

MINUTES OF DECEMBER 17, 2002

COMMISSION CONFERENCE

COMMENCED: 9:45 a.m.

ADJOURNED: 2:55 p.m.

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

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

1Approval of Minutes

November 19, 2002 Regular Commission Conference

DECISION: The minutes were approved.

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

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ITEM NO. CASE

2**Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020950-TX	Tiburon Telecom, Inc.
021116-TX	Enhanced Communications Network, Inc. d/b/a Asian American Association
021136-TX	The Sunshine State Telephone Company, L.L.P.

PAA B) Applications for certificates to provide interexchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
021021-TI	RNK Inc. d/b/a RNK Telecom, Inc.
020951-TI	Tiburon Telecom, Inc.
020924-TI	Global Communications Consulting Corp.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
021134-TC	Sunline Technologies, Inc.

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, Palecki, Bradley

ITEM NO.

CASE

3Docket No. 021061-TP - Petition of CNM Networks, Inc. for declaratory statement that CNM's phone-to-phone Internet protocol (IP) telephony is not "telecommunications" and that CNM is not a "telecommunications company" subject to Florida Public Service Commission jurisdiction.

Critical Date(s): 1/16/03 (By statute, order must be issued by this date.)

Commissioners Assigned: Full Commission
Prehearing Officer: Jaber

Staff: GCL: Cibula
CMP: Moses, Casey, Fulwood, Kelly, Vickery
MMS: D. Watts

ISSUE 1: Should the Commission grant CNM's requested declaratory statement?

RECOMMENDATION: No. In lieu of issuing the requested declaratory statement, the Commission should grant the alternative relief requested in CNM's Petition for Declaratory Statement and open a generic docket to consider the issues raised by CNM's petition and the issue of phone-to-phone IP telephony in general. This docket should be consolidated with the generic docket.

DECISION: The declaratory statement was denied. Additionally, staff was directed to schedule an undocketed staff workshop for the purpose of discussing issues raised in the declaratory statement and at the conference. No generic docket will be opened at this time.

ISSUE 2: Should the Commission grant CNM's Motion to Dismiss the Petitions for Intervention, or in the Alternative, to Conduct a Generic Proceeding or Rulemaking or to Stay Pending FCC Action?

RECOMMENDATION: The Commission should grant CNM's alternative request to conduct a generic proceeding. The petition/motions for intervention filed by BellSouth, NEFTC, Sprint, ALLTEL, Verizon, Frontier, TDS, FCTA, ITS, Smart City, and AT&T in this docket should be granted. CNM's Motion to Dismiss the Petitions for Intervention and its

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<u>ITEM NO.</u>	<u>CASE</u>
3	Docket No. 021061-TP - Petition of CNM Networks, Inc. for declaratory statement that CNM's phone-to-phone Internet protocol (IP) telephony is not "telecommunications" and that CNM is not a "telecommunications company" subject to Florida Public Service Commission jurisdiction.

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request to stay this matter pending FCC action should be denied.

DECISION: The recommendation was rendered moot due to the decision in Issue 1.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open and should be consolidated with the generic docket as discussed in Issue 1.

DECISION: The recommendation was denied. The docket is to be closed.

Additionally, on the Commissioners' own motion, parties were allowed to participate.

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

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ITEM NO.

CASE

4**Docket No. 021056-TI - Complaint of Timothy McGibbons against AT&T Communications of the Southern States, LLC d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a www.prepaidserviceguide.com d/b/a CONQUEST for alleged improper billing of international toll charges incurred via Internet use. (Deferred from December 2, 2002 conference.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: GCL: Christensen
CAF: Plescow
CMP: Kennedy

ISSUE 1: Should the Commission dismiss Complaint No. 368480T, Complaint of Timothy McGibbons against AT&T for alleged improper billing of international toll charges incurred for Internet use?

RECOMMENDATION: Yes. Complaint No. 368480T, Complaint of Timothy McGibbons against AT&T for alleged improper billing of international toll charges incurred for Internet use, should be dismissed for lack of standing by the complainant and lack of subject matter jurisdiction.

DECISION: The recommendation was approved.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendation was approved.

