

MINUTES OF APRIL 20, 2004
COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.

ADJOURNED: 1:05 p.m.

COMMISSIONERS PARTICIPATING: Chairman Baez
Commissioner Deason
Commissioner Jaber
Commissioner Bradley
Commissioner Davidson

Parties were allowed to address the Commission on items designated by double asterisks (**).

1 Approval of Minutes

March 16, 2004 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

Minutes of
Commission Conference
April 20, 2004

ITEM NO. CASE

2**Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
040230-TX	Telepacket, Inc.
040224-TX	Connect Paging, Incorporated d/b/a Get A Phone
040233-TX	Premier Telecom, Inc.
040219-TX	VOIP Corp
040177-TX	Coastal Telephone Communications, Inc. d/b/a Coastal Connections
040213-TX	Global Teldata II, LLC

PAA B) Docket No. 040169-TX - Request for cancellation of CLEC Certificate No. 4464 by T-Netix, Inc., effective 12/19/03.

PAA C) Application for certificate to provide pay telephone service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
040186-TC	Pinnacle Payphone Corporation

PAA

Minutes of
Commission Conference
April 20, 2004

<u>ITEM NO.</u>	<u>CASE</u>
-----------------	-------------

2**	Consent Agenda
-----	----------------

(Continued from previous page)

D) Application for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
040009-TX	Lightyear Network Solutions, LLC

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

VOIP Corp

DECISION: The recommendation was approved with the exception of Docket 040219-TX, which was deferred.

Commissioners participating: Baez, Deason, Jaber, Bradley, Davidson

ITEM NO.

CASE

3**Docket No. 040167-TP - Proposed adoption of Rules 25-4.082, F.A.C., Number Portability, and 25-4.083, F.A.C., Preferred Carrier Freeze; and proposed amendment of Rules 25-4.003, F.A.C., Definitions; 25-24.490, F.A.C., Customer Relations; Rules Incorporated; and 25-24.845, F.A.C., Customer Relations; Rules Incorporated. (Deferred from March 30, 2004 conference.)

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: GCL: Cibula
CMP: R. Kennedy, Casey
ECR: Hewitt

Issue 1: Should the Commission propose the adoption of Rules 25-4.082, F.A.C., Number Portability, and 25-4.083, F.A.C., Preferred Carrier Freeze, and the amendment of Rules 25-4.003, F.A.C., Definitions, 25-24.490, F.A.C., Customer Relations; Rules Incorporated, and 25-24.845, F.A.C., Customer Relations; Rules Incorporated?

Recommendation: Yes. The Commission should propose the adoption of Rules 25-4.082 and 25-4.083, and the amendment of Rules 25-4.003, 25-24.490, and 25-24.845, F.A.C., as set forth in Attachment A of staff's March 18, 2004 memorandum.

DECISION: The recommendations were approved with the following modifications:

Rule 25-4.003: Delete subsection (53);

Rule 25-4.082: Adopt proposed changes in the handout from Sprint (see attached language);

Rule 25-4.083: Delete lines 2, 3 and 4; add "or removed" after the word "imposed" on line 5; add *"an existing or a potential new subscribe who expresses" after the word "informing" on line 20; delete "contacts the local provider with" on line 21, page 21;

Rule 25-24.490: Allow staff to change the wording of "port/porting/portability" to transfer/transferring/transferability" where appropriate;

Subsection 4 is modified as discussed at the agenda conference.

ITEM NO.

CASE

3**

Docket No. 040167-TP - Proposed adoption of Rules 25-4.082, F.A.C., Number Portability, and 25-4.083, F.A.C., Preferred Carrier Freeze; and proposed amendment of Rules 25-4.003, F.A.C., Definitions; 25-24.490, F.A.C., Customer Relations; Rules Incorporated; and 25-24.845, F.A.C., Customer Relations; Rules Incorporated. (Deferred from March 30, 2004 conference.)

(Continued from previous page)

Issue 2: Should this docket be closed?

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

DECISION: The recommendation was approved with modification which is to enclose a cover letter to carriers with highlights of the rule and the effective date.

Commissioners participating: Baez, Deason, Jaber, Bradley, Davidson.

*Commissioner Jaber dissented on this portion of the rule only

ITEM NO.

CASE

4**Docket No. 040026-TP - Complaint and petition by CAT Communications International, Inc. against BellSouth Telecommunications, Inc. for alleged unlawful emergency telephone service charge and telecommunications relay service charges.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: GCL: Rojas
CMP: Moses

Issue 1: Should the Commission grant BellSouth Telecommunications, Inc.'s Motion for Summary Final Order?

Recommendation: Staff recommends that the Motion for Summary Final Order be granted.

Issue 2: Should this Docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, BellSouth's Motion to Dismiss will be rendered moot and no further action will need to be taken. Therefore, this Docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Jaber, Bradley, Davidson

ITEM NO.

