

MINUTES OF  
COMMISSION CONFERENCE, AUGUST 7, 2001  
COMMENCED: 9:30 a.m.  
ADJOURNED: 9:50 a.m.

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

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

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1\*\* Consent Agenda

PAA A) DOCKET NO. 010647-TI - Application for approval of the transfer of control of 100 percent of TLX Communications, Inc.'s (holder of IXC Certificate No. 4689) stock from TLX Communications, Inc. to Advanced Tel, Inc. d/b/a EATEL.

PAA B) Docket No. 010662-TI - Joint application whereby Claricom Networks, Inc. (holder of IXC Certificate No. 4879), a wholly owned subsidiary of Claricom Holdings, Inc., will be sold to Stacom Holdings, LLC, with Staples, Inc., a party to agreement and sale, and Platinum Equity, LLC, ultimate parent company of Matrix Telecom, Inc. (holder of IXC Certificate No. 2495), as ultimate parent buyer.

PAA C) Docket No. 010925-TI - Notification of reorganization and transfer of control of ownership of Incomnet Communications Corporation (holder of IXC Certificate No. 2684), wholly owned subsidiary of Incomnet, Inc., a California Corporation, to Ironwood Telecom LLC, a Colorado Limited Liability Company.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
010885-TX	Cima Telecom, Inc.
010920-TX	HTG Services, L.L.C.
010924-TX	ReTel Communications, Inc.

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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
010807-TX	E.Com Technologies, LLC d/b/a Firstmile Technologies, LLC
010960-TX	I-Link Communications, Inc.
010929-TX	CariLink International, Inc.
010930-TX	VGM International, Inc.

PAA

E) Applications for certificates to provide interexchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
010884-TI	Cima Telecom, Inc.
010655-TI	BridgeCom International, Inc.
010792-TI	Network US, Inc. d/b/a CA Affinity
010790-TI	Optical Telephone Corporation
010808-TI	America's Digital Satellite Telephone, Inc.
010847-TI	ICT Worldwide, Inc.
010762-TI	ARBROS Communications Licensing Company, S.E., LLC
010760-TI	Intelligent Switching And Software, LLC
010781-TI	VOIP Communications, Inc.

PAA

F) Applications for certificates to provide pay telephone service.

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1\*\* Consent Agenda

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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
010873-TC	Mad Dog's Telephone & Wiring, Inc.
010928-TC	Edward J. Paul d/b/a Coastel Payphone Service
010943-TC	Ray Scott d/b/a East Coast Payphones
010853-TC	Tri-County Telephone Inc.

PAA G) Application for certificate to provide shared tenant services.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
010921-TS	HTG Services, L.L.C.

PAA H) DOCKET NO. 010849-TI - Request for cancellation of IXC Certificate No. 7177 by CallManage, Inc., effective 6/14/01.

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

DECISION: The recommendation was approved.

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

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2\*\*PAA

DOCKET NO. 010937-TI - Investigation and determination of appropriate method for refunding overcharges and interest on 0+ calls made from pay telephones by USLD Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: CMP: K. Craig, M. Watts  
ECR: D. Draper  
LEG: B. Keating

ISSUE 1: Should the Commission accept USLD Communications, Inc.'s offer of refund and refund calculation of \$926.00, plus interest of \$82.49, for a total of \$1,008.49, for overcharging end users on intrastate 0+ calls made from pay telephones from February 1, 1999, through April 30, 2001?  
RECOMMENDATION: Yes. Staff recommends that the Commission accept USLD's refund calculation of \$926.00, adding interest of \$82.49, for a total of \$1,008.49, and proposal to credit end user customers' local exchange telephone bills beginning September 1, 2001, for overcharging end users on intrastate 0+ calls made from pay telephones from February 1, 1999 through April 30, 2001. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by January 2, ~~2001~~ 2002, and forwarded to the Comptroller for deposit in the General Revenue Fund. USLD should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by January 2, ~~2001~~ 2002.

