

MINUTES OF September 20, 2011

COMMISSION CONFERENCE

COMMENCED: 9:33 am

RECESSED: 9:54 am

RECONVENED: 9:57 am

RECESSED: 11:11 am

RECONVENED: 11:20 am

ADJOURNED: 11:44 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 (**).

1

Approval of Minutes

August 9, 2011 Regular Commission Conference

August 23, 2011 Regular Commission Conference

DECISION: The minutes were approved with a modification, as stated at the Commission Conference, to Item 7, Issue 10, Page 17 of the minutes for the August 23, 2011.

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

ITEM NO.

CASE

2

Docket No. 110013-TP – Request for submission of proposals for relay service, beginning in June 2012, for the deaf, hard of hearing, deaf/blind, or speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

Critical Date(s): Current contract with Sprint expires on May 31, 2012.

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: RAD: Kennedy

GCL: Miller

(Participation is Limited to Commissioners and Staff.)

Issue 1: Should the Commission select Hamilton as the relay service provider and direct the Commission's Executive Director or designee to: (1) issue the letter of intent, Attachment A of staff's memorandum dated September 8, 2011; (2) provide notice on the agency's website of the Commission's decision to award a three-year contract to Hamilton to be the provider of the statewide telecommunications relay service in Florida; and (3) finalize and sign a contract with Hamilton to provide the Florida Relay Service?

Recommendation: Yes, based upon the RFP evaluation process, the Commission should select Hamilton as the relay service provider and direct the Commission's Executive Director or designee to: (1) issue the letter of intent, Attachment A of staff's memorandum dated September 8, 2011; (2) provide notice on the agency's website of the Commission's decision to award a three-year contract to Hamilton to be the provider of the statewide telecommunications relay service in Florida; and (3) finalize and sign a contract with Hamilton to provide the Florida Relay Service.

DECISION: The recommendation was denied. The Commissioners rejected all bids and directed staff to initiate a new RFP.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open for the life of the contract.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3

Docket No. 110087-TP – Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Tan

RAD: Bates

(Oral Argument not requested - Participation is at the Discretion of the Commissioners.)

Issue 1: Should the Commission grant AT&T's Motion to Dismiss?

Recommendation: No, Express Phone's protest of Proposed Agency Action Order No. PSC-11-0291-PAA-TP is sufficient and AT&T's Motion to Dismiss should be denied.

Issue 2: Should this docket be closed?

Recommendation: No, if staff's recommendation is granted, the docket should remain open to address Express Phone's protest of PAA Order No. PSC-11-0291-PAA-TP and the issue identification meeting rescheduled. If staff's recommendation is denied, this docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4**PAA

Docket No. 110090-EQ – Petition for approval of negotiated power purchase agreement with U.S. EcoGen Polk, LLC by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Brown

Staff: RAD: Ellis

ECR: Lester, Watts

GCL: Robinson, Tan

Issue 1: Should the Commission approve for cost recovery the negotiated purchased power agreement between US EcoGen Polk, LLC, and Progress Energy Florida, Inc.?

Recommendation: Yes. While the contract is marginally cost-effective compared to PEF's most recent estimate of avoided cost, the contract does meet the requirements of the Commission's Rules. The fixed rates for capacity and energy contained in the contract are a form of hedging. ~~In the event of a default where the termination security and/or collateral from EcoGen is not adequate, PEF should be responsible for reimbursing ratepayers for early capacity payments.~~

DECISION: The recommendation was approved as modification as noted above. The order is to be clear as to the protections for ratepayers.

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: The recommendation was approved.

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

ITEM NO.

CASE

5**

Docket No. 110241-GU – Petition by St. Joe Natural Gas Company, Inc. to reorganize the applicability of general service rate schedules and eliminate the GS-3 rate schedule.

Critical Date(s): 09/26/11 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper

GCL: Crawford

Issue 1: Should the Commission approve St. Joe's proposal to restructure the applicability of the GS/FTS-2 and GS/FTS-4 rate schedules and eliminate the GS-3/FTS-3 rate schedules?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, the tariffs should become effective on September 20, 2011. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, 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

6**PAA

Docket No. 100373-TX – Request for transfer of and name change on CLEC Certificate No. 8467 held by New Talk, Inc. to Telecom Ventures, LLC d/b/a Dialtone Ventures, LLC, effective August 9, 2010.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RAD: Kennedy

GCL: Robinson

Issue 1: Should the Commission approve the request for transfer of and name change on CLEC Certificate No. 8467 held by New Talk, Inc., to Telecom Ventures, LLC d/b/a Dialtone Ventures, LLC?

Recommendation: No. Staff recommends that the Commission should deny the request for transfer of and name change on CLEC Certificate No. 8467 held by New Talk, Inc., to Telecom Ventures, LLC d/b/a Dialtone Ventures, LLC.

Issue 2: Should the Commission cancel CLEC Certificate No. 8467 held by New Talk, Inc.?

Recommendation: Yes. Staff recommends that the Commission should cancel CLEC Certificate No. 8467 currently held by New Talk, Inc.

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: This item was deferred to the November 22, 2011 Commission Conference.

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

ITEM NO.

