

MINUTES OF AUGUST 6, 2002

COMMISSION CONFERENCE

COMMENCED: 9:33 a.m.

ADJOURNED: 3:23 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
July 9, 2002 Regular Commission Conference

DECISION: The minutes were approved.

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

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ITEM NO. CASE

2** Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020457-TX	Cypress Communications Operating Company, Inc.
020631-TX	BullsEye Telecom, Inc.
020348-TX	Myatel Corporation
020342-TX	OCMC, Inc. d/b/a One Call Communications, Inc., d/b/a OPTICOM, d/b/a 1-800-MAX-SAVE, d/b/a Advanttel, d/b/a RegionTel, d/b/a LiveTel, and d/b/a SuperTel
020536-TX	Phone Club Corporation

PAA B) Applications for certificates to provide interexchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020458-TI	Cypress Communications Operating Company, Inc.
020630-TI	BullsEye Telecom, Inc.
020652-TI	Laser Telecom, LLC
020343-TI	OCMC, Inc. d/b/a One Call Communications, Inc., d/b/a OPTICOM, d/b/a 1-800-MAX-SAVE, d/b/a Advanttel, d/b/a RegionTel, d/b/a LiveTel, and d/b/a SuperTel

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<u>ITEM NO.</u>	<u>CASE</u>								
2**	Consent Agenda (Continued from previous page)								
PAA	C) Application for certificate to provide shared tenant telecommunications service. <table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>020714-TS</td><td>Florida College Inc.</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020714-TS	Florida College Inc.				
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>								
020714-TS	Florida College Inc.								
PAA	D) Applications for certificates to provide pay telephone service. <table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>020618-TC</td><td>FTF, Inc.</td></tr><tr><td>020580-TC</td><td>Duane E Lund</td></tr><tr><td>020684-TC</td><td>CI2, Inc.</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020618-TC	FTF, Inc.	020580-TC	Duane E Lund	020684-TC	CI2, Inc.
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>								
020618-TC	FTF, Inc.								
020580-TC	Duane E Lund								
020684-TC	CI2, Inc.								
PAA	E) DOCKET 020130-TI - Notification of transfer of ownership of New Century Telecom, Inc. (holder of IXC Certificate No. 4378) to Karyn Bartell.								

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**	<p>Docket No. 011351-EI - Proposed revisions to Rule 25-6.044, F.A.C., Continuity of Service, and Rule 25-6.0455, F.A.C., Annual Distribution Service Reliability Report.</p> <p>Critical Date(s): None</p> <p>Rule Status: Proposed</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: GCL: Moore ECR: Breman, Hewitt, D. Lee, Matlock, McNulty</p> <p><u>ISSUE 1</u>: Should the Commission propose revisions to Rules 25-6.044 and 25-6.0455, F.A.C., governing investor-owned electric utility continuity of service and the annual distribution service reliability report? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: If no request for hearing or comments are filed, should the proposed rules be filed for adoption with the Secretary of State and the docket closed? <u>RECOMMENDATION</u>: Yes. The docket should be closed if no requests for hearing or comments are filed.</p> <p><u>DECISION</u>: This item was deferred to the August 20, 2002 Conference.</p>

ITEM NO.

CASE

4

Docket No. 020415-TL - Petition of BellSouth Telecommunications, Inc. for declaratory statement concerning whether requested provision of telecommunications service to Sprint PCS in Macclenny, Florida, which is not in BellSouth's exchange service, violates BellSouth's General Subscriber Service Tariff for the state of Florida.

Critical Date(s): 8/8/02 (By statute, order must be issued by this date.)

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: GCL: Brown
CMP: Barrett, Ileri

ISSUE 1: Should the Commission deny BellSouth's Petition for Declaratory Statement?

RECOMMENDATION: Yes. BellSouth's declaratory statement petition does not meet the threshold requirements for a declaratory statement prescribed in Section 120.565, Florida Statutes, Rule 28-105, Florida Administrative Code, and implementing case law. In addition, a proceeding that addresses the same underlying issues is pending before the Federal Communications Commission.

ISSUE 2: Should the Commission grant BellSouth's Motion for Extension of Time to file a response to Nextel's motion to dismiss?

RECOMMENDATION: Yes.

ISSUE 3: Should the Commission address Sprint's and Nextel's motions to dismiss?

RECOMMENDATION: No. If the Commission determines that a declaratory statement is not appropriate here and denies BellSouth's petition on that basis, it will not be necessary to address the motions to dismiss. If the Commission determines that it is appropriate to address the issues raised by BellSouth's petition, it should deny Sprint's and Nextel's motions to dismiss. BellSouth's petition raises questions of mixed jurisdiction, and the Commission has jurisdiction to determine the correct application of BellSouth's state tariffs.

