

# FLORIDA PUBLIC SERVICE COMMISSION

## COMMISSION CONFERENCE AGENDA

**CONFERENCE DATE AND TIME:** April 4, 2006, 9:30 a.m.

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

**DATE ISSUED:** March 24, 2006

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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.

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**ITEM NO.** **CASE**

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1 **Approval of Minutes**  
 February 28, 2006 Regular Commission Conference  
 March 7, 2006 Regular Commission Conference

2\*\* **Consent Agenda**

PAA A) Applications for certificates to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
060080-TX	Broadstar, LLC
060094-TX	Minority Telecom Resalers, Inc.
060082-TX	Global Dialtone, Inc. d/b/a Atlantic Phone
060163-TX	ClearLinx Network Corporation
060101-TX	Hotwire Communications, Ltd.
060156-TX	Access One, Inc.
060090-TX	Communication Technology, Inc.

PAA B) Request for two-year exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE # &amp; LOCATION</u>
060108-TC	Commercial Pay Phones, Inc.	954-757-9308 Amoco 11655 W. Sample Road Coral Springs, FL 33065 (954) 757-9308

**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\*\*

**Docket No. 060121-EI** – Proposed amendment of Rules 25-6.022, 25-6.052, 25-6.056, 25-6.058, 25-6.059, 25-6.060, and 25-6.103, Florida Administrative Code.

**Critical Date(s):** None

**Rule Status:** Proposed

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Tew

**Staff:** GCL: Cibula, Keating

ECR: Matlock, Kummer, Hewitt

**Issue 1:** Should the Commission propose the amendment of Rule 25-6.022, Record of Metering Devices and Metering Device Tests; Rule 25-6.052, Test Procedures and Accuracies of Consumption Metering Devices; Rule 25-6.056, Metering Device Test Plans; Rule 25-6.058, Determination of Average Meter Error; Rule 25-6.059, Meter Test By Request; 25-6.060, Meter Test - Referee; and Rule 25-6.103, Adjustment of Bills for Meter Error?

**Recommendation:** Yes. Rules 25-6.022, 25-6.052, 25-6.056, 25-6.058, 25-6.059, 25-6.060, and 25-6.103 should be amended as set forth in Attachment A of staff's March 23, 2006 memorandum.

**Issue 2:** Should this docket be closed?

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

**ITEM NO.**

**CASE**

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4

**Docket No. 060049-TL** – Petition by Board of County Commissioners of Broward County for declaratory statement regarding applicability of BellSouth Telecommunications, Inc. tariff provisions to rent and relocation obligations associated with BellSouth switching equipment building ("Maxihut") located at Fort Lauderdale-Hollywood International Airport on property leased by BellSouth from Broward County's Aviation Department.

**Critical Date(s):** 4/20/06 (By statute, order must be issued by this date.)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** GCL: Cibula, Moore

CMP: Watts

**(Parties may participate at Commission's discretion.)**

**Issue 1:** Should the Commission grant Broward County's Petition for Declaratory Statement?

**Recommendation:** The Commission should grant Broward County's Petition for Declaratory Statement to the extent that it raises issues appropriate for a declaratory statement. The Commission should declare that, based on the facts set forth in Broward County's petition, Broward County is not required under Section A2.3.9 of BellSouth's tariff to provide rent-free space for the Maxihut and Broward County is not obligated under Section A5.2.2.F.1.e of BellSouth's tariff to pay the costs for relocation of the Maxihut. Broward County's Petition for Declaratory Statement should be denied to the extent that it improperly requests the Commission to direct BellSouth to take certain actions, that it requests an interpretation of statutory provisions, rules, and orders not specifically referenced in the petition, and/or that it requests an interpretation of the Lease Agreement.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes.



**ITEM NO.**

**CASE**

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5\*\*PAA

**Docket No. 060034-EU** – Joint petition for approval of territorial agreement in Gadsden County by Talquin Electric Cooperative, Inc. and Town of Havana.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** GCL: Brown

ECR: Windham

**Issue 1:** Should the Commission approve the territorial agreement between Talquin and Havana?

**Recommendation:** Yes.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose interests are substantially affected timely files a protest to the Commission's proposed agency action order, this docket should be closed upon issuance of a consummating order.

**ITEM NO.**

**CASE**

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6\*\*

**Docket No. 050018-WU** – Initiation of deletion proceedings against Aloha Utilities, Inc. for failure to provide sufficient water service consistent with the reasonable and proper operation of the utility system in the public interest, in violation of Section 367.111(2), Florida Statutes.

**Docket No. 050183-WU** – Request by homeowners for the Commission to initiate deletion proceedings against Aloha Utilities, Inc. for failure to provide sufficient water service consistent with the reasonable and proper operation of the utility system in the public interest, in violation of Section 367.111(2), Florida Statutes.

**Docket No. 010503-WU** – Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar (010503-WU, 050183-WU)

Deason (050018-WU)

**Staff:** GCL: Melson

ECR: Devlin, Willis, Rendell

**Issue 1:** Should the Commission issue a final order approving the Settlement?

**Recommendation:** Yes. The Commission should issue a final order approving the Settlement in its entirety and without change. The Settlement offers a number of monetary benefits to Aloha's customers that could not otherwise be obtained or assured, it redirects the Parties' resources away from protracted litigation toward implementing an agreed solution to the underlying water quality problem, and it provides a much needed fresh start for Aloha, its customers, and the Commission.

**Issue 2:** Should Mr. Edward O. Wood's request for reconsideration of Order No. PSC-06-0015-FOF-WU be granted?

**Recommendation:** If the Commission approves the Settlement in Issue 1, Mr. Wood's motion for reconsideration is moot and no ruling is required. If the Commission does not approve the Settlement, Mr. Wood's request should be denied because it does not raise an issue of fact or law that the Commission overlooked or failed to consider.

**Issue 3:** Should the dockets affected by the Offer of Settlement be closed?

**Recommendation:** If the Settlement is approved, Docket No. 050018-WU (Show Cause Docket), and Docket No. 050183-WU (Investigation Docket) should be closed after the Order Approving Settlement has become final and non-appealable. Docket No. 010503-WU, in which interim rate monies are being held in escrow, should remain open until those monies are released to Aloha, and recorded as CIAC, at which time the docket should be closed.

If the Settlement is not approved, these dockets should remain open.

**ITEM NO.**

**CASE**

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7\*\*PAA

**Docket No. 060027-EI** – Complaint No. 614984E of Mary Ann Valdes against Florida Power & Light Company regarding alleged current diversion/meter tampering rebilling for estimated usage of electricity.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Jaeger

ECR: Kummer

RCA: Plescow

**Issue 1:** Is there sufficient evidence that meter tampering occurred at the Valdes residence at 6101 SW 72d Avenue, Miami, FL 33143, to permit Florida Power & Light to backbill the Valdes account for unmetered kilowatt hours?

**Recommendation:** Yes. Prima facie evidence of meter tampering noted in Florida Power & Light's reports, as well as during the informal conference, makes it reasonable to believe that meter tampering occurred. Because Ms. Valdes is the customer of record, she should be held responsible for a reasonable amount of backbilling.

