

# FLORIDA PUBLIC SERVICE COMMISSION

## COMMISSION CONFERENCE AGENDA

**CONFERENCE DATE AND TIME:** March 1, 2005, 9:30 a.m.

**LOCATION:** Room 148, Betty Easley Conference Center

**DATE ISSUED:** February 18, 2005

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### NOTICE

Persons affected by Commission action on certain items on this agenda for which a hearing has not been held (other than actions on interim rates in file and suspend rate cases) may be allowed to address the Commission when those items are taken up for discussion at this conference. These items are designated by double asterisks (\*\*) next to the agenda item number.

Included in the above category are items brought before the Commission for tentative or proposed action which will be subject to requests for hearing before becoming final. These actions include all tariff filings, items identified as proposed agency action (PAA), show cause actions and certain others.

To obtain a copy of staff's recommendation for any item on this agenda, contact the Division of the Commission Clerk and Administrative Services at (850) 413-6770. There may be a charge for the copy. The agenda and recommendations are also accessible on the PSC Homepage, at <http://www.floridapsc.com>, at no charge.

Any person requiring some accommodation at this conference because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours before the conference. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD). Assistive Listening Devices are available in the Division of the Commission Clerk and Administrative Services, Betty Easley Conference Center, Room 110.

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Agenda for  
 Commission Conference  
 March 1, 2005

<u>ITEM NO.</u>	<u>CASE</u>
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1	Approval of Minutes January 18, 2005 Regular Commission Conference February 1, 2005 Regular Commission Conference
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2**	Consent Agenda
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PAA	A) Applications for certificates to provide competitive local exchange telecommunications service.
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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
050039-TX	Asia Talk Telecom, Inc. d/b/a HelloCom Inc.
041416-TX	H C Phone Service, LLC
041395-TX	Infotelecom, LLC
041406-TX	Benchmark Communications, LLC d/b/a Com One
041428-TX	FlatPhone, Inc d/b/a FlatPhone

PAA	B) Application for certificate to provide pay telephone service.
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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
050025-TC	William W. Pastis

PAA	C) Request for cancellation of a competitive local exchange telecommunications certificate.
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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
041360-TX	NewSouth Communications Corp.	12/31/2004

Agenda for  
Commission Conference  
March 1, 2005

ITEM NO. \_\_\_\_\_ CASE \_\_\_\_\_

2\*\* Consent Agenda

(Continued from previous page)

PAA D) Request for approval of transfer and name changes on a competitive local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
041168-TX	NuVox Communications, Inc. (old name)	
	NewSouth Holdings, Inc. (new name)	12/31/04
	NuVox Communications, Inc. (new name)	03/01/05

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

ITEM NO.

CASE

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3\*\*PAA

Docket No. 041293–EU – Joint petition for approval of territorial agreement in Osceola and Orange Counties by City of St. Cloud and Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Davidson

Staff: GCL: Jaeger

ECR: Windham, Breman

Issue 1: Should the Commission approve the Joint Petition for approval of Territorial Agreement Between the City of St. Cloud and Progress Energy Florida, Inc.?

Recommendation: Yes. The Agreement between the City of St. Cloud and Progress Energy Florida, Inc. appears to be in the public interest, and the Agreement and its associated maps should be approved.

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.



ITEM NO.

CASE

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4\*\*PAA

Docket No. 050009–EU – Joint petition for approval of term extension to territorial agreements in Citrus and Pasco Counties, by Withlacoochee River Electric Cooperative and Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: GCL: Brown

ECR: Breman

Issue 1: Should the Commission grant the joint petition of Withlacoochee River Electric Cooperative, Inc., and Progress Energy Florida, Inc., for approval of an amendment to extend the term of the parties' Citrus, West Pasco, and East Pasco territorial agreements?

Recommendation: Yes. The Commission should grant the joint petition. The Amendment should become effective the date the Commission's Order approving the Amendment becomes final.

Issue 2: Should this docket be closed?

Recommendation: Yes. 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

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5\*\*PAA

Docket No. 040558–EI – Complaint by Jose Antonio Rodriguez against Florida Power & Light Company regarding backbilling for alleged meter tampering.

Critical Date(s): None

Commissioners Assigned: All Commissioners  
Prehearing Officer: Davidson

Staff: GCL: Gervasi  
ECR: Kummer

Issue 1: Is there sufficient cause to determine whether meter tampering occurred at the Rodriguez residence at 12884 SW 10th Street, Miami, FL 33184, to allow FPL to backbill the Rodriguez account for unmetered kilowatt hours?