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<u>ITEM NO.</u>	<u>CASE</u>
4	Docket No. 020415-TL - Petition of BellSouth Telecommunications, Inc. for declaratory statement concerning whether requested provision of telecommunications service to Sprint PCS in Macclenny, Florida, which is not in BellSouth's exchange service, violates BellSouth's General Subscriber Service Tariff for the state of Florida.

(Continued from previous page)

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission votes to dispose of the petition for declaratory statement, the docket should be closed.

DECISION: In Issue 1, the notice of voluntary dismissal of petition without prejudice filed 8/6/02 by BellSouth was acknowledged, and Issues 2 and 3 were rendered moot. Issue 4 was approved.

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

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ITEM NO.

CASE

5**

Docket No. 020639-EI - Complaint of Norman Anderson and/or Anthony Parks on behalf of NW Landing Realty against Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: GCL: Christensen, Echternacht
CAF: Plescow

ISSUE 1: Should the Commission dismiss Complaint No. 379477E, filed on behalf of N.W. Landing Realty by Norman Anderson, later assumed by Anthony Parks?

RECOMMENDATION: Yes. The Commission should dismiss Complaint No. 379477E, filed on behalf of N.W. Landing Realty by Norman Anderson, later assumed by Anthony Parks.

ISSUE 2: Should the Commission continue to receive and process complaints filed by Anthony E. Parks or filed by others where staff has a reasonable belief that the complaint has been filed by Mr. Parks or on his behalf?

RECOMMENDATION: No. Staff recommends that the Commission no longer receive or process any complaints regarding any industry that the Commission regulates that involve Mr. Anthony E. Parks or others filing on his behalf unless Mr. Parks submits his complaint in writing and it is signed by a member of the Florida Bar, in good standing, indicating the attorney's Florida Bar number and who certifies that the complaint is not frivolous. Staff also recommends that all outstanding complaints involving Mr. Parks be closed. Further, staff recommends that the Commission grant staff administrative authority to close any future complaints involving Mr. Parks that fail to meet the above described criteria without further action of the Commission.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. Because no further action is necessary, this docket should be closed.

DECISION: This item was deferred.

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<u>ITEM NO.</u>	<u>CASE</u>
6**PAA	Docket No. 020520-SU - Complaint by Safe Harbor Marina against K W Resort Utilities Corp. and request for new class of service for bulk wastewater rate in Monroe County.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: GCL: Harris
ECR: Rendell

ISSUE 1: Should the Commission approve the proposed settlement and the new class of service for bulk wastewater service for Safe Harbor Marina?

RECOMMENDATION: Yes. The Commission should approve the proposed settlement and the new class of service for bulk wastewater service for Safe Harbor Marina. Further, Wastewater Original Tariff Sheet 15.5 should be approved. The approved charges should be effective on the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, Florida Administrative Code.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon the issuance of the Consummating Order if no person whose interests are substantially affected by the proposed actions files a protest within the 21-day protest period. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with the bulk service rate held subject to refund pending resolution of the protest, and the docket should remain open.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

7**PAA

Docket No. 000121A-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: CMP: Harvey, Vinson, Duffey, Hallenstein
GCL: Fudge

ISSUE 1: Should the Commission order BellSouth to implement all prioritized ALEC-initiated change requests within a certain time frame?

RECOMMENDATION: Yes. Staff recommends that BellSouth be ordered to implement the metric Percent of Change Requests Implemented Within 60 Weeks of Prioritization (Attachment 1 of staff's July 25, 2002 memorandum). Additionally, BellSouth should file a specific action plan on August 30, 2002, on how it proposes to accomplish the stated benchmark. Further, BellSouth should be ordered to establish two additional metrics: Percent Change Requests Rejected and Percent of Change Requests Accepted or Rejected Within 10 Business Days (Attachments 2 and 3 of staff's memorandum).

ISSUE 2: Should this Commission approve a revision to BellSouth's Self-Effectuation Enforcement Mechanism (SEEM) Administrative Plan to reflect a change in the due date for Tier 1 and Tier 2 payments?

RECOMMENDATION: Yes. This Commission should order BellSouth to revise Section 4.4.1 of the SEEM Administrative Plan to require Tier 1 and Tier 2 payments be made by the 15th day of the second month following the month for which disparate treatment was detected.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. 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

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CASE

7**PAA

Docket No. 000121A-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK)

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the issuance of a Consummating Order. The docket should remain open to conduct the six-month review outlined in Order No. PSC-01-1819-FOF-TP. Staff recommends that if a protest is filed, then resolution of the protest should be addressed during the six-month review process.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

8**PAA

Docket No. 020668-TI - Compliance investigation of Christian Telecom Network, LLC for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Buys
GCL: Dodson

ISSUE 1: Should the Commission impose a \$25,000 penalty on Christian Telecom Network, LLC for apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

RECOMMENDATION: Yes. The Commission should impose a \$25,000 penalty on Christian Telecom Network, LLC for apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. 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 the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of the penalty should be referred to the Office of the Comptroller.

