

MINUTES OF

COMMISSION CONFERENCE, TUESDAY, APRIL 4, 2000

COMMENCED: 9:30 a.m.

ADJOURNED: 10:00 a.m.

COMMISSIONERS PARTICIPATING: Chairman Garcia
Commissioner Deason
Commissioner Clark (via telephone)
Commissioner Jacobs
Commissioner Jaber

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Consent Agenda

A) Applications for certificates to provide pay telephone service.

DOCKET NO. 000312-TC - Michael T. Baldwin
DOCKET NO. 000313-TC - Alpha Tel-Com, Inc.

B) DOCKET NO. 991994-TX - Application for certificate to provide alternative local exchange telecommunications service by Concentric Carrier Services, Inc.

C) Applications for certificates to provide interexchange telecommunications services.

DOCKET NO. 991993-TI - Concentric Carrier Services, Inc.
DOCKET NO. 000053-TI - Tel-Phone Communications, Inc.
DOCKET NO. 991961-TI - FreedomStarr Communications, Inc.

D) Requests for approval of resale agreements.

DOCKET NO. 000099-TP - BellSouth Telecommunications, Inc. with Max-Tel Communications, Inc. d/b/a Florida's Max-Tel Communications, Inc.
(Critical Date: 4/25/00)

DOCKET NO. 000160-TP - BellSouth Telecommunications, Inc. with FLATEL, Inc. d/b/a Florida Telephone Company
(Critical Date: 5/8/00)

DOCKET NO. 000167-TP - BellSouth Telecommunications, Inc. with Broward Business Service, Inc. d/b/a Communication Service Centers
(Critical Date: 5/11/00)

DOCKET NO. 000250-TP - BellSouth Telecommunications, Inc. with American Fiber Network, Inc.
(Critical Date: 5/23/00)

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DOCKET NO. 000252-TP - BellSouth Telecommunications, Inc.
with Tin Can Communications, LLC
d/b/a The Cube
(Critical Date: 5/23/00)

DOCKET NO. 000257-TP - BellSouth Telecommunications, Inc.
with Source One Communications,
Inc.
(Critical Date: 5/24/00)

E) Requests for approval of amendments to resale agreements.

DOCKET NO. 000175-TP - BellSouth Telecommunications, Inc.
with P.V. Tel of Florida, LLC
(Critical Date: 5/11/00)

DOCKET NO. 000199-TP - BellSouth Telecommunications, Inc.
with Alternative Phone, Inc.
(Critical Date: 5/16/00)

F) Request for approval of amendments to interconnection,
unbundling and resale agreements.

DOCKET NO. 000169-TP - BellSouth Telecommunications, Inc.
with UniversalCom, Inc.
(Critical Date: 5/11/00)

DOCKET NO. 000170-TP - BellSouth Telecommunications, Inc.
with MCI WorldCom Communications,
Inc.
(Critical Date: 5/11/00)

DOCKET NO. 000171-TP - BellSouth Telecommunications, Inc.
with Sprint Communications Company
Limited Partnership
(Critical Date: 5/11/00)

DOCKET NO. 000172-TP - BellSouth Telecommunications, Inc.
with Frontier Local Services, Inc.
(Critical Date: 5/11/00)

DOCKET NO. 000174-TP - BellSouth Telecommunications, Inc.
with BlueStar Networks, Inc.
(Critical Date: 5/11/00)

DOCKET NO. 000176-TP - BellSouth Telecommunications, Inc.
with IDS Long Distance, Inc.
(Critical Date: 5/11/00)

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DOCKET NO. 000177-TP - BellSouth Telecommunications, Inc.
with Florida Digital Network, Inc.
(Critical Date: 5/11/00)

DOCKET NO. 000198-TP - BellSouth Telecommunications, Inc.
with Kexa Corp d/b/a Capital
Exploration
(Critical Date: 5/16/00)

DOCKET NO. 000201-TP - BellSouth Telecommunications, Inc.
with Gainesville Regional
Utilities d/b/a GRU Communication
Service/GRUCom/GRU
(Critical Date: 5/16/00)

