

MINUTES OF

COMMISSION CONFERENCE, TUESDAY, AUGUST 29, 2000

COMMENCED: 9:30 a.m.

ADJOURNED: 12:30 p.m.

COMMISSIONERS PRESENT: Chairman Deason
Commissioner Jacobs
Commissioner Jaber

1 Consent Agenda

A) Applications for certificates to provide pay telephone service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
001046-TC	VEGO, Inc.
000839-TC	TeleVend, Inc.
001065-TC	Sam Benny Wesley II

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
000510-TX	Enkido, Inc.
000519-TX	WorkNet Communications Inc.

C) Applications for certificates to provide interexchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
000736-TI	PT-1 Counsel Inc.
000706-TI	Ntegrity Telecontent Services Inc.

D) Requests for cancellation of interexchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
000890-TI	Thrifty Call, Inc.
000891-TI	ATN Communications Incorporated

E) DOCKET NO. 000918-TX - Request for cancellation of Alternative Local Exchange Telecommunications Certificate

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No. 5286 by Quincy Telephone Company d/b/a TDS
TELECOM/Quincy Telephone, effective 7/21/00.

- F) DOCKET NO. 000923-TP - Request for approval of transfer of, and change in name on, IXC Certificate No. 5185 from Quentel Communications, Inc. to Palm Beach Telephone Company, and for approval to cancel ALEC Certificate No. 5184 held by Quentel Communications, Inc.
- G) DOCKET NO. 000725-TP - Request by BellSouth Telecommunications, Inc. for approval of paging agreement with Tidal Communications, Inc.
(Critical Date: 9/18/00)
- H) DOCKET NO. 000886-TP - Petition by Sprint-Florida, Incorporated for approval of interconnection agreement with GTE Wireless of the South Incorporated (f/k/a GTE Mobilnet of Tampa, Inc.).
(Critical Date: 10/17/00)
- I) Requests for approval of resale agreements.
- DOCKET NO. 000726-TP - BellSouth Telecommunications, Inc. with USA Telecom, Inc.
(Critical Date: 9/18/00)
- DOCKET NO. 000771-TP - BellSouth Telecommunications, Inc. with USA Quick Phone, Inc.
(Critical Date: 9/24/00)
- J) Requests for approval of interconnection, unbundling, resale, and collocation agreements.
- DOCKET NO. 000727-TP - BellSouth Telecommunications, Inc. with BroadBand Office Communications, Inc.
(Critical Date: 9/17/00)
- DOCKET NO. 000728-TP - BellSouth Telecommunications, Inc. with Intercontinental

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- Communications Group, Inc. d/b/a
Fusion Telecom
(Critical Date: 9/17/00)
- DOCKET NO. 000729-TP - BellSouth Telecommunications, Inc.
with FairPoint Communications
Corp.
(Critical Date: 9/17/00)
- DOCKET NO. 000730-TP - BellSouth Telecommunications, Inc.
with Access Integrated Networks,
Inc.
(Critical Date: 9/17/00)
- K) DOCKET NO. 000772-TP - Petition by Sprint-Florida,
Incorporated for approval of interconnection and resale
agreement with Pathnet, Inc. d/b/a Pathnet
Communications, Inc.
(Critical Date: 9/24/00)
- L) Requests for approval of amendments to interconnection
and resale agreements.
- DOCKET NO. 000754-TP - Sprint-Florida, Incorporated with
NorthPoint Communications, Inc.
(Critical Date: 9/18/00)
- DOCKET NO. 000755-TP - Sprint-Florida, Incorporated with
Rhythms Links Inc.
(Critical Date: 9/18/00)

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<u>ITEM NO.</u>	<u>CASE</u>
1	Consent Agenda (Continued from previous page) M) Requests for approval of amendments to interconnection, unbundling and resale agreements. DOCKET NO. 000884-TP - BellSouth Telecommunications, Inc. with KMC Telecom, Inc.; KMC Telecom II, Inc.; KMC Telecom III, Inc., and KMC Telecom IV, Inc. (Critical Date: 10/17/00) DOCKET NO. 000885-TP - BellSouth Telecommunications, Inc. with AT&T Communications of the Southern States, Inc. d/b/a AT&T (Critical Date: 10/17/00)

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

DECISION: The recommendation was deferred with the exception of Docket No. 000890-TI, Item 1D, which was deferred.

Commissioners participating: Deason, Jacobs, Jaber

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DOCKET NO. 000816-TP - Request for declaratory statement that planned service to provide National Directory Assistance via an 800 number to residential and business customers in Florida for a charge does not fall under the Commission's regulatory provisions, by eData.com, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer JC

Staff: APP: Helton
CMP: Moses, Simmons
RGO: Gilchrist

Issue 1: Should the Commission acknowledge eData.com's voluntary dismissal of its request for declaratory statement?

Recommendation: Yes. eData.com's voluntary dismissal divests the Commission of jurisdiction over this matter. The only further action the Commission can take is to acknowledge the dismissal and close the docket.

Issue 2: Should this docket be closed?

Recommendation: Yes.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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3 DOCKET NO. 000717-GU - Petition for authority to implement contract transportation service by City Gas Company of Florida.

Critical Date(s): None (Company waived the suspension date.)

Commissioners Assigned: Full Commission
Prehrg Officer JB

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

Issue 1: Should the Commission approve City Gas Company of Florida's petition for authority to implement contract transportation service?

Recommendation: Yes. The Commission should approve City Gas Company of Florida's petition for authority to implement contract transportation service, effective thirty days after the Commission vote.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no protest is filed 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: Deason, Jacobs, Jaber

<u>ITEM NO.</u>	<u>CASE</u>
4	DOCKET NO. 000721-EG - Petition by Florida Public Utilities Company for approval of new energy conservation programs for natural gas customers.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMP: S. Brown, Bulecza-Banks
LEG: Isaac

Issue 1: Should the Commission approve all of FPUC's conservation programs?

Recommendation: No. The Commission should only approve Full House Residential New Construction Program, Residential Appliance Replacement Program, Residential Appliance Retention Program, Residential Service Reactivation Program, Residential Conservation Service Program, Commercial Conservation Program, Space Conditioning Program, and Conservation Education Program. Staff believes the following programs should be denied because no cost/benefit analyses were conducted to determine whether or not the program would be cost-effective for conservation: Commercial Equipment Replacement Program, On-Site Power Generation Program, Residential Propane Appliance Conservation Program, Commercial Propane Equipment Conversion Program and Dealer Program.

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 proposed agency action files a protest within 21 days of the issuance of the order. If a protest is filed within the 21 days from the issuance of the order, the programs should not be implemented until after resolution of the protest.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
5	<p>DOCKET NO. 000779-TL - Request for temporary waiver of physical collocation in the Perdido Bay Central Office by BellSouth Telecommunications, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: CMP: Fulwood LEG: Banks</p> <p><u>Issue 1</u>: Should BellSouth's Request for Temporary Waiver of Physical Collocation Requirements in the Perdido Bay central office be granted? <u>Recommendation</u>: Yes. BellSouth's Request for Temporary Waiver of Physical Collocation Requirements in the Perdido Bay central office should be granted until December 31, 2002, or until construction of the building addition is completed, whichever is earlier.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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6 DOCKET NO. 000760-TC - Request for exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls, by BellSouth Public Communications, Inc.