**Issue 2:** Is Florida Power & Light's backbilling period and estimate of usage for a total amount due of \$9,243.01 for unmetered electric usage, and a \$465.69 investigation charge, reasonable and appropriate?

**Recommendation:** Based on historical usage data and the substantial drop in usage from 1998 to 1999, Florida Power & Light's backbilling period for bills from January 9, 1999 through May 11, 2004 should be considered reasonable and appropriate. However, Florida Power & Light's estimate of additional unmetered usage should be reduced from 103,379 kWhs to 74,203 kWhs. Based on this revision, the total additional charges should be \$6,623.67 for estimated unmetered electric usage, plus the \$465.69 for the investigative charge, for a total amount of \$7,089.36. Because Ms. Valdes has paid \$9,708.70 to have service restored, Florida Power & Light should be required to refund \$2,619.34 to Ms. Valdes.

**Issue 3:** Should this docket be closed?

**Recommendation:** Yes. If no timely protest is filed by a substantially affected person within 21 days of the Proposed Agency Action Order, a Consummating Order should be issued and the docket closed.

**ITEM NO.**

**CASE**

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8\*\*

**Docket No. 020507-TL** – Complaint of Florida Competitive Carriers Association against BellSouth Telecommunications, Inc. regarding BellSouth's practice of refusing to provide FastAccess Internet Service to customers who receive voice service from a competitive voice provider, and request for expedited relief.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** GCL: Teitzman

CMP: Bulecza-Banks, Casey

**Issue 1:** Should the Commission grant BellSouth's Motion to Close Docket?

**Recommendation:** Yes. In light of the decisions by the FCC and United States District Court, Northern District of Florida, staff recommends the Commission grant BellSouth's Motion to Close Docket and dismiss FCCA's Complaint. The FCC has held that a state commission may not require ILECs to make available Internet service to CLEC voice service customers because it is inconsistent with the Telecommunications Act and FCC regulations. Accordingly, staff believes the Commission cannot grant the relief requested by FCCA in its Complaint.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed.

**ITEM NO.**

**CASE**

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9\*\*

**Docket No. 060057-WS** – Investigation into whether Lindrick Service Corporation should be ordered to show cause as to why it should not be fined for its apparent violations of Rules 25-30.250, 25-30.251, 25-30.130, and 25-22.032, Florida Administrative Code, and the requirements of Order No. PSC-99-1883-PAA-SU, issued September 21, 1999 in Docket No. 980242-SU.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Jaeger

ECR: Rendell, Massoudi

**Issue 1:** Based on the interruptions of service on June 29 and 30, 2005, does it appear that Lindrick Service Corporation has violated either Rule 25-30.250 or 25-30.251, Florida Administrative Code, or Section 367.111, Florida Statutes, and should the utility be ordered to show cause in writing, within 21 days, why it should not be fined for any apparent violation?

**Recommendation:** Staff recommends that Lindrick Service Corporation be ordered to show cause in writing within 21 days why it should not be fined \$250 for its apparent failure to timely comply with the requirements of Rule 25-30.251(2), Florida Administrative Code, in that there appears to have been two outages to all its customers, and the utility did not report the outages to the Commission within one working day as required by that rule. Also, for the outage on June 30, 2005, it appears that Lindrick did not notify the Fire Chief in advance of that scheduled outage in apparent violation of Rule 25-30.250(3), Florida Administrative Code, and Lindrick should be made to show cause in writing within 21 days why it should not be fined \$125 for this apparent violation. The order to show cause should incorporate the conditions stated in the analysis section of staff's March 23, 2006 memorandum. Lindrick should also be warned of the importance of complying with all Commission rules and statutes. As regards Rule 25-30.250(1) and (2), Florida Administrative Code, and Section 367.111, Florida Statutes, which refers to compliance with part VI of Chapter 403 and parts I and II of Chapter 373, which are enforced by the Department of Environmental Protection (DEP) and the Water Management Districts, staff recommends that the Commission decline to initiate any show cause proceeding.

ITEM NO.

CASE

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9\*\*

**Docket No. 060057-WS** – Investigation into whether Lindrick Service Corporation should be ordered to show cause as to why it should not be fined for its apparent violations of Rules 25-30.250, 25-30.251, 25-30.130, and 25-22.032, Florida Administrative Code, and the requirements of Order No. PSC-99-1883-PAA-SU, issued September 21, 1999 in Docket No. 980242-SU.

(Continued from previous page)

**Issue 2:** Does it appear that Lindrick Service Corporation has violated either Rule 25-30.130 or Rule 25-22.032, Florida Administrative Code, or the requirements of Order No. PSC-99-1883-PAA-SU, issued September 21, 1999, in Docket No. 980242-SU, and should the utility be ordered to show cause in writing, within 21 days, why it should not be fined for any apparent violation?

**Recommendation:** Staff recommends that Lindrick Service Corporation be ordered to show cause in writing within 21 days why it should not be fined \$125 for its apparent failure to file timely written responses to staff as required by Rule 25-22.032, Florida Administrative Code, for customer complaints that had been forwarded to the utility by Commission staff. The order to show cause should incorporate the conditions stated in Issue 1 above. Staff does not recommend any enforcement action with respect to Rule 25-30.130, Florida Administrative Code, or Order No. PSC-99-1883-PAA-SU.

**Issue 3:** Should this docket be closed?

**Recommendation:** If Lindrick Service Corporation pays the \$500 in fines, the docket should be closed administratively. If the utility timely responds in writing to the Order to show cause, the docket should remain open to allow for the appropriate processing of the response.

**ITEM NO.**

**CASE**

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10\*\*PAA

**Docket No. 050542-TX** – Petition for designation as eligible telecommunications carrier (ETC) by Ganoco, Inc. d/b/a American Dial Tone. (Deferred from February 28, 2006 conference; revised recommendation filed.)

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** CMP: Maduro, Bulecza-Banks, Casey, Fogleman, Mann  
GCL: Fordham

**Issue 1:** Should American Dial Tone be granted ETC status in the State of Florida?

**Recommendation:** Staff recommends that American Dial Tone be granted ETC status in the Verizon and BellSouth non-rural wire centers identified in Attachment A of staff's March 23, 2006 memorandum. However, American Dial Tone should not be granted ETC status in Sprint's service area unless a UNE or equivalent commercial facilities agreement is consummated between American Dial Tone and Sprint, and American Dial Tone makes a showing to the Commission that granting it ETC status in Sprint's service area rural wire centers is in the public interest. Should American Dial Tone decide to seek universal service high cost funds, it should be required, at the time of annual ETC recertification, to demonstrate how it has used the universal service funds within Florida, and be required to adhere to the new certification and reporting requirements as detailed in the analysis section of staff's memorandum. American Dial Tone should be required, at the time of annual ETC recertification, to demonstrate how it has used the universal service funds within Florida. American Dial Tone should also be required to adhere to the new certification and reporting requirements as detailed in staff's analysis should it decide to seek universal service high cost funds.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected files a protest to the Commission's Proposed Agency Action 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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11\*\*PAA