Recommendation: Yes. Prima facie evidence of meter tampering noted in FPL’s reports demonstrates that meter tampering occurred. Therefore, the customer of record, Mr. Rodriguez, should be held responsible for a reasonable amount of backbilling.

Issue 2: Is FPL’s calculation of the backbilled amount of \$8,376.61, which includes investigative charges of \$261.03, reasonable?

Recommendation: Yes. The backbilled amount of \$8,376.61 is a reasonable approximation of the unbilled energy plus investigative costs. The customer should be encouraged to contact FPL immediately to make payment arrangements for this amount in order to have his service restored.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no timely protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the Proposed Agency Action Order, this docket should be closed upon the issuance of a Consummating Order.

ITEM NO.

CASE

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6\*\*PAA

Docket No. 041302-TX – Petition for designation as eligible telecommunications carrier (ETC) by Knology of Florida, Inc.

Critical Date(s): 3/12/05 (120-day statutory requirement to act on petition)

Commissioners Assigned: All Commissioners  
Prehearing Officer: Davidson

Staff: CMP: Maduro, Bulecza-Banks, Casey, Mann  
GCL: B. Keating, Scott

Issue 1: Should Knology be granted ETC status in the State of Florida?

Recommendation: Yes. Staff recommends that Knology be granted ETC status in the following wire centers: Panama City (PNCYFLDARS1); Panama City Beach (PNCYFLDARS1); Lynn Haven (PNCYFLDARS1); Clearwater (CLWTFL05RS0); and Tarpon Springs (CLWTFL05RS0). Knology should be required, at the time of annual ETC recertification, to demonstrate how it has used the universal service funds within Florida.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interest are affected files a protest to the Commission's Proposed Agency Action within 21 days of the issuance of the Commission Order, this docket should be closed upon issuance of a consummating order.

ITEM NO.

CASE

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7\*\*PAA

Docket No. 041412-TI – Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to transfer of long distance customers from Kiger Telephone & Telephony, LLC to COMTECH21, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Watts

GCL: Scott

Issue 1: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of long distance customers from Kiger Telephone & Telephony, LLC to COMTECH21, LLC?

Recommendation: Yes.

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

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8\*\*PAA

Docket No. 041440–TX – Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to transfer of customers from Alternative Telecommunication Services, Inc. d/b/a Second Chance Phone to Ganoco, Inc. d/b/a American Dial Tone.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Watts

GCL: Rockette-Gray

Issue 1: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of customers from Alternative Telecommunication Services, Inc. d/b/a Second Chance Phone to Ganoco, Inc. d/b/a American Dial Tone?

Recommendation: Yes.

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

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9\*\*PAA

Docket No. 050111-TP – Joint petition of MCG Capital Corporation, IDS Telcom Corp. and IDS Telcom LLC for approval for name change and transfer of CLEC Certificate No. 5228 from IDS Telcom LLC to IDS Telcom Corp.; for waiver of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection in connection with the sale of customer-based and other assets from IDS Telcom LLC to IDS Telcom Corp.; and for acknowledgment of registration of IDS Telcom Corp. as intrastate interexchange telecommunications company effective February 8, 2005.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Watts, McCoy

GCL: Rockette-Gray

Issue 1: Should the Commission approve the name change and transfer of Certificate No. 5228 from IDS Telcom LLC to IDS Telcom Corp.?

Recommendation: Yes.

Issue 2: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of long distance customers from IDS Telcom LLC to IDS Telcom Corp.?

Recommendation: Yes.

Issue 3: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of local customers from IDS Telcom LLC to IDS Telcom Corp.?

Recommendation: Yes.

Issue 4: 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. 040905-TI – Compliance investigation of Universal Telecom, Inc. for apparent violation of Section 364.336, F.S.

Docket No. 040918-TI – Compliance investigation of Mercury Long Distance, Inc. for apparent violation of Section 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason (040918-TI)

Bradley (040905-TI)

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$500, or cancel the intrastate interexchange telecommunications company's (IXC) tariff and remove from the register each company identified in Attachment A of staff's February 17, 2005 memorandum, with an effective date of December 31, 2004, for an apparent first violation of Section 364.336, Florida Statutes?

Recommendation: Yes.

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 any 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 any company fails to pay the penalty and cost of collection, together totaling \$500, and Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's tariff should be cancelled administratively, its name removed from the register, and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If any company's tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida. These dockets should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's tariff and removal from the register.