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

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5**Docket No. 021058-WS - Disposition of delinquent regulatory assessment fees and penalties for DeBary Associates, Inc., Econ Utilities Corporation, and Sandalhaven Utility, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: GCL: Jaeger
CCA: Knight
ECR: Kaproth

ISSUE 1: Should the utilities identified in the analysis portion of staff's December 5, 2002 memorandum be ordered to show cause, in writing, within 21 days, why they should not remit RAFs, statutory penalties, and interest in their respective amounts for their apparent violation of Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for failure to timely pay regulatory assessment fees (RAFs)?

RECOMMENDATION: No. Show cause proceedings should not be initiated. Staff further recommends that the Commission refer the utilities' unpaid RAFs and associated penalties and interest to the State Comptroller's Office, Department of Banking and Finance, for permission to write off the accounts as uncollectible, in the amounts identified in the analysis portion of staff's December 5, 2002 memorandum.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. Because no further action is necessary, this docket should be closed.

DECISION: The recommendations were approved.

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

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ITEM NO.

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6**Docket No. 021035-SU - Disposition of delinquent regulatory assessment fees and delinquent annual reports and penalties for Weber Investment Corporation in Putnam County and Sand Dollar Properties, Inc. in Lee County.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: GCL: Jaeger
CCA: Knight
ECR: Kaproth, Peacock

ISSUE 1: Should Sand Dollar Properties, Inc., and Weber Investment Corporation be ordered to show cause, in writing, within 21 days, why they should not be fined for failure to file their annual reports for the years indicated in apparent violation of Rule 25-30.110(3), Florida Administrative Code?

RECOMMENDATION: No. Show cause proceedings should not be initiated. Staff further recommends that the penalties set forth in Rule 25-30.110(7), Florida Administrative Code, should not be assessed, as the information contained in the delinquent reports is no longer needed for the ongoing regulation of the utilities. In addition, both Weber and Sand Dollar should not be required to file the annual reports for the years designated.

ISSUE 2: Should Sand Dollar and Weber be ordered to show cause, in writing, within 21 days, why they should not remit RAFs, statutory penalties, and interest in their respective amounts for their apparent violation of Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for failure to pay delinquent regulatory assessment fees (RAFs)?

RECOMMENDATION: No. Show cause proceedings should not be initiated. Staff further recommends that the Commission refer the utilities' unpaid RAFs and associated penalties and interest to the State Comptroller's Office, Department of Banking and Finance, for permission to write off the accounts as uncollectible, in the amounts identified in the analysis portion of staff's December 5, 2002 memorandum.

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Docket No. 021035-SU - Disposition of delinquent regulatory assessment fees and delinquent annual reports and penalties for Weber Investment Corporation in Putnam County and Sand Dollar Properties, Inc. in Lee County.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. Because no further action is necessary, this docket should be closed.

DECISION: The recommendations were approved.

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

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CASE

7Docket No. 020507-TL - Complaint of Florida Competitive Carriers Association against BellSouth Telecommunications, Inc. regarding BellSouth's practice of refusing to provide FastAccess Internet Service to customers who receive voice service from a competitive voice provider, and request for expedited relief.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Christensen
CMP: Dowds, Simmons

ISSUE 1: Should the Commission grant BellSouth Telecommunications, Inc.'s Motion for Reconsideration and/or Modification of Order No. PSC-02-1618-PCO-TL to the Full Commission?

RECOMMENDATION: No. BellSouth has failed to demonstrate that the Prehearing Officer made a mistake of fact or law in rendering his decision. Therefore, staff recommends that BellSouth's Motion for Reconsideration and/or Modification of Order No. PSC-02-1618-PCO-TL to the Full Commission should be denied.

DECISION: The recommendation was approved.

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ISSUE 2: Should the Commission grant BellSouth Telecommunications, Inc.'s Motion, in the Alternative, to Convert to a Generic Proceeding?

RECOMMENDATION: Yes. Staff recommends that the Commission establish a generic docket to investigate and address whether a telecommunications carrier's refusal to provide its high-speed Internet access service to any customer other than its own voice service customer violates state or

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Docket No. 020507-TL - Complaint of Florida Competitive Carriers Association against BellSouth Telecommunications, Inc. regarding BellSouth's practice of refusing to provide FastAccess Internet Service to customers who receive voice service from a competitive voice provider, and request for expedited relief.

