

**MINUTES OF September 8, 2011**  
**COMMISSION CONFERENCE**  
**COMMENCED: 9:32 am**  
**ADJOURNED: 10:11 am**

**COMMISSIONERS PARTICIPATING:** Chairman Graham  
Commissioner Edgar  
Commissioner Brisé  
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**  
                         July 26, 2011 Regular Commission Conference

DECISION: The minutes were approved.

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

**ITEM NO.**

**CASE**

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2\*\*PAA

**Docket No. 110192-GU** – Joint petition for approval of territorial agreement in Volusia County by Peoples Gas System and Florida Public Utilities Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brown

**Staff:** GCL: Barrera

ECR: Rieger

**Issue 1:** Should the Commission approve the Joint Petition for a territorial agreement in Volusia County between Peoples and FPUC?

**Recommendation:** Yes. The Joint Petition for approval of the Territorial Agreement between Peoples and FPUC is in the public interest and should be approved.

**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 within 21 days, the docket may be closed upon issuance of a consummating order.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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3

**Docket No. 090538-TP** – Amended Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Lightyear Network Solutions, LLC; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; STS Telecom, LLC; US LEC of Florida, LLC; Windstream Nuvox, Inc.; and John Does 1 through 50, for unlawful discrimination.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Tan

RAD: Gowen, King

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

**Issue 1:** Should the Commission grant the Joint Movants' request for Oral Argument?

**Recommendation:** Yes. Oral Argument would assist the Commission's consideration of the Motion to Dismiss. Staff recommends the parties be allowed ten minutes per side.

**Issue 2:** Should the Commission grant the Joint Movants' Motion to Dismiss for lack of subject matter jurisdiction?

**Recommendation:** No. The Commission retains jurisdiction over Qwest's Complaint. The Commission should deny the Joint Movants' Motion to Dismiss because Qwest has stated a cause of action for which relief may be granted and the issue identification meeting should be rescheduled.

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

**Recommendation:** No. If the Commission accepts staff's recommendation, this docket should not be closed until after an evidentiary hearing has been held and a final order issued. If the Commission denies staff's recommendation in Issue 2 and grants the Movants' Motion to Dismiss, the amended complaint should be dismissed and the docket closed.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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4\*\*PAA

**Docket No. 080201-TX** – Application for designation as an eligible telecommunications carrier by Tele Circuit Network Corporation.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** RAD: Polk

GCL: Tan

**Issue 1:** Should Tele Circuit be granted ETC designation in the state of Florida?

**Recommendation:** Yes. Staff recommends that Tele Circuit's application for Florida ETC designation in the AT&T wire centers listed in Attachment A of staff's memorandum dated August 24, 2011, be granted. If there is a future change of company ownership, the new owners should be required to file a petition with the FPSC, and make a showing of public interest to maintain the company's ETC designation. Staff also recommends that if Tele Circuit is approved for ETC status, the Commission should also require Tele Circuit to submit the number of UNEs or UNE equivalents purchased from AT&T for each month during the quarter when it files its quarterly reports.

**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 of the order, this docket should be closed upon the issuance of a consummating order.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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5\*\*PAA

**Docket No. 090514-TX** – Petition for designation as eligible telecommunications carrier (ETC) by Global Connection Inc. of America.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** RAD: Beard

GCL: Murphy

**Issue 1:** Should Global be granted landline-only ETC status in the State of Florida?

**Recommendation:** Yes. Staff recommends that Global be granted landline-only ETC designation in the AT&T wire centers listed in Attachment B of staff's memorandum dated August 24, 2011, for the sole purpose of offering Lifeline discounts to qualifying consumers in Florida. If there is a future change of company ownership, the new owners should be required to file a petition with the FPSC and make a showing of public interest to maintain the company's ETC designation. The Commission should also require Global to submit the number of UNEs or UNE equivalents purchased from AT&T for each month during the quarter when it files its quarterly reports.

