staff's memorandum dated February 21, 2008. Further, the utility should be required to only charge its approved rates and charges and use the forms in its tariff until authorized to change by this Commission in a subsequent proceeding.

DECISION: The recommendation was denied.

**Issue 5**: Should East Marion Sanitary Systems, Inc. be ordered to show cause in writing, within 21 days, why it should not be fined for its apparent violation of Section 367.156(1), F.S., and Rules 25-22.032(6), 25-30.110, and 25-30.145, F.A.C., concerning customer complaints and audit requests?

**Recommendation**: Yes. East Marion should be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$500 for its apparent violation of Section 367.156(1), F.S., and Rules 25-22.032(6), 25-30.110, and 25-30.145, F.A.C. The order to show cause should incorporate the conditions stated in the analysis portion of staff's memorandum dated February 21, 2008. In addition, the utility should be ordered to respond to the staff audit requests, as discussed in the staff analysis, within 30 days of the Commission's order becoming final.

DECISION: The recommendation was denied, as stated, but approved with the alternative recommendation that the utility is to respond to the staff audit requests described in the analysis portion of staff's recommendation within 30 days. Staff is to monitor this and bring the issue back to the Commission if the utility fails to respond or if additional complaints surface.

**ITEM NO.**

**CASE**

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4\*\*PAA

**Docket No. 080064-WU** – Complaint against East Marion Sanitary Systems Inc. by Mabelle Gregorio, Angela and Dennis Fountain, and Terry Will.

(Continued from previous page)

**Issue 6:** Should this docket be closed?

**Recommendation:** No. If no person whose substantial interests are affected by the proposed agency action issues files a protest within 21 days of the issuance of the order, a Consummating Order will be issued. However, the docket should remain open for staff's verification that the refunds have been made and the audit information has been filed, and the disposition of the show cause issues. When the PAA issues are final and the show cause issues have been resolved, this docket may be closed administratively.

**DECISION:** This docket should remain open for staff's verification that the refunds have been made and the audit information has been filed. When the PAA issues are final, this docket may be closed administratively.

Commissioners participating: Carter, Edgar, McMurrian, Argenziano, Skop

**ITEM NO.**

**CASE**

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5\*\*PAA

**Docket No. 070603-TL** – Petition for approval of realignment of Port St. Joe and Beaches Exchange boundaries, by GTC, Inc. d/b/a FairPoint Communications.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** CMP: Barrett, King

GCL: Teitzman

**Issue 1:** Should the Commission approve FairPoint’s Petition to realign the Port St. Joe and The Beaches exchange boundaries?

**Recommendation:** Yes. The Commission should approve FairPoint’s Petition to realign the Port St. Joe and The Beaches exchange boundaries.

**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.

Commissioners participating: Carter, Edgar, McMurrian, Argenziano, Skop



**ITEM NO.**

**CASE**

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6\*\*

**Docket No. 070234-EQ** – Petition for approval of renewable energy tariff standard offer contract, by Florida Power & Light Company.

**Docket No. 070235-EQ** – Petition for approval of standard offer contract for purchase of firm capacity and energy from renewable energy producer or qualifying facility less than 100 kW tariff, by Progress Energy Florida, Inc.

**Docket No. 070236-EQ** – Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Ballinger, Baxter, Brown, Maurey

GCL: Brubaker, Hartman

**Issue 1:** Should the Commission dismiss FICA's protest of PAA Order No. PSC-07-0494-TRF-EQ?

**Recommendation:** Yes, the Commission should dismiss FICA's protest of PAA Order No. PSC-07-0494-TRF-EQ. Order No. PSC-07-0494-TRF-EQ approving TECO's standard offer contract and associated tariffs should be revived, deemed final and effective, and Docket No. 070236-EQ should be closed.

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

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 1, Docket No. 070236-EQ should be closed. Docket Nos. 070234-EQ and 070235-EQ should remain open to address the protests filed as to those dockets.

**DECISION:** The recommendations were approved.

Commissioners participating: Carter, Edgar, McMurrian, Argenziano, Skop

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 070641-WS** – Complaint by Warren Dunphy, on behalf of Realm Management, LLC regarding required installation of a reuse line by Aloha Utilities, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Deason, Bulecza-Banks

GCL: Fleming

**Issue 1:** Should Realm be required to install the reuse line at this time?

**Recommendation:** No. Realm should not be required to install the reuse line at this time. However, staff recommends that Aloha be allowed to require Realm to connect to a reuse line and pay its hydraulic share of the costs, if and when, one becomes available. Further, the \$300,000 letter of credit should be released.

**DECISION:** The recommendation was approved.

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

**Recommendation:** ~~No~~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, a Consummating Order will be issued. ~~However, the docket should remain open for staff's verification that the \$300,000 letter of credit has been released. When the PAA Order is final and the letter of credit has been released, this docket may be closed administratively~~ the docket should be closed upon issuance of a consummating order.

**DECISION:** The recommendation was approved. The strike-through and additional language represent oral modifications made by staff at the conference.

Commissioners participating: Carter, Edgar, McMurrian, Argenziano, Skop