

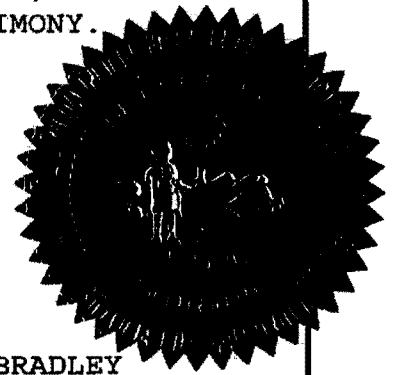
BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION TO DETERMINE WHETHER DOCKET NO. 000733-TL  
BELLSOUTH TELECOMMUNICATIONS, INC.'S  
TARIFF FILING TO RESTRUCTURE ITS  
LATE PAYMENT CHARGE IS IN VIOLATION  
OF SECTION 364.051, F.S.

-----  
COST RECOVERY AND ALLOCATION DOCKET NO. 001503-TP  
ISSUES FOR NUMBER POOLING TRIALS  
IN FLORIDA.

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PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 5

BEFORE: CHAIRMAN BRAULIO L. BAEZ  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER LILA A. JABER  
COMMISSIONER RUDOLPH "RUDY" BRADLEY  
COMMISSIONER CHARLES M. DAVIDSON

DATE: Tuesday, November 2, 2004

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

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FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 NANCY B. WHITE, ESQUIRE; MARSHALL CRISER,  
3 representing BellSouth Telecommunications, Inc.

4 HAROLD McLEAN, ESQUIRE, representing the Citizens of  
5 the State of Florida.

6 JEREMY SUSAC, ESQUIRE; BOB CASEY; CHERYL  
7 BULECZA-BANKS, representing the Florida Public Service  
8 Commission Staff.

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## P R O C E E D I N G S

CHAIRMAN BAEZ: We are on Item 5, Commissioners.

MR. CASEY: Commissioners, Item Number 5 addresses the disposition of approximately \$4.5 million in unclaimed refunds and outstanding drafts from BellSouth's Commission-ordered refund of the interest-free portion of its late payment charge.

Issue 1 of staff's recommendation provides Commissioners with three options. Staff's primary recommendation proposes that approximately 2.9 million of the \$4.5 million be used to offset a planned number pooling cost recovery surcharge to all BellSouth customers. The remaining approximately \$1.6 million would be used to promote Lifeline and Link-Up through programs developed jointly by OPC, BellSouth, and Commission staff with the results being brought back to the Commission for approval.

Staff's Alternate 1 recommendation proposes that BellSouth's and OPC's joint motion to use all of the approximate \$2.8 million of unclaimed refunds for Lifeline and Link-Up be approved with the caveat that the Lifeline and Link-Up programs be developed jointly by OPC, BellSouth, and Commission staff and the results being brought back to the Commission for approval. The remaining approximate \$1.8 million of outstanding drafts would be offset against the approximate \$2.9 million number pooling cost recovery

1 surcharge, leaving approximately \$1.2 million left to be  
2 collected in a one-time surcharge to all BellSouth access  
3 lines.

4 Staff's Alternate 2 recommendation proposes that all  
5 the approximate \$4.5 million in unclaimed refunds and  
6 outstanding drafts be used for Lifeline and Link-Up through  
7 programs developed jointly by OPC, BellSouth, and Commission  
8 staff and the results being brought back to the Commission for  
9 approval.

10 Issue 2 of staff's recommendation recommends that  
11 BellSouth be ordered to file status reports with the Commission  
12 on its Lifeline and Link-Up promotional efforts.

13 We do have some parties here this morning who would  
14 like to speak to the Commission on this item. Ms. Nancy White  
15 of BellSouth is here, and Mr. Harold McLean, Public Counsel is  
16 here.

17 CHAIRMAN BAEZ: Thank you, Mr. Casey.

18 Ms. White.

19 MS. WHITE: Can I defer to --

20 CHAIRMAN BAEZ: We can defer to Public Counsel.

21 Mr. McLean.

22 MR. McLEAN: Good morning, Commissioners. It's  
23 always a pleasure to appear here. My name is Harold McLean  
24 appearing on behalf of the Citizens of the great state of  
25 Florida. Bell and I are here today. You might want to take a

1 picture. You won't see this often with us precisely together,  
2 at least I believe that we are.

3 Let me tell you a couple of things about the very  
4 well-intentioned staff recommendation. We support most of it.  
5 In fact, it's consistent with the petition that Bell and OPC  
6 filed. Any promotion for Lifeline and Link-Up is a good idea  
7 and it's about time. And we're happy to see that this is going  
8 to move in the right direction.

9 We have no problem with the quarterly reports. We  
10 think that's a reasonable request for your stamp of approval.  
11 I think quarterly reports make good sense, and you'll see why a  
12 little bit later in my presentation.

13 And Alternative 1, I think, is the most rational  
14 division of the unclaimed and uncashed checks. Our petition  
15 only went to the \$2.7 million. We were silent as to the rest.  
16 We have no objection to your applying that to the number  
17 pooling issue, but that division represented in Staff  
18 Alternative 1 to us is a reasonable way. It is not an  
19 excessive change of value between the two customer classes,  
20 i.e., Lifeline recipients and those who don't. So we don't  
21 have any problem with that.

22 We begin to disagree when the staff says you must  
23 come to the Commission, we must come to the Commission despite  
24 the fact that we work out an agreement between ourselves as to  
25 how the money should be spent. And indeed, we did that before

1 we filed the petition. To bring the intricacies of the program  
2 before the Commission we think is excessively bureaucratic, and  
3 we think it's not a good idea from anybody's point of view.

4 Let me point out that whatever the Commission,  
5 whatever authority you have in this area, and you do lay claim  
6 to authority under Rule 25-4.114(a), which addresses how -- the  
7 way you handle refunds, whatever authority you have to address  
8 the disposition of these refunds and the authority upon which  
9 the staff recommendation does rely, doesn't go away just  
10 because you don't ask for -- or just because you don't approve  
11 a prior Commission approval. If you see the program going awry  
12 through your quarterly reports, through the press, or through  
13 any other source at all, I suggest that you can step in. You  
14 can intervene in the process. You can tell Bell to hold the  
15 money subject to your further approval. So to forego prior  
16 approval today is not to forego approval forever.

17 Let me point out that I think in the neighborhood --  
18 Bell can correct me here, nearly \$850,000 is already subject to  
19 administration according to an agreement between the parties.  
20 That agreement is memorialized back in the settlement that my  
21 predecessor, Jack Shreve, reached with Bell. And the  
22 parameters under which we're supposed to spend that money is  
23 not excessively wordy, but we have had no problem thus far.  
24 Essentially Bell comes up with a program and brings it to me  
25 and I say whether I believe it's consistent with the terms of

1 the settlement. As I understand the agreement that we now have  
2 with Bell with respect to this position, we'll proceed in that  
3 same way.

