

**MINUTES OF
COMMISSION CONFERENCE**

APRIL 23, 2002

COMMENCED: 9:35 a.m.

ADJOURNED: 2:00 p.m.

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

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

-
- 1 Approval of Minutes
 March 19, 2002 Regular Commission Conference
 March 22, 2002 Special Commission Conference

DECISION: The minutes were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>														
2**	Consent Agenda														
PAA	A) Applications for certificates to provide alternative local exchange telecommunications service.														
	<table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>020176-TX</td><td>Susan R. Mulhall d/b/a Actel Wireless</td></tr><tr><td>020179-TX</td><td>Lionhart of Miami, Inc. d/b/a Astral Communications</td></tr><tr><td>020201-TX</td><td>WS Telecom, Inc. d/b/a eXpeTel Communications</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020176-TX	Susan R. Mulhall d/b/a Actel Wireless	020179-TX	Lionhart of Miami, Inc. d/b/a Astral Communications	020201-TX	WS Telecom, Inc. d/b/a eXpeTel Communications						
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<u>ITEM NO.</u>	<u>CASE</u>												
2**	Consent Agenda (Continued from previous page)												
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020257-TC	William Reilly												
020245-TC	Jim H. Fluck d/b/a BSI												
011468-TC	Cen-Tex Pay Telephone Co., Inc.												
PAA	D) DOCKET NO. 020235-TP - Request for cancellation of IXC Certificate No. 7589 and ALEC Certificate No. 7588 by Verizon Advanced Data Inc., effective 3/7/02.												
PAA	E) DOCKET NO. 020180-TP - Petition for approval of transfer of ultimate control of Comcast Business Communications, Inc. (holder of IXC Certificate No. 3545 in the name Comcast Business Communications, Inc. d/b/a Comcast Long Distance and AAV (with ALEC authority) Certificate No. 3172) in the name Comcast Business Communications, Inc., from Comcast Corporation to AT&T Comcast Corporation, newly created ultimate parent.												
PAA	F) DOCKET NO. 020184-TX - Joint application for transfer of control of AT&T Broadband Phone of Florida, LLC d/b/a AT&T Digital Phone (holder of ALEC Certificate No. 4404) from AT&T Corp. to AT&T Comcast Corporation.												
PAA	G) DOCKET NO. 020258-TI - Joint application for transfer of control of AT&T Broadband Phone of Florida, LLC d/b/a AT&T Digital Phone (holder of IXC Certificate No. 7834) from AT&T Corp. to AT&T Comcast Corporation.												

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<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda (Continued from previous page)
PAA	H) Request for exemption from requirement of Rule 25-24.515 (13), F.A.C., that each pay telephone station shall allow incoming calls.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE NO. & LOCATION</u>
020249-TC	BellSouth Public Communications, Inc.	904-778-9492 904-778-9491 904-771-9706 Oak Hill Shopping Center 7628 103 rd Street Jacksonville

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

DECISION: The recommendation was approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
3	Docket No. 011368-GU - Proposed adoption of Rule 25-7.072, F.A.C., Codes of Conduct. Critical Date(s): None Rule Status: Adoption Commissioners Assigned: Full Commission Prehearing Officer: Jaber Staff: GCL: Bellak CMP: Makin ECR: Hewitt <u>ISSUE 1</u> : Should the Commission file Rule 25-7.072 for adoption despite JAPC's objections? <u>RECOMMENDATION</u> : Yes. The rule should be filed for adoption. <u>ISSUE 2</u> : If the rule is filed for adoption, should this docket be closed? <u>RECOMMENDATION</u> : Yes. The docket should be closed.

DECISION: This item was deferred.

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<u>ITEM NO.</u>	<u>CASE</u>
4**	Docket No. 020095-EU - Proposed amendment to Rule 25-6.0345, F.A.C., Safety Standards for Construction of New Transmission and Distribution. Critical Date(s): None Rule Status: Proposal Commissioners Assigned: Full Commission Prehearing Officer: Baez Staff: GCL: Bellak AUS: Ruehl ECR: Hewitt <u>ISSUE 1</u> : Should the Commission propose amendments of Rule 6.0345, F.A.C.? <u>RECOMMENDATION</u> : Yes, the Commission should propose the rule amendments. <u>ISSUE 2</u> : Should this docket be closed? <u>RECOMMENDATION</u> : Yes. If no requests for hearing or comments are filed, the rule amendment as proposed should be filed for adoption with the Secretary of State and the docket closed. <u>DECISION</u> : The recommendations were approved with a modification to Issue 1, paragraph (2), correcting the division name from Electric and Gas to Auditing and Safety. Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley

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5 Docket No. 020175-EI - Complaint of Reliant Energy Power Generation, Inc. against Florida Power & Light Company for alleged violation of Rule 25-22.082, F.A.C.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: GCL: Harris, Brown
 ECR: Haff

ISSUE 1: Should the Commission deny Florida Power & Light Company's Motion to Dismiss?