ITEM NO.

CASE

11\*\*PAA

Docket No. 041419-TX – Compliance investigation of Talk and Pay, Inc. for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 041463-TX – Compliance investigation of TotalCom America Corporation for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason (041463-TX)

Administrative (041419-TX)

Staff: CMP: Isler

GCL: Scott, Rockette-Gray

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$500, or cancel the Competitive Local Exchange Carrier (CLEC) certificate for each company identified in Attachment A of staff's February 17, 2005 memorandum, with an effective date of December 31, 2004, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

Recommendation: Yes.

Issue 2: Should these dockets 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 any 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 any company fails to pay the penalty and cost of collection, together totaling \$500, and Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's certificate should be cancelled administratively and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If any company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange service in Florida. These dockets should be closed administratively either upon receipt of the payment of the



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ITEM NO.

CASE

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11\*\*PAA

Docket No. 041419–TX – Compliance investigation of Talk and Pay, Inc. for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 041463–TX – Compliance investigation of TotalCom America Corporation for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

penalty and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's certificate.

ITEM NO.

CASE

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12\*\*PAA

Docket No. 040852–TX – Compliance investigation of David A. Chesson and Ted J. Moss d/b/a Phone-Out/Phone-On for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: CMP: Isler

GCL: Scott

Issue 1: Should the Commission deny David A. Chesson and Ted J. Moss d/b/a Phone-Out/Phone-On a voluntary cancellation of its competitive local exchange telecommunications company certificate and cancel the certificate on the Commission's own motion with an effective date of December 31, 2004?

Recommendation: Yes.

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 fails to pay the Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's certificate should be cancelled administratively and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's certificate.

ITEM NO.

CASE

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13\*\*

Docket No. 040908-TI – Compliance investigation of InterCept Communications Technologies, Inc. for apparent violation of Section 364.336, F.S.

Critical Date(s): None

Commissioners Assigned: All Commissioners  
Prehearing Officer: Bradley

Staff: CMP: Isler  
GCL: Scott

Issue 1: Should the Commission grant InterCept Communications Technologies, Inc. a voluntary removal from the register of IXC Registration No. TJ266 and cancel its tariff with an effective date of December 10, 2004?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission.

ITEM NO.

CASE

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14\*\*

Docket No. 040847-TX – Compliance investigation of InterCept Communications Technologies, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: CMP: Isler

GCL: Scott

Issue 1: Should the Commission accept InterCept Communications Technologies, Inc.'s settlement offer to voluntarily cancel its certificate to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission.

ITEM NO.

CASE

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15\*\*

Docket No. 040990-TA – Compliance investigation of NUMINA COMMUNICATIONS CORP. for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission accept NUMINA COMMUNICATIONS CORP.'s settlement offer to voluntarily cancel its certificate to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission.

ITEM NO.

CASE

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16\*\*

Docket No. 040995–TC – Compliance investigation of Jackson Memorial Hospital for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Isler

GCL: Scott

Issue 1: Should the Commission accept the settlement offer proposed by Jackson Memorial Hospital to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the certificate.

ITEM NO.

CASE

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17\*\*

Docket No. 041032–TC – Compliance investigation of Kerstin K Krieger d/b/a All American Warrior Vending for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 041054–TC – Compliance investigation of T & P Enterprises of Bay County, Inc. d/b/a Laguna Beach Christian Retreat for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 041093–TC – Compliance investigation of Southern Telecom Communications, Inc. for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners  
Prehearing Officer: Deason

Staff: CMP: Isler  
GCL: Scott, Rockette-Gray

Issue 1: Should the Commission accept each entity’s settlement offer to voluntarily cancel its respective certificate to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. Staff recommends that if the Commission approves staff’s recommendation in Issue 1, these dockets should be closed as no other issues need to be addressed by the Commission.

ITEM NO.

CASE

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18\*\*

Docket No. 041049-TC – Compliance investigation of Phone 1 Smart LLC for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission accept the settlement offer proposed by Phone 1 Smart LLC to resolve the apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.



ITEM NO.

CASE

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19\*\*

Docket No. 040861-TX – Compliance investigation of Phone 1 Smart LLC for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission accept the settlement offer proposed by Phone 1 Smart LLC to resolve the apparent violation of Section 364.336, Florida Statutes?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

ITEM NO.