ISSUE 2: Should the Commission impose a \$10,000 penalty on Christian Telecom Network, LLC for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should impose a \$10,000 penalty on Christian Telecom Network, LLC for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. 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

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8**PAA

Docket No. 020668-TI - Compliance investigation of Christian Telecom Network, LLC for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

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protested and the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of the penalty should be referred to the Office of the Comptroller.

ISSUE 3: 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. This docket should then be closed administratively upon either receipt of the penalties, or upon referral of the penalties to the Office of the Comptroller for collection if the penalties are not paid within fourteen calendar days after issuance of the Consummating Order.

DECISION: This item was deferred.

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ITEM NO.

CASE

9**PAA

Docket No. 020504-TI - Petition of Legent Communications Corporation d/b/a Long Distance America (holder of IXC Certificate No. 8090) for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., for acquisition of customer base and related assets of CEO Telecommunications, Inc. (holder of IXC Certificate No. 4073), and request for cancellation of IXC Certificate 4073 held by CEO.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Pruitt
GCL: Teitzman

ISSUE 1: Should the Commission approve the acquisition of the customer base and related telecommunications assets of CEO Telecommunications, Inc. by Legent Communications Corporation d/b/a Long Distance America and relieve Legent Communications Corporation d/b/a Long Distance America in this instance of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes.

ISSUE 2: Should the Commission grant the request to cancel IXC Certificate No. 4073 by CEO Telecommunications, Inc.?

RECOMMENDATION: Yes.

ISSUE 3: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

10**

Docket No. 020562-EI - Petition to allow customer-owned streetlight monitoring systems to take service under the SL-1 rate by Florida Power & Light Company. (Recommendation withdrawn from July 23, 2002 conference; revised recommendation filed.)

Critical Date(s): 9/21/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: E. Draper
GCL: Echternacht

ISSUE 1: Should the Commission approve FPL's proposal to allow customer-owned streetlight monitoring systems to take service under the Streetlighting (SL-1) rate?

RECOMMENDATION: Yes. The Commission should approve FPL's proposal to allow customer-owned streetlight monitoring systems to take service under the Streetlighting (SL-1) rate.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective on August 6, 2002. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase held subject to refund 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: Jaber, Deason, Baez, Palecki, Bradley

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<u>ITEM NO.</u>	<u>CASE</u>
11**	<p>Docket No. 020537-EC - Petition for approval of modification of electric rate schedules by Choctawhatchee Electric Coop., Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: ECR: Springer GCL: Holley</p> <p><u>ISSUE 1</u>: Should the Commission approve CHELCO'S proposed rates based on the MDS classification methodology? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If no person whose substantial interests are affected by the Commission's order in this docket files a protest within 21 days of the issuance of the order, this docket should be closed. If a protest is timely filed, the tariff should remain in effect pending resolution of the protest.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

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ITEM NO.

CASE

12**PAA

Docket No. 020521-GU - Petition for approval to amortize gain on sale of property over five-year period by Florida Public Utilities Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: E. Bass, Meeks
GCL: Jaeger

ISSUE 1: Should FPUC's request to amortize the net gain associated with the sale of property consisting of land and an office and warehouse building over a five-year period be approved?

RECOMMENDATION: Yes. Staff recommends that the net gain of \$528,748 (\$444,148 jurisdictional) be amortized over five years beginning April 1, 2002. Further, staff recommends that \$33,277 of the sale proceeds be recorded as gross salvage to recover the net unrecovered amount of the office and warehouse building.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
13**PAA	<p>Docket No. 010869-WS - Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.</p> <p>Critical Date(s): 15-month effective date waived</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: ECR: Moniz, Fitch, Davis, Lingo GCL: Jaeger</p> <p><u>ISSUE 1</u>: Is the quality of service provided by East Marion Sanitary Systems, Inc., considered satisfactory? <u>RECOMMENDATION</u>: No. The utility's quality of service should not be considered satisfactory until emergency phone numbers have been posted at each plant and both lift stations. The utility should be given 90 days from the effective date of the order to post the emergency phone numbers. This item is further addressed in Issue No. 18.</p> <p><u>DECISION</u>: The recommendation was approved with the modification that the quality of service is considered satisfactory. The utility will be given 60 days (rather than 90) to post emergency telephone numbers. The service number for emergencies should provide for response 24 hours a day, seven days a week, and should be posted at the plants and lift stations, and on the bill. The telephone number for billing inquiries should be posted on the bill.</p> <p><u>ISSUE 2</u>: Should the Commission approve a projected test year for the utility? <u>RECOMMENDATION</u>: Yes. The Commission should approve a projected test year for the utility to better match expenses with customer growth on a going-forward basis. A projected test year ending December 31, 2002, should be approved.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 3</u>: What portions of East Marion Sanitary System, Inc., are used and useful? <u>RECOMMENDATION</u>: The East Marion utility water treatment plant is considered 60% used and useful, the water distribution and wastewater collection systems are</p>

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CASE

13**PAA

Docket No. 010869-WS - Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

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considered to be 38.7% used and useful with the exception of Account Number 334 (Meters and Meter Installations) which are installed upon demand and should be considered 100% used and useful. The wastewater treatment plant is considered to be 7.5% used and useful.

