

**MINUTES OF AUGUST 19, 2003**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:33 a.m.

**ADJOURNED:** 1:20 p.m.

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

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

1Approval of Minutes

July 15, 2003 Regular Commission Conference

DECISION: The minutes were approved.

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

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ITEM NO. \_\_\_\_\_ CASE \_\_\_\_\_

2\*\*Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030515-TX	Phone 1 Smart LLC
030585-TX	RGT Utilities of Florida, Inc.
030606-TX	Jax Telecom Inc.
030639-TX	The Boeing Company

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030640-TC	Global Shredding Technologies, LTD., LLC d/b/a Global Shredding Technologies, LLC

PAA C) Request for cancellation of competitive local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030605-TX	Meridian Telecom, Inc.	06/27/03

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, Bradley, Davidson

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3Docket No. 030346-TP - Petition for declaratory statement that NPCR, Inc. d/b/a Nextel Partners, commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier."

Docket No. 030413-TP - Petition for declaratory statement that ALLTEL Communications, Inc., commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier."  
(Deferred from July 15, 2003 conference.)

Critical Date(s): 7/15/03 - By statute, declaratory statement must be issued or petition denied in Docket No. 030346-TP by this date; in Docket No. 030413-TP, by July 28, 2003. **(Petitioners agreed to toll the time for disposition of the petitions.)**

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley (030346-TP)  
Deason (030413-TP)

Staff: GCL: Moore  
CMP: Dowds

ISSUE 1: Should the Commission issue a declaratory statement?

RECOMMENDATION: Yes. The petitions satisfy the threshold requirements for a declaratory statement.

DECISION: The recommendation was approved. Chairman Jaber and Commissioner Baez dissented.

ISSUE 2: Should the Commission issue a declaratory statement that Nextel and ALLTEL are not subject to the jurisdiction of the Commission for purposes of determining eligibility for Eligible Telecommunications Carrier ("ETC") status pursuant to 47 U.S.C. § 214(e)?

PRIMARY RECOMMENDATION: Yes.

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Docket No. 030346-TP - Petition for declaratory statement that NPCR, Inc. d/b/a Nextel Partners, commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier."

Docket No. 030413-TP - Petition for declaratory statement that ALLTEL Communications, Inc., commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier."

(Continued from previous page)

ALTERNATIVE RECOMMENDATION: No. The Commission should issue a declaratory statement that it has the authority to determine the eligibility of Nextel and ALLTEL for Eligible Telecommunications Carrier ("ETC") status pursuant to 47 U.S.C. s. 214(e).

DECISION: The primary recommendation was approved. Chairman Jaber and Commissioner Baez dissented.

ISSUE 3: Should these dockets be closed?

RECOMMENDATION: Yes. If the Commission votes to dispose of the petitions for declaratory statement, these dockets should be closed.

DECISION: The recommendation was approved.

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

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4\*\*Docket No. 030426-EI - Proposed amendment of Rule 25-6.003,  
F.A.C., Definitions.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: GCL: Stern

ECR: Breman, Hewitt

ISSUE 1: Should the Commission propose amendments to Rule  
25-6.003, Florida Administrative Code, Definitions?

RECOMMENDATION: Yes. The Commission should propose the  
amendments to the rule as shown in the attachment to staff's  
recommendation dated August 7, 2003.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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5\*\*Docket No. 030712-GU - Proposed amendment of Rules 25-7.014, 25-7.015, 25-7.135, and 25-7.1352 and proposed repeal of Rule 25-7.1351, F.A.C.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: GCL: Stern  
ECR: Hewitt, Mailhot

ISSUE 1: Should Rules 25-7.014, 25-7.015, 25-7.135, and 25-7.1352, Florida Administrative Code, be revised, and should Rule 25-7.1351 be repealed?

