

FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: Tuesday, March 3, 2009, 9:30 a.m.

LOCATION: Betty Easley Conference Center, Joseph P. Cresse Hearing Room 148

DATE ISSUED: February 21, 2009

NOTICE

Persons affected by Commission action on certain items on this agenda may be allowed to address the Commission, either informally or by oral argument, when those items are taken up for discussion at this conference. These items are designated by double asterisks (**) next to the agenda item number.

To participate informally, affected persons need only appear at the agenda conference and request the opportunity to address the Commission on an item listed on agenda. Informal participation is not permitted: (1) on dispositive motions and motions for reconsideration; (2) when a recommended order is taken up by the Commission; (3) in a rulemaking proceeding after the record has been closed; or (4) when the Commission considers a post-hearing recommendation on the merits of a case after the close of the record. The Commission allows informal participation at its discretion in certain types of cases (such as declaratory statements and interim rate orders) in which an order is issued based on a given set of facts without hearing.

See Rule 25-22.0021, F.A.C., concerning Agenda Conference participation and Rule 25-22.0022, F.A.C., concerning oral argument.

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Video and audio versions of the conference are available and can be accessed live on the PSC Website on the day of the Conference. The audio version is available through archive storage for up to three months after the conference.

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| <u>ITEM NO.</u> | <u>CASE</u> |
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|---|--|
| 1 | Approval of Minutes January 9, 2009 Special Commission Conference January 26, 2009 Regular Commission Conference February 10, 2009 Regular Commission Conference |
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| 2** | Consent Agenda |
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| PAA | A) Application for certificate to provide competitive local exchange telecommunications service. <table border="1"> <thead> <tr> <th style="text-align: left;"><u>DOCKET NO.</u></th> <th style="text-align: left;"><u>COMPANY NAME</u></th> </tr> </thead> <tbody> <tr> <td>090012-TX</td> <td>Vanco US, LLC</td> </tr> </tbody> </table> | <u>DOCKET NO.</u> | <u>COMPANY NAME</u> | 090012-TX | Vanco US, LLC |
|-------------------|---|-------------------|---------------------|-----------|---------------|
| <u>DOCKET NO.</u> | <u>COMPANY NAME</u> | | | | |
| 090012-TX | Vanco US, LLC | | | | |

| PAA | B) Request for cancellation of a competitive local exchange telecommunications certificate. <table border="1"> <thead> <tr> <th style="text-align: left;"><u>DOCKET NO.</u></th> <th style="text-align: left;"><u>COMPANY NAME</u></th> <th style="text-align: left;"><u>EFFECTIVE DATE</u></th> </tr> </thead> <tbody> <tr> <td>080619-TP</td> <td>Progress Telecom, LLC</td> <td>12/31/2008</td> </tr> </tbody> </table> | <u>DOCKET NO.</u> | <u>COMPANY NAME</u> | <u>EFFECTIVE DATE</u> | 080619-TP | Progress Telecom, LLC | 12/31/2008 |
|-------------------|---|-----------------------|---------------------|-----------------------|-----------|-----------------------|------------|
| <u>DOCKET NO.</u> | <u>COMPANY NAME</u> | <u>EFFECTIVE DATE</u> | | | | | |
| 080619-TP | Progress Telecom, LLC | 12/31/2008 | | | | | |

| PAA | C) Request for cancellation of an alternative access vendor certificate. <table border="1"> <thead> <tr> <th style="text-align: left;"><u>DOCKET NO.</u></th> <th style="text-align: left;"><u>COMPANY NAME</u></th> <th style="text-align: left;"><u>EFFECTIVE DATE</u></th> </tr> </thead> <tbody> <tr> <td>080728-TA</td> <td>Fort Pierce Utilities Authority d/b/a GigaBand Communications</td> <td>12/31/2008</td> </tr> </tbody> </table> | <u>DOCKET NO.</u> | <u>COMPANY NAME</u> | <u>EFFECTIVE DATE</u> | 080728-TA | Fort Pierce Utilities Authority d/b/a GigaBand Communications | 12/31/2008 |
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| <u>DOCKET NO.</u> | <u>COMPANY NAME</u> | <u>EFFECTIVE DATE</u> | | | | | |
| 080728-TA | Fort Pierce Utilities Authority d/b/a GigaBand Communications | 12/31/2008 | | | | | |

Recommendation: The Commission should approve the action requested in the dockets referenced above and close these dockets.

ITEM NO.

CASE

3**

Docket No. 090079-EI – Petition for increase in rates by Progress Energy Florida.

Critical Date(s): 03/13/09 - Emergency Rule Waiver Petition deemed approved if not granted or denied within 30 days of receipt.

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Bennett, Brown

ECR: Willis

Issue 1: Should the Commission approve the Agreed Motion on Procedure?

