

MINUTES OF May 8, 2012

COMMISSION CONFERENCE

COMMENCED: 9:33 am

RECESSED: 10:45 am

RECONVENED: 10:54 am

ADJOURNED: 11:17 am

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 (\*\*).

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1

**Approval of Minutes**

February 14, 2012, Regular Commission Conference

DECISION: The minutes were approved.

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

**ITEM NO.**

**CASE**

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2\*\*

**Consent Agenda**

PAA

A) Request for Cancellations of Certificates to Provide Telecommunications Service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
120056-TX	Vixxi Solutions Inc.	3/12/2012
120065-TX	KG Communications, LLC d/b/a KG Communications	12/31/2011

PAA

B) Application for Certificate of Authority to Provide Telecommunications Service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
120064-TX	RCLEC, Inc.
110315-TX	Unity III Telecom, LLC
120035-TX	Dais Communications, LLC d/b/a Dais Communications

**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**

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3\*\*

**Docket No. 120068-GU** – Petition to initiate rulemaking to amend Rule 25-12.045, F.A.C., by Florida Natural Gas Association.

**Rule Status:** Proposal Should Not Be Deferred

**Critical Date(s):** May 8, 2012 (30 day statutory deadline extended by Petitioner to this date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Cowdery

ECR: McNulty

SRC: Black, Moses

**Issue 1:** Should the Commission grant the Florida Natural Gas Association's request to initiate rulemaking to amend Rule 25-12.045, Florida Administrative Code?

**Recommendation:** Yes, the Commission should grant the request to initiate rulemaking to amend Rule 25-12.045, F.A.C.

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

**Recommendation:** No. Whether or not the Commission approves staff's recommendation in Issue 1, this docket should remain open to address additional requests for relief raised in the Petition.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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4

**Docket No. 100330-WS** – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** GCL: Jaeger

ECR: Fletcher, Lingo, Maurey

**(Participation is at the discretion of the Commission.)**

**Issue 1:** Should the Commission grant Aqua Utilities Florida, Inc.'s (AUF's) Motion for Reconsideration of Order No. PSC-12-0102-FOF-WS (Final Order)?

**Recommendation:** The Motion should be granted in its entirety as set forth in the body of this recommendation. Further, on its own motion, the Commission should correct the additional noted scrivener's errors and approve the recalculation of the four-year rate reduction for amortization of rate case expense as indicated in the analysis portion of staff's memorandum dated April 26, 2012. Except for the additional correction of an allocation error recommended by staff in Issue 2, all other aspects of the Final Order should be reaffirmed.

**ITEM NO.**

**CASE**

4

**Docket No. 100330-WS** – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

(Continued from previous page)

**Issue 2:** In calculating the appropriate wastewater rates, was there an error made in allocating the revenue requirement, and, if so, should the Commission on its own motion reconsider the appropriate wastewater rates and correct the allocation error?

**Recommendation:** Yes, an arithmetic allocation error was made in calculating the appropriate rates for the customers in Wastewater Rate Band 2. Therefore, the Commission on its own motion should reconsider the appropriate wastewater rates for Wastewater Rate Band 2 and correct the allocation error.

Correction of this error in the Final Order causes the annual revenue requirement for all but two of the residential unmetered wastewater-only (flat-rate) customers in Wastewater Rate Band 2 to be reduced by \$38,533, with this amount being recovered from all remaining residential customers in that band. Correcting this error results in the following changes to the residential rates in Wastewater Rate Band 2: a) a reduced flat rate for all but two residential flat-rate customers, b) increased rates for all remaining residential customers, and c) a resulting increase in the rate cap threshold for residential customers. The results of staff’s recommended changes to the residential rates in Wastewater Rate Band 2, as well as the recommended change in the rate cap threshold for that band, are shown below:

Summary of Recommended Changes to Monthly Rates: Residential Wastewater Rate Band 2			
	Per Final Order	Staff Recommended	Increase (Decrease)
Flat Rates:			
Sunny Hills	\$60.01	\$61.84	\$1.83
Zephyr Shores	\$50.00	\$61.84	\$11.84
Jungle Den	\$86.07	\$61.84	(\$24.23)
Lake Gibson Estates	\$180.52	\$61.84	(\$118.68)
Base Facility Charge (5/8” x 3/4”)	\$34.38	\$34.66	\$0.28
RS Kgal Charge	\$8.86	\$8.93	\$0.07
Rate Cap Threshold (@ 6 Kgal)	\$87.53	\$88.24	\$0.71

