

MINUTES OF February 10, 2009
COMMISSION CONFERENCE
COMMENCED: 10:35 am
ADJOURNED: 10:55 am

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 (**).

1 **Approval of Minutes**
 January 6, 2009 Regular Commission Conference

DECISION: The minutes were approved.

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

ITEM NO.

CASE

2**

Docket No. 020868-TL – Petition by BellSouth Telecommunications, Inc. for investigation of wireless carriers' request for BellSouth to provide telecommunications service outside BellSouth's exchange.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Teitzman

RCP: Barrett

Issue 1: Should the Commission acknowledge AT&T's Notice?

Recommendation: Yes. The Commission should acknowledge AT&T's Notice.

Issue 2: Should this docket be closed?

Recommendation: Yes. If this Commission approves staff's recommendation in Issue 1, there are no further matters for the Commission to adjudicate in this docket and, therefore, the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

3**

Docket No. 080621-EI – Application for authority to issue and sell securities during calendar year 2009 pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Fleming

ECR: Maurey

Issue 1: Should the Commission acknowledge Florida Power & Light Company's voluntary withdrawal of a portion of its Application for authority to issue and sell securities during calendar year 2009, related to the FPL-NED construction expenditures of \$30 million, and if so, what effect does the withdrawal have on Docket No. 080621-EI?

Recommendation: Yes, the Commission should acknowledge FPL's voluntary withdrawal of a portion of its Application for authority to issue and sell securities during calendar year 2009, related to the FPL-NED construction expenditures of \$30 million as a matter of right. The effect of the voluntary withdrawal is to divest the Commission of further jurisdiction over FPL's Application, as filed, for authority to issue and sell securities related to the FPL-NED construction expenditures.

Issue 2: Should this docket be closed?

Recommendation: No. For monitoring purposes, this docket should remain open until April 28, 2010 to allow FPL time to file the required Consummation Report.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4**PAA

Docket No. 080632-EU – Joint petition for approval of amended territorial agreement in Sumter, Lake, Marion, Citrus, and Levy Counties by Sumter Electric Cooperative, Inc. and Progress Energy Florida, Inc. (Deferred from the January 26, 2009 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: GCL: Jaeger

ECR: Redemann, Rieger

Issue 1: Should the Commission approve the joint petition for approval of the territorial agreement between Sumter Electric Cooperative, Inc. and Progress Energy Florida, Inc.?

Recommendation: Yes. The joint petition for approval of the amended territorial agreement between Sumter Electric Cooperative, Inc. and Progress Energy Florida is in the public interest and should be approved. Since there will be customers transferred as a result of the agreement, it is recommended that, beginning one year from the date of the Commission order approving the agreement, annual reports should be submitted to the Commission concerning the status of the customer transfers. The reporting requirement shall continue until all Extra-Territorial Customers have been transferred and the terms of the amended agreement have been fully satisfied.

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

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

ITEM NO.

CASE

5

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

Critical Date(s): 2/13/09 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: RCP: Mann, Casey

ECR: Daniel, Redemann

GCL: Brown

(Participation is at the Discretion of the Commission.)

Issue 1: Should the Commission suspend Southlake’s proposed final water and wastewater rates?

Recommendation: Yes. The Commission should suspend Southlake’s proposed final water and wastewater rates.

Issue 2: Should an interim revenue increase be approved?

Recommendation: Yes, Southlake should be authorized to collect interim annual water and wastewater revenues as indicated below:

	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$991,639	\$47,301	\$1,038,940	4.77%
Wastewater	\$796,298	\$238,093	\$1,034,391	29.90%

Issue 3: What are the appropriate interim water and wastewater rates?

Recommendation: The water and wastewater service rates for Southlake in effect as of December 31, 2007, should be increased by 4.77 percent and 29.90 percent, respectively, to generate the recommended revenue increase for the interim period. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1)(a), F.A.C. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision, the proposed customer notice is adequate, and the required security has been filed. The utility should provide proof of the date notice was given within 10 days after the date of notice.

ITEM NO.

CASE

5

Docket No. 080597-WS – Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

(Continued from previous page)

Issue 4: What is the appropriate security to guarantee the interim increase?

Recommendation: Staff recommends that Southlake be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refund. Pursuant to Rule 25-30.360(6), F.A.C., the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

Issue 5: 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

ITEM NO.

CASE

6**PAA

Docket No. 080692-TP – Joint application for approval of indirect transfer of control of telecommunications facilities by Embarq Corporation, CenturyTel, Inc., Embarq Florida, Inc., and Embarq Payphone Services, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: RCP: Curry, Mailhot

GCL: Brooks

Issue 1: Should the Commission approve the joint application for the transfer of control of Embarq Corporation and indirectly, Embarq Florida, Inc., holder of ILEC Certificate No. 22, and Embarq Payphone Services, Inc., holder of PATS Certificate No. 3822, to CenturyTel, Inc.?