Critical Date(s): 9/20/00 (statutory deadline)

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMP: Isler
LEG: Vaccaro

Issue 1: Should the Commission grant the provider listed on page 4 of staff's August 17, 2000 memorandum an exemption from the requirement that each telephone station shall allow incoming calls for the pay telephone numbers at the addresses listed?

Recommendation: Yes.

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 within 21 days of the issuance of the proposed agency action order.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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7 DOCKET NO. 000711-TC - Request for exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls, by Goran Dragoslavic d/b/a First American Telecommunications Corporation.

Critical Date(s): 9/11/00 (statutory deadline)

Commissioners Assigned: Full Commission
Prehrg Officer JB

Staff: CMP: Isler
LEG: Knight

Issue 1: Should the Commission grant the provider listed on page 4 of staff's memorandum dated August 17, 2000, an exemption from the requirement that each telephone station shall allow incoming calls for the pay telephone number at the address listed?

Recommendation: Yes.

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 within 21 days of the issuance of the proposed agency action order.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
8	<p>Requests for exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls.</p> <p>DOCKET NO. 000745-TC - Sprint Payphone Services, Inc. DOCKET NO. 000815-TC - Sprint-Florida, Incorporated</p> <p>Critical Date(s): 9/18/00 and 10/2/00, respectively (statutory deadlines)</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: CMP: Isler LEG: Dandelake</p> <p><u>Issue 1</u>: Should the Commission grant each of the providers listed on page 5 of staff's memorandum dated August 17, 2000, an exemption from the requirement that each telephone station shall allow incoming calls for the pay telephone numbers at the addresses listed? <u>Recommendation</u>: Yes.</p> <p><u>Issue 2</u>: Should these dockets be closed? <u>Recommendation</u>: Yes. These dockets 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 within 21 days of the issuance of the proposed agency action order. A protest in one docket should not prevent the action in a separate docket from becoming final.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Deason, Jacobs, Jaber</p>

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9 DOCKET NO. 000763-TC - Request for exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls, by BellSouth Public Communications, Inc.

Critical Date(s): 9/21/00 (statutory deadline)

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMP: Isler
LEG: Fordham

Issue 1: Should the Commission grant the provider listed on page 4 of staff's memorandum dated August 17, 2000, an exemption from the requirement that each telephone station shall allow incoming calls for the pay telephone numbers at the addresses listed?

Recommendation: Yes.

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 within 21 days of the issuance of the proposed agency action order.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
10	<p>DOCKET NO. 992038-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 4769 issued to Easy Phone, Inc. d/b/a Easy Tel, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer - Pending</p> <p>Staff: CMP: Isler LEG: K. Peña, B. Keating</p> <p><u>Issue 1</u>: Should the Commission accept the settlement offer proposed by Easy Phone, Inc. d/b/a Easy Tel, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?</p> <p><u>Recommendation</u>: Yes. The Commission should accept the company's 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 the company fails to pay in accordance with the terms of the Commission Order, the company's Certificate No. 4769 should be cancelled administratively.</p> <p><u>Issue 2</u>: Should this docket be closed?</p> <p><u>Recommendation</u>: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
11	<p>DOCKET NO. 992039-TI - Cancellation by Florida Public Service Commission of IXC Certificate No. 4773 issued to Easy Phone, Inc. d/b/a Easy Tel, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer - Pending</p> <p>Staff: CMP: Isler LEG: K. Peña, B. Keating</p> <p><u>Issue 1</u>: Should the Commission accept the settlement offer proposed by Easy Phone, Inc. d/b/a Easy Tel, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?</p> <p><u>Recommendation</u>: Yes. The Commission should accept the company's 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 the company fails to pay in accordance with the terms of the Commission Order, the company's Certificate No. 4773 should be cancelled administratively.</p> <p><u>Issue 2</u>: Should this docket be closed?</p> <p><u>Recommendation</u>: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

ITEM NO.

CASE

12 DOCKET NO. 000218-TX - Initiation of show cause proceedings against Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone 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: Caldwell
CMP: M. Watts

Issue 1: Should the Commission accept ATSI's offer of settlement to resolve the apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records, in lieu of cancellation of its certificate, and refer ATSI to the appropriate authority for disposition of its apparent violation of Section 837.06, Florida Statutes?

Recommendation: Yes. The Commission should accept the company's settlement proposal and refer the company to the appropriate authority for disposition of the apparent violation of Section 837.06, Florida Statutes. Any contribution should be received by the Commission within ten business days from the issuance date of the Commission's 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 pursuant to Section 364.285 (1), Florida Statutes. If the company fails to pay in accordance with the terms of the settlement offer, the company's certificate should be canceled, and this docket should be closed. Whether or not the company meets the terms of the settlement offer, or if the Commission accepts or rejects the settlement offer, the Commission should refer ATSI to the appropriate authority for apparent violation of Section 837.06, Florida Statutes, within 30 days from the issuance date of the Commission's Order. No precedent will be established by the Commission due to acceptance of a settlement in this case.

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<u>ITEM NO.</u>	<u>CASE</u>
12	DOCKET NO. 000218-TX - Initiation of show cause proceedings against Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone 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 \$25,000 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, the company's certificate should be canceled, and this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

ITEM NO.

CASE

13 DOCKET NO. 001146-EI - Investigation into 1999 earnings of Florida Public Utilities Company - Marianna Division.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer - Pending

Staff: ECR: Revell, D. Draper, C. Romig
LEG: Hart

Issue 1: What is the appropriate amount of rate base for Florida Public Utilities Company-Marianna Division for determining the amount of excess earnings for 1999?

Recommendation: The appropriate rate base for the Marianna Division for 1999 is \$12,551,895.

Issue 2: What is the appropriate overall rate of return for Florida Public Utilities Company-Marianna Division for 1999?

Recommendation: The appropriate overall rate of return is 8.51% based on the ROE cap of 11.85% and a 13-month average capital structure for the period ending December 31, 1999.

Issue 3: What is the appropriate net operating income for Florida Public Utilities Company-Marianna Division for determining the amount of excess earnings for 1999?

Recommendation: The appropriate net operating income for the Marianna Division for 1999 is \$1,073,368.

Issue 4: What is the amount of excess earnings for Florida Public Utilities Company-Marianna Division for 1999?

Recommendation: The total amount of excess earnings for the Marianna Division for 1999 is \$8,340 plus interest of \$221.

Issue 5: What is the appropriate disposition of the 1999 excess earnings for Florida Public Utilities Company-Marianna Division?

Recommendation: The total amount of 1999 excess earnings of \$8,561, including interest, should be contributed to Marianna's Storm Damage Reserve. The booking of this amount should be effective as of January 1, 2000, for rate making, earnings surveillance, and overearnings review purposes.

Issue 6: Should the Company's Storm Damage Reserve ceiling of \$1,000,000 be increased?