DOCKET NO. 000202-TP - BellSouth Telecommunications, Inc.
with Allegiance Telecom of
Florida, Inc.
(Critical Date: 5/16/00)

DOCKET NO. 000269-TP - BellSouth Telecommunications, Inc.
with NEXTLINK Florida, Inc.
(Critical Date: 5/29/00)

DOCKET NO. 000270-TP - BellSouth Telecommunications, Inc.
with Supra Telecommunications and
Information Systems, Inc.
(Critical Date: 5/29/00)

DOCKET NO. 000272-TP - BellSouth Telecommunications, Inc.
with TriVergent Communications.
(Critical Date: 5/29/00)

G) Requests for approval of interconnection, unbundling,
resale and collocation agreements.

DOCKET NO. 000030-TP - BellSouth Telecommunications, Inc.
with Unicom Communications, LLC
(Critical Date: 4/9/00)

DOCKET NO. 000249-TP - GTE Florida Incorporated with U S
West !nterprise America, Inc.
d/b/a !nterprise America, Inc.
(Critical Date: 5/23/00)

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H) DOCKET NO. 000173-TP - Request for approval of amendment to existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. and Access Integrated Networks, Inc.

(Critical Date: 5/11/00)

I) DOCKET NO. 000256-TP - Request by BellSouth Telecommunications, Inc. for approval of renegotiated resale agreement with EZ Talk Communications, L.L.C.

(Critical Date: 5/24/00)

J) DOCKET NO. 000197-TP - Request for approval of renegotiated interconnection, unbundling, and resale agreement between BellSouth Telecommunications, Inc. and GNet Telecom, Inc.

(Critical Date: 5/16/00)

K) DOCKET NO. 000188-TP - Request by Vista-United Telecommunications for approval of interim traffic termination and billing agreement with 2nd Century Communications, Inc.

(Critical Date: 5/15/00)

L) DOCKET NO. 000156-TI - Request for approval of transfer of control of all outstanding stock of Telecarrier Services, Inc. (holder of IXC Certificate No. 4391) to eLEC Communications Corp.

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

DECISION: The recommendation was approved with a modification that Docket No. 000174-TP be deferred.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

ITEM NO.

CASE

2

DOCKET NO. 991788-EG - Approval of demand-side management plan of Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer GR

Staff: EAG: Harlow, Ballinger, Ging
LEG: Ellias

Issue 1: Should Florida Power & Light Company's (FPL) Demand-Side Management (DSM) Plan be approved, including approval for cost recovery?

Recommendation: Yes. FPL's DSM Plan should be approved because the Plan: 1) meets the objectives of Rule 25-17.001 and FEECA; 2) contains programs that appear to be cost effective and directly monitorable; 3) appears to meet FPL's numeric conservation goals; and 4) appears to adhere to the stipulation between FPL and LEAF. Expenditures on FPL's proposed R&D programs should be capped at the levels contained in FPL's Plan.

Issue 2: Should Florida Power & Light Company (FPL) be required to submit detailed program participation standards?

Recommendation: Yes. FPL has recently filed proposed program participation standards with staff. Staff should administratively approve the program standards if they conform to the description of the programs contained in FPL's approved DSM Plan.

Issue 3: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's proposed agency action files a protest within 21 days of the issuance of the order.

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

ITEM NO.

CASE

3 DOCKET NO. 992014-EI - Petition by Tampa Electric Company for approval of plan to bring generating units into compliance with the Clean Air Act.
DOCKET NO. 990529-EI - Petition for 1999 depreciation study by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer GR (992014)
Prehrg Officer JC (990529)

Staff: EAG: Breman
AFA: Lee
LEG: Elias

Issue 1: Should TECO's Voluntary Dismissal and Withdrawal of Petition in Docket No. 992014-EI be acknowledged?

Recommendation: Yes.

Issue 2: Should Docket No. 992014-EI be closed?

Recommendation: Yes.