RECOMMENDATION: Yes. The Commission should deny Florida Power & Light Company's Motion to Dismiss. Reliant's Complaint states a cause of action upon which relief can be granted. The Commission should consolidate the Complaint Docket with the Need Determination Dockets (020262-EI and 020263-EI) for purposes of administrative efficiency.

ISSUE 2: Should this Docket be closed?

RECOMMENDATION: No. If the Commission adopts Staff's recommendation and denies FPL's Motion to Dismiss, this docket should be held open to allow for further proceedings.

DECISION: This item was deferred.

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<u>ITEM NO.</u>	<u>CASE</u>
6**PAA	<p>Docket No. 010454-TL - Complaint by Docusearch International Research (Elizabeth Legare) against BellSouth Telecommunications, Inc. regarding alleged improper billing.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: GCL: Banks CAF: Stokes, Hicks CMP: M. Watts</p> <p><u>ISSUE 1</u>: Should BellSouth Telecommunications, Inc., be required to further credit or refund Ms. Elizabeth Legare? <u>RECOMMENDATION</u>: No. Staff recommends that the Commission find that BellSouth has properly credited Ms. Legare's account for the disputed charges.</p> <p><u>ISSUE 2</u>: Should BellSouth be required to take any additional steps to resolve Ms. Legare's concerns about the noise and static on her telephone lines? <u>RECOMMENDATION</u>: No. Staff recommends that the Commission find that BellSouth is not required to take any additional steps to resolve Ms. Legare's concern about the noise and static on her telephone lines.</p> <p><u>ISSUE 3</u>: Did BellSouth improperly disconnect Ms. Legare's telephone service? <u>RECOMMENDATION</u>: No. Staff recommends that the Commission find that BellSouth properly disconnected Ms. Legare's service when Ms. Legare failed to render payment for the undisputed charges.</p>

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ITEM NO.

CASE

6**PAA

Docket No. 010454-TL - Complaint by Docusearch International Research (Elizabeth Legare) against BellSouth Telecommunications, Inc. regarding alleged improper billing.

(Continued from previous page)

ISSUE 4: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final 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. The docket should then be closed upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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ITEM NO.

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7**

Docket No. 020163-GU - Petition by Florida Public Utilities Company for approval of modification of transportation cost recovery factors.

Critical Date(s): 4/25/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

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

ISSUE 1: Should the Commission grant Florida Public Utilities Company's (FPUC or Company) petition for approval of modification of transportation cost recovery factors?

RECOMMENDATION: Yes. The Commission should grant FPUC's petition for approval of modification of transportation cost recovery factors, effective May 1, 2002.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no protest is filed within 21 days of the issuance of the Order by a person whose substantial interests are affected, the docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

8**PAA

Docket No. 020129-TP - Joint petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications objecting to and requesting suspension of proposed CCS7 Access Arrangement tariff filed by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: CMP: Gilchrist, Fulwood, Simmons
GCL: Teitzman, Fudge

ISSUE 1: Should the Commission grant the Joint Petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications requesting suspension of proposed CCS7 Access Arrangement Tariff filed by BellSouth Telecommunications, Inc. and requesting a formal administrative hearing at this time?

RECOMMENDATION: No. Staff recommends that the Commission deny the Joint Petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications requesting suspension of the proposed CCS7 Access Arrangement Tariff filed by BellSouth Telecommunications, Inc. and requesting a formal administrative hearing. Staff believes that the CCS7 Access Arrangement Tariff filed by BellSouth Telecommunications, Inc., violates the price cap provisions of Section 364.163, Florida Statutes, and is therefore invalid as filed. Consequently, the Commission should order that tariff filing T-02-0063 be canceled. If staff's recommendation is approved, a formal administrative hearing is not required on the matter at this time.

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8**PAA

Docket No. 020129-TP - Joint petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications objecting to and requesting suspension of proposed CCS7 Access Arrangement tariff filed by BellSouth Telecommunications, Inc.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order, and the Docket should be closed. If a timely protest is filed, the Docket should remain open, and the tariff should remain in effect with any net increase in revenues collected in accordance with the tariff held subject to refund pending the outcome of further proceedings. Any net increase in revenues should be calculated on a customer-specific basis.

DECISION: This item was deferred.

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ITEM NO.

CASE

9**PAA

Docket No. 011597-TX - Application for certificate to provide alternative local exchange telecommunications service by Teletronic's Group Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Pruitt
GCL: Teitzman

ISSUE 1: Should the Commission grant Teletronic's Group Inc. a certificate to provide alternative local exchange telecommunications service in the State of Florida as provided by Section 364.337, Florida Statutes?