4           So, Commissioners, \$850,000 is under administration  
5 now. Money is being spent and we have not had an issue. No  
6 one has come to us to say that we should do things differently.  
7 So with all do respect to the well-intentioned staff  
8 recommendation, I suggest to you that bringing it to the  
9 Commission for prior approval is bit of a solution in search of  
10 a problem. We haven't had a problem. Most importantly and the  
11 thing that I have the greatest problem with is I believe when  
12 you require us to bring our agreement to you for prior  
13 approval, you are going to create a point of entry for all  
14 kinds of aggrieved parties, people who didn't get the business  
15 under the plan, people who think that our focus should be  
16 different, and you're going to create a point of entry for  
17 those folks to come to the Commission and to suggest that  
18 things should be done differently.

19           It is in many ways an invitation to litigate. It's  
20 almost a mini bidding process that I don't think that your good  
21 discretion should allow. It will bring about delay inevitably  
22 when some aggrieved party comes to you and says, you know, the  
23 program they have doesn't serve any particular interest. As I  
24 pointed out earlier, they can come to you now and suggest to  
25 you that you intervene in some way. You still have the

1 authority over this refund money even though you approve this  
2 plan. So I think to create a legal point of entry in a  
3 proceeding whereby you here sit in judgment on a plan that  
4 comes before you, it's not a particularly good idea. It is in  
5 fact, in my view, a solution in search of a problem.

6 Let me invite your attention to the way we've been  
7 doing business with this. It's been a good program. Ms. Ava  
8 Parker has been out on the road promoting Lifeline and doing a  
9 wonderful job with limited resources. We have tried to match  
10 the rate at which we spent that money over the period of time.  
11 And I shouldn't say "we." Bell and myself have given that some  
12 thought, and we have tried to spend money at a rate which makes  
13 sense on how much money we have sustaining the program as long  
14 as we have. And I ought to take this opportunity to say what a  
15 wonderful job Ava has done under the direction of Bell. Many  
16 of us, Chairman, many of us have gone to those presentations,  
17 and I've been real pleased with the results.

18 In addition, it's the only game in town, so it's hard  
19 to find something wrong with it. I plan to evaluate any plan  
20 that Bell comes up with along the same lines as I did Ava's  
21 program. We want it to be effective. We want people to know  
22 about Lifeline, and we want them to sign up where they're  
23 eligible.

24 That's all I have. Again, the only disagreement we  
25 really have with staff is on the issue of prior Commission



1 approval. You do not give up authority to revisit the program  
2 and how well the money is being spent, how effectively it's  
3 being spent if you decline today to insist on prior approval.  
4 That's all I have. Thank you.

5 COMMISSIONER JABER: Mr. Chairman, I just want to  
6 follow up with Mr. McLean on one thing he said early on for  
7 purposes of clarification.

8 CHAIRMAN BAEZ: Go ahead, Commissioner.

9 COMMISSIONER JABER: Mr. McLean, I heard what you  
10 said on the Alternative 1 recommendation, that that's probably  
11 I think you said the most rational recommendation, but are you  
12 adamantly opposed to the primary? And I'll tell you why I ask.  
13 I find attractive in the primary the notion that the number  
14 pooling costs, it's not necessary to surcharge customers if we  
15 apply a portion of the money available to offset those pooling  
16 costs. And I didn't hear you -- I heard you speak in favor of  
17 Alternative 1 but not necessarily against the primary. Is that  
18 a fair assessment?

19 MR. McLEAN: Yes, it is a fair assessment. But of  
20 course, part of me wants every dollar that we can get for the  
21 promotion of Lifeline because it's a wonderful program, but it  
22 does represent a flow of value from people who do not receive  
23 Lifeline to those who do. And our petition, I believe, was  
24 designed to make that split where I felt that it was most  
25 equitably done, but again, you know, every dollar we can get

1 for Lifeline is good, and I would go for the whole ball of wax  
2 if I thought that made sense, but --

3 COMMISSIONER JABER: And I -- obviously, you know, I  
4 agree with you with respect to the Lifeline program. I think  
5 the part thus far that has me leaning toward the primary is the  
6 part of the customer perception to avoid what might look like  
7 an increase in a phone bill because of the surcharges  
8 associated with the number pooling cost recovery mechanism.

9 MR. McLEAN: Yes, ma'am. I think that's a very good  
10 point. Because of my firm belief in Lifeline is a way to -- in  
11 this time of transitional issues in the telecommunications  
12 industry, it is a way to insulate folks who need some help.  
13 I'm really a strong supporter of Lifeline; I know you are too.  
14 And I would simply draw the line in a different place than  
15 you're suggesting than the primary would because I think the  
16 first alternative is the best point to draw the division. But  
17 of course, reasonable minds can differ on that issue.

18 COMMISSIONER JABER: And then my final question,  
19 Mr. Chairman, goes to staff. I have to tell you, staff, I was  
20 taken back by the language used in the recommendations that  
21 would have us directing OPC to do anything. I don't think you  
22 mean it that way, but I don't think the PSC has the authority  
23 to direct Public Counsel to do anything. We might respectfully  
24 request they take care of some things for us, even if it is  
25 Mr. McLean. So why such strong language? Was there a reason,

1 or is it what I think, that you didn't mean to use that word?

2 MR. CASEY: An attorney didn't write this. It was me  
3 and I didn't think of the legal complications of it.

4 COMMISSIONER JABER: Mr. Casey, is it that you want  
5 us to actually approve the plan for implementing the  
6 disbursement of the Lifeline money? And if that's the case,  
7 I'm not following you on why that is necessary.

8 MR. CASEY: We commend OPC and BellSouth for what  
9 they've been doing so far. They've been doing a great job,  
10 Linking Solutions too. Regardless of which option is chosen,  
11 there's a lot of money here, and we just want to make sure that  
12 it goes to -- not the proper place but goes to the most  
13 cost-efficient programs. We do have a new statute that is in  
14 effect that asked that all state agencies work together to  
15 promote Lifeline and Link-Up, and we believe that's what we  
16 should be doing.

17 COMMISSIONER JABER: But, you know, the other part of  
18 that statute goes beyond Public Counsel and the companies. It  
19 involves many other state agencies. And there's a door that  
20 gets opened with language like this and Commission approval  
21 that frankly shifts the burden on this agency. There is a  
22 perception that the burden gets shifted to this agency to look  
23 at what Elder Affairs is doing or -- remind me, what are some  
24 of the other agencies? The Department --

25 COMMISSIONER DAVIDSON: DCA, DCF.

1           COMMISSIONER JABER: -- of Children and Family  
2 Services, what this agency itself has done or could do going  
3 forward. And it seems to me that there is an informal way to  
4 accomplish what you're trying to do without formalizing the  
5 process. Have we explored some of those potential  
6 opportunities with the people at the table?