DECISION: The recommendation was approved.

ISSUE 4: What is the appropriate regulatory treatment of the land upon which the utility's treatment facilities are located?

RECOMMENDATION: The utility should be required to purchase the land on which it operates or enter into a long-term lease, such as a 99-year lease, pursuant to Section 367.1213, Florida Statutes, and submit either a warranty deed or copy of a long-term lease in the utility's name within 60 days of the Consummating Order. For rate-setting purposes, the utility should be allowed to recover an annual amount equal to the return on the original cost of the land when placed in service. If the utility does not submit a warranty deed or long-term lease in compliance with the above noted requirements, pursuant to Section 367.161, Florida Statutes, the utility should be made to show cause, in writing, within 21 days, why it should not be fined up to \$5,000 per day for each offense for its apparent violation of Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, and the above noted requirements.

DECISION: The recommendation was approved with the modification that the utility must submit a warranty deed or a long-term lease within 6 months of this vote. There will be no automatic show cause, but the utility is put on notice that the Commission will take action if evidence of compliance is not provided within the 6-month time frame.

ISSUE 5: What is the appropriate projected test year rate base for this utility?

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RECOMMENDATION: The appropriate projected test year rate base for this utility is \$29,619 for water and \$63,821 for wastewater. The utility should be required to complete the pro forma fence replacement and installation of the lift station alarm within 90 days of the Commission's final Order.

DECISION: The recommendation was approved.

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

RECOMMENDATION: The appropriate rate of return on equity is 10.00% with a range of 9.00% - 11.00%. The appropriate overall rate of return for the utility is 10.00%. However, if Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, is not protested, the appropriate rate of return on equity should be 10.23% with a range of 9.23% - 11.23% and the appropriate overall rate of return for the utility should be 10.23%.

DECISION: The recommendation was approved.

ISSUE 7: What are the appropriate projected test year revenues?

RECOMMENDATION: The appropriate projected test year revenues for this utility are \$15,794 for water and \$14,949 for wastewater.

DECISION: The recommendation was approved.

ISSUE 8: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense for this utility is \$18,679 for water and \$21,263 for wastewater. The utility should be required to provide staff with proof of insurance within 90 days of the Commission's final order.

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DECISION: Staff's recommendation on operating expenses was approved. Staff's recommendation on attorney's fees in rate case expense was denied. Instead, attorney's fees were set at \$2,000.

ISSUE 9: What are the appropriate revenue requirements?

RECOMMENDATION: The appropriate revenue requirements for water and wastewater are \$21,641 and \$27,645, respectively. However, if Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, is not protested, the appropriate revenue requirements for water and wastewater are \$21,716 and \$27,797, respectively.

DECISION: The recommendation was approved with the understanding that this is a fallout issue.

ISSUE 10: Is a continuation of the utility's current rate structure for its water system appropriate in this case, and, if not, what is the appropriate rate structure?

RECOMMENDATION: No. A continuation of the utility's current rate structure for its water system is not appropriate in this case. The rate structure should be changed to a two-tier inclining-block rate structure. The usage blocks should be set at 0-10,000 gallons (10 kgal) and for usage above 10 kgal, with usage block rate factors of 1.0 and 1.50, respectively. A 30% conservation adjustment should also be implemented.

DECISION: The recommendation was approved.

ISSUE 11: Is an adjustment to reflect repression of consumption appropriate in this case due to the price increase and change in rate structure, and, if so, what are the appropriate repression adjustments to the respective water and wastewater systems?

RECOMMENDATION: Yes. Repression adjustments of 722.5 kgal for the water system and 578.0 kgal for the wastewater system are appropriate. In order to monitor the effects of

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13**PAA

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both the change in rate structure and the recommended revenue increase, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenue billed. These reports should be provided, by customer class and meter size, on a quarterly basis for a period of two years, beginning with the first billing period after the increased rates go into effect.

DECISION: The recommendation was approved.

ISSUE 12: What are the appropriate rates for each system?
RECOMMENDATION: The recommended rates should be designed to produce revenue of \$21,166 for water and \$27,270 for wastewater excluding miscellaneous service charges, as shown in the analysis portion of staff's July 25, 2002 memorandum. 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. The rates should not be implemented until notice has been received by the customers. The notice should include contact numbers for emergency, billing, and general inquiries. The utility should provide proof of the date notice was given within 10 days after the date of the notice. Further, the utility should modify its customer bills to include a telephone number customers can contact for billing inquiries. However, if Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, is not protested, staff should be given administrative authority to

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13**PAA	Docket No. 010869-WS - Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

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design rates to produce revenue of \$21,241 for water and \$27,422 for wastewater excluding miscellaneous service charges.

