

# FLORIDA PUBLIC SERVICE COMMISSION

## COMMISSION CONFERENCE AGENDA

**CONFERENCE DATE AND TIME:** Tuesday, April 5, 2011, 9:30 a.m.

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

**DATE ISSUED:** March 29, 2011

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### NOTICE

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

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

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

Agendas, staff recommendations, vote sheets, transcripts, and conference minutes are available from the PSC Web site, <http://www.floridapsc.com>, by selecting *Agenda & Hearings* and *Agenda Conferences of the FPSC*. By selecting the docket number, you can advance to the *Docket Details* page and the Document Index Listing for the particular docket. If you have any questions, contact the Office of Commission Clerk at (850) 413-6770 or e-mail the clerk at [Clerk@psc.state.fl.us](mailto:Clerk@psc.state.fl.us).

Any person requiring some accommodation at this conference because of a physical impairment should call the Office of Commission Clerk 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 Office of Commission Clerk, Betty Easley Conference Center, Room 110.

The Commission Conference has a live video broadcast the day of the conference, which is available from the PSC's Web site. Upon completion of the conference, the video will be available from the Web site by selecting *Agenda and Hearings* and *Audio and Video Event Coverage*.

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4	<p><b>Docket No. 110033-EI</b> – Petition for declaratory statement regarding the repair and replacement of meter enclosures for smart meters by Florida Power &amp; Light Company. ....</p>	4
5**	<p><b>Docket No. 100176-TP</b> – Petition for arbitration of interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&amp;T Florida and Sprint Communications Company L.P.  <b>Docket No. 100177-TP</b> – Petition for arbitration of interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&amp;T Florida and Sprint Spectrum L.P., Nextel South Corp. and NPCR, Inc. d/b/a Nextel Partners. ....</p>	5
6**	<p><b>Docket No. 100340-TP</b> – Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunication carrier, and universal service requirements.  <b>Docket No. 110082-TP</b> – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders.....</p>	6
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**ITEM NO.**

**CASE**

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1

**Approval of Minutes**

February 22, 2011 Regular Commission Conference

March 8, 2011 Regular Commission Conference

2\*\*

**Consent Agenda**

PAA

A) Request for Cancellation of a Competitive Local Exchange Telecommunications Certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
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110035-TX	Global Crossing Telemanagement, Inc.	12/31/2010
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**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. 100175-TL** – Complaint against AT&T d/b/a BellSouth for alleged violations of various sections of Florida Administrative Code, Florida Statutes, and AT&T regulations pertaining to billing of charges and collection of charges, fees, and taxes.

**Docket No. 100312-EI** – Complaint against Florida Power & Light Company for alleged violations of various sections of Florida Administrative Code, Florida Statutes, and FPL tariffs pertaining to billing of charges and collection of charges, fees, and taxes.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** GCL: Harris

ECR: Kummer

RAD: Beard

**(Oral Argument Not Requested - Participation at the Commission's Discretion)**

**Issue 1:** Should the Commission grant Petitioner's Motion for Reconsideration?

**Recommendation:** No. Petitioner fails to identify any point of fact or law which the Commission overlooked or failed to consider, and the Motion should be denied.

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

**Recommendation:** Yes. The docket should be closed upon the expiration of the time for appeal.

**ITEM NO.**

**CASE**

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4

**Docket No. 110033-EI** – Petition for declaratory statement regarding the repair and replacement of meter enclosures for smart meters by Florida Power & Light Company.

**Critical Date(s):** 04/19/11 (Final order must be issued by this date, pursuant to Section 120.565(3), Florida Statutes)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** GCL: Gervasi

ECR: Kummer

**(Participation is at the Discretion of the Commission)**

**Issue 1:** Should the Commission issue a declaratory statement to the effect that FPL's individual customers whose meter enclosures must be repaired or replaced in conjunction with the installation of the smart meters should not individually bear the expenses associated with that repair or replacement, and that charging the costs to the program as a whole is not inconsistent with Order Nos. 18893 and PSC-95-0131-FOF-EI?

