

MINUTES OF September 15, 2009

COMMISSION CONFERENCE

COMMENCED: 9:32 am

ADJOURNED: 11:08 am

COMMISSIONERS PARTICIPATING: Chairman Carter
Commissioner Edgar
Commissioner McMurrian
Commissioner Argenziano (via telephone)
Commissioner Skop

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

1

Approval of Minutes

July 14, 2009 Regular Commission Conference

DECISION: The minutes were approved.

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

ITEM NO.

CASE

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>
090352-TX	CTC Communications Corp. d/b/a One Communications	6/30/2009

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

3

Docket No. 080641-TP – Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications. (Deferred from the August 18, 2009, Commission Conference, revised recommendation filed.)

Rule Status: Adoption - Adoption should not be deferred.

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Cowdery, Miller, Cibula
RCP: Mailhot, Salak, Kennedy
ECR: Hewitt
SSC: Moses

(Participation Limited to Commissioners and Staff.)

Issue 1: Should the Commission adopt changes to proposed Rules 25-4.0185, Periodic Reports, 25-4.066, Availability of Residential Service, 25-4.070, Customer Trouble Reports for Residential Service, and 25-4.073, Answering Time for Residential Service, and 25-4.110, Customer Billing for Local Exchange Telecommunications Companies, F.A.C., based on comments filed by Joint Petitions and by CWA?

Recommendation: Decided at the August 18 agenda.

DECISION: No vote.

Issue 2: Should the Commission adopt changes to proposed Rule 25-4.083, Florida Administrative Code, as suggested by the FCTA?

Recommendation: No, the Commission should not adopt FCTA's suggested changes to proposed Rule 25-4.083, F.A.C.

DECISION: The recommendation was approved.

Issue 3: Should this docket be closed?

Recommendation: Yes.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

4**PAA

Docket No. 090083-GU – Complaint of Sun City Center Community Association, Inc. against Peoples Gas System for alleged improper billing. (Deferred from the July 14, 2009, Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: GCL: Jaeger

ECR: Kummer

SSC: Hicks

Issue 1: From August 2005 through to the present, was the Sun City Center Community Association, Inc., correctly billed pursuant to the Residential Service (RS) tariff of the Peoples Gas System, or should it have been billed using the Commercial GS-2 Service tariff?

Recommendation: Because the service provided is in the nature of residential service, Sun City Center Community Association, Inc., was correctly billed pursuant to the Residential Service rate tariff of Peoples Gas System in effect prior to the approval of new GS Service tariffs at the May 19, 2009, Agenda Conference.

Issue 2: Should Peoples Gas System be required to refund with interest the revenues collected from Sun City Center Community Association, Inc., from August 2005 to the present?

Recommendation: No. If the Commission agrees with staff's recommendation in Issue 1, the Company has used the appropriate tariff, and no refunds are required.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no substantially affected person files a protest within 21 days of the date of the Proposed Agency Action Order, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved. Commissioner Argenziano dissented.

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

ITEM NO.

CASE

5**PAA

Docket No. 090375-TL – Petition to change demarcation point specified in Rule 25-4.0345(1)(b), F.A.C., by BellSouth Telecommunications, Inc. d/b/a AT&T Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Watts

GCL: Brooks

Issue 1: Should the Commission approve the petition by BellSouth Telecommunications, Inc. d/b/a AT&T Florida to change the location of the demarcation point specified in Rule 25-4.0345(1)(b), F.A.C., for the provision of residential basic local service to subscribers at Brandon Place, Orange Park, Florida?

Recommendation: Yes, the Commission should approve the relocation of the demarcation point for the provision of residential basic local service to subscribers at Brandon Place, Orange Park, Florida, to a single point of demarcation as determined by Moosehaven, Inc. for all residential subscribers' services at Brandon Place.

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, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. 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

6**PAA

Docket No. 000121A-TP – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (AT&T FLORIDA TRACK)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: RCP: Harvey, Hallenstein

GCL: Teitzman, Brooks

Issue 1: Should staff grant AT&T's Petition to waive SEEM penalties in the amount of \$35,200 for having to repost service quality measurement data in accordance with a provision in the SEEM Administrative Plan?

Recommendation: Yes. The Commission should grant AT&T's petition to waive the reposting penalty in the amount of \$35,200 payable to the state General Revenue Fund.

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1, the resulting Order will be issued as a Proposed Agency Action. The Order will become final upon issuance of a Consummating Order, if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. This docket should remain open pending the implementation of the Commission's decision and for purposes of future performance measure monitoring.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 090122-EG – Petition for approval of modifications to approved energy conservation programs, by Associated Gas Distributors of Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrin

Staff: SGA: Ellis, Brown

GCL: Fleming

Issue 1: Should the Commission approve the Associated Gas Distributors of Florida's petition to add the proposed Conservation Demonstration and Development Program to their member's conservation programs?