RECOMMENDATION: Yes. The above listed rules should be revised to update references to the Code of Federal Regulations, to simplify reporting requirements, to eliminate the term 'may,' and to define 'good cause.' Rule 25-7.1351 should be repealed because the simplification of reporting requirements consolidates the report required by this rule (Diversification Report) with the report required by Rule 25-7.135 (Annual Report).

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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6\*\*Docket No. 030575-PU - Proposed amendment to Rule 25-22.032,  
F.A.C., Customer Complaints.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: GCL: Cibula, Gervasi

CAF: DeMello, Tudor

ECR: Hewitt

ISSUE 1: Should the Commission propose the amendment of Rule 25-22.032, Florida Administrative Code, entitled Customer Complaints?

RECOMMENDATION: Yes. The Commission should propose the amendment of Rule 25-22.032, Florida Administrative Code.

ISSUE 2: If no request for hearing or comments are filed, should the proposed rule be filed for adoption with the Secretary of State and the docket closed?

RECOMMENDATION: Yes. The docket should be closed if no request for hearing or comments are filed.

DECISION: The recommendations were approved.

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

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7\*\*PAADocket 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: Deason

Staff: CMP: Simmons, Harvey  
GCL: B. Keating, Dodson

ISSUE 1: How should BellSouth's voluntary Self-Executing Enforcement Mechanism (SEEM) be modified to incorporate the severity of a performance measure failure?

RECOMMENDATION: BellSouth should be required to modify the SEEM plan for Tier 1 and Tier 2 to incorporate the severity of a performance measure failure in the manner recommended in the analysis portion of staff's August 7, 2003 memorandum. BellSouth's modified SEEM plan should be submitted within 60 days from the date of the Order from this recommendation.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendation in Issue 1, the resulting Order will be issued as Proposed Agency Action. The Order will become final upon issuance of a Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. Staff recommends that this Docket should remain open thereafter to address approval of BellSouth's modified SEEM plan filed in response to Issue 1 and to conduct periodic reviews of the Performance Assessment Plan.

DECISION: This item was deferred.



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8\*\*PAADocket No. 020645-TI - Compliance investigation of UKI Communications, Inc. for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, and Toll Provider Selection. (Deferred from October 1, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Davidson

Staff: CMP: Watts  
CAF: Lowery  
GCL: Dodson

ISSUE 1: Should the Commission accept the settlement offer proposed by UKI Communications, Inc. to resolve the apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection?

RECOMMENDATION: Yes. Staff recommends that the Commission accept the company's settlement offer to resolve the apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. UKI should be required to remit all outstanding monies owed for Regulatory Assessment Fees, with the appropriate penalty and interest, within 90 days of the issuance of the Commission's Consummating Order. Additionally, UKI should be required to file a report with the Commission within 120 days of the issuance of the Commission's Consummating Order stating the manner in which UKI has complied with the provisions of its settlement offer and resolved all of the complaints filed against the company. According to its settlement offer, UKI's registration with the Commission, No. TJ327, and its tariff should be canceled, effective 90 days after the issuance of the Consummating Order.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested and UKI complies with its settlement offer,

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8\*\*PAA

Docket No. 020645-TI - Compliance investigation of UKI Communications, Inc. for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, and Toll Provider Selection. (Deferred from October 1, 2002 conference; revised recommendation filed.)

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this docket should be closed administratively. If UKI fails to pay the Regulatory Assessment Fees owed, with penalty and interest, within 90 days of the issuance of the Consummating Order, or fails to file a report with the Commission within 120 days of the issuance of the Consummating Order to demonstrate that it has complied with its settlement offer and that it has resolved all of the complaints filed against the company, this docket should remain open pending further proceedings.

DECISION: The recommendations were approved.

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

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9\*\*PAADocket No. 030696-TI - Compliance investigation of 9278  
Communications, Inc. for apparent violation of Sections  
364.02 and 364.04, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Buys  
GCL: Rojas

ISSUE 1: Should the Commission impose a \$25,000 penalty upon  
9278 Communications, Inc. for its apparent violation of  
Sections 364.02(13) and 364.04, Florida Statutes, to be paid  
to the Florida Public Service Commission within fourteen  
calendar days after the issuance of the Consummating Order?