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federal law, as well as any other issues the Commission deems appropriate. Further, staff recommends that in granting BellSouth's Motion that this docket be consolidated with the generic docket.

DECISION: The recommendation was denied without prejudice to BellSouth or any other party to file a request for a generic proceeding in the future.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending further proceedings. Currently, this matter is scheduled for an administrative hearing to be held on January 30, 2003, which would be unaffected by the Commission's vote on Issue 1 and would remain unaffected should the Commission reject staff's recommendation on Issue 2. Should the Commission vote to approve staff's recommendation on Issue 2 and establish a generic proceeding and consolidate this docket into that generic docket, then staff believes the hearing in this docket would need to be rescheduled and new testimony dates established for the generic proceeding to allow for notice and due process for all potentially affected persons. Further, if the Commission approves staff's recommendation on Issue 2, then all parties from this docket should automatically become parties in the generic docket.

DECISION: The recommendation was approved.

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

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8**Docket No. 020738-TP - Petition by AT&T Communications of the Southern States, LLC for suspension and cancellation of BellSouth Telecommunications, Inc.'s Switched Access Contract Tariff No. FL2002-01 for alleged violations of the Telecommunications Act of 1996, rules of the Federal Communications Commission, and Chapter 364, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: CMP: Barrett, Gilchrist
GCL: Fordham

ISSUE 1: Should BellSouth's Partial Motion to Strike be granted?

RECOMMENDATION: Yes. BellSouth's Partial Motion to Strike should be granted.

ISSUE 2: Should BellSouth's Switched Access Contract Tariff No. FL2002-01 (T-020572), and BellSouth SWA Pricing Flexibility Contract Tariff No. FL2002-02 (T-020828), be suspended or canceled?

RECOMMENDATION: The above-referenced tariffs should not be suspended or canceled at this time. However, AT&T's request for a formal administrative hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, should be granted.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending resolution of all issues.

DECISION: The recommendations were approved.

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

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9**PAADocket No. 000121B-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (SPRINT-FLORIDA TRACK)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: CMP: Fisher, Hallenstein, Harvey, Kelley, Simmons, Vinson
GCL: Banks

ISSUE 1: Should the Commission adopt a Performance Measurement Plan (PMP) for Sprint-Florida?

RECOMMENDATION: Yes. Staff believes the Commission should approve the Performance Measurement Plan for Sprint-Florida as outlined in Staff's Proposal.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order. Staff recommends that if a protest is filed, then resolution of the protest should be addressed during the six-month review process. Thereafter, this docket should remain open pending until: 1) completion of the development of a Sprint-Florida Performance Measurements plan; 2) full implementation of the Sprint OSS Performance Measurements; 3) Sprint measurement reporting systems for ALECs are completely and accurately operational; 4) six-month reviews of performance measurements have begun; and 5) the completion of the initial third-party audit.

DECISION: The recommendations were approved.

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

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10**PAADocket No. 021075-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 7990 issued to Calvin Hardge d/b/a CAL-TEC Communications for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Records & Reports; Rules Incorporated.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Dodson

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel Calvin Hardge d/b/a CAL-TEC Communications' certificate for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code, and 25-24.835, Florida Administrative Code, Rules Incorporated, which incorporates 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should assess a total penalty of \$1,000 or cancel Calvin Hardge d/b/a CAL-TEC Communications' certificate for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code, and 25-24.835, Florida Administrative Code, Rules Incorporated, which incorporates 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.835, Florida Administrative Code, Rules Incorporated, which incorporates 25-24.480, Florida Administrative Code, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission and forwarded to the Office of the

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10**PAA

Docket No. 021075-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 7990 issued to Calvin Hardge d/b/a CAL-TEC Communications for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Records & Reports; Rules Incorporated.

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Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received in accordance with the Commission's Order, Calvin Hardge d/b/a CAL-TEC Communications' certificate should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If Calvin Hardge d/b/a CAL-TEC Communications' certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing alternative local exchange carrier 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 the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the penalty and fees and updated reporting requirements, or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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ITEM NO.