DECISION: The recommendation was approved with the understanding that this is a fallout issue.

ISSUE 13: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The water and wastewater rates should be reduced as shown on Schedules 4 and 4A of staff's memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

DECISION: The recommendation was approved with the understanding that this is a fallout issue.

ISSUE 14: Should the utility's current system capacity charge be revised to reflect a main extension charge and a plant capacity charge, and if so, what are the appropriate charges?

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13**PAA	Docket No. 010869-WS - Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

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RECOMMENDATION: Yes. The utility's current system capacity charge should be revised to reflect a main extension charge of \$255 for water and \$517 for wastewater and a plant capacity charge of \$112 for water and \$358 for wastewater. The utility should file revised tariff sheets and proposed notice which are consistent with the Commission's vote. The service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed and provided that customers have been noticed.

DECISION: The recommendation was approved.

ISSUE 15: What are the appropriate customer deposits for this utility?

RECOMMENDATION: The appropriate customer deposits should be as specified in the analysis portion of staff's memorandum. The utility should file revised tariff sheets and proposed notice which are consistent with the Commission's vote. The customer deposits should become effective for connections made on or after the stamped approval date of the revised tariff sheets if no protest is filed and provided customers have been noticed.

DECISION: The recommendation was approved.

ISSUE 16: Should the utility's request to implement a late payment charge be approved and, if so, what is the appropriate charge?

RECOMMENDATION: Yes. The utility should be allowed to implement a \$5.00 late payment charge. The utility should file revised tariff sheets and proposed notice which are consistent with the Commission's vote. The late payment

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13**PAA	Docket No. 010869-WS - Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

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charge should become effective on the stamped approval date of the revised tariff sheets if no protest is filed and provided customers have been noticed.

DECISION: The recommendation was approved.

ISSUE 17: 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 should be subject to the refund provisions discussed in the analysis portion of staff's memorandum. In 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 the Commission Clerk and Administrative Services 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.

DECISION: The recommendation was approved.

ISSUE 18: Should East Marion Sanitary Systems, Inc. be ordered to show cause, in writing, within 21 days, why it should not be fined for: (1) Failing to provide customers with telephone numbers for regular and after hours and other information as required in Rules 25-30.330(1) and (2), Florida Administrative Code, and (2) for failing to follow the correct procedures for discontinuance of service as set forth in Rule 25-30.320, Florida Administrative Code?

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13**PAA	Docket No. 010869-WS - Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

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RECOMMENDATION: No. Show cause proceedings should not be initiated at this time. However, the utility should be directed to review Rule 25-30.320, Florida Administrative Code, in detail to insure that it knows under what conditions service may be discontinued and that it uses the correct procedures for discontinuance of service. If a courtesy call is made by the utility to a customer, the utility should specifically advise the customer that the customer must also receive five working days' written notice before service may be discontinued. Moreover, the utility should be directed to place emergency numbers in a prominent place at the plant, and to place the number for billing inquiries and emergency service on its bills to its customers.

DECISION: The recommendation was approved.

ISSUE 19: Should East Marion Sanitary Systems, Inc. be ordered to show cause, in writing, within 21 days, why it should not be fined for its apparent violation of Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, or Order No. PSC-98-0928-FOF-WS, all of which require either ownership of the land or continued use of the land on which the utility treatment facilities are located?

RECOMMENDATION: Yes. East Marion Sanitary Systems, Inc., should be ordered to show cause, in writing, within 21 days, why it should not be fined \$500 for its apparent violation of Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, or Order No. PSC-98-0928-FOF-WS.

DECISION: There was no vote on this issue.

ISSUE 20: Should the docket be closed?

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13**PAA	Docket No. 010869-WS - Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

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RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional 90 days from the effective date of the Order to allow staff to verify the utility has purchased insurance as described in Issue No. 8, that the utility has completed the pro forma improvements described in Issue No. 5, and that the utility has purchased the land on which its treatment systems are located or has entered into a long-term lease such as a 99-year lease (within 60 days) as described in Issue No. 4. Further, this docket should remain open pending the resolution of the show cause proceeding and any subsequent hearing. Upon verification of the above by staff and conclusion of the show cause proceeding, the docket may be administratively closed.

DECISION: The recommendation was approved with the modification that the docket will remain open for eight months to ensure that the warranty deed or the long-term lease has been obtained.

