

MINUTES OF DECEMBER 16, 2003

COMMISSION CONFERENCE

COMMENCED: 9:30 a.m.

ADJOURNED: 11:10 a.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 (**).

1**Consent Agenda

PAA A) Application for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
031041-TX	Quiet River Communications, LLC

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
031036-TA	American Broadband, Inc. d/b/a ABI Network Solutions, Inc.

PAA C) Application for certificate to provide shared tenant service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
031050-TS	Signal Systems Corp.

Minutes of
Commission Conference
December 16, 2003

ITEM NO. CASE

1** Consent Agenda

(Continued from previous page)

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
031037-TC	J.S.L. Telecommunications, Inc.
031044-TC	NSC Communications Public Services Corporation

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

ITEM NO.

CASE

2Docket No. 031020-WS - Petition for declaratory statement by Forest Utilities, Inc. and Jamaica Bay West Associates, Ltd., to determine whether an extension of service territory pursuant to Section 367.045(2), F.S., is necessary to provide bulk wastewater service to Jamaica Bay, an exempt entity.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: GCL: Bellak
ECR: Biggins, Rendell

ISSUE 1: Should Lee County's Petition to Intervene be granted?

RECOMMENDATION: In its discretion, the Commission may either grant Lee County's Petition to Intervene or deny it.

ISSUE 2: Should Forest's Petition for Declaratory Statement be granted?

RECOMMENDATION: Yes. Forest's Petition for Declaratory Statement should be granted.

ISSUE 3: Should this docket be closed?

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

DECISION: Lee County's Petition to Intervene was denied in Issue 1; Issues 2 and 3 were approved.

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

ITEM NO.

CASE

3**PAADocket No. 030696-TI - Compliance investigation of 9278 Communications, Inc. for apparent violation of Sections 364.02 and 364.04, Florida Statutes. (Deferred from August 19, 2003 conference; revised recommendation filed.)

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 on 9278 Communications, Inc. for its apparent violation of Sections 364.02 and 364.04, Florida Statutes?

RECOMMENDATION: Yes. The Commission should impose a \$25,000 penalty upon 9278 Communications, Inc. for its apparent violation of Sections 364.02(13) and 364.04, Florida Statutes. If 9278 Communications, Inc. fails to timely file a protest and request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. Further, if the company fails to timely file a protest and fails to do any of the following:

1. file a tariff;
2. provide the Commission with current contact information; or
3. pay the penalty,

the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida upon issuance of the Consummating Order until the company pays the penalty, 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

Minutes of
Commission Conference
December 16, 2003

ITEM NO.

CASE

3**PAA

Docket No. 030696-TI - Compliance investigation of 9278 Communications, Inc. for apparent violation of Sections 364.02 and 364.04, Florida Statutes. (Deferred from August 19, 2003 conference; revised recommendation filed.)

(Continued from previous page)

the Consummating Order, the collection of the penalty should be referred to the Department of Financial Services. This docket should be closed administratively upon receipt of the company's tariff, the company's current contact information, and 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

ITEM NO.

CASE

4**PAADocket No. 030873-TX - Application for certificate to provide competitive local exchange telecommunications service by Utility USA, Inc. (Deferred from December 2, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Williams, Kennedy

GCL: Rojas

ISSUE 1: Should the Commission accept Utility USA, Inc.'s offer to settle and grant Utility USA, Inc. a certificate to provide competitive local exchange telecommunications service within the state of Florida as provided by Section 364.337, Florida Statutes?

RECOMMENDATION: No. The Commission should not accept Utility USA, Inc.'s offer to settle and should not grant Utility USA, Inc. Florida Public Service Commission Certificate No. 8419 to provide competitive local exchange telecommunications service within the state of Florida as provided by Section 364.337, Florida Statutes. The company should be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida.

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 issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order.

DECISION: This item was withdrawn.

ITEM NO.

CASE

5**PAADocket No. 020853-EI - 2002 depreciation filing by Florida Public Utilities Company.

Critical Date(s): 2/18 - 19/04 (Rate case hearing Docket No. 030438-EI, petition for rate increase by Florida Public Utilities Company.)

Commissioners Assigned: Full Commission
Prehearing Officer: Bradley

Staff: ECR: Gardner, Kenny
CMP: P. Lee
GCL: Jaeger

ISSUE 1: Should currently prescribed depreciation rates of Florida Public Utilities Company be changed?

RECOMMENDATION: Yes. A comprehensive review of Florida Public Utilities' (FPU or company) planning and activity for the combined electric divisions indicates a need for a revision in currently prescribed depreciation rates.

ISSUE 2: What should be the implementation date for the new depreciation rates?

RECOMMENDATION: Staff recommends approval of the company's requested January 1, 2004, implementation date for new rates.

ISSUE 3: Should any corrective reserve allocations between accounts be made?

RECOMMENDATION: Yes. Staff's recommended corrective measures are shown on Attachment A of staff's December 4, 2003 memorandum. This action brings each account's reserve more in line with its theoretically correct level.

ISSUE 4: What are the appropriate depreciation rates?

RECOMMENDATION: The staff recommended lives, net salvages, reserves, and resultant depreciation rates are shown on Attachment B of staff's December 4, 2003 memorandum. The result is an estimated decrease in annual depreciation expense of approximately \$72,000, based on January 1, 2004 combined investments as shown on Attachment C of staff's December 4, 2003 memorandum.