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11**PAA Cancellation by Florida Public Service Commission of IXC certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480, F.A.C., Records & Reports; Rules Incorporated.

Docket No. 020702-TI - ezTel Network Service, LLC
Docket No. 021124-TI - Circlenet.Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Teitzman

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel each company's respective certificate as listed on Attachment A of staff's December 5, 2002 memorandum for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and 25-24.480, Florida Administrative Code, Records and Reports; Rules Incorporated, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should assess a total penalty of \$1,000 or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and 25-24.480, Florida Administrative Code, Records and Reports; Rules Incorporated, with an effective date of December 31, 2002, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.480, Florida Administrative Code, Records and Reports; Rules Incorporated, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service

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11**PAA

Cancellation by Florida Public Service Commission of IXC certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480, F.A.C., Records & Reports; Rules Incorporated.

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Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the companies listed on Attachment A do not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received in accordance with the Commission's Order, that company's respective certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If each company's respective certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, that company should be required to immediately cease and desist providing interexchange carrier service in Florida.

ISSUE 2: Should these dockets 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. These dockets should then be closed upon receipt of the penalty and fees and updated reporting requirements, or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

12**PAADocket No. 021073-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 7977 issued to Live Wire Systems, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Dodson

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel Live Wire Systems, Inc.'s certificate for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code, and 25-24.520, Florida Administrative Code, Reporting Requirements, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should assess a total penalty of \$1,000 or cancel Live Wire Systems, Inc.'s certificate for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code, and 25-24.520, Florida Administrative Code, Reporting Requirements, with an effective date of December 31, 2002, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are

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12**PAA

Docket No. 021073-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 7977 issued to Live Wire Systems, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

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not received in accordance with the Commission's Order, Live Wire Systems, Inc.'s certificate should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If Live Wire Systems, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone 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 the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the penalty and fees and updated reporting requirements, or cancellation of the certificate.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

13**PAADocket No. 021161-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 7970 issued to Calpoint (Florida), LLC for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Teitzman

ISSUE 1: Should the Commission impose a penalty of \$500 or cancel Calpoint (Florida), LLC's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should assess a penalty of \$500 for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.835, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty of \$500 should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, the company's certificate should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be

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13**PAA

Docket No. 021161-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 7970 issued to Calpoint (Florida), LLC for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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required to immediately cease and desist providing alternative local exchange carrier 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 the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the fine and fees or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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

Docket No. 020735-TI - Maxtel USA, Inc.
Docket No. 020756-TI - Intelligent Switching and Software, LLC
Docket No. 020955-TI - Blegbi, Inc.
Docket No. 021160-TI - Calpoint (Florida), LLC
Docket No. 021162-TI - TalkNow, Inc.
Docket No. 020675-TI - Easy Phone, Inc. d/b/a Easy Tel, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Knight, Fordham, Teitzman, Dodson

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A of staff's December 5, 2002 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If a company does not protest the Commission's Order, or if the

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14**PAA	<p>Cancellation by Florida Public Service Commission of IXC certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.</p> <p>(Continued from previous page)</p> <p>penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing interexchange telecommunications service in Florida.</p> <p><u>ISSUE 2:</u> Should the Commission impose a \$1,000 penalty or cancel Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B of staff's December 5, 2002 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002?</p> <p><u>RECOMMENDATION:</u> Yes. The Commission should assess a \$1,000 penalty or cancel Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not</p>

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

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received in accordance with the Commission's Order, Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing interexchange telecommunications service in Florida.

ISSUE 3: Should these dockets be closed?

RECOMMENDATION: The Orders issued from these recommendations will become final upon issuance of Consummating Orders, 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 Orders. The dockets should then be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

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

Docket No. 020766-TC - Thomas Cameron

Docket No. 020820-TC - Langley Corporate Investments, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Dodson, Fordham

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A of staff's December 5, 2002 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and any outstanding Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If a company does not protest the Commission's Order, or if the penalty and any outstanding Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, that company's certificate, as listed on Attachment A, should be cancelled administratively and the

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<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	<p>Cancellation by Florida Public Service Commission of PATS certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.</p> <p>(Continued from previous page)</p> <p>collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone service in Florida.</p> <p><u>ISSUE 2</u>: Should these dockets be closed?</p> <p><u>RECOMMENDATION</u>: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The dockets should then be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.</p>

DECISION: The recommendations were approved.