Issue 3: Should the capital recovery schedule, fossil dismantlement accruals, and depreciation rates addressing the repowering of the Gannon Station approved for preliminary implementation at the February 29, 2000, Agenda Conference in Docket No. 990529-EI be revised?

Recommendation: No. Staff recommends final approval of the recovery schedule, fossil dismantlement accruals, and depreciation rates as shown on Attachment A, pages 6-7 of staff's March 23, 2000 memorandum, reflecting the Gannon Station repowering, effective January 1, 2000. However, if significant changes occur with the estimated retirements, TECO should petition the Commission for recovery revisions as necessary.

Issue 4: Should Docket No. 990529-EI 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.

DECISION: The recommendations were approved with the modification to Issue No. 4, noted at the conference.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

ITEM NO.

CASE

4

DOCKET NO. 000165-PU - Petition by Florida Public Utilities Company for approval of revisions to service charge tariffs, Schedules No. 22.1 (Electric), No. 22 (Gas), and No. 17.1 (Water), which would provide for late payment charge.

Critical Date(s): 4/10/00 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: EAG: Draper, Brown
LEG: Isaac
WAW: Binford

Issue 1: Should the Commission approve FPUC's proposed revised electric tariff sheet (Seventh Revised Sheet No. 22.1) containing the late payment charge?

Recommendation: Yes. The Commission should approve FPUC's petition for a revision to its electric tariff sheet to include a provision for a late payment charge. Prior to implementation, FPUC should provide a thirty-day advance notice to its customers. A sample of the notice should be submitted to the Commission's Division of Electric and Gas for staff approval prior to implementation.

Issue 2: Should the Commission approve FPUC's proposed revised gas service charge tariff (Eleventh Revised Sheet No. 22 and First Revised Sheet No. 22.1), which would provide for a late payment charge?

Recommendation: Yes. The Commission should approve FPUC's petition for approval of revisions to its gas tariff to provide a provision for a late payment charge. Prior to implementation, FPUC should provide a thirty-day advance notice to its customers. A sample of the notice should be submitted to the Commission's Division of Electric and Gas for staff approval prior to implementation.

Issue 3: Should the Commission approve the petition of FPUC for revision of its water tariff (Third Revised Sheet No. 17.1) to include a provision for a late payment charge?

Recommendation: Yes. The Commission should approve FPUC's petition for a revision to its water tariff to include a provision for a late payment charge. Prior to implementation, FPUC should provide a thirty-day advance notice to its customers. A sample of the notice should be submitted to the Commission's Division of Water and Wastewater for staff approval prior to implementation.

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4 DOCKET NO. 000165-PU - Petition by Florida Public Utilities Company for approval of revisions to service charge tariffs, Schedules No. 22.1 (Electric), No. 22 (Gas), and No. 17.1 (Water), which would provide for late payment charge.

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Issue 4: What is the appropriate effective date for the late payment charge?

Recommendation: The effective date for the revised tariff sheets should coincide with the ability of FPUC's billing system to implement and administer the late payment charges. Staff should be authorized to administratively approve the effective date.

Issue 5: Should this docket be closed?

Recommendation: Yes, if no protest is filed within 21 days of the issuance of the order.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
5	<p>DOCKET NO. 991619-TP - Request for arbitration concerning complaint of KMC Telecom Inc. and KMC Telecom II, Inc. against BellSouth Telecommunications, Inc. regarding breach of interconnection agreement, and request for expedited relief.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrig Officer CL</p> <p>Staff: LEG: Christensen CMU: T. Watts</p> <p><u>Issue 1:</u> Should the Commission acknowledge KMC's Notice of Withdrawal of Complaint of KMC Telecom Inc. and KMC Telecom II Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreement and Request for Expedited Relief? <u>Recommendation:</u> Yes. Staff recommends that the Commission acknowledge KMC's Notice of Withdrawal of Complaint of KMC Telecom Inc. and KMC Telecom II Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreement and Request for Expedited Relief. Staff further recommends that no further action be taken on KMC's Motion to Include Issues because the issues raised in the motion are moot due to KMC's withdrawal of its Complaint.</p> <p><u>Issue 2:</u> Should this docket be closed? <u>Recommendation:</u> Yes. If the Commission approves staff's recommendation on Issue 1 to acknowledge KMC's withdrawal of its Complaint filed in this docket, KMC's Motion to Include Issues will be rendered moot. As such, no further action will remain for the Commission to take. Therefore, this docket may be closed.</p> <p><u>DECISION:</u> The recommendations were approved.</p> <p>Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber</p>