7           MR. CASEY: No, we haven't sat down and talked with  
8 them.

9           MS. BULECZA-BANKS: If I could interject. One of our  
10 concerns wasn't trying to dictate so much where the moneys was  
11 spent, but more concerned with us was -- a lot too was timing.  
12 And we were just concerned that we didn't want the moneys to  
13 sit there and not go unused in some kind of timely fashion.  
14 That was some of the concerns. We want to make sure it was  
15 getting out there and making a difference with the moneys that  
16 are available.

17           COMMISSIONER DAVIDSON: Chairman.

18           CHAIRMAN BAEZ: Commissioner Davidson.

19           COMMISSIONER DAVIDSON: Thank you. I'd like to start  
20 just by sort of commending Commissioner Jaber and Chairman Baez  
21 because I think the agency has done a very good job in past  
22 years and outreaching and working informally with other  
23 agencies and coordinating. Both Commissioner Jaber as  
24 Commissioner, when she was Chair was aggressive on Lifeline and  
25 Chairman Baez likewise now.

1 I do share Commissioner Jaber's concern with the  
2 language, and I'm fairly strongly opposed to any requirement  
3 that OPC and the company submit a proposal to the Commission  
4 for preapproval and that concern is grounded in several  
5 reasons. One, we're not the one spending the dollars. We're  
6 not the ones in the market. We're not the ones who have  
7 ownership of the business plan. I do think it is inherently  
8 bureaucratic. Ultimately, the success or failure of this  
9 program rests squarely on the backs of the company and OPC.  
10 And either they will meet that challenge or they will not. If  
11 they do not, they will probably hear harsh words from us, but  
12 more importantly, I think this will be addressed legislatively.

13 I would be very comfortable just sort of personally  
14 if I was the owner of this project, developing a business plan,  
15 knowing what my deliverables were, having complete ownership of  
16 the plan, being in the market, having control over the  
17 resources, I am comfortable that I would be able to give it my  
18 best to meet those goals. What I'm very concerned with here is  
19 what Commissioner Jaber mentioned. We all of the sudden sort  
20 of shift the burden as if this is our program and plan, and we  
21 may approve something that with all the well-intentioned  
22 foresight in the world we think will work and then it fails and  
23 it is on our back. It needs to be on their back. It needs to  
24 be on the company and OPC, and they will again either meet the  
25 burden or not.

1 I think having some prior approval here again with  
2 all the well-intentioned foresight is just having too many  
3 cooks in the kitchen. We do not own this plan. It is their  
4 plan. We've given strong indications before as to what needs  
5 to occur, and frankly, subscribership needs to come up; plans  
6 need to be developed. But they need to have -- OPC and the  
7 company need to have the flexibility to do what they think is  
8 best to meet their statutory and other duties to enhance the  
9 program. So for that reason, I'm very strongly opposed to that  
10 requirement.

11 I think reporting requirements are good. It brings  
12 information to the Commission, and we can see on a quarterly  
13 basis after some reasonable time whether or not the programs  
14 are working. And I think that will then lead to the company  
15 and OPC and staff working collaboratively, along with other  
16 agencies, based on the data to say, hey, this program is not  
17 working, or you know what? This little program seems to be  
18 having a great return. Maybe let's expand this into something  
19 else. So I think once we put a stamp of approval on there we  
20 make it bureaucratic. We engage the Commission in something it  
21 probably shouldn't be doing. We do have oversight and control  
22 authority coming on.

23 On the alternatives, just as I sit here, my own  
24 preference is for the first alternative because I think it  
25 strikes a reasonable balance between complete offsetting and no

1 offsetting, but that's just my own view. And I know reasonable  
2 minds can differ. Commissioner Jaber, her first instance was  
3 on the primary, so I would, you know, just like to hear further  
4 discussions as to the options.

5 Alternative 1 seemed to be, for lack of a better  
6 term, a good way to sort of split the baby, achieve all the  
7 goals. We do have a number pooling order out there. The  
8 alternative allows some offsetting of costs but not complete  
9 offsetting. So those are my thoughts on the rec.

10 CHAIRMAN BAEZ: Commissioners, any other questions?

11 COMMISSIONER DEASON: I want to hear from BellSouth.

12 CHAIRMAN BAEZ: I know that Ms. White is waiting to  
13 address us. So go ahead, Ms. White.

14 MS. WHITE: Very briefly. We support Alternative 1  
15 mainly because it's the closest to the joint petition that we  
16 filed. We have no problem with staff working with OPC and  
17 BellSouth and coming up with a plan. We too have concerns  
18 about getting preapproval. If you go back to the settlement  
19 agreement that was between BellSouth and OPC on this matter, it  
20 said if we were unable to agree on a plan, then we would go to  
21 the Commission, and that might be something that could work in  
22 this instance. Staff, OPC, BellSouth work together, and if any  
23 one of the three disagree with the plan, then they could take  
24 it to the Commission.

25 The only other issue we have is if you go to

1 Page 8 of the recommendation, the very bottom of the Page  
2 Number 4, this is in the reporting requirements. We have no  
3 problem with these reporting requirements except when you get  
4 to Number 4, which is the very last one on that page, where it  
5 asks for the identification of the organization originating  
6 each Lifeline application, i.e., Department of Children and  
7 Families, OPC, Consultant, BellSouth Direct Contact. And the  
8 only issue we have is where it says "Consultant" because what  
9 happens is the consultant goes out and holds educational  
10 workshop type things. Then the people that have been at that  
11 workshop will either call OPC or call BellSouth directly. I  
12 don't want us to have to add a layer of bureaucracy to our  
13 thing, our process by saying, how did you hear about Lifeline?  
14 That's what we'd have to do to get whether it came from the  
15 consultant or not. So I guess to the extent we know we can  
16 comply with this, but that is the only tiny issue I see about  
17 that consultant part, that we may not know unless we add  
18 something and I'd rather not add something.

19 CHAIRMAN BAEZ: Thank you, Ms. White.

20 Questions of Ms. White?

21 COMMISSIONER JABER: Ms. White, this is really a  
22 comment and not a question. I see your point with respect to  
23 the consultant. I have to tell you though, adding a line like  
24 that, not for this purpose, but might help you all gauge what's  
25 been effective, being able to measure the effectiveness of what



1 you've implemented. So I hear what you're saying, and I'm not  
2 necessarily wed to having you all report it for purposes of the  
3 agency, but I would suggest you reconsider on your own adding  
4 that question because that will help you gauge what would be  
5 effective going forward.