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

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ITEM NO.

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16**Docket No. 020751-TI - Cancellation by Florida Public Service Commission of IXC Certificate No. 7855 issued to TotalCom America Corporation for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by TotalCom America Corporation to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, Records & Reports; Rules Incorporated?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar 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, Certificate No. 7855 should be cancelled administratively. If TotalCom America Corporation's certificate is cancelled in accordance with the Commission's Order from this recommendation, TotalCom America Corporation should be required to immediately cease and desist providing interexchange carrier service in Florida.

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ITEM NO.

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16**

Docket No. 020751-TI - Cancellation by Florida Public Service Commission of IXC Certificate No. 7855 issued to TotalCom America Corporation for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: 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.

DECISION: The recommendations were approved.

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

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ITEM NO.

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

Docket No. 020764-TC - Phone Plus, Inc.

Docket No. 020800-TC - Dallas & Charlene Merritt d/b/a A & O Communications

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Teitzman, Dodson

ISSUE 1: Should the Commission grant the companies listed on Attachment A of staff's December 5, 2002 memorandum a voluntary cancellation of their respective certificates to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should grant each company a voluntary cancellation of its telecommunications certificate with an effective date as listed on Attachment A. If a company's certificate is cancelled in accordance with the Commission's Order from this recommendation, that company listed on Attachment A should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, these dockets should be closed upon cancellation of the certificates as no other issues need to be addressed by the Commission.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

18**PAADocket No. 020689-TI - Cancellation by Florida Public Service Commission of IXC Certificate No. 5729 issued to Gloria Telecommunications, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Dodson

ISSUE 1: Should the Commission grant Gloria Telecommunications, Inc. a voluntary cancellation of IXC Certificate No. 5729?

RECOMMENDATION: No. The Commission should not grant Gloria Telecommunications, Inc. a voluntary cancellation of its certificate. The Commission should cancel the company's certificate on its own motion with an effective date of September 17, 2002. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificate for Gloria Telecommunications, Inc. is cancelled in accordance with the Commission's Order from this recommendation, Gloria Telecommunications, Inc. should be required to immediately cease and desist providing interexchange telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the penalty and fees or cancellation of the company's certificate.

DECISION: The recommendations were approved.

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

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CASE

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

Docket No. 020808-TC - Steve P Weis d/b/a TEFCYC Systems
Docket No. 020913-TC - BJM Sales, Inc.
Docket No. 020914-TC - Val Tel Communications, Inc.
Docket No. 021071-TC - Lyndon C. Scherr
Docket No. 021072-TC - Jon Adams
Docket No. 021074-TC - United Payphone Owners, LLP

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Teitzman, Elliott, Dodson

ISSUE 1: Should the Commission grant the companies listed on Attachment A of staff's December 5, 2002 memorandum a voluntary cancellation of their respective certificates?
RECOMMENDATION: No. The Commission should not grant the companies a voluntary cancellation of their respective certificates. The Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificates for each company as listed on Attachment A are cancelled in accordance with the Commission's Order from this recommendation, the respective companies should be required to immediately cease and desist providing pay telephone service in Florida.

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

(Continued from previous page)

ISSUE 2: Should these dockets 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. These dockets should then be closed upon issuance of a Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

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20**PAADocket No. 020805-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 7390 issued to Tyrone Joseph Clinton d/b/a Clinton Enterprises for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Elliott

ISSUE 1: Should the Commission grant Tyrone Joseph Clinton d/b/a Clinton Enterprises a voluntary cancellation of its certificate?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's certificate on its own motion with an effective date of July 17, 2002. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificate for Tyrone Joseph Clinton d/b/a Clinton Enterprises is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone 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 the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the penalty and fees and updated reporting requirements, or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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21**PAADocket No. 021177-TP - Bankruptcy cancellation by Florida Public Service Commission of IXC Certificate No. 7086 and ALEC Certificate No. 7087 issued to Actel Integrated Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Teitzman, McKay

ISSUE 1: Should the Commission grant Actel Integrated Communications, Inc.'s request for cancellation of its IXC Certificate No. 7086 and ALEC Certificate No. 7087 due to bankruptcy?