**Docket No. 050889-TX** – Petition for designation as eligible telecommunications carrier (ETC) by Nexus Communications, Inc. d/b/a Nexus Communications TSI, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Arriaga

**Staff:** CMP: Maduro, Bulecza-Banks, Casey, Mann

GCL: Teitzman

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

**Recommendation:** Staff recommends that Nexus be granted ETC status in the BellSouth non-rural wire centers identified in Attachment A of staff's March 23, 2006 memorandum. However, Nexus should not be granted ETC status in Verizon's non-rural wire centers unless it consummates a CFA with Verizon. Nexus should not be granted ETC status in Sprint's service area unless a CFA is consummated between Nexus and Sprint, and Nexus makes a showing to the Commission that granting it ETC status in Sprint's rural wire centers is in the public interest. Should Nexus decide to seek universal service high cost funds, it should be required, at the time of annual ETC recertification, to demonstrate how it has used the universal service funds within Florida, and be required to adhere to the new certification and reporting requirements as detailed in the analysis section of staff's memorandum.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected files a protest to the Commission's Proposed Agency Action 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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12\*\*PAA

**Docket No. 050838-TI** – Compliance investigation of Primo Communications, Inc. for apparent violation of Rule 25-24.470, F.A.C., Registration Required.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Buys

GCL: Scott

**Issue 1:** Should the Commission accept Primo Communications, Inc.'s settlement offer to resolve its apparent violation of Rule 25-24.470, Florida Administration Code, Registration Required?

**Recommendation:** Yes. The Commission should accept Primo Communications, Inc.'s settlement proposal to make a voluntary contribution to the Florida General Revenue Fund in the amount of \$5,000, to be paid in ten equal monthly installments of \$500, to resolve its apparent violation of Rule 25-24.470, F.A.C., Registration Required, and pay the \$500 penalty imposed in Order No. PSC-04-1198-PAA-TI.

ITEM NO.

CASE

12\*\*PAA

**Docket No. 050838-TI** – Compliance investigation of Primo Communications, Inc. for apparent violation of Rule 25-24.470, F.A.C., Registration Required.

(Continued from previous page)

**Issue 2:** Should this docket be closed?

**Recommendation:** Staff recommends that the Order issued from this recommendation 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.

The company should be required to pay to the Commission within fourteen (14) calendar days of the issuance of the Consummating Order in the amount of \$1000 - consisting of (1) the first \$500 monthly installment of the company's \$5,000 voluntary contribution, and (2) the \$500 penalty imposed in Order No. PSC-04-1198-PAA-TI, which includes RAF collection costs. Within 30 days of the Commission receiving Primo's initial payment of \$1,000.00, the company should be required to submit its second payment in the amount of \$500. Thereafter, Primo should be required to submit eight monthly payments in the amount of \$500 each. Each payment should be made within 30-day intervals. Payments should be identified by docket number and company name, and made payable to the Florida Public Service Commission. For the \$500 penalty imposed in Order No. PSC-04-1198-PAA-TI, the RAF collection costs should be deducted from the \$500 and deposited in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. Any monetary amount exceeding the RAF collection cost, along with voluntary contribution, will be remitted to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes.

If Primo Communications, Inc. fails to pay in accordance with its settlement proposal, its tariff should be cancelled, its name should be removed from the IXC register, and the company should be required to immediately cease and desist providing all intrastate telecommunications service in Florida. This docket should be closed administratively upon receipt of the final payment of the voluntary contribution or upon cancellation of the company's tariff and removal of its name from the IXC register.

**ITEM NO.**

**CASE**

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13\*\*PAA

Compliance investigations for apparent violation of Section 364.183(1), F.S., Access to Company Records.

**Docket No. 060062-TX** – Campus Communications Group, Inc.  
**Docket No. 060063-TX** – Clear Breeze Telecommunications of Florida, Inc.  
**Docket No. 060064-TX** – Local Line America, Inc.  
**Docket No. 060065-TX** – NETLINE COMMUNICATIONS CORP.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners  
**Prehearing Officer:** Administrative

**Staff:** CMP: Watts, Howell, Ollila  
GCL: Tan

**Issue 1:** Should the Commission impose a penalty in the amount of \$10,000 on each of the companies listed in Attachment A of staff's March 23, 2006 memorandum or cancel each company's respective certificate, as listed in Attachment A, for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

**Recommendation:** Yes. The Commission should impose a penalty of \$10,000 or cancel the certificate of each company listed in Attachment A for apparent violation of Section 364.183(1), Florida Statutes.

ITEM NO.

CASE

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13\*\*PAA

Compliance investigations for apparent violation of Section 364.183(1), F.S., Access to Company Records.

(Continued from previous page)

**Issue 2:** Should these dockets be closed?

**Recommendation:** The Orders issued from this recommendation will become final and effective upon issuance of a Consummating Order in each respective docket, unless a person whose substantial interests are affected by the Commission's decision in a given docket 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 that docket's 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 of the companies listed in Attachment A fails to timely file a protest in its respective docket and request a Section 120.57, Florida Statutes, hearing, the facts in that docket should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If any of the companies listed in Attachment A fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order in its respective docket, the company's CLEC certificate, as listed in Attachment A, should be canceled. If a company's certificate is canceled in accordance with the Commission's Orders from this recommendation, that company should be required to immediately cease and desist providing telecommunications service in Florida. These dockets should be closed administratively upon either receipt of the payment of the penalty imposed in the respective docket or upon the cancellation of the respective company's certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

**ITEM NO.**

**CASE**

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14\*\*PAA

**Docket No. 060115-TI** – Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to transfer of certain assets of Future Telecom, Inc. to A.R.C. Networks, Inc. d/b/a InfoHighway Communications.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: M. Watts

GCL: Tan

**Issue 1:** Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of Future Telecom, Inc.'s customers to A.R.C. Networks, Inc. d/b/a InfoHighway Communications?

**Recommendation:** Yes. The Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code.

**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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15\*\*PAA

**Docket No. 060119-TI** – Request for waiver of carrier selection requirements of Rule 25-4.118, FAC, due to asset purchase agreement, whereby Telrite Corporation will acquire long distance customer accounts of Line 1 Communications, LLC d/b/a Direct Line Communications.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: Curry

GCL: Tan

**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 Line 1 Communications, LLC d/b/a Direct Line Communications to Telrite Corporation?

**Recommendation:** Yes. The Commission should approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of customers from Line 1 Communications, LLC d/b/a Direct Line Communications to Telrite Corporation.

**Issue 2:** Should this docket be closed?

**Recommendation:** The Order issued in the recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interest are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. If the Commission's Order is not protested this docket should be closed administratively upon issuance of the Consummating Order.

**ITEM NO.**

**CASE**

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16\*\*

**Docket No. 060147-EI** – Petition to initiate rulemaking to amend Rule 25-6.034, F.A.C., Standard of Construction, by Florida Power & Light Company.