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<u>ITEM NO.</u>	<u>CASE</u>
13	<p>DOCKET NO. 001146-EI - Investigation into 1999 earnings of Florida Public Utilities Company - Marianna Division.</p> <p>(Continued from previous page)</p> <p><u>Recommendation</u>: Yes. The Storm Damage Reserve ceiling for FPUC-M should be raised from \$1,000,000 to \$1,400,000.</p> <p><u>Issue 7</u>: Should Florida Public Utilities-Marianna Division be allowed the flexibility to increase its annual accrual above the present \$100,000 yearly accrual until the accumulated provision account balance reaches \$1,400,000?</p> <p><u>Recommendation</u>: Yes. Effective January 1, 2000, FPUC-M should be allowed to increase its annual accrual above the present \$100,000 yearly accrual until the accumulated provision account balance reaches \$1,400,000.</p> <p><u>Issue 8</u>: Should this docket be closed?</p> <p><u>Recommendation</u>: Yes. If no person whose interests are substantially affected by the proposed action files a request for a Section 120.57(1), Florida Statutes, hearing within 21 days of the Order, the Order will become final and effective upon the issuance of a consummating order. Because no further action will be required, this docket should be closed.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

<u>ITEM NO.</u>	<u>CASE</u>
14	<p>DOCKET NO. 001147-EI - Investigation into 1999 earnings of Florida Public Utilities Company - Fernandina Beach Division.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer - Pending</p> <p>Staff: ECR: Revell, D. Draper, C. Romig LEG: Hart</p> <p><u>Issue 1:</u> What is the appropriate amount of rate base for Florida Public Utilities Company-Fernandina Beach Division for determining the amount of excess earnings for 1999? <u>Recommendation:</u> The appropriate rate base for FPUC-FB for determining the amount of excess earnings for 1999 is \$16,009,272.</p> <p><u>Issue 2:</u> What is the appropriate overall rate of return for Florida Public Utilities Company-Fernandina Beach Division for 1999? <u>Recommendation:</u> The appropriate overall rate of return is 8.94% based on the ROE cap of 12.60% and a 13-month average capital structure for the period ending December 31, 1999.</p> <p><u>Issue 3:</u> What is the appropriate net operating income (NOI) for Florida Public Utilities Company-Fernandina Beach Division for determining the amount of excess earnings for 1999? <u>Recommendation:</u> The appropriate NOI for FPUC-FB for determining excess earnings for 1999 is \$1,570,375.</p> <p><u>Issue 4:</u> What is the amount of excess earnings for Florida Public Utilities Company-Fernandina Beach Division for 1999? <u>Recommendation:</u> The amount of excess earnings for FPUC-FB for 1999 is \$223,094 plus interest of \$5,919, for a total of \$229,012.</p> <p><u>Issue 5:</u> What is the appropriate disposition of the 1999 excess earnings of Florida Public Utilities Company-Fernandina Beach Division? <u>Recommendation:</u> The total amount of 1999 excess earnings of \$223,094 plus interest of \$5,919, should be applied to FPUC-FB's Storm Damage Reserve. The effective date for booking the over earnings should be January 1, 2000, for rate</p>

<u>ITEM NO.</u>	<u>CASE</u>
14	<p>DOCKET NO. 001147-EI - Investigation into 1999 earnings of Florida Public Utilities Company - Fernandina Beach Division.</p> <p>(Continued from previous page)</p> <p>making, earnings surveillance, and overearnings review purposes.</p> <p><u>Issue 6:</u> Should a ceiling of \$1,500,000 be established for Florida Public Utilities-Fernandina Beach Division's Storm Damage Reserve?</p> <p><u>Recommendation:</u> Yes. The Storm Damage Reserve ceiling for FPUC-FB should be established at \$1,500,000.</p> <p><u>Issue 7:</u> Should Florida Public Utilities-Fernandina Beach Division be allowed the flexibility to increase its annual accrual above the present \$21,625 yearly accrual until the accumulated provision account balance reaches \$1,500,000?</p> <p><u>Recommendation:</u> Yes. Effective January 1, 2000, FPUC-FB should be allowed to increase its annual accrual above the present \$21,625 yearly accrual until the accumulated provision account balance reaches \$1,500,000.</p> <p><u>Issue 8:</u> Should this docket be closed?</p> <p><u>Recommendation:</u> Yes. If no person whose interests are substantially affected by the proposed action files a request for a Section 120.57(1), Florida Statutes, hearing within 21 days of the Order, the Order will become final and effective upon the issuance of a consummating order. Because no further action will be required, this docket should be closed.</p>

DECISION: This item was deferred to the September 26, 2000 Commission Conference.

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<u>ITEM NO.</u>	<u>CASE</u>
15	<p>DOCKET NO. 991695-EI - Request by Florida Power Corporation for authority to establish a regulatory liability to defer 1999 earnings for disposition in 2000.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer JB</p> <p>Staff: ECR: Slemkewicz, Kummer LEG: C. Keating</p> <p><u>Issue 1:</u> Should the Commission grant Florida Power Corporation's motion for an extension of time to file a proposal for the disposition of the deferred 1999 earnings by October 2, 2000?</p> <p><u>Recommendation:</u> Yes. The motion for an extension of time to file a proposal for the disposition of the deferred 1999 earnings by October 2, 2000, should be granted. However, if a proposal is not filed by that date, FPC should be directed to immediately apply the deferred 1999 earnings, plus interest, against the Tiger Bay regulatory asset.</p> <p><u>Issue 2:</u> Should this docket be closed?</p> <p><u>Recommendation:</u> No. This docket should remain open pending the review of any proposal timely filed by FPC for the final disposition of the deferred 1999 earnings. However, if FPC does not file a proposal by October 2, 2000, this docket should be administratively closed.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

ITEM NO.

CASE

16 DOCKET NO. 000715-SU - Investigation of possible overearnings by North Peninsula Utilities Corporation in Volusia County.

Critical Date(s): 10/29/00 (90-day waiver received for 15-month refund of index and pass-through adjustment.)

Commissioners Assigned: Full Commission
Prehrig Officer ADM

Staff: ECR: Casey, Rendell
LEG: Fudge

Issue 1: What is the appropriate average amount of test year rate base?

Recommendation: The appropriate average amount of test year rate base for North Peninsula should be \$157,769.

Issue 2: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

Recommendation: The appropriate rate of return on equity for North Peninsula should be 9.94% with a range of 8.94% - 10.94% and the appropriate overall rate of return should be 8.91%.

Issue 3: What is the appropriate test year operating revenue?

Recommendation: The appropriate test year operating revenue should be \$161,195.

Issue 4: What is the appropriate amount of operating expense?

Recommendation: The appropriate amount of operating expense should be \$134,793.

Issue 5: What is the appropriate test year revenue requirement?

Recommendation: The appropriate test year revenue requirement should be \$148,851.

Issue 6: Did North Peninsula earn in excess of its authorized rate of return for the test year ended December 31, 1998?

Recommendation: Yes. The Commission should recognize \$12,344 of 1998 revenue which exceeds North Peninsula's recommended authorized rate of return of 8.91%.

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DOCKET NO. 000715-SU - Investigation of possible overearnings by North Peninsula Utilities Corporation in Volusia County.

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Issue 7: Should the utility be ordered to refund the price index and pass-through rate adjustments which were implemented in 1998?