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<u>ITEM NO.</u>	<u>CASE</u>
6	<p>DOCKET NO. 991381-TX - Application for certificate to provide alternative local exchange telecommunications service by C.E.F. Answering and Telecommunications Service Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer JC</p> <p>Staff: CMU: Pruitt AFA: Lester LEG: K. Peña, Keating</p> <p><u>Issue 1</u>: Should the Commission deny the application of C.E.F. Answering and Telecommunications Service Inc. for a certificate to provide alternative local exchange telecommunications service in Florida? <u>Recommendation</u>: Yes. C.E.F. Answering and Telecommunications Service Inc. has not provided the Commission with a completed ALEC application. The application should therefore be denied without prejudice to file a new application that fully complies with Commission rules.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order.</p>

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

ITEM NO.

CASE

7

DOCKET NO. 991977-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 5227 issued to Everglades National Communication Network, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMU: Isler
LEG: K. Peña, B. Keating

Issue 1: Should the Commission impose a \$1,000 fine or cancel Everglades National Communication Network, Inc.'s alternative local exchange telecommunications certificate for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes. The Commission should impose a \$1,000 fine or cancel the company's certificate if the fine and the 1998 and 1999 regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's Alternative Local Exchange Telecommunications Certificate No. 5227 should be canceled administratively.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves or modifies staff's recommendation on Issue 1, this docket should be closed upon receipt of the fine and fees or

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DOCKET NO. 991977TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 5227 issued to Everglades National Communication Network, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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cancellation of the certificate, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. If the Commission denies staff's recommendation on Issue 1, this docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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DOCKET NO. 991985-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 5625 issued to Choctaw Communications, Inc. d/b/a Smoke Signal Communications for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMU: Isler
LEG: K. Peña, B. Keating

Issue 1: Should the Commission accept the settlement offer proposed by Choctaw Communications, Inc. d/b/a Smoke Signal Communications to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, the company's Certificate No. 5625 should be canceled administratively.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
9	<p>DOCKET NO. 991255-TC - Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 5589 issued to Rogher Imports Corporation for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrig Officer ADM</p> <p>Staff: CMU: Isler LEG: K. Peña, B. Keating</p> <p><u>Issue 1</u>: Should the Commission accept the settlement offer proposed by Rogher Imports Corporation to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?</p> <p><u>Recommendation</u>: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, the company's Certificate No. 5589 should be canceled administratively.</p> <p><u>Issue 2</u>: Should this docket be closed?</p> <p><u>Recommendation</u>: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.</p>

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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10 Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 991878-TX - Telecommunications Service Center, Inc.

DOCKET NO. 991986-TX - NeTel, Inc. d/b/a TEL3

DOCKET NO. 991989-TX - InternetU, Inc.

DOCKET NO. 992004-TX - All Kinds Cashed, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMU: Isler
LEG: K. Peña, B. Keating

Issue 1: Should the Commission impose a \$500 fine or cancel the alternative local exchange telecommunications certificates issued to each company listed on page 5 of staff's March 23, 2000 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes. The Commission should impose a \$500 fine or cancel each company's certificate as listed on page 5 if the fine and the 1998 and 1999 regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the alternative local exchange telecommunications certificates listed on page 5 should be canceled administratively.

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<u>ITEM NO.</u>	<u>CASE</u>
10	Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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Issue 2: Should these dockets be closed?

