

**MINUTES OF May 20, 2008  
COMMISSION CONFERENCE**

**COMMENCED: 9:30 a.m.**  
**RECESSED: 10:04 a.m.**  
**RECONVENED: 10:12 a.m.**  
**ADJOURNED: 10:45 a.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

**Approval of Minutes**  
April 22, 2008 Regular Commission Conference

DECISION: The minutes were approved.

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

**ITEM NO.** **CASE**

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2\*\* **Consent Agenda**

PAA A) Request for cancellation of a competitive local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
080216-TX	Expedient Carrier Services, LLC	4/15/2008

**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. 080039-EI** – Complaint of Sallijo A. Freeman against Florida Power & Light Company for violation of Rule 25-6.105, F.A.C. (Deferred from the April 4, 2008 Commission Conference, revised recommendation filed.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** GCL: Bennett, Brown

RCA: Hicks

**(Complainant Customer Requests Opportunity to Address Commission.)**

**Issue 1:** Should the Commission grant Petitioner Sallijo Freeman’s request to address the Commission at the Agenda Conference on May 20, 2008?

**Recommendation:** The Commission should grant Ms. Freeman’s request to address the Commission on May 20, 2008, on the Motion to Dismiss. However, the Commission should limit the presentation to the issues raised by the Motion to Dismiss, which is whether Ms. Freeman’s petition alleges facts sufficient to state a cause of action upon which relief may be granted.

**Issue 2:** Should the Commission grant Florida Power & Light Company's Motion to Dismiss the Complaint of Sallijo A. Freeman?

**Recommendation:** The Commission should grant Florida Power & Light Company’s Motion to Dismiss. Although petitioner’s complaint alleges facts which, when taken as true and construed in the light most favorable to the petitioner, state a cause of action, there is no additional relief that the Commission may grant the petitioner. In her complaint, petitioner has asked that FPL be directed to restore her power. FPL has restored Ms. Freeman’s electrical service. The petitioner has also asked that she be awarded damages resulting from the allegedly improper termination of services. The Commission lacks jurisdiction to award monetary damages.

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

**Recommendation:** Yes. If the Commission accepts staff’s recommendation in Issue 2, this docket should be closed after the time for appeal has expired.

DECISION: The recommendations were approved.

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

**ITEM NO.**

**CASE**

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4

**Docket No. 080089-TP** – Petition for declaratory statement regarding local exchange telecommunications network emergency 911 service, by Intrado Communications Inc.

**Critical Date(s):** 06/12/08 (90-day statutory deadline)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Bellak, Gervasi

CMP: King

**(Parties May Participate at Commission's Discretion.)**

**Issue 1:** Should the Petitions to Intervene filed by AT&T, Verizon, and Embarq and the Amended Petition to Intervene filed by Windstream be granted?

**Recommendation:** Yes, the Petitions and Amended Petition to Intervene should be granted.

**Issue 2:** Should the Commission grant Intrado's Amended Petition for Declaratory Statement?

**Recommendation:** No, Intrado's Amended Petition for Declaratory Statement should be denied.

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

**Recommendation:** Yes, the 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. 080110-TP** – Complaint and petition for resolution of interconnection pricing dispute against Verizon Florida, LLC, by Bright House Networks Information Services, LLC.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** CMP: Higgins, Dowds

GCL: Mann

**(Oral Argument Requested.)**

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

**Recommendation:** Yes. Staff recommends that the Commission grant Bright House's Request for Oral Argument.

**Issue 2:** Should the Commission grant Verizon's Motion to Dismiss?

**Recommendation:** Yes. Consistent with prior Commission Orders, staff recommends that the Commission grant Verizon's Motion to Dismiss Bright House's Petition for failing to follow the alternative dispute resolution provisions of the parties' current Interconnection Agreement.

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

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 2, this 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. 070408-TP** – Petition by Neutral Tandem, Inc. and Neutral Tandem-Florida, LLC for resolution of interconnection dispute with Level 3 Communications, LLC, and request for expedited resolution.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrian

**Staff:** CMP: Lee, King

GCL: Teitzman, Mann

**(Oral Argument Not Requested.)**

**Issue 1:** Should Level 3 be granted interim compensation pending the final decision in this proceeding?

**Recommendation:** Yes. Staff recommends that for traffic subject to the Level 3 Contract, Level 3 is entitled to compensation for traffic termination and Neutral Tandem is entitled to compensation for transit services, to the extent these services are rendered. Level 3 should not be compensated for any of the traffic subject to the Broadwing Contract. These compensation measures follow the surviving on-going obligations contained in the Level 3 Contract and maintain the status quo in the interim, pending the Commission's final decision in this proceeding.