**Recommendation:** Yes, the Commission should issue the declaratory statement requested by FPL.

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

**Recommendation:** Yes, the docket should be closed.

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**CASE**

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5\*\*

**Docket No. 100176-TP** – Petition for arbitration of interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Sprint Communications Company L.P.

**Docket No. 100177-TP** – Petition for arbitration of interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Sprint Spectrum L.P., Nextel South Corp. and NPCR, Inc. d/b/a Nextel Partners.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Edgar

**Staff:** RAD: Trueblood

GCL: Murphy

**Issue 1:** Should the Commission grant the parties' Joint Motion to Withdraw Petitions and to Close Dockets?

**Recommendation:** Yes, the Commission should grant the parties' Joint Motion to Withdraw Petitions and to Close Dockets.

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**CASE**

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6\*\*

**Docket No. 100340-TP** – Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunication carrier, and universal service requirements.

**Docket No. 110082-TP** – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Graham (100340-TP)

Administrative (110082-TP)

**Staff:** RAD: Casey, Kennedy, Salak

GCL: Harris, Teitzman

**(Issue Nos. 1, 2, 3, and 10 apply to both dockets; Issue Nos. 4 through 9 apply only to Docket No.110082-TP.)**

**Issue 1:** Should the Commission grant ATMS' Request for Oral Argument on its Petition for Mediation and to Hold Docket in Abeyance?

**Recommendation:** Yes. The Commission should grant ATMS' Request for Oral Argument on its Petition for Mediation and to Hold Docket in Abeyance. Staff recommends allowing ATMS 10 minutes to address this matter.

**Issue 2:** Should the Commission order mediation by an independent mediator?

**Recommendation:** No. The Commission should not order mediation by an independent mediator.

**Issue 3:** Should the Commission hold these dockets in abeyance pending results of mediation?

**Recommendation:** No. If the Commission approves staff's recommendation in Issue 2, the issue of holding the docket in abeyance pending the results of mediation will be moot.

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6\*\*

**Docket No. 100340-TP** – Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunication carrier, and universal service requirements.

**Docket No. 110082-TP** – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders.

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**Issue 4:** Should American Dial Tone, Inc. be ordered to show cause, in writing within 21 days from the issuance of the Commission’s show cause order, why its Eligible Telecommunications Carrier status in Florida should not be revoked because it is no longer in the public interest based on its apparent willful violation of one or more of the following statutes, rules and orders: Section 364.10(2)(a), Florida Statutes, Section 364.10(2)(e)1, Florida Statutes, Section 364.10(2)(f), Florida Statutes, Section 364.107(3)(a), Florida Statutes, Section 364.24(2), Florida Statutes, Section 364.183(1), Florida Statutes, Rule 25-4.0665(1), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, Rule 25-24.825(1), Florida Administrative Code, Order No. PSC-06-0298-PAA-TX, Order No. PSC-06-0680-PAA-TL, and Order No. PSC-07-0417-PAA-TL?

**Recommendation:** Yes, American Dial Tone, Inc. should be ordered to show cause, in writing within 21 days from the issuance of the Commission’s show cause order, why its Eligible Telecommunications Carrier status in Florida should not be revoked because it is no longer in the public interest based on its apparent willful violation of one or more of the following statutes, rules and orders: Section 364.10(2)(a), Florida Statutes, Section 364.10(2)(e)1, Florida Statutes, Section 364.10(2)(f), Florida Statutes, Section 364.107(3)(a), Florida Statutes, Section 364.24(2), Florida Statutes, Section 364.183(1), Florida Statutes, Rule 25-4.0665(1), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, Rule 25-24.825(1), Florida Administrative Code, Order No. PSC-06-0298-PAA-TX, Order No. PSC-06-0680-PAA-TL, and Order No. PSC-07-0417-PAA-TL.

**Issue 5:** Should Bellerud Communications, LLC be ordered to show cause, in writing within 21 days from the issuance of the Commission’s show cause order, why its Competitive Local Exchange Company Certificate No. 7563 should not be cancelled pursuant to Rule 25-24.572(1), Florida Administrative Code, for apparent violation of the terms and conditions under which authority was originally granted, apparent violation of Commission rules or orders, or violation of Florida Statutes?