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2\*\*PAA

DOCKET NO. 010937-TI - Investigation and determination of appropriate method for refunding overcharges and interest on 0+ calls made from pay telephones by USLD Communications, Inc.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If no person whose interests are substantially affected by the proposed agency action files a protest of the Commission's decision in Issue 1 within the 21- day protest period, the Commission's Order will become final upon issuance of a Consummating Order. The docket should, however, remain open pending the completion of the refund and receipt of the final report on the refund. After completion of the refund and receipt of the final refund report, this docket should be closed administratively.

DECISION: The recommendations were approved with the noted modification to Issue 1.

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

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3\*\*PAA

Cancellation by Florida Public Service Commission of pay telephone certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

DOCKET NO. 010551-TC - UNITED COMMUNICATION, INC.

DOCKET NO. 010580-TC - Sumtel, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehrg Officer ADM

Staff: CMP: Isler

LEG: K. Pena, B. Keating

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate as listed on page 6 of staff's July 26, 2001 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

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

ISSUE 2: Should the Commission impose a \$500 fine or cancel each company's respective certificate as listed on page 6 for apparent violation of Rule 25-24.520, Florida Administrative Code, Reporting Requirements?

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3\*\*PAA

Cancellation by Florida Public Service Commission of pay telephone certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

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RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's respective certificate as listed on page 6 if the information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and required information are not received, the certificates listed on page 6 should be canceled administratively.

ISSUE 3: Should these dockets be closed?

RECOMMENDATION: Yes. 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 dockets should then be closed upon receipt of the fines, fees, and required information or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

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4\*\*PAA

Cancellation by Florida Public Service Commission of pay telephone certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 010553-TC - United Payphones of America, Inc.  
DOCKET NO. 010554-TC - Public Payphone U.S.A., Inc.  
DOCKET NO. 010558-TC - Shiwani Investment Corp. d/b/a Days Inn, Denny's and Winner's Pub  
DOCKET NO. 010560-TC - Timothy Young d/b/a Tim Vending  
DOCKET NO. 010568-TC - Don Duke d/b/a Duke Consultants  
DOCKET NO. 010572-TC - Caribbean Communications Corporation  
DOCKET NO. 010573-TC - J.A.R.M. Enterprises, Inc.  
DOCKET NO. 010585-TC - Seacoast Christian Academy, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: CMP: Isler  
LEG: K. Pena, B. Keating, Elliott

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate listed on page 6 of staff's July 26, 2001 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

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



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4\*\*PAA

Cancellation by Florida Public Service Commission of pay telephone certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. 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. These dockets should then be closed upon receipt of the fine and fees or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

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5\*\*

DOCKET NO. 010556-TC - Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 6016 issued to Alex I. Burney d/b/a Excellent Telecommunications for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: CMP: Isler  
LEG: K. Pena, B. Keating

ISSUE 1: Should the Commission grant Alex I. Burney d/b/a Excellent Telecommunications a voluntary cancellation of its Certificate No. 6016?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its Certificate No. 6016 with an effective date of May 31, 2001.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed.

DECISION: The recommendations were approved.

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

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6\*\*

Cancellation by Florida Public Service Commission of pay telephone certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 010552-TC - Elizabeth I. Eckel d/b/a Southeast Intelecom  
DOCKET NO. 010570-TC - John Leighton  
DOCKET NO. 010571-TC - Innovative Communications of Tampa Bay, Inc.  
DOCKET NO. 010574-TC - Frank Kropik  
DOCKET NO. 010575-TC - Verotex, Inc.  
DOCKET NO. 010582-TC - Atlantic Coast Communications, Inc.  
DOCKET NO. 010583-TC - Tampa Marina & Yacht Club Inc d/b/a Ricks on the River  
DOCKET NO. 010584-TC - Steven L. Nelson  
DOCKET NO. 010586-TC - SaiComm Corp. d/b/a SaiComm

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: CMP: Isler  
LEG: K. Pena, B. Keating, Elliott

ISSUE 1: Should the Commission grant the companies listed on page 4 of staff's July 26, 2001 memorandum a voluntary cancellation of their respective certificates?