**ITEM NO.**

**CASE**

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4

**Docket No. 100330-WS** – Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

(Continued from previous page)

Because the rates set in the Final Order for Wastewater Rate Band 2 were in error, all unmetered flat-rate customers, except for the one flat-rate customer in Sunny Hills and the one flat-rate customer in Zephyr Shores, should be refunded the difference between the erroneous rates and the appropriate rates as set forth in the table above. For all other wastewater customers in Wastewater Rate Band 2, AUF should be allowed to charge a surcharge to collect the difference between the erroneous rates and the appropriate rates as set forth in the table above.

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

**Recommendation:** If the Commission's Final Order as modified by the resulting Order on Reconsideration is not appealed, this docket should be closed upon staff's approval of the tariffs, verification of the required refunds, and the expiration of the time for filing an appeal.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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5

**Docket No. 120040-EI** – Complaint against Florida Power & Light Company, by Wellington A Homeowners Assoc., Inc., for alleged failure to properly supervise and inspect work to be, and performed, by Robert C. Ambrosius d/b/a One Call Property Service, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brown

**Staff:** GCL: Murphy

RAD: Gilbert, Garl

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

**Issue 1:** Should the Commission grant FPL's Motion to Dismiss Wellington's Complaint?

**Recommendation:** No. The Commission should deny FPL's Motion to Dismiss and instead should grant FPL's Motion for More Definite Statement.

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

**Recommendation:** No. This Docket should remain open to allow Wellington to file a more definite statement. However, if Wellington fails to file a more definite statement within thirty days, the Complaint should be dismissed and the Docket closed.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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6\*\*PAA

**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):** July 1, 2012 - Effective date of FTRI budget. Notification of any changes in the TASA surcharge must be made to carriers prior to July 1, 2012.

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** RAD: Casey

GCL: Miller

**Issue 1:** Should the Commission approve FTRI's proposed budget as outlined in Attachment A of staff's memorandum dated April 26, 2012, for the fiscal year 2012-2013, effective July 1, 2012, 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 operating revenue of \$9,471,687, and proposed budget expenses of \$11,818,260 as outlined in Attachment A of staff's memorandum dated April 26, 2012, for the fiscal year 2012-2013, effective July 1, 2012, with one exception. Staff recommends a decrease of \$92,847 in Relay Provider Services. Staff also recommends that the TRS surcharge be maintained at \$0.11 per month for the fiscal year 2012-2013, effective July 1, 2012. The Commission should 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 2012-2013, effective July 1, 2012.

**Issue 2:** Should FTRI create an additional expense category for the National Deaf Blind Equipment Distribution Program?

**Recommendation:** Yes, staff recommends that FTRI should create an additional expense category for the National Deaf Blind Equipment Distribution Program.

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



**ITEM NO.**

**CASE**

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7\*\*

**Docket No. 120067-EI** – Petition for approval of amended standard offer contract, by Progress Energy Florida, Inc.

**Docket No. 120069-EQ** – Petition for approval of revisions to renewable energy tariff, by Florida Public Utilities Company.

**Docket No. 120071-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. 120072-EQ** – Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

**Docket No. 120074-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):** 05/29/12, 60-Day Suspension Date for Docket Nos. 120067-EI, 120069-EQ

06/01/12, 60-Day Suspension Date for Docket Nos. 120071-EQ, 120072-EQ, 120074-EI

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar (120067-EI)

Edgar (120069-EQ)

Administrative (120071-EQ)

Administrative (120072-EQ)

Edgar (120074-EI)

**Staff:** RAD: Brown, Ellis, Graves, Ma, Matthews

GCL: Murphy, Robinson

**Issue 1:** Should the Commission suspend the revised Standard Offer Tariffs filed in Docket Nos. 120067-EI, 120069-EQ, 120071-EQ, 120072-EQ, and 120074-EI?

**Recommendation:** Yes. The Commission should suspend the tariffs to allow staff time to review the petitions.

**Issue 2:** Should these dockets be closed?

**Recommendation:** No. 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: Brisé, Edgar, Graham, Balbis, Brown

**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 120015-EI** – Petition for increase in rates by Florida Power & Light Company.