RECOMMENDATION: No. The applicant should not be granted a certificate to provide alternative local exchange telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
10**	<p>Docket No. 011653-TI - Compliance investigation of WorldTeq Corporation for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required. (Deferred from February 5, 2002 conference; revised recommendation filed.)</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Buys GCL: Teitzman</p> <p><u>ISSUE 1</u>: Should Docket No. 011653-TI be closed? <u>RECOMMENDATION</u>: Yes. Docket No. 011653-TI should be closed upon issuance of the Commission's Final Order since WorldTeq has obtained an IXC certificate and there are no further issues that need to be addressed by the Commission.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

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<u>ITEM NO.</u>	<u>CASE</u>
11**PAA	Docket No. 020185-TX - Compliance investigation of Wireless One Network, L.P. d/b/a Cellular One of Southwest Florida for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Fondo
GCL: Teitzman

ISSUE 1: Should the Commission impose a penalty of \$5,000 or cancel Cellular One's ALEC Certificate No. 5181 for apparent failure to provide the Commission access to information pursuant to Section 364.183(1), Florida Statutes, Access to Company Records?

RECOMMENDATION: Yes. The Commission should impose a penalty of \$5,000 or cancel Cellular One's ALEC Certificate No. 5181 if payment of the imposed penalty, including docket number and company name, is not received by the Commission within 14 calendar days after the issuance of the Consummating Order. The payment of the penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and if payment of the penalty is not received within 14 calendar days after the issuance of the Consummating Order, then Cellular One's certificate should be canceled administratively.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final 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. The docket should then be closed upon receipt of the penalty or cancellation of Cellular One's certificate.

DECISION: This item was deferred.

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<u>ITEM NO.</u>	<u>CASE</u>
12**PAA	Docket No. 020186-TX - Compliance investigation of Smart City Networks for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Fondo
GCL: Dodson

ISSUE 1: Should the Commission impose a penalty of \$5,000 or cancel Smart City's ALEC Certificate No. 5795 for its apparent failure to provide the Commission access to information pursuant to Section 364.183(1), Florida Statutes, Access to Company Records?

RECOMMENDATION: Yes. The Commission should impose a penalty of \$5,000 or cancel Smart City's ALEC Certificate No. 5795 if payment of the imposed penalty, including docket number and company name, is not received by the Commission within 14 calendar days after the issuance of the Consummating Order. The payment of the penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and if payment of the penalty is not received within 14 calendar days after the issuance of the Consummating Order, then Smart City's certificate should be canceled administratively.

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ITEM NO.

CASE

12**PAA

Docket No. 020186-TX - Compliance investigation of Smart City Networks for apparent violation of Section 364.183(1), F.S., Access to Company Records.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final 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. The docket should then be closed upon receipt of the penalty or cancellation of Smart City's certificate.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
13**	<p>Docket No. 020135-TC - Request for cancellation of Pay Telephone Certificate No. 7960 by Townsite Corporation, effective 12/31/01.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Williams GCL: Dodson</p> <p><u>ISSUE 1</u>: Should Order No. PSC-02-0285-FOF-TC, issued March 5, 2002, in Docket No. 020135-TC be vacated? <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 the Commission's vacating order.</p>

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

14**PAA

Docket No. 020178-TI - Petition for approval of name change on IXC Certificate No. 2497 from AmeriVision Communications, Inc. to AmeriVision Communications, Inc. d/b/a LifeLine Communications.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Kennedy
GCL: Fordham

ISSUE 1: Should AmeriVision Communications, Inc.'s request for a name change on Certificate No. 2497 to AmeriVision Communications, Inc. d/b/a Lifeline Communications be granted?

RECOMMENDATION: Yes. The Commission should grant AmeriVision Communications, Inc.'s request to change the name on Certificate No. 2497 to AmeriVision Communications, Inc. d/b/a Lifeline Communications. The Order issued in this Docket should supersede Order No. PSC-00-0827-PAA-TI issued in Docket No. 000153-TI.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the Commission's Proposed Agency Action files a protest within 21 days of the issuance date of the order, this docket should be closed upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
15**	<p>Docket No. 020177-EI - Petition for approval of revised lighting tariffs by Tampa Electric Company.</p> <p>Critical Date(s): 5/1/02 (60-day suspension date)</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: ECR: Baxter GCL: Vining</p> <p><u>ISSUE 1</u>: Should the Commission approve TECO's proposed changes to its Premium Outdoor Lighting Service (OL-3), Street Lighting Service (SL-2), and General Outdoor Lighting Service (OL-1) rate schedules? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: What is the appropriate effective date for the revised tariffs? <u>RECOMMENDATION</u>: The appropriate effective date for the revised tariffs is April 23, 2002.</p> <p><u>ISSUE 3</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes, if no protest is filed within 21 days of issuance of the order.</p>

DECISION: The recommendations were approved.