**Recommendation:** Yes. Staff recommends that Bellerud Communications, LLC be ordered to show cause, in writing within 21 days from the issuance of the Commission’s show cause order, why its Competitive Local Exchange Company Certificate No. 7563



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**CASE**

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6\*\*

**Docket No. 100340-TP** – Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunication carrier, and universal service requirements.

**Docket No. 110082-TP** – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders.

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should not be cancelled pursuant to Rule 25-24.572(1), Florida Administrative Code, for apparent violation of the terms and conditions under which authority was originally granted, apparent violation of Commission rules or orders, or violation of Florida Statutes.

**Issue 6:** Should LifeConnex Telecom, LLC be ordered to show cause, in writing within 21 days from the issuance of the Commission's show cause order, why its Competitive Local Exchange Company Certificate No. 8682 should not be cancelled pursuant to Rule 25-24.572(1), Florida Administrative Code, for apparent violation of the terms and conditions under which authority was originally granted, apparent violation of Commission rules or orders, or violation of Florida Statutes?

**Recommendation:** Yes. Staff recommends that LifeConnex Telecom, LLC be ordered to show cause, in writing within 21 days from the issuance of the Commission's show cause order, why its Competitive Local Exchange Company Certificate No. 8682 should not be cancelled pursuant to Rule 25-24.572(1), Florida Administrative Code, for apparent violation of the terms and conditions under which authority was originally granted, apparent violation of Commission rules or orders, or violation of Florida Statutes.

**Issue 7:** Should American Dial Tone, Inc. be ordered to show cause, in writing within 21 days from the issuance of the Commission's show cause order, why its Competitive Local Exchange Company Certificate No. 5805 should not be cancelled pursuant to Rule 25-24.572(1), Florida Administrative Code, for apparent violation of the terms and conditions under which authority was originally granted, apparent violation of Commission rules or orders, or violation of Florida Statutes?

**Recommendation:** Yes. Staff recommends that American Dial Tone, Inc. be ordered to show cause, in writing within 21 days from the issuance of the Commission's show cause order, why its Competitive Local Exchange Company Certificate No. 5805 should not be cancelled pursuant to Rule 25-24.572(1), Florida Administrative Code, for apparent violation of the terms and conditions under which authority was originally granted, apparent violation of Commission rules or orders, or violation of Florida Statutes.

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**CASE**

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**Docket No. 100340-TP** – Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunication carrier, and universal service requirements.

**Docket No. 110082-TP** – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders.

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**Issue 8:** Should All American Telecom, Inc. be ordered to show cause, in writing within 21 days from the issuance of the Commission's show cause order, why its Competitive Local Exchange Company Certificate No. 8758 should not be cancelled pursuant to Rule 25-24.572(1), Florida Administrative Code, for apparent violation of the terms and conditions under which authority was originally granted, apparent violation of Commission rules or orders, or violation of Florida Statutes?

**Recommendation:** Yes. Staff recommends that All American Telecom, Inc. be ordered to show cause, in writing within 21 days from the issuance of the Commission's show cause order, why its Competitive Local Exchange Company Certificate No. 8758 should not be cancelled pursuant to Rule 25-24.572(1), Florida Administrative Code, for apparent violation of the terms and conditions under which authority was originally granted, apparent violation of Commission rules or orders, or violation of Florida Statutes.

**Issue 9:** Should the following ATMS companies be ordered to show cause, in writing within 21 days from the issuance of the Commission's show cause order, why they should not be fined collectively \$16,448,000 for apparent willful violations of Florida Statutes, the Florida Administrative Code, and Florida PSC orders as follows:

- a. American Dial Tone, Inc. - \$7,224,500 for apparent willful violations of Section 364.10(2)(a), Florida Statutes, Section 364.10(2)(e)1, Florida Statutes, Section 364.10(2)(f), Florida Statutes, Section 364.107(3)(a), Florida Statutes, Section 364.24(2), Florida Statutes, Section 364.183(1), Florida Statutes, Rule 25-4.0665(1), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, Rule 25-24.825(1), Florida Administrative Code, Order No. PSC-06-0298-PAA-TX, Order No. PSC-06-0680-PAA-TL, or Order No. PSC-07-0417-PAA-TL?
- b. Bellerud Communications, LLC - \$595,000 for apparent willful violations of Section 364.24(2), Florida Statutes, Section 364.107(3)(a), Florida Statutes, Section 364.183(1), Florida Statutes, Rule 25-4.0665(1), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, Rule 25-24.825(1), Florida Administrative Code, Order No. PSC-06-0680-PAA-TL, or Order No. PSC-07-0417-PAA-TL?

