

**MINUTES OF May 6, 2008**

**COMMISSION CONFERENCE**

**COMMENCED: 9:35 a.m.**

**ADJOURNED: 10:55 a.m.**

**COMMENCED: 11:10 a.m.**

**ADJOURNED: 11:12 a.m.**

**COMMENCED: 11:15 a.m.**

**ADJOURNED: 11:45 a.m.**

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

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

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1

**Approval of Minutes**

April 8, 2008 Regular Commission Conference

DECISION: The minutes were approved.

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

**ITEM NO.**

**CASE**

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2\*\*

**Consent Agenda**

PAA

A) Application for certificate to provide pay telephone service.

DOCKET NO.

COMPANY NAME

080214-TC

FSH Communications, LLC

**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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3\*\*

**Docket No. 040763-TP** – Request for submission of proposals for relay service, beginning in June 2005, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** CMP: Moses, Casey

GCL: Tan

**Issue 1:** Should the Commission approve FTRI's proposed budget as outlined in Attachment A of staff's memorandum dated April 24, 2008, for the fiscal year 2008-2009, effective July 1, 2008, and should the Commission maintain the current Telecommunications Relay Service (TRS) surcharge of \$0.11 per month?

**Recommendation:** Staff recommends that the Commission approve FTRI's proposed budget as outlined in Attachment A of staff's memorandum dated April 24, 2008, for the fiscal year 2008-2009, effective July 1, 2008, and recommends that the TRS surcharge be maintained at \$0.11 per month for the fiscal year 2008-2009, effective July 1, 2008. Staff also recommends that the Commission order the incumbent local exchange companies, competitive local exchange companies, and shared tenant providers to continue to bill the \$0.11 surcharge for the fiscal year 2008-2009, effective July 1, 2008.

**Issue 2:** Should the Commission approve Ms. Kim Schur and Mr. Richard Herring as Advisory Committee members to replace Mr. Rick Kottler and Ms. Kathy Borzell effective immediately?

**Recommendation:** Yes, the Commission should approve Ms. Kim Schur and Mr. Richard Herring as Advisory Committee members to replace Mr. Rick Kottler and Ms. Kathy Borzell effective immediately.

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

**Recommendation:** No, this docket should not be closed.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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3A                    **Docket No. 080065-TX** – Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** GCL: Gervasi

CMP: Dowds

**Issue 1:** Should VCI's Request for Oral Argument be granted?

**Recommendation:** Yes, the Request for Oral Argument should be granted. VCI and the prosecutorial staff should be allowed 10 minutes per side to address the Commission on the matter.

**Issue 2:** Should VCI's Motion for Reconsideration of Order No. PSC-08-0258-PCO-TX be granted?

**Recommendation:** No, the Motion for Reconsideration should be denied. VCI should be ordered to submit its full and complete responses to Staff's First Set of Interrogatories (Nos. 1-38) and First Request for Production of Documents (Nos. 1-10) by the close of business on Friday, May 9, 2008.

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

**Recommendation:** No, the docket should remain open pending the Commission's decision on the merits of the issues after a full evidentiary proceeding is conducted.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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4

**Docket No. 080035-EU** – Petition for declaratory statement concerning rights under Rule 25-6.115, F.A.C. by Town of Palm Beach, Town of Jupiter Island, and Town of Jupiter Inlet Colony.

**Critical Date(s):** 07/08/08 (Final order must be issued by this date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Bellak, Gervasi

ECR: Kummer

**Issue 1:** Should the Commission grant the towns' Petition for declaratory statement as to newly drafted Point 4?

**Recommendation:** Yes, the Commission should grant the Petition as to newly drafted Point 4.

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

**Recommendation:** Yes, this docket should be closed.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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5\*\*

**Docket No. 060276-WS** – Application for certificates to provide water and wastewater service in Putnam County by Mariposa Utility Company, LLC.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** GCL: Fleming

ECR: Brady, Kaproth, Rieger, Slemkewicz

**Issue 1:** Should the Commission acknowledge Mariposa Utility Company, LLC's voluntary withdrawal of its petition for water and wastewater certificates, and if so, what effect does the withdrawal have on Docket 060276-WS?

**Recommendation:** Yes, the Commission should acknowledge Mariposa's voluntary withdrawal of its petition for water and wastewater certificates as a matter of right. The effect of the voluntary withdrawal is to divest the Commission of further jurisdiction over this matter.

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

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 1, the docket should be closed.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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6

**Docket No. 070368-TP** – Notice of adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P., by NPCR, Inc. d/b/a Nextel Partners.

**Docket No. 070369-TP** – Notice of adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P., by Nextel South Corp. and Nextel West Corp.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar (070368-TP) Administrative (070369-TP)

**Staff:** CMP: Bates

GCL: Tan, McKay

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

**Recommendation:** Yes. Staff recommends that the Commission grant Nextel's Request for Oral Argument, because staff believes that it would be beneficial for the parties to verbally address Nextel's Motion for Summary Final Order. Staff recommends allowing each party five minutes to present its argument, if oral argument is granted.