ISSUE 5: Should the current amortization of investment tax credits (ITCs) and the flowback of excess deferred income taxes be revised to reflect the approved depreciation rates and recovery schedules?

RECOMMENDATION: Yes. The current amortization of ITCs and the flowback of excess deferred income taxes (EDIT) should be revised to match the actual recovery periods for the related property. The utility should file detailed calculations of the revised ITC amortization and flowback of EDIT at the same time it files its surveillance report covering the period ending December 31, 2004.

ITEM NO.

CASE

5**PAA

Docket No. 020853-EI - 2002 depreciation filing by Florida Public Utilities Company.

(Continued from previous page)

ISSUE 6: Should this docket be closed?

RECOMMENDATION: 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

ITEM NO.

CASE

6**PAADocket No. 030834-EI - Request to exclude outage event from annual distribution service reliability report for calendar year 2003, by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Bradley

Staff: ECR: Breman, D. Lee, Matlock, McNulty

GCL: C. Keating

ISSUE 1: Should the Commission approve PEFI's amended petition to exclude from its 2003 Annual Distribution Service Reliability Report 9,220 service interruptions that occurred in PEFI's North Central Region on July 18, 2003?

RECOMMENDATION: No. PEFI has not demonstrated that it took reasonable steps to minimize the number of service interruptions that occurred on July 18, 2003.

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.

DECISION: This item was deferred.

ITEM NO.

CASE

7**Docket No. 030959-EI - Petition by Tampa Electric Company for approval of extension of Pilot Green Energy Rate Rider and Program through December 2006.

Critical Date(s): None (60-day suspension date waived by TECO)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Harlow, Colson, Draper

GCL: Holley

ISSUE 1: Should the Commission approve Tampa Electric Company's (TECO) petition for an extension of the Pilot Green Energy Rate Rider and Program through December 31, 2006?

RECOMMENDATION: Yes. TECO's proposed three-year extension to its green power rate rider appears to adequately address TECO's stipulation with LEAF. Increasing the renewable energy block size to 100 kWh for the existing fee of \$5 per month should increase program participation. TECO's program participation, cost and revenue estimates appear to be reasonable. TECO intends to add new marketing strategies designed to increase program participation. The proposed extension will give TECO ample time to determine if an adequate program participation level can be achieved such that the program's revenues cover all the program's costs.

ISSUE 2: Should the Commission approve TECO's request for an allocation of \$150,000 from its approved Conservation R&D Program?

RECOMMENDATION: Yes. TECO's allocation of \$150,000 from its Conservation R&D Program to partially fund the three-year extension of the green energy rate rider is consistent with the approved Conservation R&D Program participation standards.

ITEM NO.

CASE

7**

Docket No. 030959-EI - Petition by Tampa Electric Company for approval of extension of Pilot Green Energy Rate Rider and Program through December 2006.

(Continued from previous page)

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective on January 1, 2004. 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 tariff was provisionally approved as filed and will continue until revisited by the Commission. Within 60 days of issuance of the order provisionally approving the tariff, TECO is to file additional information which indicates the business plan (the assumptions, the budgets, the marketing programs, assumptions about penetration rates) that shows over the three-year life of the program what it anticipates will be achieved and whether after that three-year period the program will be self-sustaining. If it is not self-sustaining, TECO is to indicate what level of subsidy would continue and why it is still a beneficial program.

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

ITEM NO.

CASE

8**PAADocket No. 030974-EU - Petition for variance from or waiver of individual metering requirement of Rule 25-6.049(5)(a), F.A.C., by St. Maarten at Silver Shells Condominium Association, Inc.

Critical Date(s): 1/6/04

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Baxter
GCL: Fleming

ISSUE 1: Should the Commission grant St. Maarten'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) St. Maarten 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) St. Maarten is responsible for all of the costs associated with the conversion from individual metering to master metering; (3) the waiver is effective only so long as the condominium is operated and licensed as a transient occupancy facility, and (4) all or substantially all of the units are operated on a transient basis. At such time the condominium is no longer so operated and licensed, St. Maarten must immediately inform Gulf Power Company (Gulf), at which time Gulf will install individual meters on the occupancy units. In the event such a conversion to individual metering is required, St. Maarten will be solely responsible for the cost of such conversion.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**Docket No. 030956-WU - Application for approval of revised service availability charges to increase meter installation fees in Osceola County by O&S Water Company, Inc.

Critical Date(s): 60-day suspension date waived to 12/16/03

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: ECR: Iwenjiora, Rendell

GCL: Jaeger

ISSUE 1: Should O & S Water Company Inc.'s proposed tariff sheets to increase its meter installation fee to \$300 be approved as filed?

RECOMMENDATION: Yes. Fourth Revised Sheet No. 38.0 and First Revised Sheet No. 38.1, increasing O&S's meter installation fee to \$300, should be approved as filed. The meter installation fee should become effective for connections made on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(2), Florida Administrative Code, if no protest is filed.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If Issue 1 is approved, the tariffs should become effective on or after the stamped approval date of the tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance of the Order, these tariffs should remain in effect with any increase held subject to refund pending resolution of the protest, and the docket should remain open. 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