Recommendation: Yes. If the Commission approves or modifies staff's recommendation on Issue 1, these dockets should be closed upon receipt of the fine and fees or cancellation of the certificates, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. If the Commission denies staff's recommendation on Issue 1, these dockets should be closed administratively. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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11 Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480(2), F.A.C., Records & Reports; Rules Incorporated.

DOCKET NO. 991978-TX - Diamond Communications International, Inc.

DOCKET NO. 991998-TX - Collins Communications Corporation

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMU: Isler
LEG: K. Peña, B. Keating

Issue 1: Should the Commission impose a \$500 fine or cancel the alternative local exchange telecommunications of staff's March 23, 2000 memorandum certificates issued to the companies listed on page 6 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes. The Commission should impose a \$500 fine or cancel each company's respective certificate as listed on page 6 if the fine and the 1998 and 1999 regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the alternative local exchange telecommunications certificates listed on page 6 should be canceled administratively.

Issue 2: Should the Commission impose a \$500 fine or cancel the alternative local exchange telecommunications certificates issued to the companies listed on page 6 for apparent violation of Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated?

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CASE

11 Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480(2), F.A.C., Records & Reports; Rules Incorporated.

(Continued from previous page)

Recommendation: Yes. The Commission should impose a \$500 fine or cancel each company's respective certificate as listed on page 6 if the information required by Rule 25-24.480(2)(a) and (b), F.A.C., Records & Reports; Rules Incorporated, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and required information are not received, the alternative local exchange telecommunications certificates listed on page 6 should be canceled administratively.

Issue 3: Should these dockets be closed?

Recommendation: Yes. If the Commission approves or modifies staff's recommendation on Issues 1 and 2, these dockets should be closed upon receipt of the required information and fine and fees or cancellation of the certificates, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. If the Commission denies staff's recommendation on Issues 1 and 2, these dockets should be closed administratively. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
12	<p>DOCKET NO. 000080-TI - Petition for waiver of rules and requirements to allow deposit requirement in long distance tariff by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer JC</p> <p>Staff: CMU: Pruitt AFA: Lester LEG: Fordham</p> <p><u>Issue 1</u>: Should ITC be relieved of the bond requirements of Rule 25-24.490(2), Florida Administrative Code, as provided for in the rule? <u>Recommendation</u>: Yes.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber</p>

ITEM NO.

CASE

13

DOCKET NO. 971659-TP - Orange County Circuit Court referral of issues in Case No. CI 96-1812 (Wellington Property Management, Inc. and Emerson Communications Corporation vs. Parc Corniche Condominium Association, Inc. and Orange County, Florida) to the Florida Public Service Commission for review and determination of what issues, if any, the Commission has jurisdiction over.

DOCKET NO. 980732-TX - Application for certificate to provide alternative local exchange telecommunications service by Emerson Communications Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer CL (980732)
Prehrg Officer JC (971659)

Staff: LEG: Caldwell
CMU: Lewis, McCoy

Issue 1: Is Emerson Communications Company or Wellington Property Management, Inc. a "telecommunications company" within the meaning of Section 364.02, Florida Statutes, and thus required to obtain a certificate of necessity in order to continue its current operations?

Recommendation: No. Neither Emerson Communications Company nor Wellington Property Management, Inc. is operating as a telecommunications company within the meaning of Section 364.02, Florida Statutes. Further, Emerson's request to withdraw its application should be granted with a refund of its application fee.

Issue 2: Who owns the telecommunications lines in the Parc Corniche Condominium?

Recommendation: Emerson Communications Company owns the lines, although Labree Management has control over access.

Issue 3: Should these dockets be closed?

Recommendation: Yes. These docket should be closed if no person whose interests are substantially affected by the proposed action files a protest of the Commission's decision on Issue 2 within the 21-day protest period. If no timely protest of Issue 2 is filed, these dockets may be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

ITEM NO.

CASE

14 DOCKET NO. 000041-WS - Application of Lake Utility Company for amendment of Certificates Nos. 527-W and 461-S to add territory in Lake County.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: WAW: Redemann, Messer
LEG: Fudge

Issue 1: Should Lake Utility Company's application for amendment of Water Certificate No. 527-W and Wastewater Certificate No. 461-S be approved?