Recommendation: Yes. The index and pass-through rate adjustment which contributed to utility overearnings in 1998 should be refunded with interest. The refund for 1998 is \$2,824 before assessment of interest. This refund should be made with interest in accordance with Rule 25-30.360 (4), Florida Administrative Code, within 90 days of the effective date of the Order. The utility should be required to submit the proper refund reports pursuant to Rule 25-30.360 (7), Florida Administrative Code. The refund should be made to customers of record as of the date of the Order, pursuant to Rule 25-30.360(3), Florida Administrative Code. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), Florida Administrative Code.

Issue 8: Should the utility be ordered to show cause, in writing within 21 days, why it should not be fined up to \$5,000 per day for collecting charges not approved by the Commission in apparent violation of Sections 367.081(1) and 367.091(3), Florida Statutes?

Recommendation: No. Show cause proceedings should not be initiated. However, the utility should be ordered to refund \$10,500 of unapproved service availability charges collected in 1996, and provide proof to the Commission that the refunds have been completed. These refunds should be made with interest in accordance with Rule 25-30.360 (4), Florida Administrative Code, within 90 days of the effective date of the Order. The utility should also be admonished that, pursuant to Sections 367.081(1) and 367.091(3), Florida Statutes, it may only charge rates and charges approved by the Commission.

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<u>ITEM NO.</u>	<u>CASE</u>
16	DOCKET NO. 000715-SU - Investigation of possible overearnings by North Peninsula Utilities Corporation in Volusia County. (Continued from previous page) <u>Issue 9:</u> Should this docket be closed? <u>Recommendation:</u> No. If no person whose interests are substantially affected by the proposed action files a protest within the 21-day protest period, the Commission's decision will become final and effective upon the issuance of a Consummating Order. However, this docket should remain open in order for staff to verify that the utility has completed the required refunds, after which time, this docket should be closed administratively.

DECISION: The recommendations were approved with a modification to Issue 8 that a refund will not be required; charges will instead be credited to CIAC. The portion of Issue No. 8 not related to refund is not proposed agency action; the remainder of Issue No. 8 is proposed agency action.

Commissioners participating: Deason, Jacobs, Jaber

ITEM NO.

CASE

17 DOCKET NO. 000348-TI - Investigation and determination of appropriate method for refunding interest and overcharges on intrastate 0+ calls made from pay telephones and in a call aggregator context by Business Telecom, Inc. d/b/a BTI.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer JB

Staff: LEG: Knight
CMP: M. Watts

Issue 1: Should the Commission accept Business Telecom, Inc. d/b/a BTI's offer of refund and refund calculation of \$2,168.60, plus interest of \$184.70, for a total of \$2,353.30, for overcharging customers for 0+ intrastate toll calls placed from pay telephones and in call aggregator contexts between February 26, 1999, and January 12, 2000?

Recommendation: Yes. The Commission should accept BTI's calculation of \$2,168.60, adding interest of \$184.70, for a total of \$2,353.30, and proposal to credit customer bills beginning November 1, 2000, and ending November 30, 2000, for overcharging customers for 0+ intrastate toll calls placed from pay telephones and in call aggregator contexts between February 26, 1999, and January 12, 2000. The refunds should be made through credits to customers' bills beginning November 1, 2000. At the end of the refund period, any amount not refunded, including interest, should be remitted to the Commission and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. BTI should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by February 2, 2001. If the company fails to issue the refunds in accordance with the terms of the Commission's Order, the company's certificate should be canceled, and this docket should be closed.

Issue 2: Should Business Telecom, Inc. d/b/a BTI be required to show cause why it should not pay a fine for over billing of calls in excess of the rate cap established in

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<u>ITEM NO.</u>	<u>CASE</u>
17	DOCKET NO. 000348-TI - Investigation and determination of appropriate method for refunding interest and overcharges on intrastate 0+ calls made from pay telephones and in a call aggregator context by Business Telecom, Inc. d/b/a BTI.

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Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements?

Recommendation: No. Staff does not believe that BTI's conduct rises to the level that warrants an Order to Show Cause.

Issue 3: Should this docket be closed?

Recommendation: No. If no person whose interests are substantially affected by the proposed action 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. This docket should, however, remain open pending the completion of the refund and receipt of the final report on the refund, or cancellation of the certificate. After completion of the refund and receipt of the final report or cancellation of the company's certificate, this docket may be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
18	<p>DOCKET NO. 000262-TP - Petition by BellSouth Telecommunications, Inc. for Section 252(b) arbitration of a resale agreement with NOW Communications, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer DS</p> <p>Staff: LEG: Vaccaro CMP: Barrett</p> <p><u>Issue 1</u>: Should the Commission grant BellSouth Telecommunications, Inc.'s Motion for Withdrawal of Petition for Arbitration? <u>Recommendation</u>: Yes. The Commission should grant BellSouth Telecommunications, Inc.'s Motion for Withdrawal of Petition for Arbitration. Further, BellSouth's motion renders NOW's motions moot.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. If Issue 1 is approved, the docket should be closed.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
19	<p>DOCKET NO. 000183-SU - Petition for limited proceeding to recover increase in cost of meter reading data in Highlands County by Highlands Utilities Corporation.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer - Pending</p> <p>Staff: LEG: Brubaker ECR: Merchant, Quijano</p> <p><u>Issue 1</u>: Should Highlands Utilities Corporation's withdrawal of its request for a limited proceeding be acknowledged, and should the corresponding filing fee be refunded? <u>Recommendation</u>: Yes, Highlands' withdrawal of its request for a limited proceeding should be acknowledged. Further, the corresponding filing fee in the amount of \$1,000 should be refunded.</p> <p><u>Issue 2</u>: Should the docket be closed? <u>Recommendation</u>: Yes. If the Commission votes to approve staff's recommendation in Issue 1, then no further action is required and the docket should be closed.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Deason, Jacobs, Jaber</p>

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ITEM NO.

CASE

20

DOCKET NO. 000630-TI - Initiation of show cause proceedings against NOS Communications, Inc. d/b/a International Plus d/b/a 011 Communications d/b/a The Internet Business Association for violation of Rules 25-24.485, F.A.C., Tariffs, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated.

DOCKET NO. 000631-TI - Initiation of show cause proceedings against NOSVA Limited Partnership for violation of Rules 25-24.485, F.A.C., Tariffs, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated.

DOCKET NO. 000632-TI - Initiation of show cause proceedings against Affinity Network, Inc. d/b/a QuantumLink Communications d/b/a HorizonOne Communications for violation of Rules 25-24.485, F.A.C., Tariffs, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated. (Deferred from the July 11, 2000 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: RGO: Bates
CAF: C. Peña
CMP: Simmons
LEG: Fordham

Issue 1: Should the Commission order NOS and its affiliated companies to show cause within 21 days of the issuance of the Commission's Order why each company should not be required to pay a fine in the amount of \$100,000 or have its respective certificates canceled for violation of Rule 25-24.485, Florida Administrative Code?

