

MINUTES OF March 13, 2012
COMMISSION CONFERENCE
COMMENCED: 9:32 a.m.
ADJOURNED: 10:46 a.m.

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 **Approval of Minutes**
 January 10, 2012 Regular Commission Conference

DECISION: The minutes were approved.

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

ITEM NO. **CASE**

2** **Consent Agenda**

PAA A) Application for Certificate of Authority to Provide Telecommunications Service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
110310-TX	Communications Authority, Inc

PAA B) Request for Cancellation of Certificate No. 7034 to Provide Telecommunications Service, effective December 31, 2011.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
120017-TX	DSLnet Communications, LLC	12/31/2011

PAA C) Request for Cancellation of Certificate No. 8660 to Provide Telecommunications Service, Effective 12/31/2011.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
120025-TX	Phone XP, L.L.C.	12/31/2011

PAA D) Request for Cancellation of Certificate No. 4446 to Provide Telecommunications Services, Effective 12/31/2011.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
120026-TX	Campus Communications Group, Inc.	12/31/2011

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ITEM NO. _____ CASE _____

2** Consent Agenda

(Continued from previous page)

PAA E) Request for Cancellation of Certificate of Authority No. 4428 to Provide Telecommunications Service, Effective 12/31/2011.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
120029-TA	City of Ocala, OUS - Telecommunications	12/31/11

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

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3**

Docket No. 120043-TP – Proposed amendment of Rule 25-4.160, F.A.C., Operation of Telecommunications Relay Service.

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: GCL: Gervasi

ECR: McNulty

RAD: Beard, Casey

Issue 1: Should the Commission propose the amendment of Rule 25-4.160, F.A.C., Operation of Telecommunications Relay Service?

Recommendation: Yes, the Commission should propose the amendment of Rule 25-4.160, F.A.C., as set forth in Attachment A of staff's memorandum dated March 1, 2012.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4

Docket No. 110234-TP – Complaint and petition for relief against Halo Wireless, Inc. for breaching the terms of the wireless interconnection agreement, by BellSouth Telecommunications, LLC d/b/a AT&T Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: GCL: Harris

RAD: King

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

Issue 1: Should the Commission grant Halo Wireless, Inc.'s Partial Motion to Dismiss?

Recommendation: No. The Commission should deny Halo's Partial Motion to Dismiss. AT&T's Complaint states a cause of action upon which the Commission can grant relief.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open and be set for an evidentiary hearing.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5**PAA

Docket No. 110326-TX – Bankruptcy cancellation by Florida Public Service Commission of CLEC Certificate No. 8088, issued to Cordia Communications Corp., effective December 31, 2011.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Beard, Casey

GCL: Robinson

Issue 1: Should the Commission grant Cordia, as set forth in Attachment A of staff's memorandum dated March 1, 2012, cancellation of its competitive local exchange telecommunications company (CLEC) Certificate No. 8088, with an effective date of December 31, 2011, due to bankruptcy; direct the Division of Administrative Services to request permission from the Florida Department of Financial Services to write off any unpaid Regulatory Assessment Fees, including statutory late payment charges, instead of requesting collection services; and require the company to immediately cease and desist providing competitive local exchange services in Florida?

Recommendation: Yes, the Commission should grant Cordia, as set forth in Attachment A of staff's memorandum dated March 1, 2012, cancellation of its competitive local exchange telecommunications company (CLEC) Certificate No. 8088, with an effective date of December 31, 2011, due to bankruptcy; direct the Division of Administrative Services to request permission from the Florida Department of Financial Services to write off any unpaid Regulatory Assessment Fees, including statutory late payment charges, instead of requesting collection services; and require the company to immediately cease and desist providing competitive local exchange services in Florida.

Issue 2: Should this docket be closed?

Recommendation: Yes, this docket should be closed if no protest is filed within 21 days and 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. 120012-EI – Petition for variance and waiver of certain contractual requirements in Rule 25-6.065, F.A.C., by Progress Energy Florida, Inc.

Critical Date(s): 04/05/12 (Commission must grant or deny petition by this date.)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Clemence

GCL: Page

Issue 1: Should the Commission grant PEF’s petition for variance and waiver of the requirements of Rules 25-6.065(5)(d) and (e), F.A.C., and modification of PEF’s tariff to allow PEF to execute a Standard Interconnection Agreement for Tier 2 Customer-Owned Renewable Generation Systems with UCF?

Recommendation: Yes. Subparagraph (5)(d) of Rule 25-6.065, F.A.C., should be waived, and PEF should be allowed to strike the first sentence of paragraph 11 of its Standard Interconnection Agreement and change the reference to “one million dollars (\$1,000,000)” in paragraph 8 of its Standard Interconnection Agreement to “\$200,000 per person/\$300,000 per occurrence.” It does not appear, however, that a rule waiver and/or variance of subparagraph (5)(e) is necessary. PEF should be put on notice that the rule waiver and tariff modifications only apply to the execution of a Standard Interconnection Agreement with UCF.

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 date of the order arising from this recommendation, the docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 120032-EQ – Petition for approval of post-interconnection study charges to interconnection customer-owned renewable generation by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Clemence, Matthews

GCL: Harris

Issue 1: Should TECO be granted approval to recover from the James A. Haley Veterans' Hospital post interconnection study charges to interconnect customer-owned renewable generation?

Recommendation: Yes. Staff recommends that the Commission approve the recovery of costs proposed in the petition by TECO for the post interconnection study charges to interconnect the renewable generation facilities from the James A. Haley Veterans Hospital.

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

8**PAA

Docket No. 110316-EM – Request for approval of electric utilities' long-term energy emergency plans, filed pursuant to Rule 25-6.0185, F.A.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RAD: Brown

GCL: Harris

Issue 1: Should the proposed amendments to the affected utilities' long-term energy emergency plans be approved?

Recommendation: Yes. Each of the affected utilities' long-term energy emergency plans meet the requirements established in Rule 25-6.0185, F.A.C. Amendments to the plans primarily consist of position name and assignment changes, including personnel name updates, as well as some editorial changes.

Issue 2: When should affected utilities file a revised compliance letter or plan update?

Recommendation: Each affected utility should file with the Commission Clerk the next plan update, or a letter indicating no changes, no later than January 31, 2015, and every three-calendar years thereafter. Each plan update should include a clean copy and a type-and-strike version which clearly indicates changes to the plan.

Issue 3: 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: Brisé, Edgar, Graham, Balbis, Brown

ITEM NO.

CASE

9**

Docket No. 120001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Balbis

Staff: ECR: Lee, Barrett, Draper, Franklin, Lester, Watts
GCL: Barrera

Issue 1: Should the Commission approve FPUC's petition for a mid-course revision to its 2012 fuel and purchased power cost recovery factors?

Recommendation: Yes, the Commission should approve FPUC's mid-course petition and the fuel factors contained in its revised petition filed on February 24, 2012. The new fuel factors should become effective with the first billing cycle in April 2012, which falls on April 1, 2012. The recommended fuel factors are presented in Attachment A of staff's memorandum dated March 1, 2012.

Issue 2: Should this docket be closed?

Recommendation: No. The fuel and purchased power cost recovery clause is an on-going docket and should remain open.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**PAA

Docket No. 110131-EI – Petition for approval of 2011 depreciation study and annual dismantlement accrual amounts by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: Ollila, D. Buys, Cicchetti, Higgins, Wu
GCL: Klancke

Issue 1: Should currently prescribed depreciation rates and provision for dismantlement of Tampa Electric Company be revised?

Recommendation: Yes. A review of the Company’s plans and activities indicates a need for revision to the currently prescribed depreciation rates and provision for dismantlement.

Issue 2: What should be the implementation date for new depreciation rates and the provision for dismantlement?

Recommendation: Staff recommends approval of Tampa Electric’s proposed January 1, 2012 implementation date for revised depreciation rates and provision for dismantlement.

Issue 3: What are the appropriate depreciation rates?

Recommendation: The appropriate depreciation rates are contained in Attachment A of staff’s memorandum dated March 1, 2012. Staff recommends that if investment is added to the Phillips Station, previously approved depreciation rates, as contained in Order No. PSC-08-0014-PAA-EI, should be applied until the next depreciation study. Staff recommends that the Big Bend SCR investments and associated accumulated depreciation be transferred to separate accounts. Staff recommends that Tampa Electric file a petition for approval to initiate depreciation prior to the in-service date of any proposed units.

Issue 4: What is the appropriate annual accrual for dismantlement?

Recommendation: The Commission should approve a total annual provision for fossil fuel dismantlement of \$1,186,094, as shown on Attachment C of staff’s memorandum dated March 1, 2012. This represents a decrease in the annual provision for fossil fuel dismantlement of \$150,892. This accrual reflects current estimates of dismantlement costs on a site-specific basis using a November 2011 inflation forecast and a 15 percent contingency factor.

ITEM NO.

CASE

10**PAA

Docket No. 110131-EI – Petition for approval of 2011 depreciation study and annual dismantlement accrual amounts by Tampa Electric Company.

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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, 2012.

Issue 6: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a timely request for a hearing 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: Brisé, Edgar, Graham, Balbis, Brown

ITEM NO.

CASE

11**PAA

Docket No. 110262-EI – Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: Wu

GCL: Murphy

Issue 1: Should the Commission approve TECO's Petition for approval of the BB Gypsum Storage Facility Program and the recovery of the associated costs through the ECRC, pursuant to Section 366.8255, F.S.?

Recommendation: Yes. TECO's proposed BB Gypsum Storage Facility Program satisfies the statutory requirements specified in Section 366.8255, F.S.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.

DECISION: Item 11 was deferred to the April 10, 2012, Commission Conference, with direction for staff to bring additional filed information to the Commissioners, as discussed at the Commission Conference. The analysis portion of the recommendation to be supplemented.

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

ITEM NO.

CASE

12**

Docket No. 110308-GU – Request by Peoples Gas System to modify Tariff Sheet 5.701 to add sections entitled "Limits of Company's Responsibilities" and "Continuity of Service."

Critical Date(s): 9/18/12 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Kummer

GCL: Brown

Issue 1: Should the Commission approve the proposed changes to the provisions contained on Tariff Sheet No. 5.701, including the revision filed on February 22, 2012?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the tariffs should become effective as of the Commission vote, March 13, 2012. If a protest is filed within 21 days of the issuance of the order, the tariffs 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: Brisé, Edgar, Graham, Balbis, Brown

ITEM NO.

CASE

13**

Docket No. 090539-GU – Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Graham

Staff: ECR: McNulty, Draper, Kummer, Bulecza-Banks, Gardner, Ollila
GCL: Brown

Issue 1: Should the Commission approve the joint petition to accept Settlement between FCG and MDWASD, and associated new 2011 Natural Gas Transportation Service Agreement (TSA), new Load Enhancement Service (LES) Rate Schedule, and amendment to Competitive Rate Adjustment (CRA) Rider “C”?

Primary Recommendation: No. Primary Staff recommends that the Commission deny the Settlement because (1) 2011 TSA rates for 2012 and 2013 are insufficient to cover the cost of service to MDWASD; (2) the 2012-2013 proposed TSA rates to MDWASD can be expected to result in unacceptable cross-subsidies of MDWASD by FCG’s general body of ratepayers; and (3) FCG’s January 17, 2012, CRA filing would result in additional cross-subsidies since it is based on understated 2009 through 2011 costs of service for MDWASD’s Alexander Orr plant. Staff further recommends that the Commission encourage the Parties to continue their negotiations so that they might propose for the Commission’s approval a cost-based resolution to this matter at the earliest possible time rather than proceed to a potentially lengthy and costly evidentiary hearing.

DECISION: Based on the approval of the alternative recommendation, the primary recommendation is moot.

ITEM NO.

CASE

13**

Docket No. 090539-GU – Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department.

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Alternative Recommendation: Yes. Consistent with its longstanding policy supporting negotiated settlement of disputes, the Commission should approve the Settlement between FCG and MDWASD. The Settlement resolves complex, highly controversial, and expensive litigation, avoids further controversy, litigation, and expense, provides certainty going forward, and is in the public interest overall. Furthermore, the 2011 TSA expires in December 2013 and the impact on the general body of ratepayers is minimal.

DECISION: The alternative recommendation was approved.

Issue 2: Should this docket be closed?

Recommendation: If the Commission accepts Primary Staff recommendation in Issue 1, the docket should remain open to proceed to hearing on the proposed contract. If the Commission accepts Alternative Staff recommendation, the docket may be closed.

DECISION: No vote.

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

ITEM NO.

CASE

14**

Docket No. 120031-WS – Request for Regulatory Assessment Fee installment payment plan by Water Management Services, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Gardner, Kaproth

GCL: Robinson

Issue 1: Should Water Management Services, Inc.'s motion be granted and WMSI be permitted to pay its July 1 through December 31, 2011 regulatory assessment fees in accordance with a payment schedule?

Recommendation: Yes. The Commission should grant WMSI's motion and the Utility should be allowed to pay its RAFs that were due on January 30, 2012 at a minimum of \$6,651 per month, plus penalties and interest, until all fees for the second six-month period for 2011 have been paid. Payments should be made, at a minimum, in accordance with the schedule set out by staff.

Issue 2: Should this docket be closed?

Recommendation: Yes. The RAF payments are due in accordance with the schedule contained in the body of the recommendation by staff dated March 1, 2012.

DECISION: Item 14 was deferred to the March 27, 2012, Commission Conference.

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