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

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ITEM NO.

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16**

Docket No. 000824-EI - Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.
Docket No. 020001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez (000824)
Palecki (020001)

Staff: ECR: Slemkewicz, McNulty, Wheeler, E. Draper,
Bohrmann
GCL: Helton, C. Keating

ISSUE 1: Should the Commission approve the proposed Stipulation and Settlement, including Exhibit A?

RECOMMENDATION: Yes. The Commission should approve the proposed Stipulation and Settlement, including Exhibit A.

ISSUE 2: Should the Commission approve Florida Power Corporation's petition for an adjustment to reduce its fuel and purchased power cost recovery factors?

RECOMMENDATION: Yes. The Commission should approve FPC's petition for an adjustment to reduce its fuel and purchased power cost recovery factors by \$85 million (\$83.7 million retail). FPC will reduce its levelized fuel and purchased power cost recovery factor to 2.363 cents per kilowatt-hour, effective with the May 2002 Cycle 1 billings.

ISSUE 3: Should Docket No. 000824-EI be closed?

RECOMMENDATION: Yes, Docket No. 000824-EI should be closed.

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16**

Docket No. 000824-EI - Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.
Docket No. 020001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.

(Continued from previous page)

ISSUE 4: Should Docket No. 020001-EI be closed?

RECOMMENDATION: No. Docket No. 020001-EI is an ongoing docket and should remain open.

DECISION: The recommendations were approved with a clarification to paragraph 13 of the stipulation and settlement (Issue 1), as outlined in staff's 4/18/02 memorandum (Document No. 04356-02).

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

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ITEM NO.

CASE

17**

Docket No. 020254-SU - Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.

Critical Date(s): 5/18/02 (60-day suspension)
11/18/02 (8-month deadline)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Revell, Fletcher, Merchant
GCL: Gervasi

ISSUE 1: Should Hudson's proposed tariff sheets to increase its system capacity charge be suspended?

RECOMMENDATION: Yes. Hudson's proposed tariff sheets should be suspended pending further investigation. This docket should remain open pending the completion of the service availability case.

DECISION: The recommendation was approved.

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

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ITEM NO.

CASE

18**

Docket No. 020248-WU - Request for approval to increase meter installation fees to conform to the current cost in Marion County by Windstream Utilities Company.

Critical Date(s): 5/17/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: ECR: Biggins, Rendell
GCL: Gervasi

ISSUE 1: Should Windstream's proposed tariff sheets to increase meter installation fees to conform to the current cost be suspended?

RECOMMENDATION: Yes. Windstream's proposed tariff sheets to increase its meter installation fees to conform to the current cost should be suspended pending further investigation by staff. This docket should remain open pending the completion of staff's investigation.

DECISION: The recommendation was approved.

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

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ITEM NO.

CASE

19**

Docket No. 020247-WU - Request for approval of tariff increase for portion of tariff that applies to City of Ocala Impact Fees in Marion County by Venture Associates Utilities Corp.

Critical Date(s): 5/17/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Biggins, Rendell
GCL: Echternacht

ISSUE 1: Should Venture's proposed tariff to reflect the current City of Ocala impact fee be approved?

RECOMMENDATION: Yes. The Fifth Revised Tariff Sheet No. 38.0, filed on March 14, 2002, should be approved as filed. Within 20 days of the Commission's decision at agenda, the utility should provide notice of the Commission's decision to all persons in the service area who are affected by the revised charges. The notice should be approved by Commission staff prior to distribution. The utility should provide proof that the appropriate customers or developers have received notice within ten days of the date of the notice. The tariff should become effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code.

ISSUE 2: Should the docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, the revised tariff sheet should become effective on or after the stamped approval date on the revised tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the

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ITEM NO.

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19**

Docket No. 020247-WU - Request for approval of tariff increase for portion of tariff that applies to City of Ocala Impact Fees in Marion County by Venture Associates Utilities Corp.

(Continued from previous page)

tariff should remain in effect with the increase in the service availability charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

20**PAA

Docket No. 991890-WS - Investigation into ratemaking consideration of gain on sale from sales of facilities of Utilities, Inc. of Florida to the City of Maitland in Orange County and the City of Altamonte Springs in Seminole County. (Deferred from February 19, 2002 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: ECR: Kyle, Merchant
GCL: Brubaker

ISSUE 1: Was a gain realized on the sale of UIF's Druid Isle water system and a portion of its Oakland Shores water system to the City of Maitland in Orange County?

RECOMMENDATION: Yes. Staff believes a gain of \$61,669 was realized on the sale of UIF's Druid Isle water system and a portion of its Oakland Shores water system to the City of Maitland in Orange County.