Recommendation: Yes. The Commission should order NOS and its affiliated companies to show cause in writing within 21 days of the issuance of the Commission's Order why they should not be required to pay a fine in the amount of \$100,000 each or have their respective certificates canceled for violation of Rule 25-24.485, Florida Administrative Code. Each company's response should contain specific allegations of fact and law. If any company fails to respond to the show cause order, or request a hearing

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- 20 DOCKET NO. 000630-TI - Initiation of show cause proceedings against NOS Communications, Inc. d/b/a International Plus d/b/a 011 Communications d/b/a The Internet Business Association for violation of Rules 25-24.485, F.A.C., Tariffs, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated.
- DOCKET NO. 000631-TI - Initiation of show cause proceedings against NOSVA Limited Partnership for violation of Rules 25-24.485, F.A.C., Tariffs, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated.
- DOCKET NO. 000632-TI - Initiation of show cause proceedings against Affinity Network, Inc. d/b/a QuantumLink Communications d/b/a HorizonOne Communications for violation of Rules 25-24.485, F.A.C., Tariffs, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated. (Deferred from the July 11, 2000 Commission Conference.)

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pursuant to Chapter 120, Florida Statutes, within the 21-day response period and the fine is not paid within 10 business days after the conclusion of the 21-day period, the facts should be deemed admitted, and the right to a hearing waived. Thus, the Company's respective certificates should be canceled. If the fine is paid, it should be remitted by the Commission to the State of Florida General Revenue Fund, pursuant to Section 364.285, Florida Statutes.

Issue 2: Should these dockets be closed?

Recommendation: If staff's recommendation in Issue 1 is approved, NOS and its affiliated companies will have 21 days from the issuance of the Commission's show cause order to respond in writing why they should not be fined in the amount proposed, or, if the fine is not paid, have their certificates revoked. If the Companies timely respond to the show cause order, these dockets should remain open pending resolution of the show cause proceeding. If the Companies do not respond to the Show Cause Order, the fines should be deemed assessed. Staff recommends that if the Companies fail to respond to the Order to Show Cause, and the fines are not received within 10 business days after the expiration of the show cause response period, then the Companies' certificates should be revoked. These dockets can

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<u>ITEM NO.</u>	<u>CASE</u>
20	<p>DOCKET NO. 000630-TI - Initiation of show cause proceedings against NOS Communications, Inc. d/b/a International Plus d/b/a 011 Communications d/b/a The Internet Business Association for violation of Rules 25-24.485, F.A.C., Tariffs, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated.</p> <p>DOCKET NO. 000631-TI - Initiation of show cause proceedings against NOSVA Limited Partnership for violation of Rules 25-24.485, F.A.C., Tariffs, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated.</p> <p>DOCKET NO. 000632-TI - Initiation of show cause proceedings against Affinity Network, Inc. d/b/a QuantumLink Communications d/b/a HorizonOne Communications for violation of Rules 25-24.485, F.A.C., Tariffs, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated. (Deferred from the July 11, 2000 Commission Conference.)</p>

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then be closed administratively. If after reasonable efforts the Commission is unable to collect the fine, then it should be forwarded to the Comptroller's Office for collection.

DECISION: This item was deferred to the September 26, 2000 Commission Conference.

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<u>ITEM NO.</u>	<u>CASE</u>
21	<p>DOCKET NO. 000366-TX - Application for certificate to provide alternative local exchange telecommunications service by Deland Actel, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: RGO: Williams LEG: Dandelake</p> <p><u>Issue 1</u>: Should the Commission acknowledge Actel Integrated Communications, Inc.'s withdrawal of the protest of Order No. PSC-00-1145-PAA-TX, issued June 23, 2000?</p> <p><u>Recommendation</u>: Yes. The Commission should acknowledge the withdrawal of the protest, reinstate Order No. PSC-00-1145-PAA-TX as a final order effective the date of the Commission's vote on the recommendation, and close the docket.</p>

DECISION: The recommendation was approved.

Commissioners participating: Deason, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
22	<p>DOCKET NO. 000579-TX - Request for approval of capital stock purchase of Max-Tel Communications, Inc. d/b/a Florida's Max-Tel Communications, Inc. (holder of ALEC Certificate No. 5292) by Equalnet Communications Corp.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: RGO: T. Williams LEG: Banks</p> <p><u>Issue 1</u>: Should Order No. PSC-00-1248-PAA-TX, issued July 10, 2000, in Docket No. 000579-TX be vacated? <u>Recommendation</u>: Yes.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. This docket should be closed upon issuance of the Commission's vacating order.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

ITEM NO.

CASE

23

DOCKET NO. 000363-WS - Notice of appointment of Polk County as substitute receiver for Skyview Utilities Receivership in Polk County and cancellation of Certificates Nos. 596-W and 511-S.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer DS

Staff: RGO: Brady
ECR: Tiffany Davis
LEG: Cibula

Issue 1: Should Skyview Utilities Receivership be ordered to show cause in writing, within 21 days, why it should not remit a penalty of \$3.00 per day for its apparent violation of Rule 25-30.110, Florida Administrative Code, for failure to timely file its 1996 and 1997 annual reports?

Recommendation: No. A show cause proceeding should not be initiated.

Issue 2: Should the Commission acknowledge the appointment of Polk County as substitute receiver for Skyview Utilities Receivership and cancel Certificates Nos. 596-W and 511-S?

Recommendation: Yes. The Commission should acknowledge the appointment of Polk County as the substitute receiver for Skyview Utilities Receivership effective October 12, 1998. Certificates Nos. 596-W and 511-S should be canceled.

Issue 3: Should this docket be closed?

Recommendation: Yes. If the Commission accepts staff's recommendation in Issues 1 and 2, no further action is required and this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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ITEM NO.

CASE

24 DOCKET NO. 000277-WS - Application for transfer of facilities and Certificates Nos. 353-W and 309-S in Lee County from MHC Systems, Inc. d/b/a FFEC-Six to North Fort Myers Utility, Inc., holder of Certificate No. 247-S; amendment of Certificate No. 247-S; and cancellation of Certificate No. 309-S. (Deferred from the July 11, 2000 Commission Conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer DS

Staff: RGO: Johnson, Redemann
LEG: VanLeuven

Issue 1: Should North Fort Myer Utility, Inc.'s Motion to Dismiss Mr. Varga's objection be granted?

Recommendation: No. Staff recommends that North Fort Myers Utility, Inc.'s Motion to Dismiss Mr. Varga's objection should be denied, and that, therefore, this matter should proceed to hearing.

Issue 2: Should the Pine Lakes Estates Homeowners' Association's (Pine Lakes) objection be dismissed as untimely?

Recommendation: Yes. Staff recommends that Pine Lakes' objection should be dismissed as untimely. However, if the Commission agrees with staff in Issue 1 of this recommendation, this matter will proceed to hearing and Pine Lakes may petition for intervention.

Issue 3: Should the docket be closed?

Recommendation: No. This docket should remain open to process the utility's transfer application.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

ITEM NO.

CASE

25 DOCKET NO. 000334-WU - Application for transfer of water facilities in Volusia County from Tomoka Water Works, Inc., holder of Certificate No. 81-W, to Florida Water Services Corporation; for amendment of Certificate No. 238-W held by Florida Water Services Corporation; and for cancellation of Certificate No. 81-W.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: RGO: Johnson, Redemann
LEG: Crosby, Gervasi

Issue 1: Should the transfer of water facilities from Tomoka to FWSC be approved, Tomoka's Certificate No. 81-W canceled, and FWSC's Certificate No. 233-W amended to include the additional territory?

Recommendation: Yes. The transfer of the water facilities from Tomoka to FWSC should be approved. Tomoka's Certificate No. 81-W should be canceled and FWSC's Certificate No. 238-W should be amended to include the additional territory of Tomoka.