CASE

7**

Docket No. 110020-WS – Application for certificates to provide water and wastewater service in Marion County by OB 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: Jaeger

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

Recommendation: Yes. The Commission should grant OB Utility water and wastewater Certificate Nos. 657-W and 561-S, respectively, to serve the territory described in Attachment A of staff’s memorandum dated September 8, 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

8**

Docket No. 110023-WS – Application for certificates to provide water and wastewater service in Lake County by MFL 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, Waldon, Davis, Marsh

GCL: Young

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

Recommendation: Yes. The Commission should grant MFL Utility water and wastewater Certificate Nos. 656-W and 560-S, respectively, to serve the territory described in Attachment A of staff’s memorandum dated September 8, 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), 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

9**

Docket No. 110237-WS – Request for Regulatory Assessment Fee installment payment plan by Water Management Services, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Marsh, Gardner, Cicchetti, Fletcher, Salnova, Slemkewicz
GCL: Robinson

Issue 1: Should Water Management Services, Inc.'s (WMSI) Motion be granted and WMSI be permitted to pay its January 1 through June 30, 2011 regulatory assessment fees in accordance with a payment schedule?

Recommendation: Yes. The Commission should grant WMSI's Motion and the Utility should be allowed to pay its RAFs that were due on August 1, 2011 at a minimum of \$5,812 per month, plus penalties and interest, until all fees for the first six-month period for 2011 have been paid. Subsequent to the first payment that was made on August 30, 2011, payments should be made, at a minimum, in accordance with the schedule set out by staff.

Issue 2: Should the docket be closed?

Recommendation: Yes.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**PAA

Docket No. 100471-SU – Application for staff-assisted rate case in Marion County by S & L Utilities, Inc.

Critical Date(s): 05/23/12 (15-Month Effective Date (SARC))

Commissioners Assigned: All Commissioners

Prehearing Officer: Brisé

Staff: ECR: Roberts, Bruce, Fletcher, Hudson, Maurey, Simpson

GCL: Robinson

(Proposed Agency Action except for Issues 10, 14, and 15.)

Issue 1: Is the quality of service provided by S & L satisfactory?

Recommendation: The quality of service provided by S & L is marginal.

Issue 2: What are the used and useful percentages of the wastewater treatment plant and the collection system?

Recommendation: The wastewater treatment plant and the collection system should be considered 100 percent used and useful.

Issue 3: What is the appropriate average test year rate base?

Recommendation: The appropriate average test year rate base for S & L is \$27,394.

Issue 4: What is the appropriate return on equity and overall rate of return?

Recommendation: The appropriate return on equity (ROE) is 9.93 percent with a range of 8.93 percent to 10.93 percent. The appropriate overall rate of return is 7.83 percent.

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

Recommendation: The appropriate test year revenues for S & L are \$40,577.

Issue 6: What are the appropriate total operating expenses?

Recommendation: The appropriate amount of total operating expenses for S & L is \$54,955.

Issue 7: Should the Commission, on its own motion, utilize the operating ratio methodology as an alternative means to calculate the revenue requirement for S & L, 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. 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 \$59,932.

ITEM NO.

CASE

10**PAA

Docket No. 100471-SU – Application for staff-assisted rate case in Marion County by S & L Utilities, Inc.

(Continued from previous page)

Issue 9: What are the appropriate rates and rate structure?

Recommendation: The recommended rates should be designed to produce revenue of \$59,638, excluding miscellaneous service charges. The Utility's current wastewater rate structure which consists of a flat rate should remain unchanged. 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.

Issue 10: 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 wastewater rates should be reduced as shown on Schedule No. 4 of staff's memorandum dated September 8, 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. The Utility 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 S & L 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 11: Should S & L's request for approval of a Non-Sufficient Funds fee be granted?

Recommendation: Yes. The Utility's request for a Non-Sufficient Funds (NSF) fee should be approved. The NSF fee should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given within 10 days of the date of the notice.

ITEM NO.

CASE

10**PAA

Docket No. 100471-SU – Application for staff-assisted rate case in Marion County by S & L Utilities, Inc.

(Continued from previous page)

Issue 12: Should S & L be authorized to collect late payment fees, and if so, what are the appropriate charges?

Recommendation: Yes. S & L should be authorized to collect a \$5 late fee. The late fee should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the late payment fee should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed and provided customers have been noticed.

Issue 13: Should the Commission approve pro forma plant and expenses for the Utility, and if so, what is the appropriate return on equity, overall rate of return, revenue requirement and date for implementing the new rates?

Recommendation: Yes. The Commission should approve a Phase II revenue requirement associated with pro forma items. S & L's appropriate ROE should be 11.16 percent with a range of 10.16 to 12.16 percent. The appropriate overall rate of return is 7.17 percent. The Utility's Phase II revenue requirement is \$62,929 which equates to an increase of 5.00 percent over the Phase I revenue requirement. S & L should complete the pro forma items within 12 months of the issuance of the consummating order. The Utility should be allowed to implement the resulting rates once the pro forma items have been completed and documentation provided showing that all improvements have been made to the system. Once verified, the rates should be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until notice has been received by the customers. S & L should provide proof of the date notice was given within 10 days of the date of the notice. If the Utility encounters any unforeseen events that will impede the completion of the pro forma items, the Utility should immediately notify the Commission in writing.

ITEM NO.

CASE

10**PAA

Docket No. 100471-SU – Application for staff-assisted rate case in Marion County by S & L Utilities, Inc.

(Continued from previous page)

Issue 14: 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 party other than the Utility?

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. S & L 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 September 8, 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.

Issue 15: 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, S & L 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.

ITEM NO.

CASE

10**PAA

Docket No. 100471-SU – Application for staff-assisted rate case in Marion County by S & L Utilities, Inc.

(Continued from previous page)

Issue 16: 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 for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Also, the docket should remain open to allow staff to verify that the pro forma items have been completed and the Phase II rates properly implemented. Once these actions are complete, this docket should be closed administratively.

DECISION: The recommendations were approved.

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