6 MS. WHITE: Well, and I think that you're right. I  
7 think if you look at 2 and 3, the criteria developed to  
8 evaluate the effectiveness and the analysis performed to  
9 evaluate the effectiveness, this could very well come up there.  
10 I just didn't want to have it in there from the beginning when  
11 I'm not sure how it would just kind of blow things up right  
12 now.

13 CHAIRMAN BAEZ: Commissioner Deason, did you  
14 have questions?

15 COMMISSIONER DEASON: Well, let me follow up. I  
16 guess, Ms. White, I don't have at this point an appreciation of  
17 your concern. Can you repeat it again?

18 MS. WHITE: Right now, with Linking Solutions, which  
19 is the consultant that OPC and BellSouth have hired, they go  
20 out and hold workshops. It can be in community centers; it can  
21 be done with any of the state agencies. And that's where they  
22 will educate people about Lifeline and Link-Up. And they will  
23 give information; they will give talks about it; and they'll  
24 give out written information. They don't sign up people there,  
25 to my understanding. The people will then go back and either

1 call OPC to sign up with Lifeline or call BellSouth directly to  
2 sign up with Lifeline. And right now, we don't ask them, how  
3 did you hear about Lifeline? We just sign them up.

4 COMMISSIONER DAVIDSON: Well, if they're signing up  
5 with you or OPC, that answers it. If they're signing up  
6 through a consultant, that answers it. I mean, it seems --

7 MS. WHITE: Well, I mean, under Number 4, what we  
8 would say is they either came from OPC or it was a direct  
9 contact with BellSouth, but we don't know whether it was the  
10 consultant that spurred the direct contact with BellSouth or  
11 the call to OPC. So it's kind of going behind that one step.

12 COMMISSIONER DEASON: Well, I don't think the intent  
13 is for you to report something you don't know.

14 MS. WHITE: Okay. And that's fine. I just wanted to  
15 make sure of that.

16 COMMISSIONER DEASON: I guess I was just missing it.

17 MS. WHITE: And maybe I was just being too detail  
18 oriented.

19 COMMISSIONER DEASON: Okay.

20 CHAIRMAN BAEZ: Any other questions, Commissioners?

21 COMMISSIONER DEASON: At some point I need to address  
22 some of the things that are here, but, I mean, I'm willing for  
23 further questions to be asked.

24 CHAIRMAN BAEZ: I just have a couple of questions for  
25 my own clarification. Mr. McLean, you mentioned as part of

1 your presentation that there was currently -- and again,  
2 recognizing that it's under a settlement that this Commission  
3 approved once upon a time, there's \$850,000 --

4 MR. McLEAN: I believe so, yes, sir.

5 CHAIRMAN BAEZ: Any numbers as to expenditures to  
6 date?

7 MR. McLEAN: No, sir, I don't. I'm sorry. I could  
8 have brought that and didn't.

9 CHAIRMAN BAEZ: Mr. Criser is raising his hand.

10 MR. CRISER: Commissioners, Marshall Criser for  
11 BellSouth. One slight clarification to that dollar amount. I  
12 believe the 850,000 represents the settlement with BellSouth  
13 and with Sprint. The specific BellSouth dollars were \$550,000.

14 CHAIRMAN BAEZ: Do you have the expenditure numbers?

15 MR. CRISER: I'm not trying to be cute, but to date  
16 the amount spent was \$247,916.96.

17 CHAIRMAN BAEZ: To the penny, sir.

18 MR. CRISER: We are trying to be very careful to  
19 make --

20 CHAIRMAN BAEZ: And just for perspective, how long  
21 has that -- at least your figures been --

22 MR. CRISER: The real spend rate on that would have  
23 been since May of 2003. Prior to that time, we were in the  
24 process of working with Public Counsel to develop a program.  
25 So May was the launch of that program, and that's the dollars

1 for that period.

2 CHAIRMAN BAEZ: So roughly 16 months, give or take --

3 MR. CRISER: I'd say roughly that.

4 CHAIRMAN BAEZ: -- 16, 18 months at 227, you said?

5 MR. CRISER: I'm sorry?

6 CHAIRMAN BAEZ: 227.

7 MR. CRISER: 247.

8 CHAIRMAN BAEZ: 247.

9 MR. CRISER: That program will continue on a  
10 going-forward basis. I think what we're looking at in the face  
11 of this recommendation in front of you today though is trying  
12 to not just more of the same, but, you know, we have issues  
13 with multilingual customers, and therefore, we're looking at  
14 agencies or others who can help us in multilingual campaigns.  
15 We're looking at other ways that we can -- I guess if I had a  
16 vision for this thing, I'm looking for the day when an event in  
17 Miami is covered by the press in Jacksonville and Tallahassee  
18 and not just in Miami. And so I think that's a piece of what  
19 we want this to go to.

20 CHAIRMAN BAEZ: One other question. And I guess  
21 Mr. McLean had the bulk of the presentation on it, so that's  
22 why the question is to you, Mr. McLean. You mentioned -- you  
23 also alluded to some kind of agreement that you all had  
24 discussed or attained on some level. Any comments on the  
25 agreement, any characterizations of the agreement, any details

1 that you're at liberty to discuss?

2 MR. McLEAN: Yes. I don't think either BellSouth or  
3 I would want to keep a secret. We simply have an agreement to  
4 spend this money and to obtain the same sort of results that we  
5 hope to obtain in the settlement between us, to use it in the  
6 spirit -- the same letter and spirit that we agreed to -- that  
7 Jack and Bell agreed to a couple of years back. So it wants  
8 for detail, but it also lacks problems. We have not had any  
9 problems. We have not had critics to say that we should have  
10 done things differently. So again, we don't want to beat the  
11 solution in search of a problem too hard, but that's the way we  
12 view it. We haven't had a problem thus far.

13 CHAIRMAN BAEZ: And before Commissioner Deason makes  
14 his comments, I just wanted to clear up for everybody what my  
15 particular concerns are, although I don't disagree with  
16 anything that Commissioner Jaber said in terms of concerns as  
17 well as Commissioner Davidson. I think, you know, perhaps this  
18 prior approval isn't appropriate because it does put the  
19 Commission in a bind of sorts, and I see the logic of trying to  
20 avoid those kinds of situations.

21 My concern has always been, first of all, that we get  
22 the most efficient efforts out there. While I too commend the  
23 grassroots efforts that have been going on, I've had the  
24 pleasure and the honor of attending and participating in many  
25 of them. I think they do a great service for the limited

1 constituencies that they address at any given point in time.  
2 That, I believe, has been a success.