Recommendation: Yes. Lake Utility Company's application for amendment should be approved for Water Certificate No. 527-W and Wastewater Certificate No. 461-S to include the additional territory described in Attachment A of staff's March 23, 2000 memorandum. Lake Utility Company should charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

Issue 2: Should the utility file a wastewater tariff reflecting the reclaimed water class of service?

Recommendation: Yes. The utility should file a wastewater tariff sheet reflecting the reclaimed water class of service at a zero rate. The tariff should be effective for services rendered on or after the stamped approval date of the tariff. The utility should return to the Commission for a determination regarding rates for reclaimed water service prior to providing that service to any other customers.

Issue 3: Should this docket be closed?

Recommendation: If no timely protest is received to the Proposed Agency Action issue, the order should become final and effective upon issuance of a Consummating Order and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

ITEM NO.

CASE

15

DOCKET NO. 991290-WU - Application for staff-assisted rate case in Lake County by Brendenwood Water System.

Critical Date(s): 1/27/01 (15-month statutory deadline expires)

Commissioners Assigned: Full Commission
Prehrg Officer JC

Staff: WAW: Dewberry, Golden, Rieger, Williams
LEG: Fudge

(ALL ISSUES PROPOSED AGENCY ACTION EXCEPT ISSUES NOS. 15, 16, AND 17.)

Issue 1: What is the quality of service rendered to the customers of the utility?

Recommendation: The quality of service provided to the customers should be considered satisfactory.

Issue 2: What are the appropriate used and useful percentages for the water treatment plant and water distribution system?

Recommendation: The water treatment plant and water distribution systems should be considered 100% used and useful.

Issue 3: Does the utility own the land on which its water facilities are located, and, if so, what is the appropriate land value to be included in rate base?

Recommendation: No, the utility does not own the land on which its water facilities are located. The land is owned by the owner of the utility and is leased to the utility for 99 years. The appropriate land value to be included in rate base is zero.

Issue 4: What is the appropriate average test year rate base for Brendenwood Water System?

Recommendation: The appropriate average test year rate base for Brendenwood Water System is \$7,430.

Issue 5: What is the appropriate rate of return on equity and the appropriate overall rate of return for the utility?

Recommendation: The appropriate return on equity and the appropriate overall rate of return for the utility is 8.93% with a range of 7.93% - 9.93%.

Issue 6: What is the appropriate test year revenue for the utility?

Recommendation: The appropriate test year revenue for the utility is \$24,259.

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Issue 7: What is the appropriate amount for operating expenses for this utility?

Recommendation: The appropriate amount for operating expenses for this utility is \$28,029.

Issue 8: Should the Commission utilize the operating ratio methodology as an alternative means to calculate the revenue requirement for Brendenwood water system and, if so, what is the appropriate margin?

Recommendation: Yes. The Commission should utilize the operating ratio methodology for calculating the revenue requirement for the Brendenwood water system. The margin should be 10% of operation and maintenance expenses.

Issue 9: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement using the operating ratio methodology for calculating the revenue requirement is \$30,594.

Issue 10: Should the utility's base facility charge for residential customers be calculated consistent with Commission Order No. 16134?

Recommendation: Yes, the utility's base facility charge for residential customers should be calculated consistent with Commission Order No. 16134. However, future meter change outs for residential 1" meters should be replaced with a 5/8" x 3/4" meter or charged the appropriate rate for a 1" meter.

Issue 11: What is the appropriate conservation rate structure for this utility?

Recommendation: The appropriate conservation rate structure for this utility is the inclining-block rate structure as detailed in the analysis portion of staff's March 23, 2000 memorandum.

Issue 12: Is a repression adjustment to consumption appropriate for this utility and, if so, what is the appropriate adjustment?