**Issue 2:** How should interim compensation be determined and when should it be paid?

**Recommendation:** If the Commission approves the staff recommendation in Issue 1, staff recommends that compensation obligations should be determined using the formula included in the Level 3 Contract for traffic exchanged by the parties on an interim basis, pending the Commission's final decision. For Broadwing traffic, no compensation is due. These compensation measures apply to any services rendered under the Level 3 Contract, effective March 24, 2007, and extend through the date the Commission makes a final decision in this proceeding, the date a new agreement is effective, or the date the exchange of traffic ceases. Staff recommends that payment for services already received since March 24, 2007, should be made within 45 days after receipt of a bill (using the compensation formula in the Level 3 Contract) and thereafter in accord with the payment terms in Section 7 of the Level 3 Contract.

If the Commission denies the staff recommendation in Issue 1, this issue is moot.

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

**Recommendation:** No. This docket should remain open pending the hearing scheduled for September 24, 2008, through September 26, 2008.

**DECISION:** This item was deferred to a later Commission Conference.

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 080234-TP** – Implementation of Florida lifeline program involving bundled service packages and placement of additional enrollment requirements on customers.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Williams, Casey

GCL: Poblete, Teitzman

**Issue 1:** Pursuant to 47 C.F.R. § 54.403(b), are ETCs required to apply the Lifeline discount to the basic local service rate or the basic local service rate portion of any service offering which combines both basic and nonbasic service?

**Recommendation:** Yes. Pursuant to 47 C.F.R. § 54.403(b), ETCs are required to apply the Lifeline discount to the basic local service rate or the basic local service rate portion of any service offering which combines both basic and nonbasic service.

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

**Recommendation:** If the Commission approves staff's recommendation on Issue I, 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:** This item was deferred to a later Commission Conference.

**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 070231-EI** – Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company. (Deferred from February 12, 2008 Commission Conference; revised recommendation filed.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** McMurrin

**Staff:** ECR: Baxter, Colson

GCL: Jaeger

**Issue 1:** Should Florida Power and Light Company's petition for approval of revisions to its Underground Residential Distribution (URD) and Underground Commercial Distribution (UCD) tariffs be suspended?

**Recommendation:** Yes.

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

**Recommendation:** No.

**DECISION:** The recommendations were approved.

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



**ITEM NO.**

**CASE**

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9\*\*PAA

**Docket No. 080200-EI** – Petition to modify tariff sheet No. 4.010 regarding underground commercial and industrial services by Progress Energy Florida, Inc.

**Critical Date(s):** 06/03/08 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** ECR: Baxter, Ballinger, Garl

GCL: Brubaker; Young

**Issue 1:** Should the Commission suspend Progress Energy Florida, Inc.'s (PEF) petition to modify tariff sheet No. 4.010 regarding underground commercial and industrial services?

**Recommendation:** Yes.

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

**Recommendation:** No.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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10\*\*

**Docket No. 080197-WU** – Application for approval of a new bulk raw water classification of service and approval of revised service availability policy and charges in Baker and Union Counties by B & C Water Resources, L.L.C.

**Critical Date(s):** 06/01/08 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** ECR: Mouring, Hudson, Bulecza-Banks, Fletcher

GCL: Young

**Issue 1:** Should the Utility's proposed tariff sheets for a new bulk raw water classification of service and revised service availability policy and charges for the requested bulk raw water class of service be suspended?

**Recommendation:** Yes, B&C's proposed tariff sheets for a new bulk raw water classification of service and revised service availability policy and charges for the requested bulk raw water class of service should be suspended.

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

**Recommendation:** No. The docket should remain open pending the Commission's final action on the Utility's requested new bulk raw water classification of service and revised service availability policy and charges for the requested bulk raw water class of service.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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11\*\*

**Docket No. 080186-EI** – Petition for approval of revised underground residential distribution tariffs, by Progress Energy Florida, Inc.

**Critical Date(s):** 05/31/08 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** ECR: Draper, Garl  
GCL: Brown

**Issue 1:** Should the Commission suspend PEF's revised Underground Residential Distribution tariffs?

**Recommendation:** Yes.

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

**Recommendation:** No.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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12\*\*PAA

**Docket No. 080145-EI** – Petition for approval of depreciation rates for new plant subaccounts by Progress Energy Florida, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Gardner, Bulecza-Banks, Farley, Marsh, Slemkewicz  
GCL: Brown

**Issue 1:** Should the Commission approve the depreciation rates for Hines Unit 4?

**Recommendation:** Yes. Staff recommends approval of PEF's request for a 30 year average service life, a 10 percent negative net salvage, and a resulting depreciation rate of 3.86 percent for Hines Unit 4.

**Issue 2:** What should be the effective date of the implementation for the new depreciation rate for Hines Unit 4?

**Recommendation:** Staff recommends December 1, 2007, as the implementation date for PEF's Hines Unit 4 depreciation rate.