3           This is a lot of money. And that's a good thing and  
4 a bad thing, frankly. First of all, my concerns have always  
5 been not to create a situation where it's a blank check that  
6 creates this pool of money over which those that rightfully  
7 should have the responsibility in executing any plan as they  
8 see efficient and fit to be fighting over and then nothing gets  
9 done. And at the end of the day, all you have, you've somehow  
10 created this jurisdictional pool of money, because I do believe  
11 that the Commission, although we shouldn't have prior approval,  
12 it is in fact jurisdictional dollars that are being provided or  
13 freed up for this kind of activity that it winds up being a  
14 blank check that goes nowhere. And that's why personally I  
15 would have been more interested in seeing more -- even at a  
16 conceptual level more detail as to what you all intended on  
17 doing. I have every confidence that those details would get  
18 filled in in the near future and that the Commission, whether  
19 prior approval or not, would have some, (a), participation and,  
20 (b), knowledge of it as well. It stands to reason. So in that  
21 sense, I'm comfortable not having prior approval because the  
22 downside to that has already been stated.

23           COMMISSIONER BRADLEY: Mr. Chairman, while you're on  
24 that --

25           CHAIRMAN BAEZ: Yes. Go ahead, Commissioner.

1           COMMISSIONER BRADLEY: -- particular point. If we  
2 took the terms -- well, the statement "prior approval" out and  
3 instead used the language "staff will come back in 60 days with  
4 the plan to spend the Lifeline money," would that give you a  
5 little bit more comfort?

6           CHAIRMAN BAEZ: I'm not sure that that wouldn't work.  
7 I mean, that would be fine with me. It may be more than -- I  
8 mean, from my perspective, I'd be satisfied as to the staff's  
9 inclusion from the perspective of, you know, either making --  
10 being part of the discussion. Naturally, you all have  
11 expressed an already existing agreement between you that if no  
12 agreement can be reached, that somehow it floats on up to the  
13 Commission, and that gives me perfect comfort that -- hopefully  
14 it never happens, but in the event that it will be necessary,  
15 there's a process by which that would happen and let us join  
16 the discussion, if you will.

17           So, Commissioner Bradley, as to your suggestion, I  
18 don't know that it's any -- you know, I think the language of  
19 participation and having staff included in the discussion  
20 remains. I mean, I don't know if there's consensus on that or  
21 not, but it would serve that purpose. I think as a practical  
22 matter the staff would still be involved, and I'm sure that the  
23 parties are anticipating that kind of participation.

24           But just in order to bring a close at least to what  
25 my concerns once upon a time were is that I wouldn't want this

1 Commission to free up what are otherwise jurisdictional dollars  
2 that will just go and sit and go nowhere. That's the reason  
3 for my question as to how much money has been spent so far.  
4 It's been something short of 50 percent over the course of a  
5 year. I don't have any basis to say that that's too much or  
6 too little.

7 My words of encouragement are, as Mr. Criser has  
8 alluded to, think big. This is a pot of money that can do a  
9 lot of good on a very broad basis. And, you know, I have every  
10 confidence that you all will be considering more expansive  
11 programs than just at the grassroots level.

12 With that, Commissioner Deason, I know you have a few  
13 things to say, and you have the floor.

14 COMMISSIONER DEASON: Okay. Thank you. First of  
15 all, just let me say at the beginning that I want to  
16 acknowledge the efforts of BellSouth and Public Counsel and our  
17 staff in this regards and for them coming forward with an  
18 innovative proposal, one that addresses a need that exists out  
19 there, hopefully to try to provide some additional funding for  
20 a very worthwhile program. I think that it is notable for the  
21 fact that they have been able to reach consensus on that, and I  
22 congratulate them for that. However, I have some very serious  
23 problems with what we're doing here today or potentially doing  
24 here today.

25 We have three alternatives: A primary, a



1 First alternative, and a second alternative. I'm going to  
2 speak to those for just a moment. To me, of those three, I  
3 tend to support the primary and for this reason. If we do not  
4 allocate enough of the unrefunded amounts, if we do not  
5 allocate that to cover 100 percent of the number pooling costs,  
6 in essence, this Commission, maybe not in a strict legal sense,  
7 but in a practical sense, this Commission would be approving a  
8 surcharge on the general body of ratepayers to fund a Lifeline  
9 program. That would be the practical effect. Now, this -- my  
10 comment is in no way derogatory or anti-Lifeline. What I'm  
11 saying is I'm not sure this Commission has the authority to  
12 approve a surcharge on the general body of ratepayers to  
13 promote any program, even one as worthwhile as Lifeline. So I  
14 have a very fundamental problem with what we're doing if we  
15 approve anything other than primary.

16 Now, taking a step further. I have some concern  
17 about even approving primary, not with the allocation of the  
18 unrefunded amounts towards offsetting the surcharge that would  
19 otherwise exist for the number pooling costs, but the fact that  
20 the normal flow of this money, the excess would go back to the  
21 Treasury of the state of Florida which would go back to the  
22 Legislature. And I think it is basically a legislative call as  
23 to how the resources of this state are used to fund any  
24 worthwhile service or project, whether it's Lifeline,  
25 education, healthcare, whatever may exist out there. So I

1 think that to some extent we're overstepping our bounds by  
2 approving any of these alternatives.

3 I would be much more comfortable with approving the  
4 primary recommendation with the 1.6 million excess, just taking  
5 its normal flow going back to the state of Florida with the  
6 recommendation to the Legislature that it be used for Lifeline.  
7 But I think that is a legislative call. They may look at that  
8 and look at it as seed money and want to allocate even more.  
9 And I think by doing that we avoid a lot of the problems that  
10 have been expressed here at the bench, which I agree with, is  
11 who has responsibility, who creates the criteria, what criteria  
12 are used, who all is involved, is it just Public Counsel and  
13 the company, do we involve Elder Affairs, do we involve another  
14 agency, Children and Families? I think that is a legislative  
15 call. They may want to take the 1.6 million and allocate it to  
16 the budget of Children and Families and give them that  
17 responsibility and determine what criteria Children and  
18 Families is to utilize in promoting Lifeline. I don't know,  
19 but I think it is a legislative call and not a call of this  
20 Commission. So those are the problems that I am having.

21 This is, to my knowledge, and I may need to be  
22 corrected, but to my knowledge, this is the first time that  
23 this Commission would be taking funds that were to be allocated  
24 to the general body of ratepayers in some form and instead  
25 taking part of it and allocating it for a special purpose

1 project regardless of the fact that the project here is very  
2 worthwhile. In the past when there are funds to be refunded,  
3 it is a direct refund to the customer, and then in the past if  
4 there were excess amounts, it was used in some form that would  
5 benefit the general body of ratepayers. It was used to offset  
6 some type of other general accounting costs of some sort or it  
7 was used to add it to depreciation reserve which had the effect  
8 of reducing rate base which benefited the general body of  
9 ratepayers, not a segment of ratepayers. And I think we're on  
10 a course here that I'm uncomfortable with.