RECOMMENDATION: Yes. If 9278 Communications, Inc. fails to  
timely protest the Commission's Order, and fails to file a  
tariff and provide the Commission with current contact  
information, the company should also be required to  
immediately cease and desist providing intrastate  
interexchange telecommunications service in Florida upon  
issuance of the Consummating Order until the company files a  
tariff and provides the Commission with current contact  
information.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation  
will become final upon issuance of a Consummating Order,  
unless a person whose substantial interests are affected by  
the Commission's decision files a protest within 21 days of  
the issuance of the Proposed Agency Action Order. If the  
Commission's Order is not protested and the payment of 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 Department of

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9\*\*PAA

Docket No. 030696-TI - Compliance investigation of 9278 Communications, Inc. for apparent violation of Sections 364.02 and 364.04, Florida Statutes.

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Financial Services. This docket should be closed administratively upon either receipt of the payment of the penalty or upon referral of the penalty to the Department of Financial Services.

DECISION: This item was deferred.

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10\*\*PAADocket No. 030410-TI - Compliance investigation of Raven Communications, Inc. for apparent violation of Sections 364.02 and 364.04, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Curry, Buys  
GCL: Rojas

ISSUE 1: Should the Commission impose a \$25,000 penalty upon Raven Communications, Inc. for its apparent violation of Sections 364.02(13) and 364.04, Florida Statutes, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

RECOMMENDATION: Yes. If Raven Communications, Inc. fails to timely protest the Commission's Order, and fails to file a tariff and provide the Commission with current contact information, the company should also be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida upon issuance of the Consummating Order until the company files a tariff and provides the Commission with current contact information.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of the 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. If the Commission's Order is not protested and the payment of 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 Department of

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10**PAA	Docket No. 030410-TI - Compliance investigation of Raven Communications, Inc. for apparent violation of Sections 364.02 and 364.04, Florida Statutes.  (Continued from previous page)  Financial Services. This docket should be closed administratively upon either receipt of the payment of the penalty or upon referral of the penalty to the Department of Financial Services.

DECISION: The recommendations were approved.

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

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11\*\*PAADocket No. 030600-TP - Petition for expedited review of thousands block denial by Number Pooling Administrator and request for grant of safety valve request in 772 NPA for Port St. Lucie rate center, by AT&T Wireless Services of Florida, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: S. B. Brown, Bulecza-Banks, Casey  
GCL: Fordham

ISSUE 1: Should the Commission overturn NeuStar's decision to deny AT&T Wireless' thousands block code request for the Port St. Lucie rate center?

RECOMMENDATION: Yes. The Commission should overturn NeuStar's decision to deny the thousands block request and direct NeuStar to provide AT&T Wireless with the requested numbering resources for the switch (WPBHFLANCM2), in the Port St. Lucie rate center within three business days of notification of the Commission decision.

ISSUE 2: Should Commission Order No. PSC-01-1973-PCO-TL, issued October 4, 2001, and Commission Order No. PSC-02-0352-PAA-TL, issued March 15, 2002, which initiated the PSC's expedited code denial process for 10,000 number and 1,000 number blocks respectively, be expanded to include code denials by CMRS providers?

RECOMMENDATION: Yes. Staff recommends that Commission Order No. PSC-01-1973-PCO-TL, issued October 4, 2001, and Commission Order No. PSC-02-0352-PAA-TL, issued March 15, 2002 should be expanded to allow staff to address NANPA and PA code denials received by CMRS providers.

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11\*\*PAA

Docket No. 030600-TP - Petition for expedited review of thousands block denial by Number Pooling Administrator and request for grant of safety valve request in 772 NPA for Port St. Lucie rate center, by AT&T Wireless Services of Florida, Inc.