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

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<u>ITEM NO.</u>	<u>CASE</u>
14**PAA	<p>Docket No. 011621-WU - Petition for limited proceeding to implement an increase in water rates in Highlands County, by Placid Lakes Utilities, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Jaber</p> <p>Staff: ECR: Merchant, P. Lee GCL: Brubaker</p> <p><u>ISSUE 1</u>: Should Placid Lakes's request for a limited proceeding increase be approved? <u>RECOMMENDATION</u>: Yes. However, several adjustments to the utility's filing are necessary, as detailed in the analysis portion of staff's July 25, 2002 memorandum.</p> <p><u>ISSUE 2</u>: What is the appropriate cost of capital for this limited proceeding and should any provision for income tax expense be allowed? <u>RECOMMENDATION</u>: Consistent with the utility's last rate case, the appropriate weighted average cost of capital should be 10.50%. Since the utility has negative equity and does not incur income tax expense, no income tax provision should be included in the utility's revenue requirement calculation.</p> <p><u>ISSUE 3</u>: What is the appropriate amount of rate case expense for this limited proceeding? <u>RECOMMENDATION</u>: The appropriate amount of rate case expense for this docket is \$44,400. This expense is to be recovered over four years for an annual expense of \$11,100. This results in a decrease to the utility's filing of \$1,400 in annual amortization.</p> <p><u>ISSUE 4</u>: What is the appropriate revenue increase for this limited proceeding? <u>RECOMMENDATION</u>: The appropriate revenue increase should be \$54,537 or an increase of 11.88%.</p> <p><u>ISSUE 5</u>: What are the appropriate water rates for this limited proceeding? <u>RECOMMENDATION</u>: The recommended rates should be designed to allow the utility the opportunity to generate additional annual operating revenues of \$54,537, which represents a</p>

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CASE

14**PAA

Docket No. 011621-WU - Petition for limited proceeding to implement an increase in water rates in Highlands County, by Placid Lakes Utilities, Inc.

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rate increase of 11.88%, as reflected on Schedule 2 attached to staff's memorandum. The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates approved by the Commission, pursuant to Rule 25-22.0407(10), F.A.C. 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), F.A.C., 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 6: 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 2 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 7: 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,

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14**PAA	Docket No. 011621-WU - Petition for limited proceeding to implement an increase in water rates in Highlands County, by Placid Lakes Utilities, Inc.

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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: This item was deferred.

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CASE

15**PAA

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): 11/14/02 (8-month effective date)

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: ECR: Biggins, Rendell
GCL: Gervasi

ISSUE 1: Should Windstream's proposed tariff sheet to increase its meter installation fee to \$180 be approved as filed?

RECOMMENDATION: No. Original Sheet No. 21.1 filed on March 14, 2002 should be denied as filed. Staff recommends that the appropriate meter installation fee should be \$165. If the utility files a revised tariff sheet within 30 days of the effective date of the Order, which is consistent with the Commission's vote, staff should be given administrative authority to approve the revised tariff sheet upon staff's verification that the tariff is consistent with the Commission's decision. If the revised tariff sheet is filed and approved, the meter installation fee should become effective for connections made on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(2), Florida Administrative Code, if no protest is filed.

ISSUE 2: Should the docket be closed?

RECOMMENDATION: No. Upon expiration of the protest period, if a timely protest is not filed, a Consummating Order should be issued and the docket should remain open for 30 days from the issuance date of the Consummating Order, to allow the utility time to file the revised tariff sheet. Upon staff's verification that the tariff sheet complies with the order, the tariff sheet should be stamped approved

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15**PAA	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.

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and the docket should be closed administratively. In the event that a timely protest is filed, the tariff should remain in effect and the applicable revenues should be held subject to refund pending resolution of the protest.

DECISION: The recommendations were approved.

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

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CASE

16**

Docket No. 020551-WU - Request for approval of late payment charge in Broward County by Broadview Park Water Company.

Critical Date(s): 8/20/02 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Revell, Merchant

GCL: Vining

ISSUE 1: Should Broadview Park Water Company's proposed tariff to implement a \$5 late payment charge be approved?

RECOMMENDATION: Yes. The utility's proposed tariff to implement a late payment charge should be approved and should become effective for service rendered on or after staff's approval of the filed tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice and after staff has verified that the proposed customer notice is adequate. The utility should provide proof that the customers have received notice within 10 days after the date of the notice.