11 Now, I welcome feedback from fellow Commissioners  
12 because I may be looking at this totally wrong, but I feel  
13 compelled to express what my concerns are.

14 CHAIRMAN BAEZ: And just as a clarifying question to  
15 staff, the 2,970,000 in the primary staff recommendation, that  
16 represents the number pooling costs in their entirety?

17 MR. CASEY: Yes, sir.

18 CHAIRMAN BAEZ: So as a result of -- I mean, assuming  
19 a primary were to be adopted, the number pooling costs, we  
20 would avert a surcharge completely --

21 MR. CASEY: Yes, there would be no surcharge.

22 CHAIRMAN BAEZ: Okay. Commissioner Bradley, you had  
23 a question?

24 COMMISSIONER BRADLEY: Well, I can give you some  
25 feedback. My inclination would be to pay off the entire

1 surcharge and use the remainder for Lifeline. I guess the  
2 second option pays off half of -- the second alternative, I  
3 think, correct me if I'm wrong, pays off half of the surcharge?

4 MR. CASEY: Under Alternative 2 there would be a  
5 surcharge -- I'm sorry, under Alternative 1 there would be a  
6 surcharge, but it would only be 20 cents rather than 48 cents  
7 per access line.

8 COMMISSIONER BRADLEY: So that would be the  
9 equivalent of paying off half of the surcharge.

10 MR. CASEY: Approximately, yes, sir.

11 COMMISSIONER BRADLEY: A compromise would be to pay  
12 off -- instead of paying off the entire amount or paying off  
13 half of it would be to pay off three-quarters of it and use the  
14 remainder for Lifeline?

15 CHAIRMAN BAEZ: That's certainly, I would assume, one  
16 of the alternatives. I mean, this is merely line drawing.

17 COMMISSIONER JABER: Here's my concern, Commissioner  
18 Bradley, if you'll allow me to just interject a concern related  
19 to that. We did by Commission order, separate Commission order  
20 allow the company to recover the costs for number pooling.  
21 When we start dividing whether it's half or three-quarters,  
22 when you start dividing it even more, it begs the question it's  
23 not frankly our problem, really it's their problem with respect  
24 to is it administratively worth it to assess that surcharge.  
25 Now, I'm okay with that in terms of being an issue they need to

1 discuss and think about, but from a legal standpoint, are we  
2 then moving away from a decision we already made? Are we in  
3 effect from a legal perspective reconsidering or vacating a  
4 decision we already made? I think to the degree there are  
5 compromises to be made, the only compromise is primary versus  
6 Alternative 1. And I go back to what I said earlier.

7 I hear what Commissioner Deason is saying, and I  
8 would love for Mr. Melson to respond to the concern on whether  
9 it's in our authority or purview to deal with the remainder of  
10 the money and use it for Lifeline/Link-Up, but I just think the  
11 primary allows us to deal with the number pooling cost recovery  
12 without the company having to assess a surcharge that's going  
13 to look like yet another increase on the phone bill. And, you  
14 know, we've been given an unexpected opportunity to deal with  
15 it, and perhaps we should consider seriously taking it.

16 COMMISSIONER BRADLEY: Well, I agree. The primary  
17 seems to be the cleanest.

18 COMMISSIONER DAVIDSON: Well, if I can speak up, and  
19 I agree wholeheartedly with Commissioner Jaber's concern. Sort  
20 of the other view, and I don't support this, but Alternative 2,  
21 which I'm not supporting, is also a very sort of pure, clean  
22 approach because this Commission better or worse has ordered  
23 that cost recovery for number pooling be allowed. The company  
24 has that right to seek that cost recovery and apply that to the  
25 bills. That said, Alternative 2 recognizes their legal right

1 to impose that. I mean, we have ordered that again better or  
2 worse. And it's certainly within their discretion whether to  
3 choose to do that or not. And it does get a little messy when  
4 we start splitting it because we've ordered it. So either we  
5 revisit that prior order, which I'm not suggesting, or we stand  
6 by it, which entitles the company to recover that. Sort of the  
7 extreme between the primary and Alternative 2 was really the  
8 reason I thought Alternative 1 was just a clean break in the  
9 sand. It's sort of really splitting the baby between the  
10 primary, which I think is legally sound, and the alternative,  
11 which I think is legally sound. With that said --

12 COMMISSIONER BRADLEY: Let me ask a clarifying  
13 question. Just for the record, under the primary, how much  
14 would be available to OPC to use for Lifeline?

15 MR. CASEY: Approximately \$1.6 million, sir.

16 COMMISSIONER BRADLEY: And the remainder would go to  
17 pay off -- to not create a situation that requires a surcharge.

18 MR. CASEY: Yes, sir, that would eliminate the  
19 surcharge.

20 COMMISSIONER BRADLEY: Under the first alternative,  
21 what would the numbers look like?

22 MR. CASEY: Okay. Lifeline and Link-Up would receive  
23 approximately \$2.8 million. There would be a remaining  
24 approximately \$1.8 million which could be offset against the  
25 number pooling cost recovery. That would leave a remaining

1 balance of approximately \$1.2 million that would be in a  
2 surcharge.

3 COMMISSIONER JABER: Mr. Chairman, let me ask legal a  
4 question with regard to the point Commissioner Deason made.  
5 Are you ready for that?

6 CHAIRMAN BAEZ: Commissioner Jaber, if you can hold  
7 on. I'm not sure if Commissioner Bradley was done with his  
8 questions.

9 COMMISSIONER BRADLEY: Thank you, Mr. Chairman. The  
10 more we disuses this --

11 CHAIRMAN BAEZ: The harder it gets?

12 COMMISSIONER BRADLEY: Well, the more my instinct  
13 tells me that the primary recommendation sounds like the best  
14 deal for all concerned. After all, the customers contributed  
15 these dollars, and I think that they need to get their fair  
16 share of it with respect to offsetting the number portability  
17 charge. By all means, I firmly believe that we need to do  
18 everything within our means as a body to help implement the  
19 initiation of Lifeline and Link-Up. And I don't know how we  
20 get there.

21 CHAIRMAN BAEZ: Thank you, Commissioner.

22 COMMISSIONER BRADLEY: And I'm curious, I think I'm  
23 anticipating what Commissioner Jaber is going to ask. What is  
24 our legal authority as it relates to -- what was your question  
25 going to be?