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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, Bradley, Davidson



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12\*\*PAADocket No. 030754-TL - Request for approval of adjustment to basic service revenues pursuant to Section 364.051, Florida Statutes, by Verizon Florida Inc.

Critical Date(s): 9/1/03 (effective date of tariff)

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: CMP: Pruitt, Simmons  
GCL: Banks

ISSUE 1: Should the Verizon Florida Inc. tariff filing (T-03-0859) requesting an adjustment of basic service revenues be acknowledged as compliant with Section 364.051, Florida Statutes, as amended?

RECOMMENDATION: Yes. The filing does not exceed the allowed increase in revenues for basic service under Section 364.051(3), Florida Statutes, as amended.

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, Bradley, Davidson

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13\*\*Applications for certificates to provide interexchange telecommunications service.

Docket No. 021149-TI - IntelaOne Communications, Inc.  
Docket No. 021247-TI - Hosting-Network, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Pruitt  
GCL: Teitzman

ISSUE 1: Should Docket No. 021149-TI and Docket No. 021247-TI be closed with no action taken?

RECOMMENDATION: Yes. Both companies in the referenced dockets filed incomplete and inaccurate applications for certification as interexchange telecommunications companies in 2002, and have not provided staff with the information required in Section 364.02, Florida Statutes, as amended by the Act, for registration.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. These dockets should be closed after the issuance of a final order.

DECISION: The recommendations were approved.

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

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14\*\*PAADocket No. 030270-EI - Request for exclusion under Rule 25-6.0455(3), F.A.C., concerning outage events associated with storm on 2/22/03, by Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Davidson

Staff: ECR: Breman, D. Lee, Matlock, McNulty  
GCL: C. Keating, Vining

ISSUE 1: Should the Commission grant Gulf's petition to exclude 96 outage events due to weather-related events on February 22, 2003 from its 2003 Annual Distribution Service Reliability Report?

PRIMARY RECOMMENDATION: No. The weather in Gulf's service area on February 22, 2003 was not so unique to warrant an exclusion similar to the weather events explicitly listed in Rule 25-6.0455(2), Florida Administrative Code.

ALTERNATIVE RECOMMENDATION: Significant and unusual weather occurred on February 22, 2003, causing outages that Gulf could not reasonably have prevented. Gulf's petition should be approved conditioned on Gulf filing its 2003 Annual Distribution Service Reliability Report with and without the requested exclusion to enable assessment of trends in distribution reliability.

DECISION: The alternative recommendation was approved.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest and request for hearing within 21 days of the issuance of the Proposed Agency Action Order.

DECISION: The recommendation was approved.

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

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15\*\*PAADocket No. 030312-EI - Request for exclusion under Rule 25-6.0455(3), F.A.C., for outage events associated with plane crash on 3/8/03, by Gulf Power Company.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: ECR: D. Lee, Breman, Matlock, McNulty  
GCL: C. Keating

ISSUE 1: Should the Commission grant Gulf's petition for exclusion under Rule 25-6.0455(3), Florida Administrative Code, for outage events associated with a plane crash on March 8, 2003?

RECOMMENDATION: Yes. Outage events associated with the March 8 plane crash qualify for exclusion under Rule 25-6.0455(3). Exclusion data should be provided in the Annual Distribution Service Reliability Report to allow a more efficient assessment of the effects of exclusions granted under Rule 25-6.0455(3).

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest and request for hearing within 21 days of the issuance of the Proposed Agency Action Order.

DECISION: The recommendations were approved.

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

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16\*\*PAADocket No. 030557-EU - Petition for emergency variance from or waiver of individual metering requirement of Rule 25-6.049(5)(a), F.A.C., by TL Fontainebleau Tower Limited Partnership, a Florida Limited Partnership, d/b/a Fontainebleau II.