RECOMMENDATION: Yes. The Commission should grant the company a bankruptcy cancellation of its IXC Certificate No. 7086 and its ALEC Certificate No. 7087 with an effective date of November 18, 2002. In addition, the Division of the Commission Clerk and Administrative Services will be notified that the 2001 and 2002 RAFs, including statutory penalty and interest charges for the years 2000 and 2001 for each certificate, should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write off the uncollectible amount should be requested. If the certificates are cancelled in accordance with the Commission's Order from this recommendation, Actel Integrated Communications, Inc. should be required to immediately cease and desist providing interexchange telecommunications and alternative local exchange services in Florida.

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<u>ITEM NO.</u>	<u>CASE</u>
21**PAA	Docket No. 021177-TP - Bankruptcy cancellation by Florida Public Service Commission of IXC Certificate No. 7086 and ALEC Certificate No. 7087 issued to Actel Integrated Communications, Inc.

(Continued from previous page)

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. The docket should then be closed.

DECISION: The recommendations were approved.

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

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22**Docket No. 021118-EI - Petition for approval of revised tariffs and updated charges for underground residential and commercial distribution service by Tampa Electric Company.

Critical Date(s): 12/31/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: E. Draper
GCL: Brubaker

ISSUE 1: Should the Commission suspend TECO's proposed tariffs and charges associated with the installation of underground residential and commercial distribution facilities?

RECOMMENDATION: Yes. The Commission should suspend TECO's proposed tariffs and charges associated with the installation of underground residential and commercial distribution facilities.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. The docket should remain open pending a final decision on the petition.

DECISION: The recommendations were approved.

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

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ITEM NO.

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23**PAADocket No. 021164-EI - Petition for authorization to increase Reserve for Storm Damage by making one-time expense accrual to Reserve before December 31, 2002, by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Slemkewicz
GCL: Stern

ISSUE 1: Should the Commission approve Florida Power & Light Company's (FPL) petition for authorization to make a one-time expense accrual of between \$25 million to \$35 million to increase its Reserve for Storm Damage before December 31, 2002?

RECOMMENDATION: Yes. The Commission should approve FPL's petition for authorization to make a one-time expense accrual of between \$25 million to \$35 million to increase its Reserve for Storm Damage by December 31, 2002.

ISSUE 2: 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, Palecki, Bradley

ITEM NO.

CASE

24**PAADocket No. 020406-WU - Application for staff-assisted rate case in Polk County by Pinecrest Ranches, Inc.

Critical Date(s): 10/5/03 (15-month effective date)

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Biggins, Fitch, Hudson, Davis, Lingo, Massoudi
GCL: Gervasi

ISSUE 1: Is the quality of service provided by Pinecrest Ranches, Inc., considered satisfactory?

RECOMMENDATION: Yes. The quality of service provided by Pinecrest Ranches, Inc. should be considered satisfactory. However, the utility should be required to submit monthly reports for the next six months that chronicle the newly instituted flushing program.

ISSUE 2: Should the Commission approve a projected test year for this utility?

RECOMMENDATION: Yes. The Commission should approve a projected test year for the utility. The historic test year is not representative of the revenues and expenses associated with an emergency interconnect which added rate base, expenses, revenues, and customers that did not exist during the historic test year. Therefore, a projected test year ending December 31, 2002, should be approved.

ISSUE 3: What portions of Pinecrest Ranches, Inc., are used and useful?

RECOMMENDATION: The Pinecrest utility water treatment plant should be considered 100% used and useful and the water distribution system should be considered to be 92% used and useful.

ISSUE 4: What is the appropriate average test year rate base for the utility?

RECOMMENDATION: The appropriate average test year rate base for Pinecrest is \$55,120. The utility should be required to complete meter installations for all its customers, as discussed in the analysis portion of staff's December 5, 2002 memorandum, within six months of the issuance date of the Consummating Order.