Recommendation: Yes, the Commission should approve the joint application for the transfer of control of Embarq Corporation and indirectly, Embarq Florida, Inc., holder of ILEC Certificate No. 22, and Embarq Payphone Services, Inc., holder of PATS Certificate No. 3822, to CenturyTel, Inc.

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. If the Commission's Order is not protested, this docket should be closed administratively upon notification by the Applicants that this transfer of control either has or has not been consummated.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAA

Docket No. 080533-EQ – Petition for approval of negotiated power purchase contract for purchase of firm capacity and energy with Horizon Energy Group, LLC, by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: SGA: Lewis, Clemence, Ellis

GCL: Hartman

Issue 1: Should the petition submitted by Progress Energy Florida, Inc. (PEF), requesting approval of a negotiated contract with a qualifying facility, Horizon Energy Group, LLC (Horizon), be approved?

Recommendation: Yes. Payments for capacity and energy are expected to yield \$91.8 million in net present value savings to PEF's ratepayers over the 25 year term of the contract. The performance security required in the contract sufficiently protects ratepayers in the event of default.

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 recommendations were approved.

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

ITEM NO.

CASE

8**PAA

Docket No. 080682-EQ – Petition for certification as a qualifying facility pursuant to Rule 25-17.080, F.A.C., by Solid Waste Authority of Palm Beach County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: SGA: Matthews

GCL: Hartman

Issue 1: Should the Commission grant the request of SWA for certification as a qualifying facility?

Recommendation: Yes. Pursuant to Rule 25-17.220, F.A.C, a renewable generating facility shall be deemed a qualifying facility. The SWA will continue to use biomass in the form of MSW as the primary energy source.

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: The recommendations were approved.

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

ITEM NO.

CASE

9**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 as prudent the proposed wholesale power sale agreement between Florida Power & Light Company and Lee County Electric Cooperative?

Recommendation: No. The Commission should decline to approve FPL's Long-term Agreement For Full Requirements Electric Service with LCEC as prudent and consistent with the interests of FPL's retail customers.

Issue 2: Should the Commission approve the regulatory treatment of the costs associated with the wholesale Agreement?

Recommendation: Staff recommends that the Commission approve the regulatory treatment of the revenues and expenses associated with the wholesale agreement only if specific changes to FPL's proposed regulatory treatment are made. Staff recommends the following changes: (1) the fuel cost charged to retail ratepayers should be adjusted on an annual basis so the incremental fuel cost is no greater than the base rate benefit; (2) the credit through the Capacity Cost Recovery Clause recognizing the base rate benefit should be fixed on a per kwh basis, not a dollar basis, as would be done if base rates were adjusted; (3) FPL should provide notice to the Commission if there is a change in circumstance regarding the effect the regulatory treatment has on ratepayers; and (4) FPL should be required to bring this issue back to the Commission at least 12 months prior to the scheduled review by the parties to renew or terminate the Agreement.

Issue 3: Should this docket be closed?

Recommendation: Yes. Upon Commission vote on Issues 1 and 2, 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 March 3, 2009 Commission Conference.

ITEM NO.

CASE

10**

Docket No. 080719-EI – Petition to modify Tariff Sheet Nos. 4.113 and 4.122 regarding conversion of and construction of underground residential facilities by Progress Energy Florida, Inc.

Critical Date(s): 2/17/09 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Draper

GCL: Williams

Issue 1: Should the Commission suspend PEF's proposed tariff sheets Nos. 4.113 and 4.122 regarding conversion of and construction of underground residential facilities?

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

11**

Docket No. 080366-GU – Petition for rate increase by Florida Public Utilities Company.

Critical Date(s): 2/16/09 (60-Day Suspension Date)

5/18/09 (5-Month Effective Date (PAA Rate Case))

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Slemkewicz, Draper, Livingston

GCL: Brubaker

Issue 1: Should the \$9,917,690 permanent base rate increase and its associated tariff revisions requested by Florida Public Utilities Company be suspended pending a final decision in this docket?

Recommendation: Yes. The \$9,917,690 permanent base rate increase and its associated tariff revisions requested by Florida Public Utilities Company should be suspended pending a final decision in this docket.

Issue 2: Is FPUC's proposed 2007 interim test year rate base of \$59,518,973 appropriate?

Recommendation: Yes. FPUC's proposed 2006 interim test year rate base of \$59,518,973 is appropriate.

Issue 3: Are FPUC's proposed return on equity of 10.25 percent and overall cost of capital of 7.66 percent appropriate for the purpose of determining interim rates?

Recommendation: Yes. FPUC's proposed return on equity of 10.25 percent and its overall cost of capital of 7.66 percent for purposes of determining interim rates are appropriate.

Issue 4: Is FPUC's proposed 2007 interim test year net operating income of \$3,950,447 appropriate?

Recommendation: Yes. FPUC's proposed 2006 interim test year net operating income of \$3,950,447 is appropriate.