**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 within 21 days of the issuance of the Commission Order, this docket should be closed upon issuance of a Consummating Order.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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6\*\*PAA

**Docket No. 110100-TX** – Compliance investigation of North County Communications Corporation for apparent failure to accurately disclose information on application.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** RAD: Curry

GCL: Robinson

**Issue 1:** Should the Commission cancel North County Communications Corporation's CLEC Certificate No. 8799 for the company's apparent failure to accurately disclose information in Docket No. 100389-TX, application for certificate to provide competitive local exchange telecommunications service by North County Communications Corporation?

**Recommendation:** Yes, the Commission should cancel North County Communications Corporation's CLEC Certificate No. 8799 for the company's apparent failure to accurately disclose information in Docket No. 100389-TX, application for certificate to provide competitive local exchange telecommunications service by North County Communications Corporation.

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

**Recommendation:** The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the North County fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If North County's CLEC Certificate No. 8799 is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing local exchange telecommunications service in Florida. This docket shall be closed upon issuance of the Consummating Order.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 100472-WS** – Application for staff-assisted rate case in Manatee County by Heather Hills Estates Utilities LLC.

**Critical Date(s):** 05/24/12 (15-Month Effective Date (SARC))

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** ECR: Hudson, Bruce, Fletcher, Maurey, Stallcup, Williams

GCL: Tan

**(Proposed Agency Action Except for Issues 12, 13 and 14.)**

**Issue 1:** Is the quality of service provided by Heather Hills satisfactory?

**Recommendation:** Yes. The quality of service provided by the Utility is satisfactory.

**Issue 2:** What are the used and useful percentages for the water distribution system and wastewater collection system?

**Recommendation:** Both the Heather Hills' water distribution system and wastewater collection system should be considered 100 percent used and useful (U&U).

**Issue 3:** What are the appropriate average test year rate bases for Heather Hills?

**Recommendation:** The appropriate average test year rate bases for the Utility are \$56,106 and \$11,537 for water and wastewater, respectively.

**Issue 4:** What is the appropriate return of equity and overall rate of return for Heather Hills?

**Recommendation:** The appropriate return on equity (ROE) is 11.16 percent with a range of 10.16 percent to 12.16 percent. The appropriate overall rate of return is 4.62 percent.

**Issue 5:** What is the appropriate amount of test year revenues?

**Recommendation:** The appropriate test year revenues for this Utility are \$47,683 for water and \$72,102 for wastewater.

**Issue 6:** What is the appropriate amount of test year operating expenses?

**Recommendation:** The appropriate amount of operating expenses for the Utility is \$52,190 for water and \$85,474 for wastewater.

**Issue 7:** Should the Commission, on its own motion, utilize the operating ratio methodology as an alternative means to calculate the revenue requirement for Heather Hills, and, if so, what is the appropriate margin?

**Recommendation:** Yes, the Commission, on its own motion, should utilize the operating ratio methodology for calculating the revenue requirement for the Utility's wastewater system only. The margin should be 10.00 percent of O&M expenses.

**Issue 8:** What is the appropriate revenue requirement?

**Recommendation:** The appropriate revenue requirement is \$54,782 for water. Using the operating ratio methodology, the appropriate revenue requirement is \$87,212 for wastewater.

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 100472-WS** – Application for staff-assisted rate case in Manatee County by Heather Hills Estates Utilities LLC.

(Continued from previous page)

**Issue 9:** What are the appropriate rate structures for Heather Hills’ water and wastewater systems?

**Recommendation:** The appropriate rate structure for the water and wastewater systems’ residential and non-residential classes is a continuation of the base facility charge (BFC)/gallonge charge rate structure which is billed quarterly. The water system’s BFC cost recovery should remain set at 68.6 percent. Staff recommends that the wastewater system’s non-residential gallonge charge should be 1.2 times greater than the corresponding residential charge, and the BFC cost recovery percentage for the wastewater system should be set at 57.4 percent.

**Issue 10:** Is a repression adjustment appropriate in this case, and if so, what are the appropriate adjustments to make for this Utility, what are the appropriate corresponding expense adjustments to make, and what are the final revenue requirements?

**Recommendation:** No, a repression adjustment is not appropriate for Heather Hills. However, in order to monitor the effects resulting from the changes in revenues, the Utility should prepare monthly reports for the water system, detailing the number of bills rendered, the consumption billed and revenues billed. In addition, the reports should be prepared by customer class and meter size. The reports should be filed with staff, on a semi-annual basis, for a period of two years beginning with the first billing period after the approved rates go into effect. To the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility should be ordered to file a revised monthly report for that month within 30 days of any revision.