**Docket No. 060148-EI** – Petition to initiate rulemaking to amend Rule 25-6.0345, F.A.C., Safety Standards for Construction of New Transmission and Distribution Facilities, by Florida Power & Light Company.

**Docket No. 060149-EI** – Petition to initiate rulemaking to amend Rule 25-6.115, F.A.C., Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions, by Florida Power & Light Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Arriaga

**Staff:** GCL: Harris, Moore  
ECR: Trapp, Kummer

**Issue 1:** Should the Commission grant Florida Power & Light Company's Petitions to Initiate Rulemaking to amend Rules 25-6.034, 25-6.0345, and 25-6.115?

**Recommendation:** No.

**Issue 2:** Should these Dockets be closed?

**Recommendation:** Yes. If the Commission accepts staff's recommendation and denies Florida Power & Light Company's Petitions to Initiate Rulemaking, the dockets should be closed.

**ITEM NO.**

**CASE**

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17\*\*

**Docket No. 060150-EI** – Petition for approval of revisions to contribution-in-aid-of-construction definition in Section 12.1 of First Revised Tariff Sheet No. 6.300, by Florida Power & Light Company.

**Critical Date(s):** 4/21/06 (60-day suspension date)  
10/19/06 (8-month effective date)

**Commissioners Assigned:** All Commissioners  
**Prehearing Officer:** Administrative

**Staff:** ECR: Draper, Daniel, Slemkewicz  
GCL: Gervasi

**Issue 1:** Should FPL’s petition for approval of revisions to the Contribution-In-Aid-of-Construction (CIAC) definition in Section 21.1 of its First Revised Tariff Sheet No. 6.300 be suspended?

**Recommendation:** Yes.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. The docket should remain open pending the Commission’s decision on the proposed tariff revision.



**ITEM NO.**

**CASE**

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18\*\*

**Docket No. 060151-EI** – Petition for approval of revisions to access to premises section of Tariff Sheet No. 6.020, by Florida Power & Light Company.

**Critical Date(s):** 4/19/06 (60-day suspension date)  
10/19/06 (8-month effective date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Kummer

GCL: Gervasi

**Issue 1:** Should FPL's proposed tariff revision be suspended?

**Recommendation:** Yes. FPL's proposed tariff revision should be suspended.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. The docket should remain open pending the Commission's vote on the proposed tariff revision.

**ITEM NO.**

**CASE**

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19\*\*

**Docket No. 060174-EG** – Petition for extension of residential load control pilot project, by Florida Power & Light Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Sickel, Baxter

GCL: Fleming

**Issue 1:** Should Florida Power & Light (FPL or Company) be allowed to continue to offer the currently approved Pilot Program on an interim basis, pending the Commission's ruling on the Company's Petition for Extension filed on March 1, 2006?

**Recommendation:** Yes. Preliminary review of the Pilot Program results submitted by FPL indicates that the program contributes to conservation and is beneficial to the ratepayer.

**Issue 2:** Should FPL be allowed to continue to recover reasonable and prudent expenditures associated with the interim extension of the company's Residential Load Control Pilot Project through FPL's Energy Conservation Cost Recovery (ECCR) Clause?

**Recommendation:** Yes. If Issue 1 is approved, such recovery is contingent upon final Commission approval of the company's Petition filed on March 1, 2006 in this Docket.

**Issue 3:** Should this docket be closed?

**Recommendation:** No. This docket should remain open pending the Commission's decision on the March 1, 2006, petition.

**ITEM NO.**

**CASE**

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20\*\*PAA

**Docket No. 060198-EI** – Requirement for investor-owned electric utilities to file ongoing storm preparedness plans and implementation cost estimates.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Breman

GCL: Helton

**Issue 1:** Should the Commission require each investor-owned electric utility to file plans and estimated implementation costs for ongoing storm preparedness initiatives?

**Recommendation:** Yes. On or before June 1, 2006, each investor-owned electric utility should, at a minimum, file plans and estimated implementation costs addressing each of the following initiatives:

- 1) A Three-year Vegetation Management Cycle for Distribution Circuits,
- 2) An Audit of Joint-Use Attachment Agreements,
- 3) A Six-year Transmission Structure Inspection Program,
- 4) Hardening of Existing Transmission Structures,
- 5) A Transmission and Distribution Geographic Information System,
- 6) Post-Storm Data Collection and Forensic Analysis,
- 7) Collection of Detailed Outage data Differentiating Between the Reliability Performance of Overhead and Underground Systems,
- 8) Increased Utility Coordination with Local Governments,
- 9) Collaborative Research on Effects of Hurricane Winds and Storm Surge, and
- 10) A Natural Disaster Preparedness and Recovery Program.

In the event that a utility proposes an alternative to one of the above initiatives, the utility should describe its proposed alternative and explain why the alternative is better in terms of cost and avoiding future storm damages. Within each plan, the utility should describe the scope of activities, implementation timeline, and estimated program costs for the next ten years. The utility should also highlight those activities and costs that are incremental to current activities and costs. A utility should provide an estimate of any incremental costs associated with the implementation of each of the above initiatives. Upon a specific showing of hardship, the Commission staff may allow a utility to file a plan after June 1, 2006. Each request for time extension should be filed with the Commission Clerk.

ITEM NO.

CASE

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20\*\*PAA

**Docket No. 060198-EI** – Requirement for investor-owned electric utilities to file ongoing storm preparedness plans and implementation cost estimates.

(Continued from previous page)

**Issue 2:** Should this docket be closed?

**Recommendation:** No. This docket should be held open for the filing of utility plans and review and approval of the utility plans. 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, the proposed agency action order should become final.

**ITEM NO.**

**CASE**

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21\*\*PAA

**Docket No. 050381-EI** – Depreciation and dismantlement study at December 31, 2005, by Gulf Power Company.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** ECR: Gardner, Colson, Haff, Lester, McRoy, Sickel, Kyle  
GCL: Brown

**Issue 1:** What should be the implementation date for the recommended depreciation rates, amortization schedules, and dismantlement provision?

**Recommendation:** Staff recommends the company's proposal of January 1, 2006, as the implementation date for Gulf's new depreciation rates, amortization schedules, and dismantlement provisions as shown on Attachments A, B, and C to staff's March 23, 2006 memorandum.

**Issue 2:** Should the Commission revise Gulf's currently approved annual accrual for dismantlement?

**Recommendation:** Yes. Staff recommends a total annual provision for dismantlement of \$5,886,660 beginning January 1, 2006, as shown on Attachment A. This represents an increase of \$54,547 over the current approved annual accrual. The recommended \$5,886,660 annual accrual includes \$107,319 related to Plant Scherer Unit 3 unit power sale (UPS) contracts. These accruals reflect current estimates of dismantlement cost on a site-specific basis using the latest inflation forecasts and a 10% contingency factor. The company concurs with staff's recommendation.