<u>ITEM NO.</u>	<u>CASE</u>
24**PAA	<p>Docket No. 020406-WU - Application for staff-assisted rate case in Polk County by Pinecrest Ranches, Inc.</p> <p>(Continued from previous page)</p> <p><u>ISSUE 5</u>: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility? <u>RECOMMENDATION</u>: The appropriate return on equity is 10.23% with a range of 9.23% - 11.23%. The appropriate overall rate of return is 10.23%.</p> <p><u>ISSUE 6</u>: What are the appropriate projected test year revenues? <u>RECOMMENDATION</u>: The appropriate projected test year revenues for the utility are \$21,492.</p> <p><u>ISSUE 7</u>: What is the appropriate amount of operating expense? <u>RECOMMENDATION</u>: The appropriate amount for operating expenses for this utility is \$46,270. The utility should be required to provide the Commission with proof of liability insurance within six months of the issuance date of the Consummating Order.</p> <p><u>ISSUE 8</u>: What is the appropriate revenue requirement? <u>RECOMMENDATION</u>: The appropriate revenue requirement is \$51,909 for water.</p> <p><u>ISSUE 9</u>: Is a continuation of the utility's current flat rate structure for its water system appropriate in this case, and, if not, what is the appropriate rate structure? <u>RECOMMENDATION</u>: No. A continuation of the utility's current flat rate structure for its water system is not appropriate in this case. The water system rate structure should be changed to a traditional base facility charge (BFC)/gallongage charge rate structure. A conservation adjustment should also be implemented so that a total of 70% of the revenue requirement is recovered through the gallongage charge.</p> <p><u>ISSUE 10</u>: Is an adjustment to reflect repression of consumption appropriate in this case, and, if so, what is the appropriate repression adjustment? <u>RECOMMENDATION</u>: Yes. A repression adjustment of 17,603 kgal is appropriate in this case. In order to monitor the effects of both the changes in rate structure and the recommended revenue change, the utility should be ordered to</p>

ITEM NO.

CASE

24**PAA

Docket No. 020406-WU - Application for staff-assisted rate case in Polk County by Pinecrest Ranches, Inc.

(Continued from previous page)

prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenue billed. These reports should be provided, by customer class and meter size, on a quarterly basis for a period of two years, beginning with the first billing period after the approved rates go into effect.

ISSUE 11: What are the appropriate monthly rates for service?

RECOMMENDATION: The appropriate monthly rates should be designed to produce revenues of \$50,309, excluding miscellaneous service charge revenues. The utility should file revised tariff sheets reflecting staff's recommended phase I rates and a proposed customer notice to reflect the Commission-approved phase I and phase II rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until staff has approved the proposed customer notice, the notice has been received by the customers, and staff has verified that the tariffs are consistent with the Commission's decision. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice. Once the utility has completed the meter installations discussed in Issue No. 4, the utility should file revised tariff sheets reflecting staff's recommended phase II rates. The phase II rate tariffs should be approved once staff has verified that the tariffs are consistent with the Commission's decision.

ISSUE 12: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The water rates should be reduced as shown on Schedule 4 of staff's December 5, 2002 memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately

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CASE

24**PAA

Docket No. 020406-WU - Application for staff-assisted rate case in Polk County by Pinecrest Ranches, Inc.

(Continued from previous page)

following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

ISSUE 13: Should the utility's service availability charges be revised to include a meter installation fee, and if so, what is the appropriate fee?

RECOMMENDATION: Yes. The utility's current service availability charges should be revised to include a meter installation charge of \$153. The utility should file revised tariff sheets which are consistent with the Commission's vote within one month of the Commission's final vote. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the meter installation fee should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 14: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the

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24**PAA	Docket No. 020406-WU - Application for staff-assisted rate case in Polk County by Pinecrest Ranches, Inc.
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rates collected by the utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

ISSUE 15: Should this docket be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional seven months from the issuance date of the Consummating Order to allow staff time to verify completion of meter installations as discussed in Issue No. 4, and to verify proof of insurance as discussed in Issue No. 7. Once staff has verified that these items have been completed, the docket should be closed administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

25Docket No. 000075-TP - Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996. (Deferred from December 2, 2002 conference.)