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6\*\*

**Docket No. 100340-TP** – Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunication carrier, and universal service requirements.

**Docket No. 110082-TP** – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders.

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- c. LifeConnex Telecom, LLC - \$2,896,000 for apparent willful violations of Section 364.24(2), Florida Statutes, Section 364.107(3)(a), Florida Statutes, Section 364.183(1), Florida Statutes, Rule 25-4.0665(1), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, Rule 25-24.825(1), Florida Administrative Code, Order No. PSC-06-0680-PAA-TL, or Order No. PSC-07-0417-PAA-TL?
- d. BLC Management LLC, d/b/a Angles Communications Solutions - \$5,707,500 for apparent willful violations of Rule 25-4.118, Florida Administrative Code, Rule 25-24.805, Florida Administrative Code Rule 25-4.0665(1), Florida Administrative Code, Order PSC-06-0680-PAA-TL, Section 364.183(1), Florida Statutes, Rule 25-24.825, Florida Administrative Code, Section 364.107(3)(a), Florida Statutes, Section 364.24, Florida Statutes, Order No. PSC-06-0680-PAA-TL, or Order No. PSC-07-0417-PAA-TL?
- e. All American Telecom, Inc. - \$25,000 for apparent willful violations of Section 364.183(1), Florida Statutes?

**Recommendation:** Staff recommends that the following ATMS companies be ordered to show cause, in writing within 21 days from the issuance of the Commission's show cause order, why they should not be fined collectively \$16,448,000 for apparent willful violations of Florida Statutes, the Florida Administrative Code, and Florida PSC orders as follows:

- a. American Dial Tone, Inc. - \$7,224,500 for apparent willful violations of Section 364.10(2)(a), Florida Statutes, Section 364.10(2)(e)1, Florida Statutes, Section 364.10(2)(f), Florida Statutes, Section 364.107(3)(a), Florida Statutes, Section 364.24(2), Florida Statutes, Section 364.183(1), Florida Statutes, Rule 25-4.0665(1), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, Rule 25-24.825(1), Florida Administrative Code, Order No. PSC-06-0298-PAA-TX, Order No. PSC-06-0680-PAA-TL, and Order No. PSC-07-0417-PAA-TL.
- b. Bellerud Communications, LLC - \$595,000 for apparent willful violations of Section 364.24(2), Florida Statutes, Section 364.107(3)(a), Florida Statutes, Section

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6\*\*

**Docket No. 100340-TP** – Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunication carrier, and universal service requirements.

**Docket No. 110082-TP** – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders.

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364.183(1), Florida Statutes, Rule 25-4.0665(1), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, Rule 25-24.825(1), Florida Administrative Code, Order No. PSC-06-0680-PAA-TL, and Order No. PSC-07-0417-PAA-TL.

- c. LifeConnex Telecom, LLC - \$2,896,000 for apparent willful violations of Section 364.24(2), Florida Statutes, Section 364.107(3)(a), Florida Statutes, Section 364.183(1), Florida Statutes, Rule 25-4.0665(1), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, Rule 25-24.825(1), Florida Administrative Code, Order No. PSC-06-0680-PAA-TL, and Order No. PSC-07-0417-PAA-TL.
- d. BLC Management LLC, d/b/a Angles Communications Solutions - \$5,707,500 for apparent willful violations of Rule 25-4.118, Florida Administrative Code, Rule 25-24.805, Florida Administrative Code Rule 25-4.0665, Florida Administrative Code, Order PSC-06-0680-PAA-TL, Section 364.183(1), Florida Statutes, Rule 25-24.825, Florida Administrative Code, Section 364.107, Florida Statutes, Section 364.24, Florida Statutes, and Section 364.10(2)(e)1, Florida Statutes.
- e. All American Telecom, Inc. - \$25,000 for apparent willful violations of Section 364.183(1), Florida Statutes.