Recommendation: Yes. A repression adjustment of 693,680 gallons to water consumption is appropriate. In order to monitor the effect of the rate increase and rate structure change on consumption, the utility should be ordered to file, on a quarterly basis, reports detailing the number of bills rendered, the number of gallons billed and the total revenues billed for each month during the quarter. This

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information should be provided for each customer class, meter size and usage block. These reports should be required for a period of two years, beginning the first quarter after the revised rates go into effect.

Issue 13: What are the recommended rates for this utility?

Recommendation: The recommended rates should be designed to produce revenue of \$30,594 using the inclining-block rate structure. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates may not be implemented until proper 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.

Issue 14: Should the utility be authorized to collect miscellaneous charges and, if so, what are the appropriate charges?

Recommendation: Yes. The utility should be authorized to collect miscellaneous service charges as recommended in the staff analysis. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the tariffs upon verification that the tariff sheets are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the miscellaneous service charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets.

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 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 shall be subject to the refund provisions discussed in the staff analysis. In

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15 DOCKET NO. 991290-WU - Application for staff-assisted rate case in Lake County by Brendenwood Water System.

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addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility should file reports with the Division of Water and Wastewater no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund.

Issue 16: Should the utility be required to show cause, in writing within 21 days, why it should not be fined up to \$5,000 per day for its apparent violation of Rule 25-30.115, Florida Administrative Code, for its failure to maintain its books and records in conformance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA)?

Recommendation: No. A show cause proceeding should not be initiated. However, the utility should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA and submit a statement from its accountant by March 31, 2001 along with its 2000 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order.

Issue 17: Should the utility be ordered to show cause, in writing, within 21 days, why it should not be fined for its apparent violation of Section 367.091(4), Florida Statutes?

Recommendation: No. A show cause proceeding should not be initiated.

Issue 18: Should this docket be closed?

Recommendation: If no timely protest is received upon expiration of the protest period, the Order should become final and effective upon the issuance of a Consummating Order and this docket should be closed administratively. If a protest is filed within 21 days of the issuance of the Order, the Commission-approved temporary rates should become effective pending resolution of the protest.

DECISION: The recommendations were approved. A clarification was made to Issue 16 that the utility is to be placed on notice that non-compliance may result in a show cause proceedings.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

Minutes of
Commission Conference
April 4, 2000

ITEM NO.

CASE

15A DOCKET NO. 990744-SU - Disposition of gross-up on CIAC collections by Fountain Lakes Sewer Corporation in Lee County. (Deferred from the 3/28/00 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer CL

Staff: WAW: Johnson, McCaskill
LEG: Jaeger

Issue 1: Should Fountain Lakes be allowed to credit its CIAC account with the amount of unclaimed refunds?

Recommendation: Yes. Fountain Lakes should credit \$9,966 to the contributions-in-aid-of-construction (CIAC) account.

Issue 2: Should the docket be closed?

Recommendation: Yes, this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

ITEM NO.

CASE

16

DOCKET NO. 980119-TP - Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc. for violation of the Telecommunications Act of 1996; petition for resolution of disputes as to implementation and interpretation of interconnection, resale and collocation agreements; and petition for emergency relief.

Critical Date(s): None

Hearing Date(s): 3/11/98, Talla., OA, JC
4/17/98, Talla., Prehrg., JC
4/30/98, Tallahassee, GR DS JC

Commissioners Assigned: GR DS JC
Prehrg Officer JC

Staff: LEG: B. Keating
AFA: Vinson
CMU: Favors
PAI: Clark-Watts

Issue 1: Should Supra's Motion for Oral Argument be granted?
Recommendation: No. The matters upon which Supra seeks reconsideration are clearly set forth in the pleadings and the record. Staff does not believe that oral argument would aid the Commission in evaluating Supra's Motion for Reconsideration. Staff recommends that the Motion for Oral Argument be denied.

Issue 2: Should the Commission grant Supra's Motion for Reconsideration and BellSouth's apparent cross-motion for reconsideration?