1           COMMISSIONER JABER: Let me make a comment,  
2 Mr. Melson, and then set the question up for you. Commissioner  
3 Bradley has already done a fine job of transitioning us to this  
4 question. Going back to my limited memory bank now of water  
5 and wastewater refunds and how we dispose of water and  
6 wastewater refunds, I recall that grounded in law was a  
7 fundamental understanding that those refund amounts are  
8 jurisdictional. It's important to go back to why we have the  
9 refund amount, which is, it's a result of the late payment  
10 charge decision.

11           We made the decision to require BellSouth to return  
12 assessments made for late payments, and these are moneys that  
13 were -- that Bell was unable to refund. And that's a  
14 jurisdictional amount. And it's my recollection that because  
15 this agency has jurisdiction over that amount, we did things in  
16 water and wastewater that were upheld like allowing the refund  
17 money to be returned to the ratepayers by virtue of returning  
18 them to rate base. In the case of water and wastewater, CIAC  
19 comes to my mind. We've done things like allow the companies  
20 to use money to set up conservation programs. I take the view  
21 that Lifeline/Link-Up benefits the general body of ratepayers.  
22 I need to understand from you whether from a legal perspective  
23 you think it's sound policy -- sound legal analysis to say,  
24 one, we have jurisdiction over that money which allows us to  
25 require the company to dispose of it as we deem to be in the



1 public interest and, two, whether there's some legal analysis  
2 that supports the notion that the Lifeline/Link-Up program does  
3 benefit the general body of ratepayers.

4 MR. MELSON: I think on your first question you do  
5 have jurisdiction. I think Commissioner Deason was right that  
6 all other things being equal typically when you have an  
7 unclaimed refund, that would revert to the State Treasury, but  
8 we've got rules that give us jurisdiction over the disposition  
9 of those refunds. We typically in the order requiring the  
10 refund specifically retain jurisdiction over any nonrefundable  
11 amounts, and the courts have said essentially that that  
12 continues, in your terms, to make that money jurisdictional and  
13 give the Commission control over it. So I don't think that  
14 we've got a legal problem with not allowing the money to revert  
15 to the state.

16 On the second question of public interest, I don't  
17 recall any cases beyond sort of the credit to CIAC context  
18 where there's been a discussion of, you know, what use of those  
19 moneys is in the public interest. And frankly, the CIAC is the  
20 only one that really sticks in my mind. I know Commissioner  
21 Deason mentioned credits to the depreciation and so forth.  
22 Again, those pretty clearly affect the general body of  
23 ratepayers because they affect the rate calculation for  
24 everyone.

25 When you get to Lifeline, I think you've got a closer

1 question, but it seems to me that's something you all are going  
2 to have the discretion to resolve as a matter of policy. If  
3 you believe that Lifeline benefits the general body of  
4 ratepayers, I think we can defend that if it were challenged.  
5 On the other hand, I can see an argument could be made that it  
6 does not benefit the general body, and so without any precedent  
7 one way or another, I think unfortunately it's a tough decision  
8 the five of you are going to have to make.

9           COMMISSIONER DEASON: Let me say something at this  
10 point. And when I asked -- or made the comment, kind of teed  
11 up the concerns I had, I think I indicated that I don't think  
12 there's a problem -- I personally don't think there's a problem  
13 in a strict legal sense. I'm not saying that we do not have  
14 the legal authority to do this because I think that a very  
15 persuasive argument could be made concerning the benefits of  
16 the Lifeline program, that it is something of a general public  
17 benefit and that it could be sustained. The problem I have, I  
18 guess, is one step removed from that, and that is, as I  
19 indicated, if we approve anything other than primary, while it  
20 may not be the legal effect, the practical effect would be we  
21 would be approving a surcharge to benefit a worthwhile program.  
22 That's something we have never done before. I think that is  
23 more of a legislative call than it is for this Commission to do  
24 that.

25           And then let me -- one step further. We've had a lot

1 of discussion about what is the structure of the program going  
2 to be, who's accountable, what reports have to be made, who at  
3 the end of the day is going to have to say it was successful or  
4 not successful. Those to me are legislative matters and that  
5 the preferred alternative is one that is not even listed here  
6 and that is that the 1.6 million go to the Treasury of the  
7 state of Florida. It's funds that are available for the  
8 Legislature to allocate as they see fit. They allocate it to  
9 whom, and they put the parameters on the program as to how  
10 those funds are to be utilized, who is responsible, what  
11 reports have to be made, and what is the goals and criteria to  
12 be utilized in that program. That to me is where the  
13 responsibility should be, and that's just the preference that I  
14 have.

15 MR. McLEAN: Mr. Chairman, could we speak very  
16 briefly to that issue?

17 CHAIRMAN BAEZ: I think Commissioner Davidson had  
18 either a question or a comment before we take up your --

19 MR. McLEAN: I'm sorry.

20 COMMISSIONER DAVIDSON: I sympathize with  
21 Commissioner Deason's concerns. Unfortunately, we've already  
22 approved this number pooling cost recovery.

23 COMMISSIONER DEASON: I'm not challenging the cost  
24 recovery at all --

25 COMMISSIONER DAVIDSON: And I understand that.

1           COMMISSIONER DEASON: -- even though I disagreed with  
2 it at that time, but I'm not challenging it.

3           COMMISSIONER DAVIDSON: To move this along, I'm going  
4 to move staff's primary recommendation with deleting the  
5 requirement that OPC, BellSouth, and PSC submit to the  
6 Commission a proposal for spending Lifeline dollars to  
7 Commission approval. So I'm moving primary rec with a deletion  
8 of the requirement that a proposal be submitted to us for  
9 preapproval.

10           CHAIRMAN BAEZ: And before we entertain a second, I  
11 don't want to shut Public Counsel out. If he sees it  
12 absolutely necessary --

13           MR. McLEAN: Well, I never want to snatch victory  
14 from the jaws of defeat, but I did want to mention one thing.  
15 I too as a direct legislative employee had the same concerns  
16 you had, Commissioner Deason, but let me point this out. The  
17 path of the money to the benefit of the general body of  
18 taxpayers of the state is not all that clear. Chapter 717,  
19 which is the unclaimed property statute, provides, first of  
20 all, that things go to the state unless otherwise provided by  
21 law, and I think Mr. Melson addressed that fairly well. It's  
22 jurisdictional money.

23           Second and probably most troubling is there's a  
24 five-year path. Once it gets into the hands of the state,  
25 they're not free to simply spend it as they wish. But

1 according to my reading of Chapter 717, it's very likely that  
2 it has to stay within the grasp of the state for five years for  
3 potential claimants, and after that time, they might be able to  
4 use it for general revenue.