RECOMMENDATION: Yes. The Commission should grant each company a voluntary cancellation of its telecommunications certificate with an effective date as listed on page 4.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, these dockets should be closed.

DECISION: The recommendations were approved.

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

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7\*\*

Cancellation by Florida Public Service Commission of pay telephone certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 010412-TC - Protel, Inc.

DOCKET NO. 010428-TC - Gators on the Pass, Inc. d/b/a Gators Cafe

DOCKET NO. 010559-TC - Vendall Companies, Inc. d/b/a Vendall Communications

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: CMP: Isler

LEG: Elliott, K. Pena, B. Keating

ISSUE 1: Should the Commission accept the settlement offer proposed by each company listed on page 5 of staff's July 26, 2001 memorandum to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept each company's respective settlement proposal. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If any of the companies listed on page 5 fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be canceled administratively.

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7\*\*

Cancellation by Florida Public Service Commission of pay telephone certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on page 5 should be closed upon receipt of the \$500 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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8\*\*

DOCKET NO. 010827-EI - Petition by Gulf Power Company for approval of purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased capacity and purchased energy.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer BZ

Staff: LEG: Stern, Elias  
SER: Harlow, Woodall

ISSUE 1: Should the Motion to Dismiss be granted?

RECOMMENDATION: The Motion should be granted in part and denied in part, and Gulf should be granted leave to amend its Petition. The amended petition should be filed no later than three days after the date of the vote on this issue.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No, this docket should not be closed.

DECISION: This item was deferred to the August 14, 2001 conference.

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9\*\*

DOCKET NO. 010136-TX - Initiation of show cause proceedings against Teleglobe Business Solutions Inc. (n/k/a eMeritus Communications, Inc.) for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: LEG: Banks  
CMP: M. Watts

ISSUE 1: Should the Commission accept the settlement offer proposed by Teleglobe Business Solutions, Inc. (n/k/a eMeritus Communications, Inc.) to resolve the apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within thirty days from the issuance date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. If the company fails to pay in accordance with the terms of the Commission Order, Certificate Number 4699 should be canceled administratively. The company has agreed to waive any objection to the administrative cancellation of its certificate should it fail to pay in accordance with its settlement offer. If, however, there is a factual dispute as to the manner or level of compliance with any provision in the settlement, staff will bring the matter to the Commission for consideration.

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9\*\*

DOCKET NO. 010136-TX - Initiation of show cause proceedings against Teleglobe Business Solutions Inc. (n/k/a eMeritus Communications, Inc.) 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: No. With the approval of Issue 1, this docket should remain open pending the remittance of the \$3,500 voluntary contribution. Upon remittance of the settlement payment, this docket should be closed. If the company fails to pay in accordance with the terms of the Commission Order, Certificate Number 4699 should be canceled administratively, and this docket should be closed.

DECISION: The recommendations were approved.

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



<u>ITEM NO.</u>	<u>CASE</u>
10	<p>DOCKET NO. 990696-WS - Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.</p> <p>DOCKET NO. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer DS</p> <p>Staff: RGO: Daniel, Messer, Johnson, Redemann, Clapp, Rieger LEG: Cibula, Espinoza</p> <p><b>(Participation is limited to Commissioners and staff.)</b></p> <p><u>ISSUE A</u>: Has NUC factually established that its proposed water and wastewater systems satisfy the requirements of Section 367.171(7), Florida Statutes, sufficient to invoke Commission jurisdiction to grant its application for original certificates?</p> <p><u>RECOMMENDATION</u>: Yes. NUC has factually established that its proposed water and wastewater systems satisfy the requirements of Section 367.171(7), Florida Statutes, sufficient to invoke Commission jurisdiction to grant its application for original certificates.</p> <p><u>ISSUE 1</u>: Is there a need for service in the territory proposed by NUC's application, and if so, when will service be required?</p> <p><u>RECOMMENDATION</u>: Yes. There is a need for water, wastewater, and reuse service for the Nocatee development. Service will be required in the fourth quarter of 2002.</p> <p><u>ISSUE 2</u>: Does NUC have the financial ability to serve the requested territory?</p> <p><u>RECOMMENDATION</u>: Yes, NUC and JEA have the financial ability to serve the requested territory.</p> <p><u>ISSUE 3</u>: Does NUC have the technical ability to serve the requested territory?</p> <p><u>RECOMMENDATION</u>: NUC has the technical ability to provide water, wastewater, and reuse service to the requested territory, through its Agreement for Wholesale Utilities,</p>

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10 DOCKET NO. 990696-WS - Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.  
DOCKET NO. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.