**Issue 10:** Should these dockets be closed?

**Recommendation:** If staff's recommendation in Issue 4 is approved, then American Dial Tone will have 21 days from the issuance of the Commission's show cause order to respond in writing why its Eligible Telecommunications Carrier status in Florida should not be revoked. If staff's recommendation in Issue 5 is approved, then Bellerud Communications, LLC (TX 464), will have 21 days from the issuance of the Commission's show cause order to respond in writing why its Competitive Local Exchange Company Certificate should not be cancelled. If staff's recommendation in Issue 6 is approved, then LifeConnex Telecom, LLC (TX 922), will have 21 days from the issuance of the Commission's show cause order to respond in writing why its Competitive Local Exchange Company Certificate should not be cancelled. If staff's recommendation in Issue 7 is approved, then American Dial Tone (TX 274), will have 21

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6\*\*

**Docket No. 100340-TP** – Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunication carrier, and universal service requirements.

**Docket No. 110082-TP** – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders.

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days from the issuance of the Commission's show cause order to respond in writing why its Competitive Local Exchange Company Certificate should not be cancelled. If staff's recommendation in Issue 8 is approved, then All American Telecom (TX 996), will have 21 days from the issuance of the Commission's show cause order to respond in writing why its Competitive Local Exchange Company Certificate should not be cancelled.

If staff's recommendation in Issue 9 is approved, then American Dial Tone, Inc., Bellerud Communications, LLC, LifeConnex Telecom, LLC, BLC Management LLC, d/b/a Angles Communications Solutions, and All American Telecom, Inc. will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amounts proposed.

If these companies timely respond to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If the companies do not respond to the show cause order, and the penalties listed in Issue 9 are not received within 14 business days after the expiration of the show cause response period, then American Dial Tone's ETC designation should be revoked for apparent violations cited in Issue 4, Bellerud's, LifeConnex's, American Dial Tone's, and All American Telecom's Competitive Local Exchange Company Certificates should be canceled for the apparent violations cited in Issues 5, 6, 7, and 8, and the fines listed in Issue 9 should be imposed for the apparent violations cited and forwarded to the Comptroller's Office for collection. Docket No. 110082-TP can then be closed. If staff's recommendation is approved in Issue Nos. 2 and 3, the investigation docket (Docket No. 100340-TP) can be closed.

**ITEM NO.**

**CASE**

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7\*\*

**Docket No. 100413-SU** – Request for approval of tariff amendment to include a late fee of \$14.00 in Polk County by West Lakeland Wastewater.

**Critical Date(s):** 06/01/11 (8-Month Effective Date)

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** ECR: Bruce, Stallcup

GCL: Williams

**Issue 1:** Should the Commission approve West Lakeland Wastewater Inc.'s tariff to include a \$14.00 late payment fee in Polk County?

**Recommendation:** No. West Lakeland Wastewater Inc.'s request to implement a \$14.00 late payment charge should not be approved. Instead, the Commission should approve a late payment charge of \$7.00 as requested in the Utility's amended December 13, 2010 filing. The late payment charge should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.).

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

**Recommendation:** Yes. If Issue 1 is approved, the docket should remain open pending staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. The revised tariff sheets should become effective on or after the stamped approval date on the revised tariff sheets, pursuant to Rule 25-30.475, F.A.C. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with all increased charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, a consummating order should be issued and, once staff verifies that the notice of the change in miscellaneous service charges has been given to customers, the docket should be administratively closed.

**ITEM NO.**

**CASE**

8\*\*PAA

**Docket No. 100149-WU** – Application for increase in water rates in Lee County by Ni Florida, LLC. (Deferred from the January 25, 2011, Commission Conference. Revised Recommendation filed.)