Recommendation: Yes. The Commission should approve the motion and permit PEF to file its petition for general rate increase on March 20, 2009. With the clear understanding that the Commission has the ultimate authority and responsibility to determine the schedules of its cases, the Commission should approve the parties' desire to provide input into the scheduling of this case, to the extent possible; but the ultimate decision on scheduling must be the Commission's prerogative.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open to process PEF's petition for a rate increase.

ITEM NO.

CASE

4

Docket No. 070699-TP – Petition by Intrado Communications, Inc. for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with Embarq Florida, Inc., pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Section 364.162, F.S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Tan

RCP: Barrett

(Motion for Reconsideration - Oral Argument Requested)

Issue 1: Should the Commission grant Intrado Comm's Request for Oral Argument?

Recommendation: No. The Commission should deny Intrado Comm's Request for Oral Argument.

Issue 2: Should the Commission grant Intrado Comm's Motion for Reconsideration of Order No. PSC-08-0799-FOF-TP?

Recommendation: No. The Commission should deny Intrado Comm's Motion for Reconsideration of Order No. PSC-08-0799-FOF-TP.

Issue 3: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendations in Issues 1 and 2, this Docket should be closed.

ITEM NO.

CASE

5

Docket No. 070736-TP – Petition by Intrado Communications, Inc. for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with BellSouth Telecommunications, Inc. d/b/a AT&T Florida, pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Sections 120.80(13), 120.57(1), 364.15, 364.16, 364.161, and 364.162, F.S., and Rule 28-106.201, F.A.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Tan

RCP: Barrett

(Motion for Reconsideration - Oral Argument Requested)

Issue 1: Should the Commission grant Intrado Comm's Request for Oral Argument?

Recommendation: No. The Commission should deny Intrado Comm's Request for Oral Argument.

Issue 2: Should the Commission grant Intrado Comm's Motion for Reconsideration of Order No. PSC-08-0798-FOF-TP?

Recommendation: No. The Commission should deny Intrado Comm's Motion for Reconsideration of Order No. PSC-08-0798-FOF-TP.

Issue 3: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendations in Issues 1 and 2, this Docket should be closed.

ITEM NO.

CASE

6**

Docket No. 060476-TL – Petition to initiate rulemaking to amend Rules 25-24.630(1) and 25-24.516(1), F.A.C., by BellSouth Telecommunications, Inc.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: McMurrian

Staff: GCL: Bellak

RCP: Kennedy

ECR: Hewitt

SSC: Moses

Issue 1: Should the Commission propose amendments to Rule 25-24.516, F.A.C., Pay Telephone Rate Caps, and Rule 25-24.630, F.A.C., Rate and Billing Requirements?

Recommendation: Yes, the Commission should propose the amendments to Rule 25-24.516, F.A.C., and Rule 25-24.630, F.A.C., as set forth in Attachment A of staff's memorandum dated February 19, 2009.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rule amendments as proposed in Issue 1 should be filed for adoption with the Secretary of State and the docket should be closed.

ITEM NO.

CASE

7**PAA

Docket No. 080680-TL – Notice of election of price regulation by Frontier Communications of the South, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RCP: Pruitt, King

GCL: Tan

Issue 1: Should the Commission acknowledge Frontier's election to become subject to price regulation effective January 1, 2009?

Recommendation: Yes. With Frontier's election of price regulation effective January 1, 2009, its basic local telecommunications service rates are subject to Section 364.051(3), Florida Statutes, and its nonbasic services rates are subject to Section 364.051(5), Florida Statutes.

Issue 2: Should this docket be closed?

Recommendation: Yes. With the Commission's approval of staff's recommendation in Issue 1, this docket should be closed if no person whose substantial interests are affected files a protest within 21 days of the issuance of this Order.

ITEM NO.

CASE

8**PAA

Docket No. 090015-TS – Request for cancellation of STS Certificate No. 8634 by Digital Community Networks, Inc., effective December 31, 2008.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: RCP: Isler

GCL: Brooks

Issue 1: Should the Commission deny Digital Community Networks, Inc., a voluntary cancellation of its shared tenant service (STS) Certificate No. 8634 and cancel the certificate on the Commission's own motion with an effective date of December 31, 2008?

Recommendation: Yes, the company should be denied a voluntary cancellation as listed on Attachment A of staff's memorandum dated February 19, 2009.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that 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 company 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 the company pays the Regulatory Assessment Fee, including any applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of the company's STS certificate will be voluntary. If the company fails to pay the Regulatory Assessment Fee, including any applicable late payment charges, prior to the expiration of the Proposed Agency Action Order, then the company's STS certificate should be cancelled administratively, and the collection of the unpaid Regulatory Assessment Fee should be referred to the Florida Department of Financial Services for further collection efforts. If the company's STS certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fee, including any applicable late payment charges, or upon cancellation of the company's STS certificate.