Issue 2: What is the rate base of Tomoka at the time of transfer?

Recommendation: The rate base, which for transfer purposes reflects the net book value, is \$34,543, as of December 21, 1999, for the Tomoka system.

Issue 3: Should a positive acquisition adjustment be approved?

Recommendation: No. Because FWSC has not requested an acquisition adjustment, and there are no extraordinary circumstances in this case to warrant the inclusion of an acquisition adjustment, staff recommends that no acquisition adjustment should be included in the calculation of rate base.

Issue 4: Should FWSC adopt and use the rates and charges approved by this Commission for Tomoka?

Recommendation: Yes. FWSC should continue charging the rates and charges approved for this utility system until authorized to change in a subsequent proceeding. The tariff

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ITEM NO.

CASE

25

DOCKET NO. 000334-WU - Application for transfer of water facilities in Volusia County from Tomoka Water Works, Inc., holder of Certificate No. 81-W, to Florida Water Services Corporation; for amendment of Certificate No. 238-W held by Florida Water Services Corporation; and for cancellation of Certificate No. 81-W.

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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.

Issue 5: Should this docket be closed?

Recommendation: Yes. If no timely protest is received to the proposed agency action issues, upon the expiration of the protest period, the Order should become final and effective upon the issuance of a Consummating Order and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

ITEM NO.

CASE

26

DOCKET NO. 991984-WS - Application for transfer of Certificate Nos. 277-W and 223-S in Seminole County from Alafaya Palm Valley Associates, Ltd. to CWS Communities LP d/b/a Palm Valley.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer JC

Staff: RGO: Johnson, Redemann
LEG: VanLeuven

Issue 1: Should Alafaya be ordered to show cause, in writing within 21 days, why it should not be fined for its failure to obtain Commission approval prior to transferring its facilities to CWS, in apparent violation of Section 367.071, Florida Statutes?

Recommendation: No. A show cause proceeding should not be initiated, but the utility should be placed on notice that it is expected to know and comply with the Commission's rules and regulations.

Issue 2: Should Alafaya be ordered to show cause, in writing within 21 days, why it should not be fined up to \$5,000 per day for failure to maintain its accounts and records in conformance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA), in apparent violation of Rule 25-30.115(1), Florida Administrative Code?

Recommendation: No. Alafaya should not be ordered to show cause at this time. However, the utility should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA, and submit a statement from its accountant by March 31, 2001, stating that its books and records are in conformance with NARUC USOA.

Issue 3: Should the transfer of Certificate Nos. 277-W and 223-S from Alafaya to CWS be approved?

Recommendation: Yes, the transfer of Certificate Nos. 277-W and 223-S from Alafaya to CWS should be approved. The utility is current on its regulatory assessment fees and annual reports. CWS will be responsible for all future regulatory assessment fees and annual reports.

ITEM NO.

CASE

26

DOCKET NO. 991984-WS - Application for transfer of Certificate Nos. 277-W and 223-S in Seminole County from Alafaya Palm Valley Associates, Ltd. to CWS Communities LP d/b/a Palm Valley.

(Continued from previous page)

Issue 4: What is the rate base of Alafaya at the time of transfer?

Recommendation: The rate bases, which for transfer purposes reflect the net book value, are \$139,173 for the water system and \$564,877 for the wastewater system as of August 30, 1999.

Issue 5: Should an acquisition adjustment be included in the calculation of rate base?

Recommendation: No. Because CWS has not requested an acquisition adjustment, and there are no extraordinary circumstances in this case to warrant the inclusion of an acquisition adjustment, staff recommends that no acquisition adjustment should be included in the calculation of rate base.

Issue 6: Should the rates and charges approved for this utility be continued?

Recommendation: Yes. Alafaya 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.

Issue 7: Should this docket be closed?

Recommendation: Yes. If no timely protest is received to the proposed agency action issues, the Order should become final and effective upon the issuance of a Consummating Order and the docket should be closed.

DECISION: The recommendations were approved with the understanding in Issue 5 that the order will include language indicating this subject will be addressed by staff in a subsequent rate case.

Commissioners participating: Deason, Jacobs, Jaber

<u>ITEM NO.</u>	<u>CASE</u>
27	<p>DOCKET NO. 000430-WS - Application for amendment of Certificates Nos. 534-W and 465-S to add territory in Lake County by Lake Groves Utilities, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: RGO: Redemann LEG: Crosby, Gervasi</p> <p><u>Issue 1:</u> Should Lake Groves' application for amendment of Water Certificate No. 534-W and Wastewater Certificate No. 465-S be approved?</p> <p><u>Recommendation:</u> Yes. Lake Groves' application for amendment of Water Certificate No. 534-W and Wastewater Certificate No. 465-S to include the additional territory described in Attachment A of staff's August 17, 2000 memorandum should be approved. Lake Groves should be required to charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.</p> <p><u>Issue 2:</u> Should the utility file a wastewater tariff reflecting the reclaimed water class of service for the Citrus Highlands residential and Orange Tree reuse customers?</p> <p><u>Recommendation:</u> Yes. The utility should file a wastewater tariff reflecting the reclaimed water class of service at a zero rate for the Citrus Highlands and Orange Tree Subdivisions and for the meter installation charges listed in the analysis portion of staff's memorandum. Staff should be given the authority to administratively approve the tariff provided it is consistent with the Commission's decision. 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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<u>ITEM NO.</u>	<u>CASE</u>
27	DOCKET NO. 000430-WS - Application for amendment of Certificates Nos. 534-W and 465-S to add territory in Lake County by Lake Groves Utilities, Inc.

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: If no timely protest is received to the Proposed Agency Action issue, the Order should become final and effective upon the issuance of a Consummating Order and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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ITEM NO.

CASE

28 DOCKET NO. 991799-TP - Joint application of MCI WorldCom, Inc. and Sprint Corporation for acknowledgment or approval of merger whereby MCI WorldCom will acquire control of Sprint and its Florida operating subsidiaries, ASC Telecom, Inc. d/b/a AlternaTel (holder of IXC Certificate No. 4398), Sprint Communications Company Limited Partnership (holder of PATS Certificate No. 5359 and ALEC Certificate No. 4732), Sprint Communications Company, Limited Partnership d/b/a Sprint (holder of IXC Certificate No. 83), Sprint Payphone Services, Inc. (holder of PATS Certificate No. 3822), and Sprint-Florida, Incorporated (holder of LEC Certificate No. 22 and PATS Certificate No. 5365).