Recommendation: Yes. The proposed Conservation Demonstration and Development Program will allow the members of AGDF to pursue opportunities for joint research and development of new natural gas conservation programs. Expenditures for the program should be capped at \$2,000,000 for a five year period starting October 29, 2009, with a project cap of \$400,000. AGDF should submit petitions for specific projects to the Commission before utilizing the funds established in this program.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the program modifications should become effective October 29, 2009. If a protest is filed within 21 days of the issuance of the proposed agency action order, the program modifications should not be implemented until after the resolution of the protest. If no timely protest is filed, the docket should be closed upon the issuance of a consummating order.

DECISION: This item was deferred to the October 6, 2009, Commission Conference.

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

ITEM NO.

CASE

8**PAA

Docket No. 090146-EQ – Petition by Tampa Electric Company for approval of extension of small power production agreement with City of Tampa. (Deferred from the July 14, 2009, Commission Conference, new recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: SGA: Matthews, Ellis

ECR: Lee

GCL: Brown

Issue 1: Should the Commission approve, for the purposes of cost recovery, the proposed extension of a small power production agreement between Tampa Electric Company (TECO) and the City of Tampa (City)?

Recommendation: Yes. Based on cost-effectiveness analyses, the contract can potentially result in a net present value savings to TECO's customers of between \$677,000 and \$8.7 million when compared to TECO's Standard Offer Contract using a 2012 combustion turbine as the avoided unit. The Extension provides both Parties the absolute discretion to terminate the Agreement effective August 1, 2014, August 1, 2017, or August 1, 2020, by providing 18 months prior written notice. Because the cost-effectiveness of the Extension is highly dependent on the actual performance of the solid waste facility, staff recommends that TECO be required to file with staff a re-evaluation of the continued long term cost-effectiveness of the agreement by August 1, 2012, August 1, 2015, and August 1, 2018.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed 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: This item was deferred to a later Commission Conference.

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

ITEM NO.

CASE

9**PAA

Docket No. 090403-EI – Request for approval to begin depreciating West County Energy Center Units 1 and 2 combined cycle units using whole life depreciation rates currently approved for Martin Power Plant Unit 4, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: L'Amoreaux, Lee

GCL: Hartman

Issue 1: Should new depreciation rates be approved for FPL's WCEC Units 1 and 2 combined cycle units?

Recommendation: Yes. The whole life depreciation rates shown on Attachment A, page 6 of staff's memorandum dated September 2, 2009, should be approved for the combined cycle units being installed at the WCEC site, subject to true-up pending the outcome of Docket No. 090130-EI and Docket No. 080677-EI. These rates reflect the prescribed whole life rates for Martin Power Plant Unit 4.

Issue 2: What should be the implementation date for depreciation rates for WCEC Units 1 and 2 combined cycle units?

Recommendation: Staff recommends approval of FPL's proposal that depreciation rates for WCEC Unit 1 and 2 combined cycles be implemented effective with the in-service date of each unit.

Issue 3: 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.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**

Docket No. 090390-SU – Application for transfer of wastewater facilities to Florida Keys Aqueduct Authority in Monroe County, and cancellation of Certificate No. 205-S, by Key Haven Utility Corporation.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Clapp, Kaproth

GCL: Hartman

Issue 1: Should the transfer be approved?

Recommendation: Yes. The transfer of Key Haven Utility Corporation wastewater facilities to Florida Keys Aqueduct Authority should be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 205-S should be cancelled effective August 25, 2009.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed because no further action is necessary.

DECISION: This item was deferred to the October 6, 2009, Commission Conference.

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

ITEM NO.

CASE

11**

Docket No. 080534-WS – Application for quick-take amendment and application for amendment of Certificate Nos. 209-W and 154-S to extend water and wastewater services to certain territory (Jasmine Lakes) in Pasco County, by Aqua Utilities Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Walden

GCL: Sayler

Issue 1: Should Commission Order No. PSC-09-0250-FOF-WS issued April 27, 2009 be amended to include the correct legal description for the Jasmine Lakes service area?

Recommendation: Yes. An Amendatory Order should be issued with the correct legal description for the territory added as well as for the composite territory description.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, no further action will be necessary and this docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

12**

Docket No. 050449-WU – Application for staff-assisted rate case in Pasco County by Dixie Groves Utility Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Carter

Staff: ECR: Hudson, Bulecza-Banks, Fletcher
GCL: Jaeger

Issue 1: Should Dixie Grove's request to close the docket be approved?

Recommendation: Yes. This docket should be closed because no further action is required.

DECISION: The recommendation was approved.

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