ISSUE 2: Was a gain realized on the sale of UIF's Green Acres Campground water and wastewater facilities to the City of Altamonte Springs in Seminole County?

RECOMMENDATION: Yes. Staff believes a gain of \$269,661 was realized on the sale of UIF's Green Acres Campground water and wastewater facilities to the City of Altamonte Springs in Seminole County.

ISSUE 3: Should the gains on the Maitland and Altamonte sales be shared with the remaining ratepayers of UIF?

RECOMMENDATION: No. The remaining Orange and Seminole County UIF customers should not receive recovery of the realized gains from the Maitland or Altamonte sales.

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Docket No. 991890-WS - Investigation into ratemaking consideration of gain on sale from sales of facilities of Utilities, Inc. of Florida to the City of Maitland in Orange County and the City of Altamonte Springs in Seminole County. (Deferred from February 19, 2002 Commission Conference.)

(Continued from previous page)

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. If no timely protest is filed by a substantially affected party, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

21**PAA

Docket No. 992015-WU - Application for limited proceeding to recover costs of water system improvements in Marion County by Sunshine Utilities of Central Florida, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Bradley

Staff: ECR: Fletcher, Wetherington, Merchant, D. Draper,
Maurey
GCL: Jaeger

ISSUE 1: Should the Commission approve Sunshine's requested limited proceeding to increase its rates for all customers to interconnect five of its water systems?

PRIMARY RECOMMENDATION: No. The utility's proposal to interconnect five separate water supply and treatment systems to eliminate contamination problems and to meet development demands is not prudent or justified, and it should therefore be denied. Further, the rate case expense for this limited proceeding should be disallowed.

ALTERNATIVE RECOMMENDATION: Yes. The plan as modified by staff, which includes the low cost funding from DEP, appears reasonable.

ISSUE 2: Should an adjustment be made to plant in service to retire a utility vehicle?

RECOMMENDATION: Yes. Plant in service and accumulated depreciation should both be reduced by \$15,036 to reflect the retirement of the utility's van. Further, staff recommends that retained earnings and depreciation expense should both be reduced by \$2,506 to remove test year depreciation expense associated with this van.

ISSUE 3: Should any adjustment be made to the test year amount of CIAC and Accumulated Amortization of CIAC?

RECOMMENDATION: Yes. CIAC should be increased by \$15,453 to transfer inactive advances for construction. Accumulated Amortization of CIAC and Amortization of CIAC expense should be increased both by \$479.

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CASE

21**PAA

Docket No. 992015-WU - Application for limited proceeding to recover costs of water system improvements in Marion County by Sunshine Utilities of Central Florida, Inc.

(Continued from previous page)

ISSUE 4: What rate base components should be approved for Sunshine's proposed project?

RECOMMENDATION: The pro forma rate base associated with the proposed interconnection is \$885,929. The detail adjustments that make up this amount are discussed in the analysis portion of staff's April 11, 2002 memorandum. The utility should file an application to amend its certificate to extend service to the additional 38 ERCs, pursuant to Section 367.045, Florida Statutes.

ISSUE 5: What is the appropriate test year rate base?

RECOMMENDATION: The historical and pro forma rate base amount should be \$1,160,166.

ISSUE 6: What is the appropriate return on equity for Sunshine?

RECOMMENDATION: Based on the current leverage formula, the appropriate return on equity for Sunshine should be 11.34%, with a range of 10.34% to 12.34%.

ISSUE 7: What is the appropriate regulatory treatment of loans to officers?

RECOMMENDATION: These loans to the officers should be treated as a reduction to common equity. Common equity should be reduced by \$116,238.

ISSUE 8: What is the appropriate test-year amount of long-term debt?

RECOMMENDATION: The appropriate test-year amount of long-term debt is \$1,495,314.

ISSUE 9: What is the appropriate weighted average cost of capital for the test year ended December 31, 2001?

RECOMMENDATION: Consistent with staff's other recommended adjustments, the appropriate weighted average cost of capital is 5.31%.

ISSUE 10: Should revenues be imputed for additional customers?

RECOMMENDATION: Yes. The Commission should impute test year revenues of \$3,834.

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CASE

21**PAA

Docket No. 992015-WU - Application for limited proceeding to recover costs of water system improvements in Marion County by Sunshine Utilities of Central Florida, Inc.

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ISSUE 11: Should an adjustment be made to the salary levels of the utility's officers?

RECOMMENDATION: Yes. The salaries of the president and vice president should be reduced by \$46,498 and \$28,503, respectively.

ISSUE 12: What are the appropriate pro forma expenses associated with plant additions and retirements?

RECOMMENDATION: The appropriate pro forma expenses associated with plant additions and retirements are \$912.

ISSUE 13: What is the appropriate amount of rate case expense for this docket?