5 COMMISSIONER DEASON: So those are potential  
6 claimants that could not be found according to the refund  
7 process that has been in place that at some future time they  
8 can make a claim for that?

9 MR. McLEAN: Yes, sir. And I'm not an expert in the  
10 area, I promise you that. But it seems to me in reading the  
11 statute, like I say, the path for the Legislature to be able to  
12 appropriate that money is not all that clear, and second, it's  
13 probably going to take five years to do it. That's according  
14 to my reading. So the point, of course, is that that money may  
15 not be available for Lifeline for at least five years. But I  
16 shared that issue about legislative discretion because I work  
17 for the Legislature, but I think this is a reasonable way to  
18 resolve a rather difficult situation.

19 CHAIRMAN BAEZ: Thank you, Mr. McLean.

20 COMMISSIONER JABER: Mr. Chairman, for the reasons  
21 I've already articulated, I would second the motion.

22 CHAIRMAN BAEZ: There's a motion and a second. All  
23 those --

24 COMMISSIONER DEASON: Let me say one thing. I'm  
25 going to support the motion because I think it is something

1 hat we legally can do, and I support the concept. It's just  
2 not my preferred alternative, which I've indicated the reasons  
3 why, but I am going to support the motion.

4 CHAIRMAN BAEZ: Fair enough. And I would thank  
5 Commissioner Davidson and Commissioner Jaber for the motion and  
6 the second. And before we go ahead and vote I'll say, while in  
7 a perfect world I would have loved to see a situation where we  
8 took all the money for Lifeline, I feel that the money can be  
9 best used to promote a very worthwhile program, but there are  
10 infirmities to doing that. And it seems to me that while we  
11 did create an obligation on the part of the customers in  
12 BellSouth's case in particular to bear the recovery of number  
13 pooling costs, I think this has been very fortunate to offer us  
14 an opportunity to address that without negative impact on the  
15 customers. So as much as I would have liked the number to be  
16 higher on Lifeline, I do recognize that we have been -- what I  
17 think is going to turn out, we have been responsible with our  
18 shepherding of jurisdictional funds. So I would also be  
19 inclined to support the motion.

20 And, you know, having said that, there's a motion and  
21 a second to approve the primary -- staff's primary  
22 recommendation as modified to exclude the hard -- at least the  
23 hard requirement of prior approval. I hope I'm not putting  
24 words into your mouth, Commissioner Davidson.

25 COMMISSIONER DAVIDSON: No.

1 CHAIRMAN BAEZ: All those in favor say, "aye."

2 (Unanimous affirmative vote.)

3 CHAIRMAN BAEZ: All those, "nay." The motion passes  
4 unanimately. I want to commend everyone that had any  
5 involvement in this whatsoever. I think staff did a great job  
6 of bringing us some good alternatives and good discussion. I  
7 want to thank the company and last but not least Public Counsel  
8 for bringing this to --

9 COMMISSIONER DAVIDSON: Move staff on Issue 2.

10 CHAIRMAN BAEZ: Move staff of Issue 2. Is there a  
11 second?

12 COMMISSIONER JABER: Second.

13 CHAIRMAN BAEZ: And a second. All those in favor  
14 say, "aye."

15 (Unanimous affirmative vote.)

16 CHAIRMAN BAEZ: Thank you all.

17 MR. McLEAN: Thank you, Commissioners.

18 COMMISSIONER JABER: And 3.

19 CHAIRMAN BAEZ: Oh, and 3. I'm sorry.

20 COMMISSIONER DAVIDSON: Move staff on Issue 3.

21 COMMISSIONER JABER: Second.

22 CHAIRMAN BAEZ: A motion and a second. All those in  
23 favor say, "aye."

24 (Unanimous affirmative vote.)

25 CHAIRMAN BAEZ: Issue 3 is approved. Thank you very

1 much. Is there an Issue 4?

2 COMMISSIONER DAVIDSON: Let me pull my -- can we  
3 reconsider that vote?

4 CHAIRMAN BAEZ: Motion reconsider?

5 COMMISSIONER DAVIDSON: Move to reconsider Issue 3.

6 CHAIRMAN BAEZ: Is there a second?

7 COMMISSIONER JABER: Second.

8 CHAIRMAN BAEZ: And there's a second. All those in  
9 favor say, "aye."

10 (Unanimous affirmative vote.)

11 CHAIRMAN BAEZ: I hear where you're coming from.  
12 Issue 3 has to be modified.

13 COMMISSIONER DAVIDSON: I would actually move that  
14 the docket be closed because they're not coming back with a  
15 plan.

16 CHAIRMAN BAEZ: Mr. Susac, is that exactly what's  
17 necessary, I mean, just that the docket be closed?

18 MR. SUSAC: Let me have one second, Chairman.

19 CHAIRMAN BAEZ: Okay. Commissioner Davidson, the  
20 reason for my pause is, you know, it might not be that simple.

21 COMMISSIONER DEASON: Reports will be required, but I  
22 don't suppose you have to have a docket open to file a report,  
23 do you?

24 MR. SUSAC: Yes, I believe that docket -- well,  
25 Docket 000733 should remain open while Docket 001503 can be



1 closed.

2 COMMISSIONER DAVIDSON: Why would 733 remain open if  
3 we've deleted the requirement that the parties come here with a  
4 plan for approval? As Commissioner Deason pointed, I mean,  
5 they're now subject per this order to biannual court reporting  
6 requirements. So staff is free to open a docket if needed in  
7 response to the reporting, but there's no plan that we're  
8 approving.

9 MR. SUSAC: My misunderstanding. You are correct,  
10 Commissioner.

11 COMMISSIONER DAVIDSON: So move that both dockets be  
12 closed.

13 COMMISSIONER JABER: Second.

14 CHAIRMAN BAEZ: A motion and a second. All those in  
15 favor say, "aye."

16 (Unanimous affirmative vote.)

17 CHAIRMAN BAEZ: Thank you all.

18 (Agenda Item Number 5 concluded.)

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1 STATE OF FLORIDA )  
 : CERTIFICATE OF REPORTER  
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I, TRICIA DeMARTE, RPR, Official Commission Reporter,  
do hereby certify that the foregoing proceeding was heard at  
the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically  
reported the said proceedings; that the same has been  
transcribed under my direct supervision; and that this  
transcript constitutes a true transcription of my notes of said  
proceedings.

I FURTHER CERTIFY that I am not a relative, employee,  
attorney or counsel of any of the parties, nor am I a relative  
or employee of any of the parties' attorneys or counsel  
connected with the action, nor am I financially interested in  
the action.

DATED THIS 8th DAY OF NOVEMBER, 2004.

  
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TRICIA DeMARTE, RPR  
FPSC Official Commission Reporter  
(850) 413-6736