**Issue 3:** What are the appropriate depreciation rates and amortization schedules?

**Recommendation:** The staff recommended lives, net salvages, reserves, and resulting depreciation rates are shown on Attachment C to staff's memorandum. These rates result in a decrease in annual depreciation expense by \$3,494,534 based on January 1, 2006 investments, and the removal of Plant Scherer Unit 3 as shown on Attachment D. Gulf concurs with staff's recommendation.

**Issue 4:** Should the current amortization of investment tax credits (ITC) and the flowback of excess deferred income taxes be revised to reflect the approved depreciation rates and recovery schedules?

**Recommendation:** Yes. The current amortization of investment tax credits (ITC) and the flowback of excess deferred income taxes (EDIT) should be revised to match the actual recovery periods for the related property. The utility should file detailed calculations of the revised ITC amortization and flowback of EDIT at the same time it files its surveillance report covering the period ending December 31, 2006.

ITEM NO.

CASE

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21\*\*PAA

**Docket No. 050381-EI** – Depreciation and dismantlement study at December 31, 2005, by Gulf Power Company.

(Continued from previous page)

**Issue 5:** 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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22\*\*PAA

**Docket No. 050586-SU** – Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company.

**Critical Date(s):** 5/2/07 (15-month effective date - SARC)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Tew

**Staff:** ECR: Revell, Rendell

GCL: Jaeger

**Issue 1:** Should Crooked Lake’s application for a staff-assisted rate case be denied and the docket closed?

**Recommendation:** Yes. The utility’s application should be denied and the docket should be closed. Additionally, the utility’s filing fee of \$1,000 should not be refunded.

**ITEM NO.**

**CASE**

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23\*\*PAA

**Docket No. 050449-WU** – Application for staff-assisted rate case in Pasco County by Dixie Groves Utility Company.

**Critical Date(s):** 11/26/06 (15-month effective date - SARC)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Carter

**Staff:** ECR: Biggins, Lingo, Massoudi, Rendell, Willis

GCL: Jaeger

**(Proposed agency action except for Issues 14 and 15.)**

**Issue 1:** Is the quality of service provided by Dixie Groves Utility Company considered satisfactory?

**Recommendation:** Yes. The quality of service provided by Dixie Groves Utility Company should be considered satisfactory.

**Issue 2:** Does the utility have excessive unaccounted for water and, if so, what adjustments should be made?

**Recommendation:** Yes. The utility had approximately 3.58% excessive unaccounted for water during the test year period. Therefore, allowable expenses for purchased electricity and chemicals should be reduced by 3.58% for the water treatment plant during the test year period.

**Issue 3:** Should the Commission approve a year-end rate base for this utility?

**Recommendation:** Yes. The Commission should approve a year-end rate base for this utility to allow it an opportunity to earn a fair return on the utility investment made during the test year and to insure compensatory rates on a prospective basis.

**Issue 4:** What portions of Dixie Groves Utility Company, Inc. are used and useful?

**Recommendation:** Both the water treatment plants and water distribution systems should be considered 100% used and useful for Phase I period. The water distribution systems should be considered 97.5% used and useful for Phase II period which is the pro forma.

**Issue 5:** What is the appropriate year-end test year rate base for this utility?

**Recommendation:** The appropriate year-end test year rate base for this utility is \$70,078 for water.

**Issue 6:** What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

**Recommendation:** The appropriate return on equity is 10.00% with a range of 9.00% - 11.00%. The appropriate overall rate of return is 9.39%.

**Issue 7:** What is the appropriate year-end test year revenue?

**Recommendation:** The appropriate year-end test year revenue for this utility is \$58,571 for water.



ITEM NO.

CASE

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23\*\*PAA

**Docket No. 050449-WU** – Application for staff-assisted rate case in Pasco County by Dixie Groves Utility Company.

(Continued from previous page)

**Issue 8:** What is the appropriate amount of operating expenses?

**Recommendation:** The appropriate amount of operating expense for the utility is \$72,766 for water.

**Issue 9:** What is the appropriate revenue requirement?

**Recommendation:** The appropriate revenue requirement is \$79,346.

**Issue 10:** What is the appropriate rate structure and base facility charge cost recovery percentage for this utility?

**Recommendation:** The appropriate rate structure for this utility is a continuation of its base facility charge (BFC) / uniform gallonage charge rate structure. The BFC cost recovery percentage should be 50% for Phase I and 55% for Phase II.

**Issue 11:** Are adjustments to reflect repression of consumption appropriate in this case due to the price increases in Phase I and Phase II, and, if so, what are the appropriate repression adjustments to be applied in order to calculate Phase I and Phase II rates?

**Recommendation:** Yes. Repression adjustments of 621.1 kgals for Phase I rates and 2,092.9 kgals for Phase II rates are appropriate. In order to monitor the effects of the recommended revenue increases for Phases I and II, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenue billed. These reports should be provided, by customer class, meter size and Phase, on a quarterly basis for a period of two years, beginning with the first billing period after the increased rates go into effect.

**Issue 12:** What are the appropriate water rates for Dixie Groves?

**Recommendation:** The recommended rates shown in the analysis section of staff's March 23, 2006 memorandum, are designed to produce revenues of \$79,346. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

ITEM NO.

CASE

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23\*\*PAA

**Docket No. 050449-WU** – Application for staff-assisted rate case in Pasco County by Dixie Groves Utility Company.

(Continued from previous page)

**Issue 13:** Should the Commission approve pro forma plant additions for the utility, and, if so, what is the appropriate return on equity, overall rate of return, revenue requirement and when should the resulting rates be implemented?

**Recommendation:** Yes. The Commission should approve pro forma plant additions for the utility. With the pro forma items, the utility's appropriate return on equity should be 11.78% with a range of 10.78% - 12.78%. The appropriate overall rate of return is 8.53%. The utility's revenue requirement should be \$252,651. The utility should complete the pro forma additions within 12 months of the issuance of the consummating order. The utility should be allowed to implement the resulting rates once the completed pro forma additions have been verified by staff. Once verified, the rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C.. The rates should not be implemented until notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice. If the utility fails to complete all of the pro forma additions, it should not be entitled to the revenue requirement with the pro forma plant additions and the resulting rates.

**Issue 14:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

**Recommendation:** The water rates should be reduced as shown on Schedule 4 of staff's memorandum, 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 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.

ITEM NO.

CASE

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23\*\*PAA

**Docket No. 050449-WU** – Application for staff-assisted rate case in Pasco County by Dixie Groves Utility Company.

(Continued from previous page)

**Issue 15:** Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

**Recommendation:** Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended Phase I rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed in the analysis section of staff's memorandum. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

**Issue 16:** Should this docket be closed?

**Recommendation:** No. If no timely protest is filed by a substantially affected person within 21 days of the Proposed Agency Action Order, a Consummating Order should be issued. However, the docket should remain open to allow staff to monitor completion of the pro forma items and the appropriate implementation of the Phase II rates.

**ITEM NO.**

**CASE**

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24\*\*

**Docket No. 050862-WU** – Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Arriaga

**Staff:** ECR: Hudson, Rendell

GCL: Gervasi

**Issue 1:** Should the request for emergency rates by County-Wide Utility Company, Inc. to recover the additional cost of its water facilities interconnection with the City of Ocala be approved, subject to refund with interest, until a final determination is made by the Commission and, if so, what is the appropriate increase?