RECOMMENDATION: If this project is approved, total rate case expense of \$74,929 should be allowed. This results in a decrease of \$40,409 to the utility's updated rate case expense request. The total allowable rate case expense should be amortized over four years, pursuant to Section 367.0816, Florida Statutes, at \$18,732 per year.

ISSUE 14: What is the appropriate net operating income (NOI) before any calculation for any increase for this docket?

RECOMMENDATION: Based on recommended adjustments discussed in previous issues, the appropriate test year operating income is \$33,678.

ISSUE 15: What is the appropriate revenue requirement?

RECOMMENDATION: The following revenue requirement should be approved:

	<u>TOTAL</u>	<u>\$ INCREASE</u>	<u>% INCREASE</u>
Water	\$837,368	\$46,813	5.92%

ISSUE 16: What are the appropriate water rates?

RECOMMENDATION: Based on recommended adjustments discussed in previous issues, the recommended rates should be designed to allow the utility the opportunity to generate annual operating revenues of \$837,368, which represents an increase of \$46,813. To generate this revenue increase, the present

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21**PAA

Docket No. 992015-WU - Application for limited proceeding to recover costs of water system improvements in Marion County by Sunshine Utilities of Central Florida, Inc.

(Continued from previous page)

service rates should be increased by 6.11%. The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates pursuant to Rule 25-22.0407(10), Florida Administrative Code. 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 should 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 17: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The water rates should be reduced as shown on Schedule No. 5 of staff's memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction not later than one month prior to the actual date of the required rate reduction.

ISSUE 18: Should the utility's service availability charges be revised?

RECOMMENDATION: No. The utility's existing service availability charges are appropriate.

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21**PAA	Docket No. 992015-WU - Application for limited proceeding to recover costs of water system improvements in Marion County by Sunshine Utilities of Central Florida, Inc.

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ISSUE 19: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, this docket should be closed upon the issuance of a consummating order, and staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff.

DECISION: The primary recommendation in Issue 1 was denied. The alternative recommendation was approved with the provision that rates will be lowered automatically by the effect of Marion County's contribution of \$175,000 toward the project and connection of the contaminated private wells. The effective date of the new rates will be the date that the funding for this project is approved by the Department of Environmental Protection.

The recommendations in Issues 2-18 were approved with the understanding that there will be fallout changes as a result of the vote in Issue 1. Commissioners Baez and Bradley dissented from the majority vote in Issue 11 concerning only the reduction of the president's salary.

The recommendation in Issue 19 was approved.

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

<u>ITEM NO.</u>	<u>CASE</u>
22**	<p>Docket No. 011401-WU - Application for authority to transfer facilities of Heartland Utilities, Inc., holder of Certificate No. 420-W in Highlands County, to AquaSource Utility, Inc., holder of Certificate No. 424-W, and for cancellation of Certificate No. 420-W.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: ECR: Clapp, Kaproth, Walden GCL: Crosby, Helton</p> <p><u>ISSUE 1</u>: Should the transfer of facilities of Heartland to AquaSource, the cancellation of Certificate No. 420-W, and the amendment of Certificate No. 424-W be approved? <u>RECOMMENDATION</u>: Yes. The transfer of facilities of Heartland to AquaSource is in the public interest and should be approved. Certificate No. 420-W, held by Heartland, should be cancelled, and Certificate No. 424-W, held by AquaSource, should be amended to include the territory served by Heartland. A description of the territory being transferred is appended to staff's April 11, 2002 memorandum as Attachment A.</p>
PAA	<p><u>ISSUE 2</u>: What is the rate base of Heartland at the time of transfer? <u>RECOMMENDATION</u>: The rate base, which for transfer purposes reflects the net book value, is (\$13,206) for the water system as of October 31, 2001. AquaSource should be reminded of its obligation to maintain its books and records pursuant to Rule 25-30.115(1), Florida Administrative Code.</p>
PAA	<p><u>ISSUE 3</u>: Should an acquisition adjustment be approved? <u>RECOMMENDATION</u>: No. An acquisition adjustment was not requested; therefore, an acquisition adjustment should not be included in the calculation of rate base for transfer purposes.</p> <p><u>ISSUE 4</u>: Should the rates and charges approved for this utility be continued? <u>RECOMMENDATION</u>: Yes. AquaSource should continue charging the rates and charges approved for Heartland until authorized to change by the Commission in a subsequent</p>

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22**

Docket No. 011401-WU - Application for authority to transfer facilities of Heartland Utilities, Inc., holder of Certificate No. 420-W in Highlands County, to AquaSource Utility, Inc., holder of Certificate No. 424-W, and for cancellation of Certificate No. 420-W.