Critical Date(s): 8/19/03 (Statutory time limit waived until this date.)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Baxter, Wheeler  
GCL: Fleming

ISSUE 1: Should the Commission grant Fontainebleau II'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) Fontainebleau II 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) TLFP files a report which shall include the number of units sold and, of those, the number of units entered into the voluntary rental program, within 12 months after the first unit closes; and (3) the waiver is effective only so long as the condominium is operated and licensed as a transient occupancy facility. At such time the condominium is no longer so operated and licensed, Fontainebleau II must immediately inform Florida Power & Light Company (FPL), at which time FPL will install individual meters on the occupancy units. In the event such a conversion to individual metering is required, the Fontainebleau II will be solely responsible for the cost of such conversion.

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16**PAA	Docket No. 030557-EU - Petition for emergency variance from or waiver of individual metering requirement of Rule 25-6.049(5) (a), F.A.C., by TL Fontainebleau Tower Limited Partnership, a Florida Limited Partnership, d/b/a Fontainebleau II.

(Continued from previous page)

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, Bradley, Davidson

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17\*\*Docket No. 030571-EI - Petition for approval of mechanism for governmental recovery of undergrounding fees, by Florida Power & Light Company.

Critical Date(s): 8/23/03 (60-day suspension date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Draper, Slemkewicz  
GCL: Brown

ISSUE 1: Should the Commission approve FPL's proposed Mechanism for Governmental Recovery of Undergrounding Fees tariff?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective on August 19, 2003. 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, Bradley, Davidson

ITEM NO.

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18\*\*Docket No. 030236-WS - Application for transfer of facilities and Certificate Nos. 466-W and 400-S from Pennbrooke Utilities, Inc. to Utilities, Inc. of Pennbrooke, in Lake County.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Davidson

Staff: ECR: Johnson, Jones, Redemann  
GCL: Crosby, Helton

ISSUE 1: Should the transfer of the facilities and Certificate Nos. 466-W and 400-S from PUI to UIP be approved?

RECOMMENDATION: Yes. The transfer of the facilities and Certificate Nos. 466-W and 400-S from PUI to UIP is in the public interest and should be approved. PUI will be responsible for remitting the 2003 regulatory assessment fees (RAFs) associated with revenues collected up to and including the date of the closing. UIP will be responsible for filing an annual report from the date after the closing and forward, and the payment of all regulatory assessment fees associated with revenues collected after the closing. Pursuant to Rule 25-30.037(2)(q), Florida Administrative Code, a warranty deed or evidence that the utility owns or has continued use of the land upon which its facilities are located should be submitted within 60 days of the date of the order issued as a result of the action taken at this agenda conference. A description of the territory being transferred is appended to staff's August 7, 2003 memorandum as Attachment A.

PAA ISSUE 2: What is the rate base of PUI at the time of transfer?

RECOMMENDATION: The rate bases, which for transfer purposes reflect the net book value, are \$413,713 for the water system and \$846,850 for the wastewater system as of April 30, 2003.



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<u>ITEM NO.</u>	<u>CASE</u>
18**	<p>Docket No. 030236-WS - Application for transfer of facilities and Certificate Nos. 466-W and 400-S from Pennbrooke Utilities, Inc. to Utilities, Inc. of Pennbrooke, in Lake County.</p> <p>(Continued from previous page)</p>
PAA	<p><u>ISSUE 3</u>: Should an acquisition adjustment be included in the calculation of rate base?</p> <p><u>RECOMMENDATION</u>: No. Pursuant to Rule 25-30.0371(2), Florida Administrative Code, in the absence of extraordinary circumstances an acquisition adjustment should not be included in rate base.</p> <p><u>ISSUE 4</u>: Should the rates and charges approved for this utility be continued?</p> <p><u>RECOMMENDATION</u>: Yes. UIP should continue charging the rates and charges approved for this utility system until authorized to change by the Commission in a subsequent proceeding. The tariff reflecting the change in ownership should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.</p>
PAA	<p><u>ISSUE 5</u>: Should the Commission approve the wastewater tariff reflecting the reclaimed water class of service for the Pennbrooke Fairways Golf Course?</p> <p><u>RECOMMENDATION</u>: Yes. The utility has filed a wastewater tariff reflecting the reclaimed water class of service at a zero rate for the Pennbrooke Fairways Golf Course, landscape areas and other common areas within the Pennbrooke Fairways Community and roadway medians, where practical. The tariff should be effective for services rendered on or after the stamped approval date of the tariff. The utility should return to the Commission for a determination regarding rates for reclaimed water service prior to providing that service to any other customers.</p>