**Critical Date(s):** 5-Month Effective Date waived through 04/05/11

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Brisé

**Staff:** ECR: Deason, Fletcher, Maurey, Stallcup, Thompson, Williams

GCL: Jaeger

**(Proposed Agency Action Except for Issue Nos. 21 and 22.)**

**Issue 1:** Is the quality of service provided by Ni Florida satisfactory?

**Recommendation:** Yes, the quality of service provided by Ni Florida is satisfactory.

**Issue 2:** Should the audit adjustments to rate base to which the Utility agrees be made?

**Recommendation:** Yes. Based on audit adjustments agreed to by the Utility, staff recommends the following adjustments to rate base and operating expenses be made.

Audit Finding	Plant	Accum. Depr.	Accum. Amortz. of CIAC	Amortz. Expense	Depr. Expense	O&M Expense
No. 1	(\$5,512)	(\$69)	\$0	\$0	(\$138)	(\$981)
No. 2	(4,312)	4,312	0	0	(100)	0
No. 3	<u>0</u>	<u>(435)</u>	<u>(1,293)</u>	<u>861</u>	<u>1,251</u>	<u>0</u>
Total:	<u>(\$9,824)</u>	<u>\$3,808</u>	<u>(\$1,293)</u>	<u>\$861</u>	<u>\$1,013</u>	<u>(\$981)</u>

**Issue 3:** Should adjustments be made to the Utility's pro forma plant additions and associated expenses?

**Recommendation:** Yes. The Utility's pro forma plant additions should be increased by \$391. Accordingly, accumulated depreciation and depreciation expense should be decreased by \$288.

**Issue 4:** What is the used and useful percentage for the water distribution system?

**Recommendation:** The Ni Florida water distribution system should be considered 100 percent used and useful (U&U).

**Issue 5:** What is the appropriate working capital allowance?

**Recommendation:** The appropriate amount of working capital is \$26,347.

**Issue 6:** What is the appropriate rate base for the December 31, 2009, test year?

**Recommendation:** Consistent with other recommended adjustments, the appropriate 13-month average rate base for the test year ended December 31, 2009, is \$277,597.

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**CASE**

8\*\*PAA

**Docket No. 100149-WU** – Application for increase in water rates in Lee County by Ni Florida, LLC. (Deferred from the January 25, 2011, Commission Conference. Revised Recommendation filed.)

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**Issue 7:** What is the appropriate return on equity?

**Recommendation:** The appropriate return on equity (ROE) is 8.82 percent based on the Commission’s leverage formula currently in effect. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

**Issue 8:** What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2009?

**Recommendation:** The appropriate weighted average cost of capital for the test year ended December 31, 2009, is 8.77 percent.

**Issue 9:** What is the appropriate amount of current rate case expense?

**Recommendation:** The appropriate amount of rate case expense is \$82,815. This expense should be recovered over four years for an annual expense of \$20,704. Thus, Ni Florida’s requested annual rate case expense should be reduced by \$2,447.

**Issue 10:** Should any adjustment be made to bad debt expense?

**Recommendation:** Yes. The Utility should be entitled to bad debt expense of \$957. As a result, Ni Florida’s bad debt expense of \$3,853 should be reduced by \$2,896.

**Issue 11:** Should any adjustment be made to the Utility’s allocated overhead?

**Recommendation:** Yes. The Utility should be entitled to allocated overhead of \$43,589. As a result, the Utility’s allocated overhead of \$175,649 should be reduced by \$132,060.

**Issue 12:** What is the test year operating income before any revenue increase?

**Recommendation:** Based on the adjustments discussed in previous issues, the test year operating loss is \$16,633.

**Issue 13:** What is the appropriate revenue requirement for the December 31, 2009 test year?

**Recommendation:** The following revenue requirement should be approved:

	Test Year Revenues	\$ Increase	Revenue Requirement	% Increase
Water	\$220,146	\$42,905	\$263,051	19.49%



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**Issue 14:** What are the appropriate rate structures?

**Recommendation:** The appropriate rate structure for the water system’s residential class is a three-tier inclining-block rate structure. Staff’s preliminary rate design called for a two-tier rate structure with usage blocks of: a) 0-6 kgal in the first usage block; and b) all usage in excess of 6 kgal in the second usage block. However, as discussed in Issue 15, by restricting any cost recovery due to repression being applied to non-discretionary usage, an additional tier is necessary for non-discretionary usage below 3 kgal per month. This results in a three-tier rate structure for monthly consumption with usage blocks of: a) 0-3 kgal; b) 3.001-6 kgal; and c) all usage in excess of 6 kgal in the third usage block, and usage block rate factors of 0.91, 1.0, and 1.5 respectively. The appropriate rate structure for the water system’s nonresidential classes is a continuation of its BFC/uniform gallonage charge rate structure. The BFC cost recovery percentage for the water system should be set at 54.80 percent.