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Operations, Management and Maintenance with JEA.

ISSUE 4: Does NUC have the plant capacity to serve the requested territory?

RECOMMENDATION: NUC has the capacity to provide water and wastewater, reuse service to the proposed Nocatee Development through its bulk water, wastewater and reuse service agreement with JEA. The utility should file an executed and recorded copy of the deed for the land on which the reuse storage and pumping facilities will be located, within 30 days of the issuance date of the order granting the certificates, as required by Rule 25-30.033(1)(j), Florida Administrative Code.

ISSUE 5: What is the appropriate return on equity for NUC?

RECOMMENDATION: NUC's return on equity should be based on the leverage graph formula contained in Order No. PSC-00-1162-PAA-WS, issued June 26, 2000, in Docket No. 000006-WS. Using this leverage graph formula, the appropriate return on equity for NUC is 9.62%.

ISSUE 6: What are the appropriate water, wastewater, and reuse rates and charges for NUC?

RECOMMENDATION: If NUC is granted original water and wastewater certificates, the rates and charges detailed in the analysis portion of staff's July 26, 2001 memorandum should be approved. The utility should be required to file tariffs which reflect the recommended rates and charges. NUC should be required to continue to charge these rates and charges until authorized to change by the Commission. The tariff should be effective for services rendered or connections made on or after the stamped approval date of the tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code.

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DOCKET NO. 990696-WS - Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.  
DOCKET NO. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.

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ISSUE 7: What are the appropriate service availability charges for NUC?

RECOMMENDATION: The service availability charges and policy set forth within the staff analysis are appropriate and should be approved. NUC and JEA should be put on notice that if JEA's plant capacity charge changes, NUC may not pass any change on to the customers without prior Commission approval. The charges should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets.

ISSUE 7A: What is the appropriate AFUDC rate for NUC?

RECOMMENDATION: If NUC is granted a certificate, an AFUDC rate of 9.77% should be approved and a discounted monthly rate of .813802% should be applied to qualified construction projects beginning on the date the certificate of authorization is issued.

ISSUE 8: What is the Nocatee landowner's service preference and what weight should the Commission give the preference?

RECOMMENDATION: While the Nocatee landowner's service preference is to receive service from NUC, the Commission should not give the landowner's service preference any particular weight.

ISSUE 9: Will the certification of NUC result in the creation of a utility which will be in competition with, or duplication of, any other system?

RECOMMENDATION: No. The certification of NUC will not result in the creation of a system which will be in competition with or a duplication of any other system.

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10 DOCKET NO. 990696-WS - Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.  
DOCKET NO. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.

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ISSUE 10: Should the Commission deny NUC's application based on the portion of Section 367.045(5)(a), Florida Statutes, which states that the Commission may deny an application for a certificate of authorization for any new Class C system, as defined by Commission rule, if the public can be adequately served by modifying or extending a current wastewater system?

RECOMMENDATION: No. The Commission should find that the portion of Section 367.045(5)(a), Florida Statutes, pertaining to the denial of a certificate for a new Class C wastewater system is not applicable because NUC's proposed wastewater system will not be a Class C system, and because Intercoastal has not proposed to modify or extend its current wastewater system.

ISSUE 11: Is it in the public interest for NUC to be granted a water certificate and wastewater certificate for the territory proposed in its application?

RECOMMENDATION: Yes, it is in the public interest to grant NUC its request for water and wastewater certificates. Nocatee should be granted Certificates Nos. 617-W and 531-S for water and wastewater to serve the territory described in Attachment A of staff's July 26, 2001 memorandum.