(Continued from previous page)

proceeding. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: Yes. If no timely protest is received to the proposed agency action issues, a Consummating Order should be issued upon the expiration of the protest period. Should no timely protests be received, the docket should be closed.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
23**	Docket No. 020223-WU - Notice of abandonment of water services in Alachua County by Santa Fe Hills Water System.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: ECR: Rieger, Kaproth
GCL: Espinoza

ISSUE 1: Should the Commission acknowledge the notice of abandonment of Santa Fe Hills Water System?

RECOMMENDATION: Yes. The Commission should acknowledge the utility's notice pursuant to Section 367.165, Florida Statutes.

ISSUE 2: Should the Commission acknowledge the appointment of Alachua County as the receiver for the utility and cancel Certificate No. 557-W?

RECOMMENDATION: Yes. The Commission should acknowledge the appointment of Alachua County as the receiver for the utility and cancel Certificate No. 557-W.

ISSUE 3: Should the docket be closed?

RECOMMENDATION: No. The issue of the outstanding annual reports and regulatory assessment fees will be addressed in a later recommendation after staff has attempted further collection efforts from the utility owners.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
24**PAA	<p>Docket No. 931111-SU - Application for certificate to operate wastewater utility in Franklin County by RESORT VILLAGE UTILITY, INC.</p> <p>Docket No. 991812-SU - Application for transfer of Certificate No. 492-S in Franklin County from Resort Village Utility, Inc. to SGI Utility, LLC.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Jaber, Deason (991812) Deason, Baez, Palecki (931111)</p> <p>Prehearing Officer: Deason (991812) Baez (931111)</p> <p>Staff: ECR: Johnson, Mailhot, Redemann GCL: Brubaker</p> <p><u>ISSUE 1</u>: Should the transfer of the wastewater facilities and Certificate No. 492-S from Resort Village to SGI be approved?</p> <p><u>RECOMMENDATION</u>: Yes. The transfer of the wastewater facilities and Certificate No. 492-S from Resort Village to SGI is in the public interest and should be approved. SGI is responsible for remitting the 2002 regulatory assessment fees (RAFs) and annual report and all future RAFs and annual reports to the Commission. SGI should provide a copy of a recorded deed in the name of the utility for the land upon which the utility facilities are located or proof of continued use of the land by July 31, 2002. A description of the territory served by the utility is appended to staff's April 11, 2002 memorandum as Attachment A.</p> <p><u>ISSUE 2</u>: What is the rate base of Resort Village at the time of transfer?</p> <p><u>RECOMMENDATION</u>: The rate base, which for transfer purposes reflects the net book value, is \$344,518 for the wastewater system as of December 31, 1999.</p> <p><u>ISSUE 3</u>: Should an acquisition adjustment be included in the calculation of rate base?</p> <p><u>RECOMMENDATION</u>: No. SGI has not requested an acquisition adjustment, and there are no extraordinary circumstances in this case to warrant the inclusion of an acquisition</p>

ITEM NO.

CASE

24**PAA

Docket No. 931111-SU - Application for certificate to operate wastewater utility in Franklin County by RESORT VILLAGE UTILITY, INC.

Docket No. 991812-SU - Application for transfer of Certificate No. 492-S in Franklin County from Resort Village Utility, Inc. to SGI Utility, LLC.

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adjustment. Staff recommends that no acquisition adjustment should be included in the calculation of rate base.

ISSUE 4: What initial wastewater rates and charges should be approved for SGI Utility, LLC?

RECOMMENDATION: The rates and charges as detailed in the analysis portion of staff's memorandum should be approved. The utility should be required to file tariffs within 30 days of the consummating order reflecting the Commission-approved rates and charges. SGI should be required to continue to charge these rates and charges until authorized to change by the Commission. Pursuant to Rule 25-30.475, Florida Administrative Code, the tariff should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets. A return on equity of 10% should be approved.

ISSUE 5: What are the appropriate service availability charges for SGI?

RECOMMENDATION: The service availability charges and policy set forth within the staff analysis are appropriate and should be approved. The utility should be authorized to collect a main extension charge of \$800 and a plant capacity charge of \$2,260 per ERC. SGI should be required to file tariffs within 30 days of the consummating order reflecting the Commission-approved rates and charges. The charges should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets.

ISSUE 6: What are the appropriate guaranteed revenues charges for SGI?

RECOMMENDATION: The appropriate guaranteed revenues charges for SGI which are set forth in the staff analysis should be approved. SGI should be required to file tariffs within 30 days of the Consummating Order reflecting the Commission-

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24**PAA

Docket No. 931111-SU - Application for certificate to operate wastewater utility in Franklin County by RESORT VILLAGE UTILITY, INC.

Docket No. 991812-SU - Application for transfer of Certificate No. 492-S in Franklin County from Resort Village Utility, Inc. to SGI Utility, LLC.

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approved rates and charges. The charges should be effective for requests for service made on or after the stamped approval date on the tariff sheets.