**Recommendation:** Yes. The request for emergency rates by County-Wide Company, Inc. should be approved, in part, subject to refund with interest, until the Commission determines the appropriate final rates for the water interconnection with the City of Ocala. The appropriate revenue increase should be \$139,291 (127.60%). However, the tariffs filed by County-Wide should be denied. If the utility submits revised tariffs reflecting the Commission's decision on emergency rates, staff recommends it be given administrative authority to approve the submitted tariffs. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided customers have received notice. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision, the proposed customer notice is adequate, and the required security has been filed. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

ITEM NO.

CASE

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24\*\*

**Docket No. 050862-WU** – Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.

(Continued from previous page)

**Issue 2:** What is the appropriate security to guarantee the emergency rate increase?

**Recommendation:** The utility should be required to file an escrow agreement to guarantee any potential refunds of water revenues collected under the emergency rates. The utility should deposit in the escrow account each month the difference in revenue between the emergency rates and the previously approved rates. In addition, the escrow agreement should allow for automatic withdrawals each month by the utility for payments to the City of Ocala for purchased water and for payment of interest on the debt incurred in order to construct the facilities necessary for the interconnection. Under no circumstances should the utility be allowed to withdraw any amount of money except for payments to the City of Ocala for purchased water and to Compass Bank for payment of interest. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report to the Division of Economic Regulation by the 20th day of each month indicating in detail the total amount collected from its water customers, the additional revenue collected through the emergency rates and the amount of the withdrawals to the City of Ocala and to Compass Bank, all on a monthly and total basis. The utility should also provide copies of invoices from the City of Ocala and payment coupons for the loan. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

**Issue 3:** Should this docket be closed?

**Recommendation:** No. This docket should remain open to process the utility's staff-assisted rate case.

**ITEM NO.**

**CASE**

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25\*\*

**Docket No. 020640-SU** – Application for certificate to provide wastewater service in Lee County by Gistro, Inc.

**Critical Date(s):** 4/4/06 (Statutory deadline for ruling on original certificate pursuant to Section 367.031, Florida Statutes.)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** ECR: Brady, Redemann

GCL: Gervasi

**Issue 1:** Should the application for a wastewater certificate be granted?

**Recommendation:** Yes. Gistro, Inc. should be granted Certificate No. 541-S to serve the territory described in Attachment A of staff's March 23, 2006 memorandum. The effective date of the certificate should be the date of the Commission vote. Within 45 days after the issuance of a final order granting a certificate, the applicant should be required to file an affidavit attesting that the utility's books and records have been established and will be maintained pursuant to the NARUC uniform system of accounts. The affidavit should also attest that the applicant is aware of his responsibility to timely file annual reports and remit regulatory assessment fees for 2006 and in all future years.

PAA

**Issue 2:** If the Commission grants the utility a certificate of authorization, what is the appropriate initial wastewater service rate?

**Recommendation:** A quarterly wastewater service rate of \$19.18 per residential connection should be approved. Within 10 days from the date of the Commission vote, the applicant should file a proposed notice of its Commission-approved wastewater service rate for staff's review. The notice should specifically indicate that the rate is a proposed agency action and specify the time frame and manner by which any person whose substantial interests are affected by the proposed action may file a petition for a formal proceeding. Within 10 days of staff approval, the applicant should provide the notice to all existing connections and owners of unconnected lots in its service territory, pursuant to Rule 25-30.4345, Florida Administrative Code. Within 10 days after the notice is given, the applicant should file a statement confirming that the notice has been given. Within 15 days from the date of the Commission vote, the applicant should file a revised tariff reflecting the Commission-approved wastewater service rate. The tariff should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code. The applicant should be required to charge the approved rate until authorized to change by the Commission in a subsequent proceeding. A return on equity of 8.88% plus or minus 100 basis points should be approved.

ITEM NO.

CASE

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25\*\*

**Docket No. 020640-SU** – Application for certificate to provide wastewater service in Lee County by Gistro, Inc.

(Continued from previous page)

PAA

**Issue 3:** If the Commission grants the utility a certificate of authorization, what are the appropriate miscellaneous service charges?

**Recommendation:** The Commission's standard miscellaneous wastewater services charges, as described in the analysis section of staff's memorandum, should be approved. In addition, a \$5.00 late payment charge is reasonable and should be approved. These charges should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code, and should be included in the notice described in Issue 2.

**Issue 4:** Should the approved proposed agency action rates be implemented on a temporary basis, subject to refund with interest, in the event of a protest filed by a party other than the utility?

**Recommendation:** Yes. In the event of a protest filed by a party other than the utility, the utility should be authorized to implement the approved proposed agency action rates on a temporary basis, subject to refund, pending the final outcome of this proceeding. Should the final rates be lower than the temporary rates, the applicant should be required to refund the difference, with interest, pursuant to Rule 25-30.360, Florida Administrative Code. Prior to the implementation of any temporary rates, the utility should be required to provide evidence of security as described in the analysis section of staff's memorandum. In addition, after the temporary rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should file monthly reports no later than the 20th of each month indicating the monthly and total amount of money that was subject to refund at the end of the preceding month until the final order is issued. The monthly reports should also indicate the status of the security being used to guarantee repayment of any potential refund.

**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. However, the docket should remain open pending receipt of a proposed notice reflecting the utility's approved rates, a statement confirming that the notice has been given, receipt of a revised tariff, and an affidavit attesting that the books and records of the utility have been established and that the applicant is aware of his responsibility to timely file annual reports and remit RAFs for 2006 and in all future years. Upon receipt and verification of such documents, the docket should be administratively closed. If a timely protest to a proposed agency action issue is filed by a person whose interests are substantially affected, the docket should remain open in order to proceed to hearing.

**ITEM NO.**

**CASE**

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26\*\*PAA

**Docket No. 010087-WS** – Application for approval of reuse plan in Lake County by Sun Communities Finance, LLC d/b/a Water Oak Utility.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** ECR: Merta, Rendell

GCL: Jaeger

**Issue 1:** Should the Commission approve Sun Communities Finance, LLC d/b/a Water Oak Utility's Motion to Modify Order and Close Docket?

**Recommendation:** Yes. The Commission should approve Sun Communities Finance, LLC d/b/a Water Oak Utility's Motion to Modify Order and Close Docket.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no timely protest is filed by a substantially affected person within 21 days of the Proposed Agency Action Order, a Consummating Order should be issued and the docket closed.



**ITEM NO.**

**CASE**

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27\*\*PAA

**Docket No. 030423-WU** – Investigation into 2002 earnings of Residential Water Systems, Inc. in Marion County.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** ECR: Merta, Rendell

GCL: Jaeger

**Issue 1:** Should the Commission approve Residential Water Systems, Inc.'s proposed Offer of Settlement?

**Recommendation:** Yes. The Commission should approve Residential Water Systems, Inc.'s proposed Offer of Settlement.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no timely protest is filed by a substantially affected person within 21 days of the Proposed Agency Action Order, a Consummating Order should be issued and the docket closed.