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: RGO: Williams
LEG: Banks

Issue 1: Should Order No. PSC-00-0421-PAA-TP, issued March 1, 2000, in Docket No. 991799-TP be vacated?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of the Commission's vacating order.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
29	<p>DOCKET NO. 991534-TP - Request for arbitration concerning complaint of Intermedia Communications, Inc. against BellSouth Telecommunications, Inc. for breach of terms of interconnection agreement under Sections 251 and 252 of the Telecommunications Act of 1996, and request for relief.</p> <p>Critical Date(s): None</p> <p>Hearing Date(s): 5/18/00, Talla., Prehrg., CL 6/13/00, Talla., DS CL</p> <p>Commissioners Assigned: DS Prehrg Officer - Pending</p> <p>Staff: LEG: Stern, Fordham CMP: T. Watts, Simmons</p> <p><u>Issue A</u>: Should the Commission grant BellSouth's Post-Hearing Motion to Strike? <u>Recommendation</u>: Yes. The Commission should grant BellSouth's Post-Hearing Motion to Strike because the witness's summary of her prefiled rebuttal testimony exceeded the scope of that which was actually filed.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>Issue B</u>: Should the Forward to Exhibit 20 be stricken from the record? <u>Recommendation</u>: Portions of the Forward should be stricken because they exceed the scope granted at the hearing. Specifically, paragraphs 3 and 4 should remain and paragraphs 1-2 and 5-6 should be stricken.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>Issue 1</u>: What is the applicable rate(s) that Intermedia and BellSouth are obligated to use to compensate each other for transport and termination of local traffic in Florida pursuant to the terms of their Interconnection Agreement approved by the Commission?</p>

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<u>ITEM NO.</u>	<u>CASE</u>
29	<p>DOCKET NO. 991534-TP - Request for arbitration concerning complaint of Intermedia Communications, Inc. against BellSouth Telecommunications, Inc. for breach of terms of interconnection agreement under Sections 251 and 252 of the Telecommunications Act of 1996, and request for relief.</p> <p>(Continued from previous page)</p> <p><u>Primary Recommendation</u>: The elemental rates should be applicable in those LATAs in which Intermedia has ordered and BellSouth has provisioned MTA. For all other circumstances, the composite rate of \$0.01056 per MOU should be applicable.</p> <p><u>DECISION</u>: The recommendation was denied.</p> <p><u>Alternative Recommendation</u>: The elemental rates should be applicable for transport and termination of all local traffic, in all LATAs, regardless of whether Intermedia has ordered and BellSouth has provisioned MTA.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. If the Commission approves staff's recommendation in Issues A, B, and 1, this docket should be closed.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p>Commissioners participating: Deason</p>

<u>ITEM NO.</u>	<u>CASE</u>
30	<p>DOCKET NO. 991220-TP - Petition by Global NAPS, Inc. for arbitration of interconnection rates, terms and conditions and related relief of proposed agreement with BellSouth Telecommunications, Inc.</p> <p>Critical Date(s): None (Parties have agreed to waive the statutory time limit.)</p> <p>Hearing Date(s): 5/25/00, Talla., Prehrg., JC 6/7/00, Talla., DS JC JB</p> <p>Commissioners Assigned: DS JC JB Prehrg Officer JC</p> <p>Staff: CMP: Hinton, Dowds, Fulwood, King, Ollila LEG: B. Keating</p> <p><u>Issue 2</u>: Should dial-up connections to an ISP (or "ISP-bound traffic") be treated as "local traffic" for purposes of reciprocal compensation under the new Global NAPS/BellSouth Interconnection Agreement or should it be otherwise compensated? <u>Recommendation</u>: Yes. Staff recommends that dial-up connections to an ISP (or ISP-bound traffic) should be treated as local traffic for purposes of reciprocal compensation under the new Global NAPS/BellSouth Interconnection Agreement. The rates for ISP-bound traffic will be addressed in Issue 3 of this Docket.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>Issue 3</u>: If ISP-bound traffic should be compensated, what compensation rate should apply? <u>Primary Recommendation</u>: The compensation rate for ISP-bound traffic should be the same as the reciprocal compensation rates recommended in Issue 4.</p> <p><u>DECISION</u>: The recommendation was denied.</p>

ITEM NO.

CASE

30 DOCKET NO. 991220-TP - Petition by Global NAPS, Inc. for arbitration of interconnection rates, terms and conditions and related relief of proposed agreement with BellSouth Telecommunications, Inc.

(Continued from previous page)

Alternative Recommendation: The reciprocal compensation rate for ISP-bound traffic should be the same as the reciprocal compensation rates recommended in Issue 4 except that the end office switching rate should be \$0.00128 rather than the \$0.002 recommended in Issue 4.

DECISION: The recommendation was approved.

Issue 4: What are the appropriate reciprocal compensation rates to be included in the new Global NAPS/BellSouth Interconnection Agreement?

Recommendation: The appropriate reciprocal compensation rates to be included in the new GNAPS/BellSouth Interconnection Agreement are the reciprocal compensation rates, \$0.00125 for tandem switching and \$0.002 for end office termination, and, if common transport is provided, common transport rates as ordered by this Commission in Order No. PSC-96-1579-FOF-TP, issued December 31, 1996.

DECISION: The recommendation was approved.

Issue 5: What is the appropriate definition of local traffic to be included in the Interconnection Agreement?

Recommendation: The appropriate definition is:

Local Traffic is defined as any telephone call that originates in one exchange and terminates in either the same exchange, or other local calling area associated with the originating exchange as defined and specified in Section A3 of BellSouth's General Subscriber Service Tariff.

DECISION: The recommendation was approved with the clarification that the definition applies to this agreement.

<u>ITEM NO.</u>	<u>CASE</u>
30	<p>DOCKET NO. 991220-TP - Petition by Global NAPS, Inc. for arbitration of interconnection rates, terms and conditions and related relief of proposed agreement with BellSouth Telecommunications, Inc.</p> <p>(Continued from previous page)</p> <p><u>Issue 6:</u> What are the appropriate UNE rates to be included in the Interconnection Agreement?</p> <p><u>Recommendation:</u> The appropriate UNE rates to be included in the Interconnection Agreement are those found in the BellSouth Standard Agreement. In addition, the first full sentence of page 4, Attachment 2, and all of Section 2.6.7.3.4 on page 16 of BellSouth's Standard Agreement should be deleted.</p> <p><u>DECISION:</u> The recommendation was approved.</p> <p><u>Issue 7:</u> What are the appropriate collocation provisions to be included in the Interconnection Agreement?</p> <p><u>Recommendation:</u> Staff recommends that the interconnection agreement should contain BellSouth's proposed language for collocation provisions.</p> <p><u>DECISION:</u> The recommendation was approved.</p> <p><u>Issue 13:</u> What is the appropriate language relating to local traffic exchange to be included in the Interconnection Agreement?</p> <p><u>Recommendation:</u> Staff recommends that the appropriate language relating to local traffic exchange to be included in the Interconnection Agreement should be the definition recommended by staff in Issue 5:</p> <p>Local Traffic is defined as any telephone call that originates in one exchange and terminates in either the same exchange, or other local calling area associated with the originating exchange as defined and specified in Section A3 of BellSouth's General Subscriber Service Tariff.</p> <p><u>DECISION:</u> The recommendation was approved with clarification as set out in Issue 5.</p>

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<u>ITEM NO.</u>	<u>CASE</u>
30	DOCKET NO. 991220-TP - Petition by Global NAPS, Inc. for arbitration of interconnection rates, terms and conditions and related relief of proposed agreement with BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 15: Should this docket be closed?

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

DECISION: The recommendation was approved.