**Issue 15:** Is a repression adjustment appropriate in this case, and, if so, what are the appropriate adjustments?

**Recommendation:** Yes, a repression adjustment is appropriate for this Utility. Test year residential kgal sold should be reduced by 506 kgal to 16,280 kgal, purchased water expense should be reduced by \$1,830, and regulatory assessment fees (RAFs) should be reduced by \$86. The final post-repression revenue requirement should be \$260,140.

In order to monitor the effect of the rate structure and rate changes, the Utility should be ordered to file reports detailing the number of bills rendered, the consumption billed, and the revenues billed on a monthly basis. In addition, the reports should be prepared by customer class, usage block, and meter size. The reports should be filed with staff, on a semi-annual basis, for a period of two years beginning with the first billing period after the approved rates go into effect. To the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility should be ordered to file a revised monthly report for that month within 30 days of any revision.

**Issue 16:** What are the appropriate monthly water rates?

**Recommendation:** The appropriate monthly water rates are shown on Schedule No. 4 of staff’s memorandum dated March 24, 2011. Excluding miscellaneous service charges, the recommended water rates produce revenues of \$260,140. The Utility should file revised water tariff sheets and a proposed customer notice to reflect the Commission-approved rates for the water system. 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. In addition, the approved 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 ten days after the date of the notice.

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**Issue 17:** Should the Utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

**Recommendation:** Yes. Ni Florida should be authorized to revise its miscellaneous service charges. The Utility should file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date of the revised tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by staff. The Utility should provide proof the customers have received notice within ten days after the date that the notice was sent. The appropriate charges are reflected below. This notice may be combined with the notice required in other issues.

Miscellaneous Service Charges

	<u>Bus. Hrs</u>	<u>After Hrs</u>
Initial Connection	\$24	\$34
Normal Reconnection	\$24	\$34
Violation Reconnection	\$24	\$34
Premises Visit	\$18	\$27

**Issue 18:** Should the Utility's request for approval of a \$5 late fee be granted?

**Recommendation:** Yes. The Utility's requested late fee of \$5 should be approved. The late fee should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given within ten days after the date of the notice. This notice may be combined with the notices required in other issues.

**Issue 19:** Should the Utility's request for approval of a Non-Sufficient Funds fee be granted?

**Recommendation:** Yes. The Utility's requested Non-Sufficient Funds (NSF) fee should be approved. The NSF fee should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given within ten days after the date of the notice. This notice may be combined with the notice required in other issues.

**Issue 20:** In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

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**Recommendation:** The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenue requirement granted. This results in a refund of 28.75 percent. The refunds should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports, pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC, pursuant to Rule 25-30.360(8), F.A.C. Further, the escrow account should be released upon staff's verification that the required refunds have been made.

**Issue 21:** 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, F.S.?

**Recommendation:** The water rates should be reduced as shown on Schedule No. 4 of staff's memorandum dated March 24, 2011. 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, F.S. 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 30 days prior to the actual date of the required rate reduction. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-40.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. Ni Florida should provide proof of the date notice was given no less than ten days after the date of the notice.

**Issue 22:** Should the Utility be required to provide proof, within 90 days of the final order issued in this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) primary accounts associated with the Commission approved adjustments?

**Recommendation:** Yes. To ensure that the Utility adjusts its books in accordance with the Commission decision, Ni Florida should provide proof, within 90 days of the final order issued in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

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**Issue 23:** Should this docket be closed?

**Recommendation:** No. If no person whose substantial interests are affected by the proposed agency action (PAA) files a protest within 21 days of the issuance of the PAA order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, that the interim refund has been completed and verified by staff, and that the Utility has provided proof that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission approved adjustments. Once these actions are complete, this docket should be closed administratively.