CASE

5**Docket No. 031123-GU - Petition for authority to convert and transfer all remaining sales customers to transportation service, to terminate merchant function, and for approval of certain tariff changes on experimental basis, by Sebring Gas System, Inc. (Deferred from February 17, 2004 conference; revised recommendation filed.)

Critical Date(s): 4/22/04 (Company waived 60-day suspension date to 4/22/04.)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Makin, Bulecza-Banks
GCL: Brubaker

Issue 1: Should the Commission approve Sebring Gas Company's petition for authority to convert all remaining sales customers to transportation service and to exit the merchant function?

Recommendation: Yes. The Commission should approve Sebring's petition for authority to convert all remaining sales customers to transportation service and to exit the merchant function on an experimental basis, effective April 20, 2004, the date of the Commission's vote on this matter. Further, staff recommends that Sebring be required to file a report with the Commission 90 days prior to the conclusion of the initial period of the program. The report would contain information regarding customer acceptance, an assessment of Sebring's capability to expand the program, and a determination of the feasibility of continuing the program.

Issue 2: Should this docket be closed?

Recommendation: Yes. If a protest is filed within 21 days of the Commission Order approving this tariff by a person whose substantial interests are affected, the tariff should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Jaber, Bradley, Davidson

ITEM NO.

CASE

6**PAADocket No. 040215-TC - Compliance investigation of U.S. Paytel Optima, L.L.C. for apparent violation of Rule 25-4.019, F.A.C., Records and Reports in General.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Curry
 AUS: Vandiver
 GCL: Rojas

Issue 1: Should the Commission impose a penalty upon U.S. Paytel Optima, L.L.C. in the amount of \$10,000 for its apparent violation of Rule 25-4.019, Florida Administrative Code, Records and Reports in General, and order the company to submit the required documentation listed in Attachment A of staff's April 8, 2004 memorandum to the Division of Auditing and Safety?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If U.S. Paytel fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If U.S. Paytel fails to pay the penalty and submit the required documentation within fourteen (14) calendar days after the issuance of the Consummating Order, the company shall be required to immediately cease and desist providing pay telephone service in Florida and Pay Telephone Certificate No. 5860 shall be cancelled. This docket should be closed administratively upon either the receipt of the payment of the penalty and the required documentation, or upon cancellation of Pay Telephone Certificate No. 5860.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Jaber, Bradley, Davidson

ITEM NO.

CASE

7**PAADocket No. 040217-TC - Compliance investigation of SOBE Communications Corp. for apparent violation of Rule 25-4.019, F.A.C., Records and Reports in General.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Watts
 AUS: Vandiver
 GCL: Rojas

Issue 1: Should the Commission impose a penalty upon SOBE Communications Corp. in the amount of \$10,000 for apparent violation of Rule 25-4.019, Florida Administrative Code, Records and Reports in General, and order the company to submit the required documentation listed in Attachment A of staff's April 8, 2004 memorandum to the Division of Auditing and Safety?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If SOBE fails to timely file a protest and to request a Section 120.57, Florida Statutes hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If SOBE fails to pay the penalty and submit the required documentation within fourteen (14) calendar days after the issuance of the Consummating Order, Pay Telephone Certificate No. 7601 should be cancelled and the company should be required to immediately cease and desist providing pay telephone service in Florida. This docket should be closed administratively upon either the receipt of the payment of the penalty and the required documentation, or upon cancellation of Pay Telephone Certificate No. 7601.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Jaber, Bradley, Davidson

Minutes of
Commission Conference
April 20, 2004

ITEM NO.

CASE

8**PAADocket No. 040225-TI - Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TI237 issued to Melbourne International Communications, Ltd., effective 3/11/04.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

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

Issue 1: Should the Commission grant Melbourne International Communications, Ltd. cancellation of its tariff and removal from the register with an effective date of March 11, 2004, due to bankruptcy; notify the Division of the Commission Clerk and Administrative Services that any unpaid Regulatory Assessment Fees, including statutory penalty and interest charges, should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the company to immediately cease and desist providing interexchange telecommunications service in Florida?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no protest is filed and upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Jaber, Bradley, Davidson

ITEM NO.

CASE

9**Docket No. 031069-EI - Petition for authority to implement proposed Military Base Facilities Charge Rider by Gulf Power Company.

Critical Date(s): 7/21/04 (8-month effective date)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Wheeler, Draper, Slemkewicz

GCL: Vining

Issue 1: Should the Commission approve Gulf Power Company's proposed new Military Base Facilities Charge Rider?

Recommendation: Yes. Gulf should file with the Commission for staff review all finalized contracts entered into pursuant to the rider, and all supporting documentation demonstrating that the contracts recover the full cost of service. This information should be submitted within 30 days of the date a contract is finalized.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on April 20, 2004. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Jaber, Bradley, Davidson

ITEM NO.