**Issue 2:** Should the Commission grant AT&T's request to place Docket Nos. 070368-TP and 070369-TP in abeyance?

**Recommendation:** No. The Commission should deny AT&T's request for abeyance of Docket Nos. 070368-TP and 070369-TP.

**Issue 3:** Should the Commission grant Nextel's Motion for Summary Final Order?

**Recommendation:** Yes. Staff recommends granting Nextel's Motion for Summary Final Order and acknowledging Nextel's adoptions of the Sprint ICA and requiring that the Adoption Agreements be executed.

**Issue 4:** Should these dockets be closed?

**Recommendation:** In the event Nextel's Motion for Summary Final Order is granted, staff recommends closing Docket Nos. 070368-TP and 070369-TP because no further action is needed by the Commission.

**DECISION:** This item was deferred.

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 080230-TL** – Review of tariff filing (T-080233) by Verizon Florida LLC to establish bill credit trial.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Unassigned

**Staff:** CMP: Simmons

GCL: Teitzman

**Issue 1:** What action, if any, should the Commission take with respect to Verizon's Tariff Filing (T-080233) to establish a bill credit trial?

**Recommendation:** Staff recommends that Verizon's tariff filing (T-080233) to establish a bill credit trial be approved, pursuant to Section 364.057(1), Florida Statutes, for the period April 17, 2008 through September 17, 2008. If the Commission finds to the contrary and determines that the tariff should be canceled, Verizon should be required to issue bill credits to all residential customers who experience two or more repair problems within 30 days of a new, change, or move order, over the pendency of the tariff.

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

**Recommendation:** The order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of this Order. In the event of a timely protest, the tariff should remain in effect pending the outcome of further proceedings.

**DECISION:** The recommendations were approved.

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



**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 070548-WS** – Application for certificates to provide water and wastewater service in Marion County by Century - Fairfield Village, Ltd.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Johnson, Rieger

GCL: Bennett

**Issue 1:** Should Century-Fairfield Village, Ltd. (Century-Fairfield) be ordered to show cause, in writing, within 21 days, why it should not be fined for charging rates and charges that are not contained in its tariff, in apparent violation of Sections 367.081(1) and 367.091(4), F.S.?

**Recommendation:** No, a show cause proceeding should not be initiated. The utility should, however, be put on notice that, pursuant to Sections 367.081(1) and 367.091(4), F.S., it must charge only those rates and charges approved by the Commission in its tariff.

**Issue 2:** Should Century-Fairfield be ordered to refund the revenues collected from its unauthorized charges for water service and if so, what is the amount and how should it be distributed?

**Recommendation:** Yes, the utility should be required to refund the unauthorized revenues collected for water service for the period of May 2007 to September 2007, within 90 days of the Consummating Order, pursuant to Rule 25-30.360, F.A.C. The refunds should be made with interest in accordance with Rule 25-30.360(4), F.A.C., to those water customers who paid the unauthorized charge (qualified customers). The utility should be allowed to make the refund by providing a credit to qualified customers' bills. The utility should provide monthly refund reports, pursuant to Rule 25-30.360(7), F.A.C., until all refunds are completed. The utility should treat any unclaimed refunds in accordance with Rule 25-30.360(8), F.A.C.

**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 070548-WS** – Application for certificates to provide water and wastewater service in Marion County by Century - Fairfield Village, Ltd.

(Continued from previous page)

**Issue 3:** What are the appropriate initial water and wastewater rates and return on investment for Century-Fairfield Village, Ltd?

**Recommendation:** Staff's recommended water and wastewater rates, as shown on Schedule 4 of staff's memorandum dated April 24, 2008, should be approved. The utility should be authorized to bill on a quarterly basis. Century-Fairfield should charge the approved rates until authorized to change them by this Commission in a subsequent proceeding. The utility should file a proposed customer notice to reflect the Commission-approved rates. The water and wastewater rates 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. In addition, the rates should not be implemented until staff has approved the proposed customer notice and tariff sheets. The utility should distribute the notice to the customers no later than with the first bill containing the rates and should provide proof of the date the notice was given no less than ten days after the date of the notice. A return on equity of 12.01% with a range of plus or minus 100 basis points should be approved.

**Issue 4:** Should the utility's request for miscellaneous service charges and a late fee be approved?

**Recommendation:** Yes. The utility's request for miscellaneous service charges and a late fee should be approved. The charges 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.

**Issue 5:** In the event of a timely protest of the Proposed Agency Action (PAA) Order, should any recommended rates be approved for the utility on a temporary basis, subject to refund?