**Issue 11:** What are the appropriate rates for this Utility?

**Recommendation:** The appropriate monthly water and wastewater rates are shown on Schedule Nos. 4-A and 4-B of staff’s memorandum dated August 24, 2011, respectively. The recommended rates should be designed to produce revenue of \$54,782 for water and \$87,212 for wastewater, excluding miscellaneous service charges. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.



**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 100472-WS** – Application for staff-assisted rate case in Manatee County by Heather Hills Estates Utilities LLC.

(Continued from previous page)

**Issue 12:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

**Recommendation:** The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B of staff's memorandum dated August 24, 2011, to remove rate case expense grossed up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. Heather Hills should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

**Issue 13:** Should the recommended rates be approved for the Utility on a temporary basis, subject to refund, in the event of protest filed by a party other than Heather Hills?

**Recommendation:** Yes. Pursuant to Section 367.0814(7), F.S., 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 party other than the Utility. Heather Hills should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. 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 August 24, 2011. 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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7\*\*PAA

**Docket No. 100472-WS** – Application for staff-assisted rate case in Manatee County by Heather Hills Estates Utilities LLC.

(Continued from previous page)

**Issue 14:** Should the Utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts (NARUC USOA) primary accounts associated with the Commission-approved adjustments?

**Recommendation:** Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, Heather Hills should provide proof, within 90 days of the final order in this docket, that the adjustments for all applicable NARUC USOA primary accounts have been made.

**Issue 15:** Should this docket be closed?

**Recommendation:** No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order should be issued. The docket should remain open until staff has approved the revised tariffs sheets and customer notices, the Utility has sent the notices to its customers, staff has received proof that the customers have received notice within 10 days after the date of the notice, and the Utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once staff has verified all of the above actions are complete, this docket should be closed administratively.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 110021-WS** – Application for certificates to provide water and wastewater service in Lake County by COL Utility Systems, L.L.C.

**Critical Date(s):** 09/26/11 (Statutory Deadline for Original Certificates, Pursuant to Section 367.031, Florida Statutes)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** ECR: Jones-Alexis, Walden, Davis, Marsh

GCL: Klancke

**Issue 1:** Should the Commission grant COL Utility’s application for original water and wastewater certificates?

**Recommendation:** Yes. The Commission should grant COL Utility water and wastewater Certificate Nos. 655-W and 559-S, respectively, to serve the territory described in Attachment A of staff’s memorandum dated August 24, 2011, effective the date of the Commission’s vote. The resultant order should serve as the Utility’s water and wastewater certificates and should be retained by the Utility as such. Pursuant to Rule 25-30.033(1)(j), Florida Administrative Code (F.A.C.), the applicant should submit an executed and recorded copy of the warranty deed within 30 days after the date of the order granting the certificates.

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

**Recommendation:** No. The docket should remain open pending receipt of the executed and recorded copy of the warranty deed within 30 days after the date of the order granting the certificates, and to establish the setting of initial rates, charges, and return on equity.

**DECISION:** The recommendations were approved.

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

**ITEM NO.**

**CASE**

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9\*\*

**Docket No. 110142-WU** – Application for quick-take amendment of Certificate No. 278-W in Seminole County by Utilities, Inc. of Florida.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** ECR: Williams

GCL: Barrera

**Issue 1:** Should the Commission acknowledge Utilities, Inc. of Florida’s “Quick Take” application to amend Certificate No. 278-W in Seminole County?

**Recommendation:** Yes, the Commission should acknowledge Utilities, Inc. of Florida’s application to expand its territory. The proposed territory amendment is described in Attachment A of staff’s memorandum dated August 24, 2011, to this recommendation. The resultant order should serve as Utilities, Inc. of Florida’s amended certificate and it should be retained by the utility. Utilities, Inc. of Florida should charge the customers in the added territory the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

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

**Recommendation:** Yes, no further action is required and the docket should be closed.

**DECISION:** The recommendations were approved.

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