CASE

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20\*\*

Docket No. 040862-TX – Compliance investigation of Azul Tel, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission accept the settlement offer proposed by Azul Tel, Inc. to resolve the apparent violation of Section 364.336, Florida Statutes?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission.

ITEM NO.

CASE

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21\*\*

Docket No. 040986-TI – Compliance investigation of Nigerian-American Investment Corporation d/b/a NAIC Telecommunications for apparent violation of Section 364.336, F.S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission accept the settlement offer proposed by Nigerian-American Investment Corporation d/b/a NAIC Telecommunications to resolve the apparent violation of Section 364.336, Florida Statutes?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission.

ITEM NO.

CASE

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22\*\*PAA

Docket No. 050093–EI – Petition for approval of stipulation and settlement for special accounting treatment and recovery of costs associated with Hurricane Ivan's impact on Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Slemkewicz, Wheeler

GCL: C. Keating

Issue 1: Should the Commission approve the Stipulation and Settlement?

Recommendation: Yes. The Commission should approve the Stipulation and Settlement.

Issue 2: What is the appropriate implementation date for the surcharge set forth in the Stipulation?

Recommendation: The proposed surcharge should apply to meter readings taken on or after 30 days from the date of the Commission's vote. Assuming that the Commission votes to approve the Stipulation on March 1, 2005, the surcharge should begin to be applied to meter readings on or after March 31, 2005. If the Commission's order approving the Stipulation is timely protested by a person whose substantial interests are affected by the Commission's decision, the surcharge should remain in effect with all revenues held subject to refund pending the Commission's final order.

Issue 3: If the Commission approves the proposed storm damage Stipulation and Settlement, should Gulf Power Company be required to file tariff revisions reflecting the storm damage surcharge recovery factors by rate class?

Recommendation: Yes. Gulf should be required to file the tariff revision for administrative approval.

Issue 4: 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

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23

Docket No. 031033–EI – Review of Tampa Electric Company's 2004-2008 waterborne transportation contract with TECO Transport and associated benchmark.

Critical Date(s): None

Commissioners Assigned: Baez, Deason, Bradley, Davidson (for purposes of this decision only)

Prehearing Officer: Baez

Staff: ECR: Bohrmann, Floyd, Trapp, Windham

GCL: C. Keating, Rodan

**(Decision on motions for reconsideration/clarification of final order - oral argument requested.)**

Issue 1: Should the Commission grant Tampa Electric Company's request for oral argument?

Recommendation: Yes. Oral argument may aid the Commission in its understanding and disposition of the underlying motion.

Issue 2: Should the Commission grant Tampa Electric Company's motion for reconsideration and/or clarification of Order No. PSC-04-0999-FOF-EI?

Recommendation: No. In its request for reconsideration, Tampa Electric does not identify a point of fact or law that the Commission overlooked or failed to consider in rendering its Final Order. Further, Tampa Electric's request for reconsideration improperly asks the Commission to reweigh the evidence considered by the Commission in rendering its Final Order. Tampa Electric's request for clarification should be denied because it asks the Commission to make findings inconsistent with the Commission's decision and clear intent.

Issue 3: Should the Commission grant Tampa Electric Company's request for official recognition and motion to reopen record?

Recommendation: No.

Issue 4: Should the Commission grant CSX Transportation's motion for clarification of Order No. PSC-04-0999-FOF-EI?

Recommendation: Yes.

Issue 5: Should this docket be closed?

Recommendation: The docket should be closed after the time for filing an appeal has run.

ITEM NO.

CASE

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23A\*\*

Docket No. 041291–EI – Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Davidson

Staff: ECR: Slemkewicz, Willis

GCL: C. Keating, Fleming

Issue 1: How should the Commission resolve FPL's motion for leave to file an amended petition and supplemental direct testimony and OPC's motion to hold this proceeding in abeyance or, alternatively, reschedule the hearing?

Recommendation: The Commission should grant FPL's motion for leave to file an amended petition and supplemental direct testimony, deny OPC's motion to hold the proceeding in abeyance or reschedule the hearing, and adopt the procedural terms set forth in the analysis portion of staff's February 24, 2005 memorandum to allow OPC the opportunity to conduct discovery related to FPL's amended petition and to file supplemental testimony while retaining the current hearing dates.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open.

ITEM NO.

CASE

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24\*\*

Docket No. 050068–EI – Request for approval of standard form underground conversion contract by Progress Energy Florida, Inc.