**Recommendation:** Yes. In the event of a protest of the PAA Order, the utility should be allowed to continue collecting the rates set forth in this schedule as shown in the analysis portion of staff's memorandum dated April 24, 2008, as temporary rates. However, in order to protect utility customers from potential overearnings, the utility should hold \$57,548 of annual service revenues subject to refund. Prior to implementation of any temporary rates, the utility should provide appropriate security. In the event of a protest, the security should be in the form of a bond or letter of credit. Alternatively, the utility could establish an escrow agreement with an independent financial institution. If security is provided by an escrow agreement, the utility should escrow all revenues collected during the pendency of the case. In addition, after the rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 070548-WS** – Application for certificates to provide water and wastewater service in Marion County by Century - Fairfield Village, Ltd.

(Continued from previous page)

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

**Recommendation:** No. If no timely protest to proposed agency action order is filed by a substantially affected person within 21 days, a Consummating Order should be issued. However, the docket should remain open for staff to verify that the utility has completed the required refunds and has filed its tariff sheets and staff has administratively approved them. Once these actions are complete, the dockets may be closed administratively. In the event there is a timely protest, this docket should remain open pending resolution of the protest.

**DECISION:** This item was deferred. Staff was directed to come back to a later conference with options discussed at this conference.

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

**ITEM NO.**

**CASE**

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9

**Docket No. 070695-WS** – Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

**Critical Date(s):** 60-day Suspension Date Waived by Company to 05/06/08

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrin

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

GCL: Hartman

**Issue 1:** Should the Utility's proposed final water and wastewater rates be suspended?

**Recommendation:** Yes. Miles Grant's proposed final water and wastewater rates should be suspended.

**Issue 2:** Should any interim revenue increases be approved?

**Recommendation:** Yes, Miles Grant should be authorized to collect annual water and wastewater revenues as indicated below:

	<u>Adjusted Test</u>		<u>Revenue</u>	
	<u>Year Revenues</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
Water	\$284,338	\$116,412	\$400,750	40.94%
Wastewater	\$341,541	\$219,137	\$560,678	64.16%

**Issue 3:** What are the appropriate interim water and wastewater rates?

**Recommendation:** The water and wastewater service rates for Miles Grant in effect as of June 30, 2007, should be increased by 41.17% and 65.40%, respectively, to generate the recommended revenue increase for the interim period. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1)(a), Florida Administrative Code (F.A.C.). The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision, the proposed customer notice is adequate, and the required security has been filed. The Utility should provide proof of the date notice was given within 10 days after the date of notice.

**ITEM NO.**

**CASE**

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9

**Docket No. 070695-WS** – Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

(Continued from previous page)

**Issue 4:** What is the appropriate security to guarantee the interim increase?

**Recommendation:** A corporate undertaking is acceptable contingent upon receipt of the written guarantee of the parent company, Utilities, Inc. (UI), and written confirmation of UI's continued attestation that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states. UI should be required to file a corporate undertaking on behalf of its subsidiaries to guarantee any potential refunds of revenues collected under interim conditions. UI's total guarantee should be a cumulative amount of \$528,209, which includes an amount of \$197,245 subject to refund in this docket. Pursuant to Rule 25-30.360(6), F.A.C., the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and in accordance with Rule 25-30.360, F.A.C.

**Issue 5:** Should the docket be closed?

**Recommendation:** No. The docket should remain open pending the Commission's final action on the Utility's requested rate increase.

DECISION: The recommendations were approved.

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

**ITEM NO.**

**CASE**

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10\*\*PAA

**Docket No. 080024-WS** – Application for limited proceeding rate increase in Sumter County by Continental Utility, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Bulecza-Banks, Fletcher, Kyle, Maurey

GCL: Jaeger, Young

**Issue 1:** What is the appropriate increase in revenues for this utility?

**Recommendation:** The appropriate increase in wastewater revenues should be \$46,332, or 20.25%.

**Issue 2:** What are the appropriate wastewater rates for Continental Utility, Inc.?

**Recommendation:** The recommended rates should be designed to allow the utility the opportunity to generate additional revenues of \$46,332 for wastewater service. This results in a wastewater increase of \$3.55 per month, or approximately 20.25%, for the average residential customer. The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

**Issue 3:** Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a substantially affected person?

**Recommendation:** Yes. The recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a substantially affected person. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum dated April 24, 2008. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

**ITEM NO.**

**CASE**

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10\*\*PAA

**Docket No. 080024-WS** – Application for limited proceeding rate increase in Sumter County by Continental Utility, Inc.

(Continued from previous page)

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

**Recommendation:** If a protest is not received from a substantially affected person within 21 days of issuance of the Proposed Agency Action Order, a Consummating Order will be issued. If a Consummating Order is issued, the docket should be closed upon its issuance and upon staff's approval of the revised tariff sheets.

**DECISION:** The recommendations were approved.

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