**Critical Date(s):** 05/18/12 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Graham

**Staff:** ECR: Slemkewicz

GCL: Young, Brown, Klancke, Harris

**(Decision on Suspension of Rates.)**

**Issue 1:** Should Florida Power & Light Company's request for a \$516.5 million permanent base rate increase, a \$173.9 million base rate step increase, and the associated tariff revisions be suspended pending a final decision in this docket?

**Recommendation:** Yes. The \$516.5 million permanent base rate increase, the \$173.9 million base rate step increase, and the associated tariff revisions requested by Florida Power & Light Company should be suspended pending a final decision in this docket.

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

**Recommendation:** No, this docket should remain open to process the Company's revenue increase request.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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9\*\*PAA

**Docket No. 110302-WU** – Application by Raintree Utilities, Inc. in Lake County for the transfer of the Bentwood water facilities to the Bentwood Homeowners Association, Inc., and the transfer of the Raintree Harbor water facilities and Certificate No. 539-W to Raintree Harbor Utilities, LLC.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Balbis

**Staff:** ECR: Brady, Jones-Alexis, Kaproth, Trueblood

GCL: Young

**(Proposed Agency Action for Issue 3.)**

**Issue 1:** Should the transfer of the Bentwood water system from Raintree Utilities, Inc. to the Bentwood Homeowners Association, Inc. be approved?

**Recommendation:** Yes. The transfer is in the public interest and should be approved effective the date of the Commission's vote. The Bentwood water territory, as described in Attachment A of staff's memorandum dated April 26, 2012, should be deleted from Certificate No. 539-W. Raintree should be required to file closing documents which contain evidence of the date of closing within 30 days of the Commission's vote. Raintree should also be responsible for remitting 2012 regulatory assessment fees (RAFs) for the Bentwood water system through the date of the Commission's vote.

**Issue 2:** Should the transfer of the Raintree Harbor water system and Certificate No. 539-W from Raintree Utilities, Inc. to Raintree Harbor Utilities, LLC be approved?

**Recommendation:** Yes. The transfer is in the public interest and should be approved effective the date of the Commission's vote. The territory being transferred is described in Attachment B of staff's memorandum dated April 26, 2012. The resultant order should serve as Raintree Harbor LLC's Certificate No 539-W and should be retained by Raintree Harbor LLC. Raintree Harbor LLC should be required to file closing documents which contain evidence of the date of closing and a recorded copy of the warranty deed within 30 days of the Commission's vote. The Utility's existing rates and charges should continue to be in effect until authorized to be changed by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Raintree Harbor LLC should be responsible for submitting annual reports and remitting RAFs for the Raintree Harbor water system for 2012 and all future years.

**ITEM NO.**

**CASE**

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9\*\*PAA

**Docket No. 110302-WU** – Application by Raintree Utilities, Inc. in Lake County for the transfer of the Bentwood water facilities to the Bentwood Homeowners Association, Inc., and the transfer of the Raintree Harbor water facilities and Certificate No. 539-W to Raintree Harbor Utilities, LLC.

(Continued from previous page)

**Issue 3:** What is the net book value of the Raintree Harbor water system for transfer purposes and should an acquisition adjustment be approved?

**Recommendation:** The net book value of the Raintree Harbor water system is \$61,856 as of December 31, 2011. A negative acquisition adjustment should not be included in rate base. Within 30 days of the date of the final order, Raintree Harbor LLC should be required to provide general ledger balances which show its books have been updated to reflect the Commission-approved balances as of December 31, 2011, along with a statement that these numbers will also be reflected in the Utility's 2012 annual report.

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

**Recommendation:** No. The transfer of the Bentwood and Raintree Harbor water systems will become final agency actions upon the Commission's vote. The docket should remain open pending receipt of closing documents, a recorded copy of the warranty deed, and updated general ledger balances. If no timely protest to the proposed agency action portion of this recommendation with respect to the Raintree Harbor water system's net book value is filed with the Commission by a substantially affected person, a Consummating Order should be issued. Following the expiration of the protest period with no timely protest, the issuance of a Consummating Order, and the Utility's submission of closing documents, a recorded warranty deed, and updated general ledger balances, the docket should be closed administratively.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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10\*\*PAA

**Docket No. 110262-EI** – Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company. (Deferred from the April 10, 2012, Commission Conference.)

**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., and meets the criteria for ECRC cost recovery.

**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 10 was deferred to the June 19, 2012, Commission Conference to allow TECO to gather additional information, as discussed at the Commission Conference.

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