Critical Date(s): 3/15/05 (60-day suspension date)

Commissioners Assigned: All Commissioners  
Prehearing Officer: Administrative

Staff: ECR: Wheeler, Kummer  
GCL: Brown

Issue 1: Should Progress Energy Florida's proposed standard form underground conversion agreement tariff be suspended?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: No.

ITEM NO.

CASE

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25\*\*PAA

Docket No. 050010-EU – Petition for variance from or waiver of metering requirement of Rule 25-6.049(5)(a), F.A.C., by Beach House Owners Association, Inc.

Critical Date(s): 4/3/05 (90-day rule waiver deadline)

Commissioners Assigned: All Commissioners  
Prehearing Officer: Administrative

Staff: ECR: Baxter  
GCL: Fleming

Issue 1: Should the Commission grant BHOA's request for waiver of the requirements of Rule 25-6.049(5)(a), Florida Administrative Code?

Recommendation: Yes. Staff recommends that the requested rule waiver be granted, provided that: (1) BHOA allocates the cost of electricity to the individual condominium unit owners using a reasonable apportionment method, as required by Rule 25-6.049(6)(a), Florida Administrative Code; (2) BHOA is responsible for all of the costs associated with the conversion from individual metering to master metering; (3) the waiver is effective only so long as the condominium is operated and licensed as a transient occupancy facility; and (4) all or substantially all of the units are operated on a transient basis. At such time the condominium is no longer so operated and licensed, BHOA must immediately inform Gulf Power Company (Gulf), at which time Gulf will install individual meters on the occupancy units. In the event such a conversion to individual metering is required, BHOA will be solely responsible for the cost of such conversion.

Issue 2: Should this docket be closed?

Recommendation: Yes. 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

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26\*\*PAA

Docket No. 040032-EG – Petition for approval of numeric conservation goals by Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners  
Prehearing Officer: Deason

Staff: ECR: Harlow, Colson, Sickel  
GCL: Vining

Issue 1: Should Gulf Power Company's (Gulf) proposed 2005 Demand-Side Management (DSM) Plan be approved, including approval for cost recovery?

Recommendation: Yes. Gulf's DSM Plan: 1) meets the objectives of Rule 25-17.001, Florida Administrative Code, and FEECA; and 2) contains programs that appear to be cost-effective, directly monitorable, and meet Gulf's numeric conservation goals. Gulf's research and development program expenditures for the Conservation Demonstration and Development Program should be capped at the existing level of \$250,000 annually.

Issue 2: Should Gulf be required to submit detailed program participation standards?

Recommendation: Yes. If Issue 1 is approved, Gulf should file program participation standards within 30 days of the issuance of the order. Staff should be permitted to administratively approve the program participation standards if they conform to the description of the programs contained in Gulf's DSM Plan.

Issue 3: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

ITEM NO.

CASE

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27\*\*PAA

Docket No. 041393–EI – Petition for approval of two unit power sales agreements with Southern Company Services, Inc. for purposes of cost recovery through capacity and fuel cost recovery clauses, by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: Harlow, McRoy

GCL: Vining

Issue 1: Should the Commission approve the unit power sales agreements between Progress Energy Florida, Inc. and the Southern Company for cost recovery purposes?

Recommendation: Yes. The agreements provide a net present value savings of \$133 million to \$145 million over the life of the contracts, due to the deferral of two natural gas-fired combined cycle units. Further, the agreements provide several non-price benefits, including: 1) fuel diversity; 2) transmission access; 3) potential savings from economy energy purchases; 4) increased reliability; and 5) planning flexibility.

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

28\*\*PAA

Docket No. 040972-SU – Application for rate increase in Pinellas County by Ranch Mobile WWTP, Inc.

Critical Date(s): 3/1/05 (5-month effective date (PAA rate case) waived until 3/1/05)

Commissioners Assigned: All Commissioners  
Prehearing Officer: Deason

Staff: ECR: Merta, Massoudi, Rendell  
GCL: Vining

**(All issues proposed agency action except Issue 15.)**

Issue 1: Is the quality of service provided by the utility satisfactory?

Recommendation: Yes. The quality of service provided by the utility should be considered satisfactory.

Issue 2: Should the Commission approve a year-end rate base for the utility?

Recommendation: Yes. The Commission should approve a year-end rate base for the utility to allow it an opportunity to earn a fair return on its investment made during the test year and to insure compensatory rates on a prospective basis. A year-end test year ending December 31, 2005, should be approved.

Issue 3: What are the used and useful percentages of the utility's wastewater facilities?