ISSUE 2: Should the docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, the revised tariff 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 tariff should remain in effect with all late payment 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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<u>ITEM NO.</u>	<u>CASE</u>
17	<p>Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Jaber, Baez, Palecki Prehearing Officer: Palecki</p> <p>Staff: GCL: Knight, B. Keating, McLean CMP: Simmons, King, Barrett, Schultz, J.E. Brown, T. Brown, Turner</p> <p><u>ISSUE 1</u>: Should the Commission grant Supra's Motion to Strike BellSouth's letter of October 30, 2001, to Blanca Bayó; Strike BellSouth's post-hearing position/summary with respect to Issue B; and to Alter/Amend Final Order pursuant to F.R.C.P. 1.540(B)? <u>RECOMMENDATION</u>: No.</p> <p><u>ISSUE 2</u>: Should the Commission grant Supra's Motion to Compel BellSouth to Continue Good Faith Negotiations of a Follow-Up Agreement? <u>RECOMMENDATION</u>: No.</p> <p><u>ISSUE 3</u>: Should the Commission grant BellSouth's Motion for Expedited Commission Action? <u>RECOMMENDATION</u>: The Motion should be granted, in part, and denied, in part, as set forth in the analysis portion of staff's July 25, 2002 memorandum.</p> <p><u>ISSUE 4</u>: Should Supra's July 22, 2002, Motion to Strike the July 15, 2002, Agreement filed by BellSouth be granted? <u>RECOMMENDATION</u>: No. The Motion should be denied.</p> <p><u>ISSUE 5</u>: Is the Interconnection Agreement filed by BellSouth on July 15, 2002, compliant with the Commission's Orders in this Docket? <u>RECOMMENDATION</u>: Yes. The Interconnection Agreement filed by BellSouth on July 15, 2002 complies with the Commission's Orders in this Docket. However, two sections of the Interconnection Agreement do not appear to comply with the current state of the law. As such, staff recommends that two sections of the Interconnection Agreement be revised as identified in the analysis portion of staff's memorandum.</p>

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17

Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

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ISSUE 6: Should this Docket be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendations in Issues 1-5, this Docket should remain open pending administrative approval, on an expedited basis, of a signed interconnection agreement or notice of adoption filed within 10 days of the Commission's decision at the Agenda Conference. Upon administrative approval of an agreement, or if no signed agreement or notice of adoption is filed within 10 days of the Agenda Conference, staff should be allowed to administratively close this Docket after the time for filing an appeal has run.

Staff recommends that the opportunity for reconsideration not be provided in this instance. Herein, the Commission is asked to address several motions that staff believes can be considered thinly veiled motions for reconsideration for which Commission rules do not provide for further reconsideration. See Rule 25-22.060, Florida Administrative Code. Furthermore, this proceeding has been conducted pursuant to the Telecommunications Act of 1996, which does not contemplate further review by the state commission of its own decisions in proceedings conducted pursuant to the Act. While Chapter 120, Florida Statutes, and Commission rules do provide for reconsideration of final orders, Section 120.80(13), Florida Statutes, also allows the Commission to adopt processes and procedures necessary to implement the Act. In this particular instance, staff believes that proper, timely implementation of this case consistent with the Act necessitates that the opportunity for reconsideration of the Commission's decisions on the issues addressed in this recommendation not be provided.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Baez, Palecki

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18**

Docket No. 981079-SU - Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.

Critical Date(s): None

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

Staff: GCL: Gervasi
ECR: Clapp

ISSUE 1: Should the Commission grant Hudson Utilities, Inc.'s Motion for Fourth Extension of Time to File Proof of Transfer of Territory?

RECOMMENDATION: The Motion should be granted in part and denied in part. Hudson should be given until September 18, 2002, to either file proof of the transfer of territory or a proposed settlement agreement resolving the dispute concerning the delay in completing the transfer, as well as a schedule setting forth the timetable for completion of the interconnection with Pasco County's facilities and transfer of territory from the County. Should Hudson be unable to resolve the dispute concerning the delay in completing the transfer, staff will file a recommendation concerning whether proceedings should be initiated to delete the territory at issue from Hudson's certificate.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to allow staff to verify that Hudson Utilities, Inc., has filed proof of the transfer of the Signal Cove territory from Pasco County to the utility. Once staff has verified this information, this docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Palecki

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<u>ITEM NO.</u>	<u>CASE</u>
19**	<p>Docket No. 001382-WS - Application for staff-assisted rate case in Lake County by Pennbrooke Utilities, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Deason, Baez, Palecki Prehearing Officer: Palecki</p> <p>Staff: ECR: Fitch, Davis GCL: Cibula</p>
PAA	<p><u>ISSUE 1</u>: Should Pennbrooke's rates be reduced to remove the rate impact of the pro forma plant item not completed by the utility?</p> <p><u>RECOMMENDATION</u>: Yes. Wastewater rates should be reduced by 4.99% (\$10,576) annually. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. The appropriate wastewater rates are reflected on Schedule A of staff's July 25, 2002 memorandum.</p> <p><u>ISSUE 2</u>: Should Pennbrooke be ordered to show cause, in writing, within 21 days, why it should not be fined for failing to complete all of the pro forma additions required by Order No. PSC-01-1246-PAA-WS?</p> <p><u>RECOMMENDATION</u>: No. A show cause proceeding should not be initiated.</p> <p><u>ISSUE 3</u>: Should the docket be closed?</p> <p><u>RECOMMENDATION</u>: Yes. If no timely protest is filed by a substantially affected person, this docket should be closed upon the issuance of a Consummating Order.</p> <p><u>DECISION</u>: This item was deferred.</p>

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20**

Docket No. 010409-TP - Petition by Citizens of State of Florida for investigation of Talk America Inc. and its affiliate, The Other Phone Company, Inc. d/b/a Access One Communications, for willful violation of Rule 25-4.118, F.A.C.