Commissioners participating: Deason, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
31	DOCKET NO. 000442-EI - Petition for determination of need for the Osprey Energy Center by Calpine Construction Finance Company, L.P. (Deferred from the August 15, 2000 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: JC JB
Prehrg Officer JB

Staff: SER: Harlow
LEG: Elias, Isaac

Issue 1: Should the Commission hold Docket No. 000442-EI in abeyance pending the Florida Supreme Court's final decision regarding Tampa Electric Co., et al. v. Garcia, et al., Case Nos. SC95444, SC95445, SC95446?

Recommendation: Yes. The Petition for need determination in Docket No. 000442-EI should be held in abeyance until a final decision has been issued by the Florida Supreme Court in Tampa Electric v. Garcia.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open until a final decision is reached by the Florida Supreme Court in Tampa Electric v. Garcia.

DECISION: This item was withdrawn.

ITEM NO.

CASE

32 DOCKET NO. 991459-TI - Investigation of possible violation of Commission rules or of Chapter 364, Florida Statutes, by Excel Telecommunications, Inc., and imposition of appropriate penalty.

Critical Date(s): None

Commissioners Assigned: JC JB
Prehrg Officer JB

Staff: LEG: Fordham
CMP: Kennedy, R. Moses

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

Recommendation: Yes. The Commission should accept the company's settlement proposal. The contribution should be received by the Commission within ten business days after issuance of the Commission's 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 the company fails to pay in accordance with the terms of the settlement offer, the company's certificate should be canceled, and this docket should be closed.

Issue 2: Should this docket be closed?

Recommendation: No. With the approval of Issue 1, the prehearing and hearing may be canceled, but this docket should remain open pending the remittance of the \$400,000 voluntary contribution within ten business days after issuance of the Commission's Order. Upon remittance of the \$400,000 settlement, this docket should be closed. The \$400,000 settlement should be forwarded to the Office of the

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<u>ITEM NO.</u>	<u>CASE</u>
32	DOCKET NO. 991459-TI - Investigation of possible violation of Commission rules or of Chapter 364, Florida Statutes, by Excel Telecommunications, Inc., and imposition of appropriate penalty.

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Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the settlement offer, the company's certificate should be canceled, and this docket should be closed. If Issue 1 is not approved, new dates will be established for hearing.

DECISION: The recommendations were approved.

Commissioners participating: Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
33	<p>DOCKET NO. 991643-SU - Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: JC JB Prehrg Officer JB</p> <p>Staff: LEG: Fudge, Jaeger ECR: Merchant, Fletcher</p> <p><u>Issue 1</u>: Should Aloha's Request for Oral Argument be granted? <u>Recommendation</u>: The Request for Oral Argument should be denied. Oral argument is not necessary for the Commission to reach an informed decision on the Motion.</p> <p><u>Issue 2</u>: Should Aloha's Motion for Reconsideration be granted? <u>Recommendation</u>: No. The Motion should be denied. Aloha has failed to point out any point of law, fact or policy which the Commission has overlooked or misapprehended.</p> <p><u>Issue 3</u>: Should this docket be closed? <u>Recommendation</u>: No. This docket should remain open pending a ruling on Aloha's application for an increase in wastewater rates.</p> <p><u>DECISION</u>: The recommendations were approved with a modification to Issue 2 that on the Commission's own motion, the procedural order will be vacated and a clarifying order will be issued.</p> <p>Commissioners participating: Jacobs, Jaber</p>

<u>ITEM NO.</u>	<u>CASE</u>
34	<p>DOCKET NO. 960545-WS - Investigation of utility rates of Aloha Utilities, Inc. in Pasco County.</p> <p>Critical Date(s): None</p> <p>Hearing Date(s): Available upon request</p> <p>Commissioners Assigned: JC JB Prehrg Officer - Pending</p> <p>Staff: LEG: Jaeger, Fudge ECR: Moniz RGO: Daniel, Walden</p> <p><u>Issue 1</u>: Should the Motion for Clarification filed by Aloha Utilities, Inc. be granted? <u>Recommendation</u>: The motion should be granted in part and denied in part. The Commission should clarify the Order to make it clear that the utility should choose the best available treatment alternative to remove hydrogen sulfide. The fifth ordering paragraph should be amended to read as follows: ORDERED that Aloha Utilities, Inc., shall immediately implement a pilot project using the best available treatment alternative to remove the hydrogen sulfide, thereby enhancing the water quality and diminishing the tendency of the water to produce copper sulfide in the customers' homes as set forth in the body of this Order. While packed tower aeration is clearly an acceptable method, the Commission should not designate the specific treatment alternative. That choice should be made by the utility.</p> <p><u>Issue 2</u>: What action, if any, should the Commission take on the July 22, 2000, letter from Mr. Edward Wood? <u>Recommendation</u>: The Commission should take no action on Mr. Wood's letter.</p> <p><u>Issue 3</u>: Should this docket be closed? <u>Recommendation</u>: No. Pursuant to Order No. PSC-00-1285-FOF-WS, this docket should remain open until Aloha files its application to revise its service availability charges.</p>

DECISION: The recommendations were approved.

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<u>ITEM NO.</u>	<u>CASE</u>
34	DOCKET NO. 960545-WS - Investigation of utility rates of Aloha Utilities, Inc. in Pasco County.

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Commissioners participating: Jacobs, Jaber

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ITEM NO.

CASE

35 DOCKET NO. 990750-TP - Petition by ITC^DeltaCom
Communications, Inc. d/b/a ITC^DeltaCom for arbitration of
certain unresolved issues in interconnection negotiations
between ITC^DeltaCom and BellSouth Telecommunications, Inc.

Critical Date(s): None

Hearing Date(s): 10/11/99, Talla., Prehrg., JC
10/27 - 29/99, Talla., CL JC

Commissioners Assigned: JC
Prehrg Officer JC

Staff: CMP: Ollila, Audu, Barrett, Fulwood, Hinton
LEG: Caldwell

Issue 1: Should the Commission grant BellSouth
Telecommunications, Inc.'s Motion for Leave to File Reply
Memorandum?

Recommendation: No. Staff recommends that the Commission
deny BellSouth's Motion for Leave to File a Reply
Memorandum. If the Commission denies the Motion to File a
Reply Memorandum, DeltaCom's Motion to Strike will be moot.

Issue 2: Should the Commission grant BellSouth's Motion for
Reconsideration of Order No. PSC-00-0537-FOF-TP?

Recommendation: Staff recommends that the Commission deny
in part and grant in part BellSouth's Motion for
Reconsideration. Staff recommends that the Commission deny
BellSouth's request to reconsider its finding that the rate
for reciprocal compensation should be \$0.009. Staff further
recommends that the Commission delete the statement that
BellSouth failed to provision unbundled network elements in
such a manner as to provide ITC^DeltaCom Communications,
Inc. with a meaningful opportunity to compete with BellSouth
from the Order to correct a scrivener's error. Finally,
staff recommends that the Commission grant BellSouth's
request for reconsideration of the application fee for
collocation and set the fee at \$3,248.00.

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DOCKET NO. 990750-TP - Petition by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom for arbitration of certain unresolved issues in interconnection negotiations between ITC^DeltaCom and BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 3: Should this docket be closed?

Recommendation: No. The parties should be required to submit a signed agreement that complies with the Commission's decisions in this docket for approval within 20 days of issuance of the Commission's Order. This docket should remain open pending Commission approval of the final arbitration agreement in accordance with Section 252 of the Telecommunications Act of 1996.

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

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