Issue 5: Is FPUC's proposed net operating income multiplier of 1.61757 appropriate?

Recommendation: Yes. The appropriate net operating income multiplier for interim rate purposes is 1.61757.

Issue 6: Should FPUC's requested interim rate increase of \$984,054 and percentage increase factor of 4.18 percent be granted?

Recommendation: Yes. FPUC's requested interim rate increase of \$984,054 and percentage increase factor of 4.18 percent should be granted.

ITEM NO.

CASE

11**

Docket No. 080366-GU – Petition for rate increase by Florida Public Utilities Company.

(Continued from previous page)

Issue 7: How should the interim revenue increase for FPUC be distributed among the rate classes?

Recommendation: Any interim revenue increase approved should be applied evenly across the board to all rate classes based on their base rate revenues, as required by Rule 25-7.040, Florida Administrative Code (F.A.C.), and should be recovered on a cents-per-term basis. The interim rates should be made effective for all meter readings made on or after 30 days from the date of the vote approving any interim increase. The Company should give notice to customers of the interim increase commencing with the first bill for service that reflects the increase.

Issue 8: What is the appropriate security to guarantee the amount collected subject to refund?

Recommendation: The appropriate security to guarantee the funds collected subject to refund is a corporate undertaking.

Issue 9: Should this docket be closed?

Recommendation: No, this docket should remain open to process the Company's revenue increase request.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

12**

Docket No. 080582-WS – Application for amendment of Certificates 590-W and 508-S to extend water and wastewater service areas to include land in Polk County, by Gold Coast Utility Corp.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Argenziano

Staff: ECR: Clapp, Redemann, Simpson

GCL: Jaeger

Issue 1: Should the Commission approve the application to amend Certificate Nos. 590-W and 508-S in Polk County by Gold Coast Utility Corp.?

Recommendation: Yes. The Commission should approve Gold Coast's amendment application to expand its territory. The proposed territory amendment is described in Attachment A of staff's memorandum dated January 29, 2009. The resultant order should serve as Gold Coast's water and wastewater certificates and should be retained by the utility. Gold Coast 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. If the Commission approves staff's recommendations 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

13**

Docket No. 080606-WU – Application for amendment of water tariff by O&S Water Company Inc., to implement Florida Department of Environmental Protection's requirement under Rule 62-555.360, F.A.C., that backflow prevention devices be tested on an annual basis.

Critical Date(s): May 24, 2009 (8-Month Effective Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Skop

Staff: ECR: Walden

GCL: Hartman

Issue 1: Should the utility's proposed tariff sheet requiring that all backflow prevention devices be inspected on an annual basis be approved?

Recommendation: Yes. O & S Water Company, Inc.'s proposed tariff sheet allowing disconnection of service if the customer fails to comply with the Department of Environmental Protection's (DEP) rules requiring that all backflow prevention devices be inspected on an annual basis should be approved. The utility should file a proposed customer notice to reflect the Commission-approved tariff sheet. The approved tariff sheet should be effective for service rendered on or after the stamped approval date of the new tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. In addition, the inspection requirement should not be implemented until staff has approved the proposed customer notice. The utility should distribute the notice to the customers no later than with the first bill following the effective date of the tariff and should provide proof of the date the notice was given no less than 10 days after the date of the notice.

Issue 2: Should the docket be closed?

Recommendation: Yes. If no timely protest to the proposed agency action order is filed by a substantially affected person within 21 days, a Consummating Order should be issued and the docket should be closed. In the event there is a timely protest, this docket should remain open pending resolution of the protest.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14**

Docket No. 080712-SU – Application for approval of new class of service for reuse water service in Martin County by Indiantown Company, Inc.

Critical Date(s): 02/15/09 (60-Day Suspension Date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Mouring, Bulecza-Banks, Fletcher
GCL: Williams

Issue 1: Should the Utility's proposed tariff sheets for approval of a new class of service for reuse water service be suspended?

Recommendation: Yes, Indiantown's proposed tariff sheets for approval of a new class of service for reuse water 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 class of service for reuse water service.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

15**

Docket No. 090029-WS – Ordinance by Board of County Commissioners of St. Johns County relating to regulation of water and wastewater utilities within the unincorporated areas of St. Johns County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Brady

GCL: Williams

Issue 1: Should the Commission acknowledge Ordinance No. 2008-57 by the Board of County Commissioners of St. Johns County which transfers jurisdiction over the County's privately-owned water and wastewater utilities to the Commission?

Recommendation: Yes. The Commission should acknowledge Ordinance No. 2008-57 by the County Commissioners of St. Johns County, effective January 16, 2009. All non-exempt, privately-owned water and wastewater utilities in St. Johns County, or any utility which transverses the boundary with St. Johns, should be directed to comply with the provisions of Chapter 367, F.S.

Issue 2: Should this docket be closed?

Recommendation: Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of a final order.

DECISION: The recommendations were approved.

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