ISSUE 12: Is Intercoastal barred by the doctrines of res judicata and/or collateral estoppel in this proceeding from applying for the same service territory in St. Johns County which it was previously denied by St. Johns County?

RECOMMENDATION: No. The Commission should find that neither the doctrine of res judicata nor collateral estoppel apply in this proceeding to bar Intercoastal from applying for the same service territory in St. Johns County to which it was previously denied by St. Johns County.

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DOCKET NO. 990696-WS - Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.  
DOCKET NO. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.

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ISSUE B: Has Intercoastal factually established that its proposed water and wastewater systems satisfy the requirements of Section 367.171(7), Florida Statutes, sufficient to invoke Commission jurisdiction to grant its application for original certificates?

RECOMMENDATION: Yes. Intercoastal has factually established that its proposed water and wastewater systems satisfy the requirements of Section 367.171(7), Florida Statutes, sufficient to invoke Commission jurisdiction to grant its application for certificates.

ISSUE 13: Is there a need for service in the territory proposed by Intercoastal's application, and if so, when will service be required?

RECOMMENDATION: Yes. In addition to Intercoastal's existing area, there is a need for service in the fourth quarter of 2002 for the Nocatee development. There is no need for service for other areas included in Intercoastal's application.

ISSUE 14: Does Intercoastal have the financial ability to serve the requested territory?

RECOMMENDATION: Yes. Intercoastal has the financial ability to serve the territory requested in its application.

ISSUE 15: Does Intercoastal have the technical ability to serve the requested territory?

RECOMMENDATION: Yes, Intercoastal has the technical ability necessary to serve the requested territory.

ISSUE 16: Does Intercoastal have the plant capacity to serve the requested territory?

RECOMMENDATION: No. Intercoastal does not currently have sufficient water, wastewater, or reuse capacity to serve the requested territory. Although Intercoastal has developed a Conceptual Master Plan to serve the Nocatee development, the utility's ability to provide capacity on a timely basis is

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10 DOCKET NO. 990696-WS - Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.  
DOCKET NO. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.

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questionable.

ISSUE 17: What are the appropriate water, wastewater, and reuse rates and charges for Intercoastal?

RECOMMENDATION: If the Commission does not approve staff's recommendation in Issue 11 and Intercoastal is granted the certificates, Intercoastal's existing water and wastewater rates and charges should be approved for its existing customers and the Nocatee development. Staff further recommends that the utility be required to retain these rates and charges until authorized to change by the Commission. Intercoastal has filed tariffs for water and wastewater which reflect the existing rates and charges. Intercoastal should also be required to file a reuse tariff reflecting a zero rate for the Sawgrass Country Club until 2013. The tariffs should be effective for services provided on or after the stamped approval date on the tariff sheets, in accordance with Rule 25-30.475, Florida Administrative Code. The utility should return to the Commission for a determination regarding reuse rates prior to providing that service to any other customers.

ISSUE 18: What are the appropriate service availability charges for Intercoastal?

RECOMMENDATION: If the Commission does not approve staff's recommendation in Issue 11 and Intercoastal is granted the certificates, Intercoastal's existing water and wastewater service availability policy and charges should be approved. Staff further recommends that the utility be required to retain these charges until authorized to change by the Commission. Intercoastal has filed tariff sheets for water and wastewater which reflect the current charges. The tariff should be effective for services provided on or after the stamped approval date, in accordance with Rule 25-30.475, Florida Administrative Code.

ITEM NO.

CASE

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DOCKET NO. 990696-WS - Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.  
DOCKET NO. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.

(Continued from previous page)

ISSUE 18A: Should Intercoastal be authorized an AFUDC rate by the Commission?

RECOMMENDATION: Yes. If the Commission does not approve staff's recommendation in Issue 11 and Intercoastal is granted certificates, an annual AFUDC rate of 7.09% should be approved with a discounted monthly rate of 0.590641%. The approved rate should be applicable for eligible construction projects beginning on the date the certificate of authorization is issued.

ISSUE 19: Do Intercoastal's existing customers support the proposed extension of its service territory and what weight should the Commission give to their preference?