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18\*\*

Docket No. 030236-WS - Application for transfer of facilities and Certificate Nos. 466-W and 400-S from Pennbrooke Utilities, Inc. to Utilities, Inc. of Pennbrooke, in Lake County.

(Continued from previous page)

ISSUE 6: Should this docket be closed?

RECOMMENDATION: No. Upon expiration of the protest period, this docket should remain open pending receipt of evidence that the utility owns or has continued use of the land upon which its facilities are located. Once the recorded deed has been filed and staff verifies that it satisfies the requirements of Rule 25-30.037(3)(i), Florida Administrative Code, this docket should be closed administratively.

DECISION: The recommendations were approved.

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

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19\*\*Docket No. 030601-SU - Investigation of possible overearnings by North Peninsula Utilities Corporation in Volusia County.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Davidson

Staff: ECR: Iwenjiora  
GCL: Fleming

ISSUE 1: Should the Commission initiate an earnings investigation of North Peninsula Utilities Corporation?

RECOMMENDATION: Yes. The Commission should initiate an investigation of North Peninsula Utilities Corporation to determine potential overearnings.

ISSUE 2: Should any amount of annual wastewater revenues be held subject to refund, and, if so, what is the appropriate amount?

RECOMMENDATION: Yes. North Peninsula should hold annual wastewater revenues of \$10,073 subject to refund.

ISSUE 3: What is the appropriate security to guarantee the amount subject to refund?

RECOMMENDATION: The utility should be required to file a bond, letter of credit, or escrow agreement to guarantee the amount subject to refund. The letter of credit or bond should be in the amount of \$6,768. In lieu of a letter of credit or bond, the utility should obtain an escrow agreement which requires the utility to deposit an amount monthly, as discussed in the analysis portion of staff's memorandum dated August 7, 2003, until completion of the overearnings investigation. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should be required to provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. The utility should be put on notice that failure to comply with these requirements will result in the initiation of a show cause proceeding.

Minutes of  
Commission Conference  
August 19, 2003

<u>ITEM NO.</u>	<u>CASE</u>
19**	Docket No. 030601-SU - Investigation of possible overearnings by North Peninsula Utilities Corporation in Volusia County.  (Continued from previous page)  <u>ISSUE 4</u> : Should this docket be closed? <u>RECOMMENDATION</u> : No. This docket should remain open pending staff's investigation of the utility's earnings for 2002.  <u>DECISION</u> : The recommendations were approved.  Commissioners participating: Jaber, Deason, Baez, Bradley, Davidson

ITEM NO.

CASE

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20Docket No. 020233-EI - Review of GridFlorida Regional  
Transmission Organization (RTO) Proposal. (Issues deferred  
at October 15, 2002 conference; revised recommendation  
filed.)

Critical Date(s): None

Commissioners Assigned: Jaber, Deason, Baez, Bradley (for  
this decision)

Prehearing Officer: Jaber

Staff: GCL: Brubaker, C. Keating

ECR: Ballinger, Bohrmann, Breman, Draper, Floyd,  
Harlow, Hewitt, Kummer, Wheeler

MMS: Bass, Futrell, Buchan, Lowe

ISSUE 1: Should the Commission grant the Office of Public  
Counsel's request for oral argument and Motion for  
Reconsideration of Order No. PSC-02-1199-PAA-EI?