Recommendation: The utility has interconnected with the City of Largo and retired all of its treatment plant. The wastewater collection system should be considered 100% used and useful.

Issue 4: Are any adjustments necessary to the utility's plant in service, land and land rights, accumulated depreciation and depreciation expense?

Recommendation: Yes. Plant in service should be increased by \$21,689, land and land rights should be decreased by \$1,000, accumulated depreciation should be decreased by \$3,079, and depreciation expense should be decreased by \$2,257.

Issue 5: What is the appropriate working capital allowance?

Recommendation: The appropriate working capital allowance is \$23,756.

Issue 6: What is the appropriate rate base?

Recommendation: The appropriate year-end rate base for Ranch Mobile for the projected test year ended December 31, 2005, is \$496,399.

Issue 7: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

Recommendation: The appropriate rate of return on equity is 9.10% with a range of 8.10% - 10.10% and the appropriate overall rate of return for this utility is 9.10%.

Issue 8: What is the appropriate test year operating revenue?

Recommendation: The appropriate test year operating revenue is \$198,038.

Issue 9: What adjustments, if any, should be made to test year operation and maintenance expenses?

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CASE

28\*\*PAA

Docket No. 040972-SU – Application for rate increase in Pinellas County by Ranch Mobile WWTP, Inc.

(Continued from previous page)

Recommendation: Operation and maintenance expenses should be increased by \$5,291 as detailed in the analysis portion of staff’s February 17, 2005 memorandum.

Issue 10: Are any adjustments necessary to taxes other than income?

Recommendation: Yes. Test year regulatory assessment fees (RAFs) should be increased by \$566.

Issue 11: What is the test year operating income before any revenue increase?

Recommendation: Based on the adjustments discussed in previous issues, staff recommends that projected test year operating income before any provision for increased revenues should be (\$13,042).

Issue 12: What is the appropriate revenue requirement?

Recommendation: The following revenue requirement should be approved.

	Test Year		Revenue	
	Revenues	\$ Increase	Requirement	% Increase
Wastewater	\$198,038	\$54,713	\$252,751	27.63%

Issue 13: What is the appropriate cost of service methodology to be used in allocating costs to the three customers?

Recommendation: The appropriate cost of service methodology to be used in allocating costs to the three customers is based on allocators that assign the appropriate amount of the revenue requirement to the cost causers.

Issue 14: What are the appropriate monthly rates for this utility?

Recommendation: The appropriate monthly rates for this utility are those shown in the staff analysis. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 15: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of amortized rate case expense as required by Section 367.0816, Florida Statutes?

Recommendation: The wastewater rates should be reduced as shown on Schedule No. 4, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If

ITEM NO.

CASE

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28\*\*PAA

Docket No. 040972-SU – Application for rate increase in Pinellas County by Ranch Mobile WWTP, Inc.

(Continued from previous page)

the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Issue 16: Should this docket be closed?

Recommendation: Yes. 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

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29\*\*

Docket No. 041294–WS – Transfer of water and wastewater service areas from Lake Suzy Utilities, Inc. d/b/a Aqua Utilities Florida, Inc. to DeSoto County, and cancellation of Certificate Nos. 599-W and 514-S in Charlotte and DeSoto Counties.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Davidson

Staff: ECR: Johnson, Kaproth

GCL: Brubaker

Issue 1: Should the transfer of the water facilities from Lake Suzy Utilities, Inc. to DeSoto County and cancellation of Certificate Nos. 599-W and 514-S in Charlotte and DeSoto Counties be approved?

Recommendation: Yes. The transfer of the water facilities from Lake Suzy Utilities, Inc. to DeSoto County should be approved as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. Certificate Nos. 599-W and 514-S should be cancelled administratively upon receipt of the executed master utility conveyance agreement confirming the date of closing, which is anticipated to be March 31, 2005, and receipt of regulatory assessment fees (RAF) forms and payment as set forth in staff's recommendation.

Issue 2: Should this docket be closed

Recommendation: No. This docket should remain open until staff receives proof of the executed purchase agreement confirming the closing, and receipt of actual RAFs forms and RAF payment for July 1, 2004, through December 31, 2004, and January 1, 2005, through the date of closing. The docket should be closed administratively upon receipt of the executed purchase agreement and the other documents addressed in staff's recommendation.

ITEM NO.

CASE

30\*\*

Docket No. 040159–WU – Application for transfer of portion of Certificate No. 582-W by Keen Sales, Rentals and Utilities, Inc. to Sunrise Utilities, LLC, in Polk County.