**ITEM NO.**

**CASE**

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28\*\*

**Docket No. 050819-WU** – Request to establish new class of service for RV park in Lee County, by Tamiami Village Water Company, Inc.

**Critical Date(s):** 6/12/06 (8-month effective date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Tew

**Staff:** ECR: Joyce, Rendell

GCL: Jaeger

**Issue 1:** Should the Commission approve Tamiami and TMA's Settlement Agreement?

**Recommendation:** Yes. The Settlement Agreement should be approved as filed. Further, the Ninth Revised Tariff Sheet No. 16.1, filed on March 1, 2006, should be approved as filed.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If the Commission approves staff's recommendation on Issue 1, then the docket should be closed upon the issuance of the final order approving the Settlement Agreement.

**ITEM NO.**

**CASE**

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29\*\*

**Docket No. 050902-WS** – Application to transfer assets and Certificate Nos. 590-W and 508-S in Polk County from Lake Haven Utility Associates, Ltd., d/b/a Lake Wales Utility Company to Gold Coast Utility Corp.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Arriaga

**Staff:** ECR: Clapp, Redemann, Romig

GCL: Fleming

**Issue 1:** Should the transfer of the Lake Wales facilities to Gold Coast be approved?

**Recommendation:** Yes. The transfer of the Lake Wales facilities and Certificate Nos. 590-W and 508-S to Gold Coast is in the public interest and should be approved effective the date of the Commission's vote. Gold Coast should be responsible for the 2005 Annual Report and future regulatory assessment fees and Annual Reports. The territory being transferred is described in Attachment A of staff's March 23, 2006 memorandum.

**Issue 2:** Should the Lake Wales rates and charges be continued by Gold Coast?

**Recommendation:** Yes. The Lake Wales rates and charges should be continued by Gold Coast, pursuant to Rule 25-9.044(1), Florida Administrative Code, until authorized to change by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should become effective on or after the stamped approval date, pursuant to Rule 25-30.0475, Florida Administrative Code.

**PAA**

**Issue 3:** Should a revised meter installation fee and late payment fee be approved?

**Recommendation:** Yes. The proposed meter installation fee of \$170.00 and the late payment fee of \$5.00 are reasonable and should be approved. The recommended charges are shown on Attachment C of staff's memorandum. Within 10 days of the date of Commission vote, the utility should file a proposed notice of the Commission-approved charges for staff's review. Within 10 days of staff approval, the utility should provide the notice to all customers and any person who has requested or has been provided an estimate for service within 12 months prior to Commission vote. Within 10 days after the notice is given, the utility should file a statement confirming that the notice has been given. The tariff sheets reflecting these charges should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code.

**Issue 4:** Should this docket be closed?

**Recommendation:** Yes. If no timely protest is filed to the proposed agency action issue, the Order will become final upon the issuance of a Consummating Order and the docket should be closed.

**ITEM NO.**

**CASE**

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30\*\*

**Docket No. 050926-GU** – Request for authorization to maintain accounting records outside of the State of Florida, pursuant to Rule 25-7.015(1), F.A.C., and Rule 25-7.015(2), F.A.C., by Florida Division of Chesapeake Utilities Corporation.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Deason

**Staff:** RCA: Vandiver

GCL: Fleming

**PAA**

**Issue 1:** Should the Commission authorize Chesapeake to keep its accounting records out of state?

**Recommendation:** Yes. The Commission should approve Chesapeake's request to keep its records out of state.

**Issue 2:** Should Chesapeake be required to show cause, in writing within 21 days, why it should not be fined for its apparent violation of Rule 25-7.015(1), Florida Administrative Code, for its failure to obtain Commission approval prior to taking its records out of state?

**Recommendation:** No. Chesapeake should not be required to show cause why it should not be fined for its apparent violation of Rule 25-7.015(1), Florida Administrative Code, for its failure to obtain Commission approval prior to taking its records out of state.

**Issue 3:** 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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31\*\*

**Docket No. 020233-EI** – Review of GridFlorida Regional Transmission Organization (RTO) Proposal.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Arriaga

**Staff:** SGA: Buchan

ECR: Trapp, Ballinger

GCL: Brubaker

**Issue 1:** Would the continued development of GridFlorida be prudent?

**Recommendation:** No. In light of the quantitative information provided regarding the proposed GridFlorida RTO and alternatives, continued development of GridFlorida does not appear to be cost-effective. The costs exceed the benefits to such a degree that it would not be prudent or in the public interest to continue the development of GridFlorida.

**Issue 2:** Should the Commission grant the GridFlorida Applicant's Motion to Withdraw the Compliance Filing filed on March 20-21, 2002, and the September 19, 2002, Petition of the GridFlorida Companies regarding Prudence of GridFlorida Market Design Principles?

**Recommendation:** Yes. The Commission should grant the GridFlorida Applicant's Motion to Withdraw the Compliance Filing. In addition, the Commission should direct staff to monitor the Peninsular Florida utilities' and stakeholders' efforts as they continue to develop enhanced wholesale market opportunities in Florida and report back to the Commission in six months on their progress.

**Issue 3:** What should be the disposition of the outstanding motions currently pending in Docket No. 020233-EI?

**Recommendation:** If the Commission approves staff's recommendation in Issue 2, the four outstanding motions currently pending in Docket No. 020233-EI will be rendered moot and should not require further action by the Commission.

**Issue 4:** Should a new docket be opened to address a non-RTO alternative for Peninsular Florida, such as the Florida Independent Transmission Provider (FITP) proposed by Florida Municipal Power Agency, Seminole Electric Cooperative, Calpine Corporation, and Northern Star Energy?

**Recommendation:** No. At this time it is not cost-effective to open a new docket to examine alternative RTO or non-RTO proposals. Instead, the parties should be encouraged to continue investigating opportunities to enhance the existing wholesale market.

**Issue 5:** Should this docket be closed?

**Recommendation:** Yes. If the Commission votes to approve staff's recommendations in Issues 1 through 4, this docket should be closed.

**ITEM NO.**

**CASE**

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32

**Docket No. 041464-TP** – Petition for arbitration of certain unresolved issues associated with negotiations for interconnection, collocation, and resale agreement with Florida Digital Network, Inc. d/b/a FDN Communications, by Sprint-Florida, Incorporated.

**Critical Date(s):** None

**Commissioners Assigned:** Edgar, Deason

**Prehearing Officer:** Deason

**Staff:** CMP: Beard, Bulecza-Banks, Casey

GCL: Scott

**(Participation is limited to Commissioners and staff.)**

**Issue 1:** Should the Commission approve the interconnection, collocation and resale agreement between Sprint and FDN?

**Recommendation:** Yes. The Commission should approve the interconnection, collocation and resale agreement between Sprint and FDN.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 1, no further action will be required in this docket. Therefore this docket may be closed.