ISSUE 7: What is the appropriate AFUDC rate for SGI?

RECOMMENDATION: An AFUDC rate of 10.00% should be approved for SGI and a discounted monthly rate of .832952% should be applied to qualified construction projects beginning on the issued date of the certificates of authorization.

ISSUE 8: Should these dockets be closed?

RECOMMENDATION: No. If no timely protest is received to the proposed agency action issues, upon the expiration of the protest period a Consummating Order should be issued and Docket No. 931111-SU should be closed. Docket 991812-SU should remain open pending receipt of proof that SGI owns the land upon which the utility's facilities are located or that the utility has continued use of the land. Upon receipt and verification of such proof, Docket No. 991812-SU should be administratively closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Palecki

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<u>ITEM NO.</u>	<u>CASE</u>
25	<p>Docket No. 000075-TP - Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Jaber, Deason, Baez, Palecki Prehearing Officer: Jaber</p> <p>Staff: CMP: Bloom GCL: Banks, B. Keating</p> <p><u>ISSUE 1</u>: Should the Commission approve the Joint Stipulation filed by the parties on March 27, 2002? <u>RECOMMENDATION</u>: Yes. Staff recommends that the Commission approve the Joint Stipulation filed by the parties on March 27, 2002.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No. This docket should remain open pending the outcome of Phase II in this docket.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki</p>

ITEM NO.

CASE

26 Docket No. 010098-TP - Petition by Florida Digital Network, Inc. for arbitration of certain terms and conditions of proposed interconnection and resale agreement with BellSouth Telecommunications, Inc. under the Telecommunications Act of 1996. (Deferred from March 5, 2002 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: Jaber, Deason, Palecki
Prehearing Officer: Deason

Staff: CMP: Dowds
 GCL: Banks, Fudge
 MMS: Bethea, Ollila

LEGAL ISSUE A: What is the Commission's jurisdiction in this matter?

RECOMMENDATION: Staff believes that the Commission has jurisdiction pursuant to Chapter 364, Florida Statutes, and Section 252 of the Federal Telecommunications Act of 1996 (Act) to arbitrate interconnection agreements, and may implement the processes and procedures necessary to do so in accordance with Section 120.80 (13)(d), Florida Statutes. Section 252 states that a State Commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions required. This section requires this Commission to conclude the resolution of any unresolved issues not later than nine months after the date on which the ILEC received the request under this section. In this case, however, the parties have explicitly waived the nine-month requirement set forth in the Act.

Further, staff believes that while Section 252(e) of the Act reserves the state's authority to impose additional conditions and terms in an arbitration not inconsistent with the Act and its interpretation by the FCC and the courts, the Commission should use discretion in the exercise of such authority.

DECISION: The recommendation was approved.

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26

Docket No. 010098-TP - Petition by Florida Digital Network, Inc. for arbitration of certain terms and conditions of proposed interconnection and resale agreement with BellSouth Telecommunications, Inc. under the Telecommunications Act of 1996. (Deferred from March 5, 2002 Commission Conference.)

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ISSUE 1: For purposes of the new interconnection agreement, should BellSouth be required to provide xDSL service over UNE loops when FDN is providing voice service over that loop?

RECOMMENDATION: (a) Staff recommends that for the purposes of the new interconnection agreement, where BellSouth has deployed a DSLAM in the remote terminal for the purposes of providing DSL service to customers served by that remote terminal, BellSouth should be required to provide a broadband UNE that includes unbundled DSL-capable transmission facilities between the customer's Network Interface Device and BellSouth's central office, including attached electronics that perform DSL multiplexing and splitting functionalities in the remote terminal. (b) Staff recommends the Commission not require BellSouth to offer either its FastAccess Internet Service or its DSL transport service to FDN for resale in the new BellSouth/FDN interconnection agreement. (c) Finally, staff recommends the Commission not require BellSouth to continue to provide its FastAccess Internet Service to end users who obtain voice service from FDN over UNE loops.

DECISION: Parts (a) and (c) were denied for reasons expressed by Commissioner Deason; part (b) was approved.

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26 Docket No. 010098-TP - Petition by Florida Digital Network, Inc. for arbitration of certain terms and conditions of proposed interconnection and resale agreement with BellSouth Telecommunications, Inc. under the Telecommunications Act of 1996. (Deferred from March 5, 2002 Commission Conference.)

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ISSUE 11: Should this docket be closed?

RECOMMENDATION: No. The parties should be required to submit a signed agreement that complies with the Commission's decisions in this docket for approval within 30 days of issuance of the Commission's Order. This docket should remain open pending Commission approval of the final arbitration agreement in accordance with Section 252 of the Telecommunications Act of 1996.

DECISION: The recommendation was approved.

Commissioners participating: Jaber, Deason, Palecki