ITEM NO.

CASE

9**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: RCP: Mann, Casey

GCL: Brooks, Teitzman

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 and Verizon wire centers listed in Attachment A of the recommendation dated February 19, 2009 be granted.

Issue 2: 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.

ITEM NO.

CASE

10**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, Rich

GCL: Teitzman, Brooks

Issue 1: Should AT&T be allowed to move forward with the next 22-state OSS release?

Recommendation: Yes. Staff recommends that AT&T be allowed to move forward with the next 22-state OSS release on the condition that selected Tier 1 and Tier 2 Self-Effectuating Enforcement Mechanism (SEEM) remedies are doubled for each data month beginning with implementation of the next 22-state OSS release, for a period of six months. The performance measurement categories that should be included are *OSS (Pre-ordering), Ordering, Provisioning, and Change Management*. After the implementation of the next 22-state OSS release, staff will recommend if the Commission should take any further action on this matter.

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. Staff will bring a recommendation back to the Commission addressing the petitioners' request for the Commission to initiate a show cause proceeding at a later date. This docket should remain open pending the implementation of the Commission's decision and for purposes of future performance measure monitoring.

ITEM NO.

CASE

11**PAA

Docket No. 080665-EI – Petition of Florida Power & Light Company for approval of long-term agreement for full requirements electric service with Lee County Electric Cooperative.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Kummer, Lee

GCL: Bennett

SGA: Graves

Issue 1: Should the Commission approve FPL’s proposed regulatory treatment of the fuel costs and base rate benefits associated with the proposed Wholesale Power Agreement with Lee County Electric Cooperative?

Recommendation: Yes, if Staff’s additional condition is included as part of the Order. Staff recommends the Commission approve the following changes to the regulatory treatment proposed by FPL: (1) shortening the initial term of the contract from 2033 to 2026, with the initial review by the Commission in 2021 and by the parties in 2022; (2) implementing a fixed per unit credit through the Capacity Cost Recovery Clause to recognize the base rate benefits of the change in the Separation Factor; and (3) providing for Commission review of the regulatory treatment of both fuel and base rate impacts during any need determination proceeding during the term of the Agreement.

Because of the discretionary nature of this Agreement, staff believes ratepayers should not be harmed. Therefore, staff recommends an additional condition: In the year the cumulative Net Present Value (NPV) becomes negative, the retail portion of the fuel adjustment shall be reduced by the annual shortfall. In any subsequent year that the cumulative NPV again becomes positive, FPL will be permitted to increase the fuel clause to the extent of the prior year’s reduction, up to the level of the benefit.

Staff also recommends that the approved regulatory treatment continue only through 2026.

Issue 2: Should this docket be closed?

Recommendation: Yes. Upon Commission vote on Issue 1, 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.

ITEM NO.

CASE

12**

Docket No. 080610-WS – Application for transfer of water and wastewater utility assets of Ferncrest Utilities, Inc., in Broward County, to Tindall Hammock Irrigation and Soil Conservation District, and cancellation of Certificate Nos. 13-W and 10-S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Clapp, Marsh

GCL: Bennett

Issue 1: Should the transfer of Ferncrest Utilities, Inc.'s water and wastewater facilities to Tindall Hammock Irrigation and Soil Conservation District and the cancellation of Certificate Nos. 13-W and 10-S be approved?

Recommendation: Yes. The transfer of Ferncrest Utilities, Inc.'s water and wastewater facilities to Tindall Hammock Irrigation and Soil Conservation District should be approved as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 13-W and 10-S should be cancelled effective November 3, 2008.

Issue 2: Should this docket be closed?

Recommendation: Yes. Pursuant to Section 367.071(4)(a), F.S., approval of a transfer to a governmental authority is a matter of right. As such, no further Commission action is necessary and this docket should be closed.

ITEM NO.

CASE

13**

Docket No. 080698-WS – Application for transfer of water and wastewater facilities to Martin County, and cancellation of Certificate No(s). 362-W and 317-S, by Laniger Enterprises of America, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Clapp, Kaproth

GCL: Williams

Issue 1: Should the transfer of Laniger Enterprises of America, Inc. water and wastewater facilities to Martin County and the cancellation of Certificate Nos. 362-W and 317-S be acknowledged?

Recommendation: Yes. The transfer of Laniger Enterprises of America, Inc. water and wastewater facilities to Martin County should be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 362-W and 317-S should be cancelled effective December 16, 2008. Laniger should pay its 2008 regulatory assessment fees on or before March 31, 2009.

Issue 2: Should this docket be closed?

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