**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 issuance of a consummating order.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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13\*\*PAA

**Docket No. 070322-GU** – 2007 depreciation study by Florida Division of Chesapeake Utilities Corporation.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Skop

**Staff:** ECR: Gardner, Bulecza-Banks, Kyle, Slemkewicz  
GCL: Fleming

**Issue 1:** Should the currently prescribed depreciation rates of the Florida Division of Chesapeake Utilities Corporation be changed?

**Recommendation:** Yes. A comprehensive review of Chesapeake's planning and activity since the last depreciation filing indicates a need for a revision in the currently prescribed depreciation rates.

**Issue 2:** What are the appropriate remaining lives, net salvage, and resultant depreciation rates for Chesapeake?

**Recommendation:** Staff's recommended remaining lives, net salvage values, reserves, and resultant depreciation rates are shown on Attachment A of staff's memorandum dated May 8, 2008. The rates, based upon actual investments as of December 31, 2007, would result in a decrease in the annual depreciation expense of approximately \$14,903 as summarized on Attachment B of staff's memorandum dated May 8, 2008.

**Issue 3:** Should the Commission make any corrections to the reserve allocations between accounts?

**Recommendation:** Yes. Staff recommends the reserve allocations as shown in staff's memorandum dated May 8, 2008. These allocations bring each account more in line with its theoretically correct reserve level.

**Issue 4:** Should the current amortization of investment tax credits (ITC) and flowback of excess deferred income taxes be revised to reflect the approved depreciation rates and recovery schedules?

**Recommendation:** Yes. The current amortization of investment tax credits (ITC) and the flowback of excess deferred income taxes (EDIT) should be revised to match the actual recovery periods for the related property. On an annual basis, Chesapeake should include detailed calculations of the revised ITC amortization and the flowback of EDIT in its December earnings surveillance reports beginning with the annual period ending December 31, 2008.

**Issue 5:** What should be the implementation date for new depreciation rates?

**Recommendation:** Staff recommends approval of the company's proposed January 1, 2008, date of implementation for the new depreciation rates.

**ITEM NO.**

**CASE**

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13\*\*PAA

**Docket No. 070322-GU** – 2007 depreciation study by Florida Division of Chesapeake Utilities Corporation.

(Continued from previous page)

**Issue 6:** 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: Carter, Edgar, McMurrian, Argenziano, Skop

**ITEM NO.**

**CASE**

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14\*\*PAA

**Docket No. 080006-WS** – Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

**Critical Date(s):** 12/30/08 - Pursuant to Section 367.081(4)(f), Florida Statutes

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Springer, Maurey, Bulecza-Banks

GCL: Hartman

**Issue 1:** What is the appropriate range of returns on common equity for water and wastewater (WAW) utilities pursuant to Section 367.081(4)(f), Florida Statutes?

**Recommendation:** Staff recommends that the current leverage formula methodology be applied using updated financial data. Staff recommends the following leverage formula:

Return on Common Equity = 7.36% + 2.123/Equity Ratio

Where the Equity Ratio = Common Equity / (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 9.48% @ 100% equity to 12.67% @ 40% equity

**DECISION:** The recommendation was denied. This matter was set for hearing.

**Issue 2:** Should the Commission close this docket?

**Recommendation:** No. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant.

**DECISION:** The recommendation was modified. As stated in the Issue 1 Decision, this docket to remain open and this matter was set for hearing.

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

**ITEM NO.**

**CASE**

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15\*\*

**Docket No. 080184-EQ** – Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

**Docket No. 080187-EQ** – Petition for approval of amended standard offer contract and COG-2 rate schedule, by Progress Energy Florida.

**Docket No. 080193-EQ** – Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

**Docket No. 080194-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 tariff schedule REF-1, by Gulf Power Company.

**Critical Date(s):** 05/30/08 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Argenziano

**Staff:** ECR: Sickel, Clemence, Kummer, Lewis

GCL: Hartman

**Issue 1:** Should the Commission suspend the renewable standard offer contracts filed by Florida Power & Light Company, Gulf Power Company, Progress Energy Florida, Inc. and Tampa Electric Company?

**Recommendation:** Yes.

**DECISION:** The recommendation was approved as discussed at the Commission Conference.

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

**Recommendation:** No.

**DECISION:** The recommendation was approved.

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



**ITEM NO.**

**CASE**

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16\*\*

**Docket No. 070694-WS** – Application for increase in water and wastewater rates in Orange County by Wedgefield Utilities, Inc.

**Critical Date(s):** 05/30/08 (60-Day Suspension Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

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

GCL: Klancke

RCA: Vandiver

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

**Recommendation:** Yes. Wedgefield's proposed final water rates should be suspended.

**Issue 2:** Should this 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