RECOMMENDATION: The Sawgrass Association, Inc., which represents a portion of Intercoastal's customers, does not support Intercoastal's proposed extension of its service territory. Although customers cannot choose their utility, the Commission may consider the concerns of Intercoastal's current customers that are set forth in the record which pertain to the utility's quality of service. Quality of service of a utility is directly linked to the technical ability of that utility. Therefore, the Commission should consider Intercoastal's technical ability in conjunction with this issue. Whether Intercoastal has the technical ability to serve the requested territory is addressed in Issue 15.

ISSUE 20: Is it in the public interest for Intercoastal to be granted a water certificate and a wastewater certificate for the territory proposed in its application?

RECOMMENDATION: No. It is not in the public interest for Intercoastal to be granted water and wastewater certificates for the territory proposed in its application.

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DOCKET NO. 990696-WS - Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.  
DOCKET NO. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.

(Continued from previous page)

ISSUE 21: Can the Commission grant Intercoastal or NUC a certificate which will be in competition with, or a duplication of, any other water and wastewater system?

RECOMMENDATION: No. The Commission may not grant a certificate of authorization for a proposed system or an amendment to a certificate of authorization for the extension of an existing system which will be in competition with, or duplication of any other system or portion of a system. However, granting either Intercoastal or NUC an original certificate will not result in a system which will be in competition with or a duplication of another water or wastewater system.

ISSUE 22: What are the implications for this case of the decisions in the Alafaya Utilities and Lake Utility Services cases?

RECOMMENDATION: Neither the Alafaya Utilities case nor the Lake Utility Services case prohibits the Commission from granting either NUC or Intercoastal a certificate to serve the Nocatee development.

ISSUE 23: What would be the ramifications of denying both pending applications?

RECOMMENDATION: Potential ramifications as identified in the staff analysis are speculative and not based on the evidence of record in this case. While it is in the Commission's discretion to deny both applications, to do so, the Commission would need to find, based on the record evidence, that it is not in the public interest to grant either application. Staff recommends that there is no such evidence in the record.



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DOCKET NO. 990696-WS - Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.  
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(Continued from previous page)

ISSUE 24: In light of the agreement between JEA and NUC for operations, management and maintenance service, is NUC exempt from Commission regulation pursuant to Section 367.022(2), Florida Statutes?

RECOMMENDATION: The Commission should find that the agreement between JEA and NUC for operations, management and maintenance service, does not render NUC exempt from Commission regulation pursuant to Section 367.022(2), Florida Statutes.

ISSUE 25: Should the Commission defer a decision in these cases until after the conclusion of a pending administrative challenge to the Department of Community Affairs' decision that found the St. Johns County Comprehensive Plan Amendments for Nocatee in compliance with Chapter 163, Florida Statutes?

RECOMMENDATION: No. The Commission should not defer its decision in this matter until after the conclusion of a pending administrative challenge to the Department of Community Affairs' decision.

ISSUE 26: Should these dockets be closed?

RECOMMENDATION: No. These dockets should remain open for an additional thirty days from the date of the Order so that Nocatee Utility Corporation may file proof of ownership or continued use of the land upon which its reuse facilities will be located as discussed in Issue 4. Staff should be given administrative authority to close these dockets once staff has verified that this information has been filed.

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

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Commission Conference  
August 7, 2001

ITEM NO.

CASE

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11\*\*

DOCKET NO. 010507-WS - Joint application for approval of transfer of majority organizational control of Southlake Utilities, Inc., holder of Certificate Nos. 533-W and 464-S in Lake County, from Southlake, Inc. and Robert L. Chapman, III, to Southlake Utilities Holding, L.L.C.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer JB

Staff: RGO: Brady  
LEG: Crosby, Gervasi

ISSUE 1: Should the transfer of majority organizational control of Southlake Utilities, Inc. from Southlake, Inc. and Robert L. Chapman, III, to Southlake Utilities Holding, L.L.C., be approved?

RECOMMENDATION: Yes. The transfer of majority organizational control should be approved. Southlake Utilities Holding, L.L.C., should be put on notice that it will be held responsible for filing the utility's 2001 annual report and remitting the resulting regulatory assessment fees within the time frame and manner prescribed by Commission rules. A description of the territory granted Certificates Nos. 533-W and 464-S is appended to staff's July 26, 2001 memorandum as Attachment A.

ISSUE 2: Should the rates and charges approved for Southlake Utilities, Inc. be continued?

RECOMMENDATION: Yes. The rates and charges approved for the utility should be continued. The tariff reflecting the transfer of majority organizational control should be approved and effective for services rendered or connections made on or after the stamped approval date.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. Since there are no issues remaining, the docket should be closed.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
12**	<p>DOCKET NO. 001802-TC - Application for certificate to provide pay telephone service by Land For Sale.Com, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: RGO: T. McCoy LEG: K. Pena, B. Keating</p> <p><u>ISSUE 1:</u> Should the Commission accept the settlement offer submitted by Land For Sale.Com, Inc.? <u>RECOMMENDATION:</u> Yes. The Commission should accept the proposed settlement offer of Land For Sale.Com, Inc. The \$500 offered should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285, Florida Statutes.</p>
PAA	<p><u>ISSUE 2:</u> Should the Commission grant Land For Sale.Com, Inc. a certificate to provide statewide pay telephone service in Florida? <u>RECOMMENDATION:</u> Yes. Staff believes that Land For Sale.Com, Inc. should be granted Florida Public Service Commission Certificate No. 7883 to operate as a Pay Telephone Services Provider in the State of Florida. If the Commission denies Issue 1, the application for a certificate should also be denied.</p> <p><u>ISSUE 3:</u> Should this docket be closed? <u>RECOMMENDATION:</u> Yes. If no person whose substantial interests are affected by the Commission's decision in Issue 2 files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a Consummating Order.</p> <p><u>DECISION:</u> This item was deferred; staff will advise.</p>

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13\*\*PAA

DOCKET NO. 010761-TI - Application for certificate to provide interexchange telecommunications service by New Edge Network, Inc. d/b/a New Edge Networks.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: RGO: Pruitt  
ECR: Lester  
LEG: Elliott

ISSUE 1: Should the Commission grant New Edge Network, Inc. d/b/a New Edge Networks a certificate to provide interexchange telecommunications service within the State of Florida as provided by Section 364.337(3), Florida Statutes?

RECOMMENDATION: Yes. New Edge Network, Inc. d/b/a New Edge Networks should be granted Florida Public Service Commission Certificate No. 7905.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the Commission's decision in Issue 1 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: Jacobs, Deason, Jaber, Baez, Palecki

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August 7, 2001

<u>ITEM NO.</u>	<u>CASE</u>
14**	DOCKET NO. 000737-WS - Investigation of rates of Aloha Utilities, Inc. in Pasco County for possible overearnings for the Aloha Gardens water and wastewater systems and the Seven Springs water system.

Critical Date(s): None

Commissioners Assigned: JB BZ PL  
Prehrg Officer PL

Staff: LEG: Jaeger  
ECR: Fletcher

ISSUE 1: Should the Commission acknowledge the Dismissals of the Petitions on Proposed Agency Action Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS, approve the Settlement Agreement, and finalize Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS?

RECOMMENDATION: Yes. The Commission should acknowledge the dismissals, approve the Settlement Agreement in its entirety, and finalize Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS with a modification to Order No. PSC-01-1245-PAA-WS, to include that Aloha Utilities, Inc. has agreed to refund an additional \$12,000 to its Aloha Gardens water customers. The utility should proceed with that refund plus all refunds ordered by Order No. PSC-01-1245-PAA-WS.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending staff's verification that the required refunds have been made and the utility's submission of tariff sheets for the Aloha Gardens water and wastewater systems is consistent with the Commission's decision in Order No. PSC-01-1245-PAA-WS. Upon staff's verification, this docket should be administratively closed. Accordingly, the corporate undertaking filed for this docket should be released upon the refunds being completed.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Baez, Palecki