Critical Date(s): None

Commissioners Assigned: All Commissioners  
Prehearing Officer: Davidson

Staff: ECR: Clapp, Redemann, Romig  
GCL: Brubaker

Issue 1: Should the transfer of the Sunrise water system from Keen to Sunrise Utilities, LLC, the amendment of Certificate No. 582-W, and issuance of Certificate No. 627-W be approved?

Recommendation: Yes. The transfer of the Sunrise water system from Keen to Sunrise Utilities, LLC, is in the public interest and should be approved. Certificate No. 582-W should be amended to delete the Sunrise system from the Keen service area, and Certificate No. 627-W should be issued effective the date of the Commission vote. The buyer should be required to provide a statement and supporting documentation within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer. Keen should be responsible for the regulatory assessment fees (RAFs) for January 1 to February 10, 2004, and Sunrise Utilities, LLC should be responsible for the remainder of the 2004 and future RAFs and the 2004 and future annual reports. The territory being transferred is described in Attachment A of staff's February 17, 2005 memorandum.

PAA

Issue 2: What is the rate base of the Sunrise system at the time of transfer?

Recommendation: The rate base, which for transfer purposes reflects the net book value at the time of transfer, is \$52,609 for the Sunrise system as of February 10, 2004.

PAA

Issue 3: Should an acquisition adjustment be approved?

Recommendation: No. An acquisition adjustment should not be included in the calculation of rate base for transfer purposes.

Issue 4: Should the rates and charges approved for this utility be continued?

Recommendation: Yes. The rates and charges approved for the Sunrise system should be continued until authorized to change by the Commission in a subsequent proceeding. Within 30 days of the date of the order approving the transfer, Sunrise Utilities, LLC should submit the tariff page reflecting a copy of the customer bill in the name of Sunrise. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

Issue 5: Should this docket be closed?

Recommendation: No. If no timely protest is received to the proposed agency action issues, the Order will become final upon the issuance of a Consummating Order.

ITEM NO.

CASE

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30\*\*

Docket No. 040159–WU – Application for transfer of portion of Certificate No. 582-W by Keen Sales, Rentals and Utilities, Inc. to Sunrise Utilities, LLC, in Polk County.

(Continued from previous page)

However, the docket should remain open pending receipt of a statement and supporting documentation within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer and pending receipt of the customer bill tariff page. Upon receipt of the statement and the customer bill tariff page, the docket should be administratively closed.



ITEM NO.

CASE

31\*\*

Docket No. 040160–WU – Application for transfer of portion of Certificate No. 582-W by Keen Sales, Rentals and Utilities, Inc. to Alturas Utilities, L.L.C., in Polk County.

Critical Date(s): None

Commissioners Assigned: All Commissioners  
Prehearing Officer: Davidson

Staff: ECR: Clapp, Redemann, Romig  
GCL: Brubaker

Issue 1: Should the transfer of the Alturas water system from Keen to Alturas Utilities, L.L.C., the amendment of Certificate No. 582-W, and issuance of Certificate No. 628-W be approved?

Recommendation: Yes. The transfer of the Alturas water system from Keen to Alturas Utilities, L.L.C., is in the public interest and should be approved. Certificate No. 582-W should be amended to delete the Alturas system from the Keen service area, and Certificate No. 628-W should be issued effective the date of the Commission vote. The buyer should be required to provide a statement and supporting documentation within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer. Keen should be responsible for the regulatory assessment fees (RAFs) for January 1 to February 10, 2004, and Alturas Utilities, LLC should be responsible for the remainder of the 2004 RAFs and future RAFs and the 2004 and future annual reports. The territory being transferred is described in Attachment A of staff's February 17, 2005 memorandum.

PAA

Issue 2: What is the rate base of the Alturas system at the time of transfer?

Recommendation: The rate base, which for transfer purposes reflects the net book value at the time of transfer, is \$29,874 for the Alturas system.

PAA

Issue 3: Should an acquisition adjustment be approved?

Recommendation: No. An acquisition adjustment should not be included in the calculation of rate base for transfer purposes.

Issue 4: Should the rates and charges approved for this utility be continued?

Recommendation: Yes. The rates and charges approved for the Alturas system should be continued until authorized to change by the Commission in a subsequent proceeding. Within 30 days of the date of the order approving the transfer, Alturas Utilities, LLC should submit the tariff page reflecting a copy of the customer bill in the name of Alturas. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

Issue 5: Should this docket be closed?