Recommendation: No. Supra and BellSouth have failed to identify a point of fact overlooked by the Commission or a mistake made by the Commission in rendering its decision. Therefore, Supra's Motion for Reconsideration should be denied, as well as BellSouth's cross-motion for reconsideration, contained in its Response, requesting that the matter be set for hearing on the issue of on-line edit checking capability.

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CASE

16 DOCKET NO. 980119-TP - Complaint of Supra
Telecommunications and Information Systems, Inc. against
BellSouth Telecommunications, Inc. for violation of the
Telecommunications Act of 1996; petition for resolution of
disputes as to implementation and interpretation of
interconnection, resale and collocation agreements; and
petition for emergency relief.

(Continued from previous page)

Issue 3: Should this Docket be closed?

Recommendation: No. Whether or not the Commission approves
staff's recommendation in Issues 1 and 2, no further
determinations will remain to be made by the Commission.
However, this Docket should remain open pending the outcome
of the federal proceeding.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Jacobs

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ITEM NO.

CASE

16A DOCKET NO. 991267-TP - Complaint and/or petition for arbitration by Global NAPS, Inc. for enforcement of Section VI(B) of its interconnection agreement with BellSouth Telecommunications, Inc., and request for relief. (Deferred from the 3/28/00 Commission Conference.)

Critical Date(s): None

Hearing Date(s): 1/10/00, Talla., Prehrg., JC
1/25/00, Talla., DS CL JC

Commissioners Assigned: DS CL JC
Prehrg Officer JC

Staff: CMU: Marsh
LEG: B. Keating

Issue 1: Under their Florida Partial Interconnection Agreement, are Global NAPS, Inc. and BellSouth Telecommunications, Inc. required to compensate each other for delivery of traffic to Internet Service Providers (ISPs)? If so, what action, if any, should be taken?
Recommendation: Yes. Staff believes that reciprocal compensation is due under the agreement adopted by GNAPs for all local traffic, including traffic to ISPs, at the rate set forth in the agreement.

Issue 2: Is the prevailing party entitled to attorney's fees under the agreement?

Recommendation: Yes. The interconnection agreement provides that the prevailing parties are entitled to receive attorney's fees. Thus, if the Commission approves staff's recommendation in Issue 1, GNAPs would be entitled to attorney's fees.

Issue 3: Should this docket be closed?

Recommendation: Yes, this docket should be closed.

DECISION: The recommendations were approved with the clarification made by staff at agenda.

Commissioners participating: Deason, Clark, Jacobs

ITEM NO.

CASE

17

DOCKET NO. 990356-WS - Application for staff-assisted rate case in Polk County by Bieber Enterprises, Inc. d/b/a Breeze Hill Utilities.

Critical Date(s): 8/16/00 (15-month effective date)

Commissioners Assigned: CL JC JB
Prehrg Officer JC

Staff: LEG: Gervasi
WAW: Casey, Butts

Issue 1: Should the customers' Withdrawal of Formal Hearing Request regarding the protest of Proposed Agency Action Order No. PSC-99-2394-FOF-WS be acknowledged and that Order become final?

Recommendation: Yes, the Withdrawal of Formal Hearing Request regarding the protest should be acknowledged. Order No. PSC-99-2394-FOF-WS should be made final and effective as of the date of the Commission vote at this agenda conference.

Issue 2: What is the appropriate disposition of the irrevocable letter of credit in the amount of \$28,129, submitted by Citizens Bank on behalf of Breeze Hill Utilities?

Recommendation: The irrevocable letter of credit in the amount of \$28,129 provided by Citizens Bank on behalf of Breeze Hill Utilities should be canceled.

Issue 3: Should this docket be closed?

Recommendation: If the Commission approves Issues Nos. 1 and 2 of this recommendation, the docket should remain open for 180 days from the issuance date of the Order to verify that the utility has installed a new 5,000-gallon hydro-pneumatic water tank, a chlorine alarm with automatic switch-over, water meters for all customers, a blower at the wastewater plant, and purchased a back-up motor for the well pump. Once staff has verified these actions, no further action will be necessary in this docket, and the docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Clark, Jacobs, Jaber

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