RECOMMENDATION: No. Pursuant to Rule 9.020, Florida Rules  
of Appellate Procedure, Public Counsel's request for oral  
argument and reconsideration should be deemed abandoned by  
the October 3, 2002 filing of its notice of appeal, which  
effectively constitutes disposition of Public Counsel's  
request.

ISSUE 2: Should the Motion for Reconsideration filed by the  
Florida Municipal Group (collectively, Lakeland Electric,  
Kissimmee Utility Authority, Gainesville Regional Utilities,  
and the City of Tallahassee) be granted?

RECOMMENDATION: No. FMG has not identified a point of fact  
or law which was overlooked or which the Commission failed  
to consider in rendering its decision. Therefore, the  
motion for reconsideration should be denied.

ISSUE 3: Should the motion for reconsideration filed by  
Reedy Creek Improvement District be granted?

RECOMMENDATION: No. Reedy Creek has not identified a point  
of fact or law which was overlooked or which the Commission  
failed to consider in rendering its decision. Therefore,  
the motion for reconsideration should be denied.

ISSUE 4: Should the Motion for Reconsideration of Seminole  
Electric Cooperative, Inc. and Calpine Corporation be  
granted?

ITEM NO.

CASE

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Docket No. 020233-EI - Review of GridFlorida Regional Transmission Organization (RTO) Proposal. (Issues deferred at October 15, 2002 conference; revised recommendation filed.)

(Continued from previous page)

RECOMMENDATION: No. Seminole and Calpine's motion for reconsideration with respect to the Attachment T cutoff date should be denied pursuant to Rule 25-22.029, Florida Administrative Code. Furthermore, neither issue raised in the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision. Therefore, the motion for reconsideration should be denied in its entirety.

ISSUE 5: Should the Motion for Clarification or Reconsideration filed by the Florida Municipal Power Agency be granted?

RECOMMENDATION: FMPA's motion should be granted, and the Commission should clarify that the new facilities demarcation date was intended to issue as proposed agency action in Order No. PSC-02-1199-PAA-EI, so that the date could be more fully discussed and examined at the administrative hearing to be scheduled in this docket.

ISSUE 6: Should the motion for reconsideration filed by Progress Energy Florida, Inc. (formerly Florida Power Corporation) be granted?

RECOMMENDATION: Consistent with staff's recommendation in Issue 6, PEFI's motion should be granted and the Commission should clarify that the new facilities demarcation date was intended to issue as proposed agency action in Order No. PSC-02-1199-PAA-EI, so that the date could be more fully discussed and examined at the October 31, 2002 expedited hearing in this docket.

ISSUE 7: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to permit final disposition of this matter.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Deason, Baez, Bradley

Minutes of  
Commission Conference  
August 19, 2003

ITEM NO.

CASE

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21\*\*PAADocket No. 980119-TP - Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc. for violation of the Telecommunications Act of 1996; petition for resolution of disputes as to implementation and interpretation of interconnection, resale and collocation agreements; and petition for emergency relief.

Critical Date(s): None

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

Staff: GCL: B. Keating  
CMP: Harvey, Simmons, Vinson

ISSUE 1: Has BellSouth provided Supra with on-line edit checking capabilities as required in Order No. PSC-98-1001-FOF-TP, and was the capability provided in a timely manner?  
RECOMMENDATION: Yes. The Commission should incorporate the results of the Third-Party OSS Test conducted in Docket No. 960786B-TL into this record, as contemplated by Order No. PSC-00-1777-PCO-TP. Based on this additional evidence, the Commission should find that BellSouth has provided on-line edit checking capability as required by Order No. PSC-98-1001-FOF-TP in a timely manner.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this Docket should be closed upon issuance of a Consummating Order if no person whose substantial interests are affected files a timely protest of the Commission's Proposed Agency Action Order resulting from this recommendation within 21 days of issuance of the Order.

DECISION: This item was deferred.