Docket No. 010564-TX - Investigation of possible violation of Commission Rules 25-4.118 and 25-24.110, F.A.C., or Chapter 364, F.S., by The Other Phone Company, Inc. d/b/a Access One Communications, holder of ALEC Certificate No. 4099, and Talk America Inc., holder of ALEC Certificate No. 4692. (Deferred from July 23, 2002 conference.)

Critical Date(s): None

Commissioners Assigned: Baez, Palecki, Bradley
Prehearing Officer: Bradley

Staff: CMP: Buys, Fondo
CAF: Durbin, McHargue
GCL: Christensen, Dodson

ISSUE 1: Should the Commission accept Talk America's settlement offer to make a voluntary payment of \$240,000, in 36 equal monthly installments, to the State of Florida General Revenue Fund to resolve 522 apparent violations of Rule 25-4.118, Florida Administrative Code, Toll, Local Toll, or Toll Provider Selection, 105 apparent violations of Section 364.604(2), Florida Statutes, Billing Practices, and 30 apparent violations of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints?

PRIMARY RECOMMENDATION: No. The Commission should not accept Talk America's settlement offer to make a voluntary payment of \$240,000 to the State of Florida General Revenue Fund to resolve 522 apparent violations of Rule 25-4.118, Florida Administrative Code, Toll, Local Toll, or Toll Provider Selection, 105 apparent violations of Section 364.604(2), Florida Statutes, Billing Practices, and 30

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<u>ITEM NO.</u>	<u>CASE</u>
20**	Docket No. 010409-TP - Petition by Citizens of State of Florida for investigation of Talk America Inc. and its affiliate, The Other Phone Company, Inc. d/b/a Access One Communications, for willful violation of Rule 25-4.118, F.A.C. Docket No. 010564-TX - Investigation of possible violation of Commission Rules 25-4.118 and 25-24.110, F.A.C., or Chapter 364, F.S., by The Other Phone Company, Inc. d/b/a Access One Communications, holder of ALEC Certificate No. 4099, and Talk America Inc., holder of ALEC Certificate No. 4692. (Deferred from July 23, 2002 conference.)

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apparent violations of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints, and consequently, this matter should proceed to a hearing.

PAA ALTERNATIVE RECOMMENDATION: Yes. The Commission should accept Talk America's settlement offer to make a voluntary payment of \$240,000 to the State of Florida General Revenue Fund. The payment should be made in 36 equal monthly intervals in the amount of \$6,666.67 each. The first payment should be received within 30 calendar days from the issuance date of the Commission's Consummating Order and should identify the docket number and company name. Each subsequent payment should be due within 30-day intervals following the first payment and should also identify the docket number and company name. The Commission should forward the payments to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. In addition, if staff's alternative recommendation is approved, then all pending motions would be rendered moot.

DECISION: The primary recommendation was denied; the alternative recommendation was approved.

ISSUE 2: Should these two dockets be closed?

RECOMMENDATION: No. If the Commission approves staff's primary recommendation, these dockets should remain open pending the resolution of the show cause proceedings and

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Docket No. 010409-TP - Petition by Citizens of State of Florida for investigation of Talk America Inc. and its affiliate, The Other Phone Company, Inc. d/b/a Access One Communications, for willful violation of Rule 25-4.118, F.A.C.

Docket No. 010564-TX - Investigation of possible violation of Commission Rules 25-4.118 and 25-24.110, F.A.C., or Chapter 364, F.S., by The Other Phone Company, Inc. d/b/a Access One Communications, holder of ALEC Certificate No. 4099, and Talk America Inc., holder of ALEC Certificate No. 4692. (Deferred from July 23, 2002 conference.)

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subsequent hearing. However, if the Commission approves staff's alternative recommendation, the order will be issued as a Proposed Agency Action (PAA). In the event that a person whose substantial interests are affected by the PAA order files a protest within 21 days of the issuance of the order, this docket should remain open pending resolution of the protest. If the Commission approves staff's alternative recommendation, and no protest is received, the Order will become final upon issuance of a Consummating Order. Thereafter, Talk America should have 30 calendar days from the issuance of the Commission's Consummating Order to remit its first payment of \$6,667.67. Both dockets should remain open until Talk America remits all 35 subsequent payments of \$6,666.67 each. Upon remittance of all 36 payments, totaling \$240,000, both dockets should then be closed administratively.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Palecki, Bradley