**ITEM NO.**

**CASE**

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33\*\*

**Docket No. 041269-TP** – Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** Edgar, Deason, Arriaga

**Prehearing Officer:** Edgar

**Staff:** CMP: Salak

GCL: Teitzman, Wiggins

**Issue 1:** Should the Commission acknowledge the Joint Petitioners' Notice of Voluntary Dismissal Without Prejudice of their Petition for Rehearing and Request for Expedited Treatment?

**Recommendation:** Yes. The Commission should acknowledge the Joint Petitioners' Notice of Voluntary Dismissal Without Prejudice of their Petition for Rehearing and Request for Expedited Treatment. Additionally, in light of Supra's Motion for Reconsideration, the Commission should defer consideration of the timeliness of Supra's argument that the Commission erred in using a three-Commissioner panel until it considers Supra's Motion for Reconsideration.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. This docket should remain open pending Commission approval of the final arbitration agreements in accordance with §252 of the Telecommunications Act of 1996.

**ITEM NO.**

**CASE**

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34

**Docket No. 041269-TP** – Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

**Critical Date(s):** None

**Commissioners Assigned:** Edgar, Deason, Arriaga

**Prehearing Officer:** Edgar

**Staff:** CMP: Hallenstein, Harvey, Lee, Shafer, Vickery

GCL: L. Fordham, Wiggins

**(Participation is limited to Commissioners and staff.)**

**Issue 5:** Are HDSL-capable copper loops the equivalent of DS1 loops for the purpose of evaluating impairment?

**Recommendation:** No. HDSL-capable loops are not the equivalent of DS1 loops for evaluating wire center impairment and should not be counted as voice grade equivalents. However, provisioned HDSL loops that include the associated electronics, whether configured as HDSL-2-wire or HDSL-4-wire, should be considered the equivalent of a DS1 and counted as 24 business lines for determining wire center impairment in meeting part (3) of the business line count definition found in 47 CFR §51.5. Additionally, in those wire centers that are no longer DS1 impaired, BellSouth will not be required to offer an HDSL UNE. The Unbundled Copper Loop (UCL) UNE with Loop Makeup (LMU) and routine network modifications will allow CLECs to deploy HDSL electronics on the UCL.

Staff believes that neither the language proposed by BellSouth, the Joint CLECs nor Sprint is totally appropriate to implement this recommended decision. Instead, staff believes that parts of the language proposed by BellSouth, the Joint CLECs and Sprint should be combined and adopted as discussed in the analysis section of staff's March 23, 2006 memorandum. Staff's recommended language is found in Appendix A to its memorandum.



ITEM NO.

CASE

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34

**Docket No. 041269-TP** – Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

**Issue 13:** What is the scope of commingling allowed under the FCC's rules and orders and what language should be included in Interconnection Agreements to implement commingling (including rates)?

**Recommendation:** Staff recommends that BellSouth is required to commingle or to allow commingling of a UNE or UNE combination with one or more facilities or services that a CLEC has obtained at wholesale from an ILEC pursuant to any method other than unbundling under §251(c)(3). However, this does not include offerings made available under §271. Staff also recommends that BellSouth is not required to effectuate commingling with a third party's service or a CLEC-provided service. Finally, staff recommends that the multiplexing rate in a commingled circuit rate should be based on the higher bandwidth circuit.

Staff believes that the language proposed by BellSouth best implements this recommended decision and should be adopted. The recommended language is found in Appendix A to staff's memorandum.

**Issue 16:** Is BellSouth obligated pursuant to the Telecommunications Act of 1996 and FCC Orders to provide line sharing to new CLEC customers after October 1, 2004?

**Recommendation:** In light of (1) the action of the D.C. Circuit in USTA I to vacate and remand the FCC's decision on line sharing, (2) the FCC's subsequent decision, upon reconsideration, not to reinstate line sharing as an unbundled network element, and (3) the FCC's own words regarding ongoing enforcement of §271 approvals contained in the TRO, staff concludes that BellSouth is not obligated pursuant to the Telecommunications Act of 1996 and FCC Orders to provide line sharing to new CLEC customers after October 1, 2004.

**Issue 17:** If the answer to the foregoing issue is negative, what is the appropriate language for transitioning off a CLEC's existing line sharing arrangements?

**Recommendation:** Staff believes that neither the language proposed by BellSouth nor the Joint CLECs is totally appropriate to implement this recommended decision. Instead, staff believes that the language proposed by BellSouth, with the modifications discussed in the staff analysis, should be adopted. Staff's recommended language is found in Appendix A of its memorandum.

ITEM NO.

CASE

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34

**Docket No. 041269-TP** – Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

**Issue 18:** What is the appropriate ICA language to implement BellSouth’s obligations with regard to line splitting?

**Recommendation:** Staff recommends that BellSouth’s ICA language regarding line splitting should be limited to when a CLEC purchases a stand-alone loop. Staff further recommends that the language in the ICA regarding line splitting should be revised to reflect: (1) that the requesting carrier is responsible for obtaining the splitter; (2) that indemnification remains unaffected; and (3) BellSouth is responsible for all necessary network modifications to accommodate line splitting arrangements.

Staff believes that neither the language proposed by BellSouth or CompSouth is totally appropriate to implement this recommended decision. Instead, staff believes the language proposed by BellSouth, with modifications discussed in the staff analysis, should be adopted. Staff’s recommended language is found in Appendix A of its memorandum.

**Issue 22:** (b) What is the appropriate language to implement BellSouth’s obligation, if any, to offer unbundled access to newly deployed or “greenfield” fiber loops, including fiber loops deployed to the minimum point of entry (“MPOE”) of a multiple dwelling unit that is predominantly residential, and what, if any, impact does the ownership of the inside wiring from the MPOE to each end user have on this obligation?

**Recommendation:** BellSouth is under no obligation to offer unbundled access to “greenfield” FTTH/FTTC loops used to serve residential MDUs. In those wire centers where impairment exists, a CLEC’s access to unbundled DS1 and DS3 loops was not exempted and BellSouth, upon request, shall unbundle the fiber loop to satisfy the DS1 or DS3 request.

Staff believes that neither the language proposed by BellSouth nor the Joint CLECs is totally appropriate to implement the recommend decision. Instead, staff believes that parts of the language proposed by BellSouth and the Joint CLECs should be combined and adopted as discussed in the staff analysis. Staff’s recommended language is found in Appendix A of its memorandum.

ITEM NO.

CASE

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34

**Docket No. 041269-TP** – Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

**Issue 32:** Should this docket be closed?

**Recommendation:** No. The parties should be required to submit signed amendments or agreements for issues 5, 13, 16-18 and 22(b) that comply with the Commission's decisions in this docket for approval within 10 days of the Commission's order in this proceeding. Staff requests that the Commission grant staff administrative authority to approve any amendments and agreements filed in accordance with the Commission's decision in this proceeding. Such amendments or agreements will be effective on the date the Commission issues its final order approving the signed amendments. This docket should remain open pending Commission approval of the final arbitration agreements in accordance with §252 of the Telecommunications Act of 1996.