ITEM NO.

CASE

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31\*\*

Docket No. 040160–WU – Application for transfer of portion of Certificate No. 582-W by Keen Sales, Rentals and Utilities, Inc. to Alturas Utilities, L.L.C., in Polk County.

(Continued from previous page)

Recommendation: No. If no timely protest is received to the proposed agency action issues, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of a statement and supporting documentation within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer and pending receipt of the customer bill tariff page. Upon receipt of the statement and the customer bill tariff page, the docket should be administratively closed.

ITEM NO.

CASE

32\*\*

Docket No. 040152-WS – Application for transfer of majority organizational control of FIMC Hideaway, Inc. in Levy County from Florida Investors Mortgage Corporation, a Florida corporation, to Robert and Janet McBride.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Davidson

Staff: ECR: Brady, Kaproth, Rieger

GCL: Jaeger

Issue 1: Should Florida Investors Mortgage Corporation be ordered to show cause in writing, within 21 days, why it should not be fined for its failure to comply with the requirements of Section 367.071(1), Florida Statutes, and for its failure to file its 2003 annual report by March 31, 2004, as required by Rule 25-30.110, Florida Administrative Code?

Recommendation: No. Florida Investors Mortgage Corporation should not be ordered to show cause. Further, staff recommends that the penalties calculated according to Rule 25-30.110(7), Florida Administrative Code, for delinquent annual reports should not be assessed.

Issue 2: Should the transfer of majority organizational control of FIMC Hideaway, Inc. from Florida Investors Mortgage Corporation to Robert and Janet McBride be approved?

Recommendation: Yes. The transfer is in the public interest and should be approved effective the date of the Commission's vote. The territory being transferred is described in Attachment A of staff's February 17, 2005 memorandum. Robert and Janet McBride should be responsible for filing the utility's 2004 annual report and paying 2004 regulatory assessment fees on or before March 31, 2005.

PAA

Issue 3: What is the rate base for FIMC Hideaway, Inc.'s water and wastewater systems at the time of the transfer?

Recommendation: For transfer purposes, rate base should be \$42,693 for the water system and \$30,020 for the wastewater system as of December 31, 2003. Within 30 days from the date of the order approving the transfer, FIMC Hideaway, Inc. should be required to provide a statement that the utility's books have been adjusted to reflect the Commission-approved rate base adjustments and balances.

Issue 4: Should the utility's existing rates and charges be continued?

Recommendation: Yes. The existing rates and charges for the utility should be continued until authorized to change by the Commission in a subsequent proceeding. The tariff sheets reflecting the existing rates and charges should be effective for services rendered or connections made on or after the stamped approval date.

PAA

Issue 5: Should the utility be required to refund overcharged service availability charges?

ITEM NO.

CASE

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32\*\*

Docket No. 040152–WS – Application for transfer of majority organizational control of FIMC Hideaway, Inc. in Levy County from Florida Investors Mortgage Corporation, a Florida corporation, to Robert and Janet McBride.

(Continued from previous page)

Recommendation: Yes. Pursuant to Rule 25-30.360, Florida Administrative Code, the utility should make a credit on each overcharged customer's bill in the next billing cycle after the Commission's final order is issued in this docket for the amount of the overcharge, plus interest. The utility should provide a report of the completion of the refunds within 90 days from the date of the Commission's final order.

Issue 6: Should this docket be closed?

Recommendation: No. If no timely protest is received to the proposed agency action issues on rate base and refunds, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of the utility's statement that the utility's books have been adjusted to reflect the Commission-approved rate base adjustments and balances and a report of the completion of refunds. Upon receipt of the statement and report, the docket should be administratively closed.

ITEM NO.

CASE

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33\*\*

Docket No. 041391-WS – Request for cancellation of Certificate Nos. 294-S and 338-W by Burkim Enterprises, Inc., due to condemnation of land and facilities by Barefoot Bay Water and Sewer District in Brevard County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Johnson, Kaproth

GCL: Rodan

Issue 1: Should the Commission approve the transfer of Burkim Enterprises, Inc.'s land and facilities to the Barefoot Bay Water and Sewer District?

Recommendation: Yes. The transfer of Burkim Enterprises, Inc.'s land and facilities to the Barefoot Bay Water and Sewer District should be approved, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes, effective November 29, 2004. Certificate Nos. 338-W and 294-S should be cancelled.

Issue 2: Should this docket be closed?

Recommendation: Yes. No further action is required and the docket should be closed.