CASE

10**PAADocket No. 040218-EI - Petition for authority to increase annual accrual rate for Account No. 228.2 - Accumulated Provision for Injuries and Damages, by Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Slemkewicz
GCL: Rodan

Issue 1: Should the Commission grant Gulf Power Company's request to increase the annual accrual to its injuries and damages reserve from \$1.2 million to \$1.6 million, effective January 1, 2004?

Recommendation: Yes. The Commission should authorize Gulf Power Company to increase its annual injuries and damages reserve accrual from \$1.2 million to \$1.6 million, effective January 1, 2004.

Issue 2: Should the Commission approve Gulf Power Company's request to allow it the flexibility to supplement its annual accrual to the injuries and damages reserve as earnings permit?

Recommendation: Yes. The Commission should allow Gulf Power Company the flexibility to supplement its annual accrual to its injuries and damages reserve as earnings permit to maintain a calendar year end balance of no greater than \$2 million. The \$2 million is not a cap/ceiling on the injuries and damages reserve.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no timely protest is filed by a substantially affected person, a Consummating Order should be issued upon the expiration of the protest period and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Jaber, Bradley, Davidson

ITEM NO.

CASE

11**Docket No. 030891-WS - Joint application for transfer of Certificates Nos. 336-W and 291-S in Martin County from IHC Realty Partnership L.P. d/b/a Plantation Utilities to Columbia Properties Stuart, LLC.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Johnson, Kaproth, Walden

GCL: Gervasi

Issue 1: Should the transfer of Certificate Nos. 336-W and 291-S from IHC Realty Partnership L.P. d/b/a Plantation Utilities to Columbia Properties Stuart, LLC d/b/a Plantation Utilities be approved?

Recommendation: Yes. The transfer of the facilities and Certificate Nos. 336-W and 291-S from IHC Realty Partnership L.P. d/b/a Plantation Utilities to Columbia Properties Stuart, LLC d/b/a Plantation Utilities should be approved. The transfer should be effective on the day of the Commission vote. Plantation has agreed to file the 2003 annual report on or before April 30, 2004. In addition, Plantation will be responsible for the payment of all RAFs due through the date of the final order approving the transfer and until the appeal time has run. Columbia will be responsible for the payment of all regulatory assessment fees (RAFs) due thereafter. Columbia will be responsible for filing the 2004 annual report for January 1 through December 31, 2004. Pursuant to Rule 25-30.037(2)(q), Florida Administrative Code, a warranty deed or evidence that the utility owns or has continued use of the land upon which its facilities are located should be submitted within 60 days of the date of the order issued as a result of the action taken at the agenda conference. Also, the utility should be required to provide proof of registration for the utility's fictitious name with the Division of Corporations, Florida Department of State, within 60 days of the transfer order. A description of the territory being transferred is appended to staff's April 8, 2004 recommendation as Attachment A.

PAA

Issue 2: What is the rate base of IHC Realty Partnership L.P. d/b/a Plantation Utilities at the time of transfer?

Recommendation: The rate base for transfer purposes is \$1,020,138 for the water system and \$510,917 for the wastewater system as of April 30, 2003.

Issue 3: Should Columbia Properties Stuart, LLC adopt and use the rates and charges approved by this Commission for IHC Realty Partnership L.P. d/b/a Plantation Utilities?

Recommendation: Yes. Columbia Properties Stuart, LLC should continue charging the rates and service availability charges approved for this utility system until authorized to change by the Commission in a subsequent proceeding. The tariff reflecting the change

ITEM NO.

CASE

11**

Docket No. 030891-WS - Joint application for transfer of Certificates Nos. 336-W and 291-S in Martin County from IHC Realty Partnership L.P. d/b/a Plantation Utilities to Columbia Properties Stuart, LLC.

(Continued from previous page)

in ownership should be effective for services rendered or connections made on or after the stamped approval date.

Issue 4: Should this docket be closed?

Recommendation: No. If there are no timely protests filed by a substantially affected person to the proposed agency action issue upon expiration of the protest period, this docket should remain open pending receipt of evidence that the utility owns or has continued use of the land upon which its facilities are located and has provided proof of registration for the utility's fictitious name with the Division of Corporations, Florida Department of State. Once the recorded deed has been filed and staff verifies that it satisfies the requirements of Rule 25-30.037(3)(i), Florida Administrative Code, and proof of registration is received, the docket should be closed administratively.

Minutes of
Commission Conference
April 20, 2004

ITEM NO.

CASE

12**Docket No. 030467-TP - Petition by XO Florida, Inc. for arbitration of certain unresolved issues in negotiations for interconnection and resale agreement with Sprint-Florida, Incorporated.

Critical Date(s): None

Commissioners Assigned: Baez, Deason, Bradley

Prehearing Officer: Baez

Staff: CMP: Barrett, King

GCL: Christensen

Issue 1: Should the Commission acknowledge XO Florida, Inc.'s Notice of Voluntary Dismissal and close this docket?

Recommendation: Yes.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley