

MINUTES OF AUGUST 17, 2004

COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.

ADJOURNED: 11:40 a.m.

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

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

1 Approval of Minutes

July 20, 2004 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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ITEM NO.

CASE

1ADocket No. 040864-TL - Request by Sprint-Florida, Incorporated for waiver of certain charges in order to implement emergency tariff to assist customers impacted by Hurricane Charley, effective 8/17/04.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Pending

Staff: CMP: Pending

GCL: Pending

Issue 1: Sprint's emergency tariff filing in wake of Hurricane Charley.

Recommendation: Approve emergency tariff filing.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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ITEM NO. CASE

2**Consent Agenda

PAA A) Application for certificate to provide alternative access vendor service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
040707-TA	NextG Networks of NY, Inc. d/b/a NextG Networks East

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
040706-TX	NextG Networks of NY, Inc. d/b/a NextG Networks East
040739-TX	Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC

PAA C) Applications for certificates to provide pay telephone service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
040764-TC	Lane Jones
040784-TC	Medicom LLC

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ITEM NO. CASE

2** Consent Agenda

(Continued from previous page)

PAA D) Request for two-year exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls.

DOCKET NO.	COMPANY NAME	PHONE # & LOCATION
040772-TC	Southeast Pay Telephone, Inc.	561-272-9071 561-272-9676 Linton Boulevard Shell 380 W. Linton Blvd. Delray Beach, FL
		561-272-9287 561-819-0622 Deb Petroleum 2100 W. Linton Blvd. Delray Beach, FL

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

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

3Docket No. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory. Docket No. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation. (Deferred from August 3, 2004 conference.)

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Deason

Staff: CMP: T. Brown, S. Brown, Cater, King, Marsh
ECR: Brinkley, Gardner, Maurey
GCL: Teitzman, Rojas

Issue 9A: For which collocation elements should rates be set for each ILEC?

Recommendation: Staff recommends that AT&T's single model approach should not be adopted. Therefore, rates should be set for the collocation elements identified in the individual collocation cost studies of BellSouth, Sprint, and Verizon, subject to incorporating staff's recommended changes in all other applicable issues. The collocation elements (and associated rates) are listed in Appendices B-D of staff's July 22, 2004 recommendation.

DECISION: The recommendation was approved.

Issue 9B: For those collocation elements for which rates should be set, what is the proper rate and the appropriate application of those rates?

Recommendation: Due to the large number of inputs and elements contained within this issue, staff has provided the table shown in staff's July 22, 2004 memorandum containing each input and element.

DECISION: The recommendation was approved with the modification that, rather than requiring Verizon to refile its study with regard to floor space, staff's recommended rate of \$1.78 per square foot (see note on page 190 of staff's 07/22/04 memorandum) should be used. Verizon's occupancy level will be modified from 4 to 5.43 (space prep/building modification).

ITEM NO.

CASE

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Docket No. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory. Docket No. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

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Issue 10: What are the appropriate definitions and associated terms and conditions for the collocation elements to be determined by the Commission?

Recommendation: The definitions and associated terms and conditions for the collocation elements identified in Issue 9A are those proposed by BellSouth, Sprint, and Verizon subject to incorporating staff's recommended changes in all other applicable issues.

DECISION: The recommendation was approved.

Issue 11: Should these dockets be closed?

Recommendation: If Verizon is ordered to make a compliance filing, these dockets should remain open until staff has the opportunity to evaluate the filing and bring its findings before the Commission. If a compliance filing is not required, the dockets may be closed. Recurring and non-recurring rates and charges should take effect when existing interconnection agreements are amended to incorporate the approved rates, and the amended agreements are deemed approved by the Commission. For new interconnection agreements, the rates shall become effective when the agreements are deemed approved by the Commission. Pursuant to Section 252(e)(4) of the Telecommunications Act of 1996, a negotiated agreement is deemed approved by operation of law after 90 days from the date of submission to the Commission.

DECISION: The recommendation was approved; the dockets will be closed.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

4Docket No. 001503-TP - Cost recovery and allocation issues for number pooling trials in Florida.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Baez

Staff: CMP: Casey, Bulecza-Banks

GCL: Christensen

Issue 1: May BellSouth and Sprint recover the cost for state-mandated number pooling via a mechanism separate and apart from, and in addition to, the rate and revenue increases to basic and non-basic service implemented since January 1, 2000?

Recommendation: Yes. Staff recommends that the Commission find that the extraordinary costs related to thousands-block number pooling, as defined by the FCC, are outside the scope of the price-cap scheme set forth in Section 364.051, Florida Statutes.

Issue 2: What is the basis of authority under which the Florida Public Service Commission allowed BellSouth and Sprint to recover the costs of number pooling, and to do so through a separate end-user charge?

Recommendation: Staff recommends that this Commission find that pursuant to Section 251(e) of the Telecommunications Act of 1996 and Order No. FCC 99-249, this Commission has been delegated authority under federal law regarding administrative telephone numbering issues. Specifically, this Commission has been granted authority to conduct mandatory thousands-block number pooling and has been obligated to provide a cost recovery mechanism as required under federal law. Further, staff recommends that this Commission find that by virtue of its state law authority over numbering policies and issues under Sections 364.01(4)(a), and Section 364.16(14), Florida Statutes, the Commission is authorized to fulfill the role contemplated by the FCC.

Issue 3: Is the manner by which the Florida Public Service Commission allowed BellSouth and Sprint to recover the costs of number pooling consistent with Federal Communications Commission (FCC) policy and decisions?

Recommendation: Yes. The manner by which the Florida Public Service Commission allowed BellSouth and Sprint to recover the costs of number pooling is consistent with FCC policy and decisions. Also, if the Commission approves Issues 1-3 of this recommendation, staff recommends that the parties proceed to recover the cost of number pooling in accordance with Order Nos. PSC-03-1096-PAA-TP, and PSC-03-1270-PAA-TP. Further, staff recommends that based on the record in this case, the Commission reaffirm the findings and decisions in Order Nos.

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Docket No. 001503-TP - Cost recovery and allocation issues for number pooling trials in Florida.

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PSC-03-1096-PAA-TP, and PSC-03-1270-PAA-TP, Attachment A and Attachment B to staff's August 5, 2004 memorandum, and incorporated by reference.

Issue 4: Should this docket be closed?

Recommendation: The docket should be closed after the time for filing an appeal has run.

DECISION: The recommendations were approved. Commissioner Deason dissented.

Commissioners participating: Baez, Deason, Bradley, Davidson

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ITEM NO.

CASE

5**Docket No. 040400-TC - Compliance investigation of Gary E. Akers d/b/a JB Telecom for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Rojas

Issue 1: Should the Commission grant Gary E. Akers d/b/a JB Telecom a voluntary cancellation of its Pay Telephone Certificate No. 4264 with an effective date of March 2, 2004?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed upon cancellation of the certificate as no other issues need to be addressed by the Commission. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Gary E. Akers d/b/a JB Telecom should be required to immediately cease and desist providing pay telephone service in Florida, if it has not already done so.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

6**PAADocket No. 040633-TP - Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TJ123 and CLEC Certificate No. 5314 issued to North American Telecommunications Corporation d/b/a Southeast Telephone Company, effective 6/29/04.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Rojas

Issue 1: Should the Commission grant North American Telecommunications Corporation d/b/a Southeast Telephone Company cancellation of its CLEC certificate and IXC tariff and removal from the register with an effective date of June 29, 2004, due to bankruptcy; notify the Division of the Commission Clerk and Administrative Services that any unpaid Regulatory Assessment Fees, including statutory penalty and interest charges, should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the company to immediately cease and desist providing competitive local exchange and interexchange telecommunications service in Florida?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. Staff recommends that the Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

7Docket No. 040270-GU - Application for rate increase by Sebring Gas System, Inc.

Critical Date(s): 8/29/04 (60-day suspension date)
11/30/04 (5-month effective date)

Commissioners Assigned: All Commissioners
Prehearing Officer: Bradley

Staff: ECR: Kaproth, Romig, Brinkley, Kenny, Lester, Wheeler, Winters
GCL: Jaeger

Issue 1: Should the request for a permanent increase in rates and charges be suspended for Sebring?

Recommendation: Yes. Staff recommends that the requested permanent increase in rates and charges of \$234,641 be suspended for Sebring.

Issue 2: Is Sebring's proposed interim test year rate base of \$782,836 appropriate?

Recommendation: No. Rate Base should be increased by \$10,951 to \$793,787 to reflect a \$10,951 increase to Working Capital.

Issue 3: Is Sebring's proposed interim test year net operating income of (\$32,891) appropriate?

Recommendation: No. The appropriate interim test year net operating income for Sebring is (\$29,999).

Issue 4: Is Sebring's proposed return on equity of 10.00% and its overall cost of capital of 7.13% appropriate for purposes of determining interim rates?

Recommendation: No. Though Sebring's appropriate return on equity is 10.00%, staff believes the Commission should reduce the balance of common equity in the capital structure. This results in an overall cost of capital for interim purposes of 6.07%.

Issue 5: Is Sebring's proposed revenue expansion factor of 79.9234% and its interim net operating income multiplier of 1.2512 appropriate?

Recommendation: Yes. The proposed interim revenue expansion factor of 79.9234% and the proposed interim net operating income multiplier of 1.2512 are appropriate.

Issue 6: Should Sebring's requested interim revenue increase of \$110,957 be granted?

Recommendation: No. After making the previous adjustments, the interim revenue increase for Sebring should be \$97,821.

Issue 7: How should the interim revenue increase for Sebring be distributed among the rate classes?

Recommendation: Any interim revenue increase approved should be applied evenly across the board to all rate classes based on their base rate revenues, as required by Rule 25-7.040, F.A.C., and should be recovered on a cents-per-therm basis. The interim rates should be made effective for all meter readings made on or after thirty days from the date of the vote approving any interim increase. Sebring should file revised tariff sheets

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CASE

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Docket No. 040270-GU - Application for rate increase by Sebring Gas System, Inc.

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reflecting the interim rates prior to sending the first bill that reflects the increase, and should give notice to customers of the interim increase commencing with the first bill for service that reflects the increase.

Issue 8: What is the appropriate security to guarantee the amount collected subject to refund?

Recommendation: The appropriate security to guarantee the funds collected subject to refund is an irrevocable letter of credit, a surety bond, or an escrow agreement. Staff recommends that Sebring pursue the least expensive method. If necessary, the refund should be with interest and undertaken according to Rule 25-7.040(3), F.A.C.

Issue 9: Should this docket be closed?

Recommendation: No. This docket should remain open to process the revenue increase request of the Company.

DECISION: The recommendations were approved with a modification to Issue 2, where the Company's working capital allowance will be used.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

8**PAADocket No. 040525-EU - Petition for variance from or waiver of metering requirement of Rule 25-6.049(5)(a), F.A.C., by Jetty East Condominium Association, Inc.

Critical Date(s): 8/31/04

Commissioners Assigned: All Commissioners

Prehearing Officer: Jaber

Staff: ECR: Baxter
GCL: Fleming

Issue 1: Should the Commission grant JECA's request for waiver of the requirements of Rule 25-6.049(5)(a), Florida Administrative Code?

Recommendation: Yes. Staff recommends that the requested rule waiver be granted, provided that: (1) JECA allocates the cost of electricity to the individual condominium unit owners using a reasonable apportionment method, as required by Rule 25-6.049 (6) (a), Florida Administrative Code; (2) JECA is responsible for all of the costs associated with the conversion from individual metering to master metering; (3) the waiver is effective only so long as the condominium is operated and licensed as a transient occupancy facility; and (4) all or substantially all of the units are operated on a transient basis. At such time the condominium is no longer so operated and licensed, JECA must immediately inform Gulf Power Company (Gulf), at which time Gulf will install individual meters on the occupancy units. In the event such a conversion to individual metering is required, JECA will be solely responsible for the cost of such conversion.

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: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

9Docket No. 031033-EI - Review of Tampa Electric Company's 2004-2008 waterborne transportation contract with TECO Transport and associated benchmark.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Baez

Staff: ECR: Bohrmann, Matlock, Trapp, VonFossen

GCL: C. Keating, Rodan

Issue 1: Should the Commission grant Tampa Electric Company's motion for reconsideration of Order No. PSC-04-0543-CFO-EI?

Recommendation: No. Tampa Electric's motion for reconsideration fails to identify any point of fact or law that the Prehearing Officer overlooked or failed to consider in rendering the Order.

Issue 2: Should the Commission grant Tampa Electric's motion for reconsideration of Order No. PSC-04-0544-CFO-EI?

Recommendation: Yes. The Order, based on a mistake of fact, erroneously denies confidential classification to information which, if made public, would allow one to calculate the confidential contractual rate for transportation services provided by TECO Transport to Tampa Electric.

Issue 3: Should the Commission grant Tampa Electric's motion for clarification of Order No. PSC-04-0544-CFO-EI?

Recommendation: Yes. The Commission should clarify Order No. PSC-04-0544-CFO-EI as requested in Tampa Electric's motion.

Issue 4: Should this docket be closed?

Recommendation: No. This docket should remain open.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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CASE

10**Docket No. 030443-WS - Application for rate increase in Pasco County by Labrador Utilities, Inc.

Critical Date(s): 8/30/04 (60-day suspension date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: ECR: Merchant, Greene, Willis

GCL: C. Keating

Issue 1: Should the utility's proposed final water and wastewater rates be suspended?

Recommendation: Yes. Labrador's proposed final water and wastewater rates should be suspended.

Issue 2: Should the docket be closed?

Recommendation: No. The docket should remain open pending the Commission's final action on the utility's requested rate increase.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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11**Docket No. 040484-WU - Application for "quick take" amendment of Certificate No. 587-W in Polk County by Florida Water Services Corporation.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Jaber

Staff: ECR: Rieger

GCL: Brown

Issue 1: Should the Commission acknowledge Florida Water's "Quick Take" application to amend Certificate No. 587-W?

Recommendation: Yes. The Commission should acknowledge Florida Water's amendment application to expand its Gibsonia Estates territory. Florida Water should charge the customers in the added territory, as reflected in Attachment A of staff's August 5, 2004 memorandum, the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

Issue 2: Should this docket be closed?

Recommendation: Yes. No further action is required and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

12**Docket No. 980876-WS - Application for certificates to operate a water and wastewater utility in Marion County by Ocala Springs Utilities Inc.

Critical Date(s): None

Commissioners Assigned: Baez, Deason, Davidson

Prehearing Officer: Deason

Staff: GCL: Fleming
ECR: Brady, Rieger

Issue 1: Should the Commission grant Ocala Springs Utilities, Inc.'s Motion for Extension of Time?

Recommendation: Yes. The Commission should grant Ocala Springs Utilities, Inc.'s Motion for Extension of Time. As requested in its motion, the utility should be allowed until April 7, 2005, to file an application to establish initial rates and charges for the utility, along with other supporting information required by Order Nos. PSC-98-1644-FOF-WS and PSC-98-1374-PCO-WS.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending completion of the filing requirements by Ocala Springs Utilities, Inc. and the establishment of initial rates and charges for the utility.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Davidson

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ITEM NO.

CASE

13Docket No. 031125-TP - Complaint against BellSouth Telecommunications, Inc. for alleged overbilling and discontinuance of service, and petition for emergency order restoring service, by IDS Telecom LLC.

Critical Date(s): None

Commissioners Assigned: Deason, Jaber, Davidson

Prehearing Officer: Deason

Staff: GCL: Christensen

CMP: Barrett, Lee

Issue 1: Should the Commission grant BellSouth Telecommunications, Inc.'s Motion for Reconsideration of Order No. PSC-04-0635-PCO-TP?

Recommendation: No. Staff recommends that the Commission deny BellSouth's Motion for Reconsideration of Order No. PSC-04-0635-PCO-TP, issued July 1, 2004.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending further proceedings.

DECISION: This item was withdrawn.

ITEM NO.

CASE

14Docket No. 030623-EI - Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error.

Critical Date(s): None

Commissioners Assigned: Jaber, Bradley, Davidson
Prehearing Officer: Davidson

Staff: GCL: C. Keating
ECR: Floyd, Kummer, Matlock, Wheeler
RCA: Mills, Ruehl

Issue 1: Should the Commission grant SUSI's motion for reconsideration of that portion of Order No. PSC-04-0591-PCO-EI dismissing SUSI as a party to this proceeding?

Recommendation: No. SUSI's motion for reconsideration fails to identify any point of fact or law that the Prehearing Officer overlooked or failed to consider in rendering the order dismissing SUSI as a party.

Issue 2: Should the Commission grant FPL's motion for clarification of Order No. PSC-04-0591-PCO-EI?

Recommendation: Yes. The Commission should clarify Order No. PSC-04-0591-PCO-EI to properly reflect the background of this case with respect to the degree of dispute concerning the accuracy of the meters at issue.

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open.

DECISION: The recommendations were approved.

Commissioners participating: Bradley, Davidson