Critical Date(s): None

Commissioners Assigned: Jaber, Deason, Baez, Palecki
Prehearing Officer: Jaber

Staff: GCL: Banks, Dodson, B. Keating
CMP: Marsh, Dowds, Simmons

ISSUE A: Should the Commission grant AT&T/TCG/AT&T Broadband's Request for Oral Argument on its Motion for Reconsideration of Order No. PSC-02-1248-FOF-TP?

RECOMMENDATION: No. Pursuant to Rule 25-22.060(1)(f), Florida Administrative Code, oral argument on any post-hearing motion for reconsideration may be granted solely at the Commission's discretion. In this instance, staff believes that oral argument will not aid the Commission in evaluating issues before it.

DECISION: The recommendation was approved with the modification that oral argument is limited to Issue 3.

ISSUE 1: Should the Commission grant the various Motions for Reconsideration filed regarding the tandem interconnection rate and definition of "comparable geographic area" in Order No. PSC-02-1248-FOF-TP?

RECOMMENDATION: No. The Motions have not identified a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision. Therefore, the Motions for Reconsideration regarding the tandem interconnection rate and definition of "comparable geographic area" in Order No. PSC-02-1248-FOF-TP should be denied.

DECISION: The recommendation was approved.

ITEM NO.

CASE

25 Docket No. 000075-TP - Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996. (Deferred from December 2, 2002 conference.)

(Continued from previous page)

ISSUE 2: Should the Commission grant the various Motions for Reconsideration filed regarding assignment of telephone numbers and the related intercarrier compensation in Order No. PSC-02-1248-FOF-TP?

RECOMMENDATION: No. The Motions have not identified a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision. Therefore, the Motions for Reconsideration regarding assignment of telephone numbers and the related intercarrier compensation in Order No. PSC-02-1248-FOF-TP should be denied.

DECISION: The recommendation was approved.

ISSUE 3: Should the Commission grant the various Motions for Reconsideration regarding the definition of local calling area defined by Order No. PSC-02-1248-FOF-TP?

RECOMMENDATION: Yes. The Motions have identified a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision. Therefore, the Motions for Reconsideration regarding the definition of local calling area established by Order No. PSC-02-1248-FOF-TP should be granted. Staff recommends that no default option specifying the applicable local calling scope for purposes of intercarrier compensation should be set at this time.

DECISION: The recommendation was denied.

ITEM NO.

CASE

25 Docket No. 000075-TP - Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996. (Deferred from December 2, 2002 conference.)

(Continued from previous page)

ISSUE 4: Should the Commission grant the various Motions for Reconsideration regarding the ruling requiring the originating carrier to bear all the cost of transport to a distant point of interconnection in Order No. PSC-02-1248-FOF-TP?

RECOMMENDATION: No. The Motions have not identified a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision. Therefore, the Motions for Reconsideration regarding the ruling requiring the originating carrier to bear all the cost of transport to a distant point of interconnection in Order No. PSC-02-1248-FOF-TP should be denied. However, staff believes the Commission should clarify and emphasize that this Commission's ruling will remain in effect only until such time as the FCC makes a definitive ruling on this issue. In addition, staff believes that the Commission should clarify that the point of interconnection designated by the ALEC, to which the originating carrier has the responsibility for delivering its traffic, must be within the ILEC's network.

DECISION: The recommendation was approved.

ISSUE 5: Should Verizon's Motion to Strike GNAP's Notice of Adoption be granted?

RECOMMENDATION: Yes. GNAPs' Notice of Adoption appears to be an untimely Motion for Reconsideration or Response to a Motion. It is not otherwise contemplated by Commission rules.

DECISION: The recommendation was approved.

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25 Docket No. 000075-TP - Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996. (Deferred from December 2, 2002 conference.)

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ISSUE 6: Should the various requests/motions for stay pending appeal be granted?

RECOMMENDATION: If staff's recommendation in Issue 3 is approved and reconsideration is granted, staff believes that the requests for stay are rendered moot. If, however, the Commission denies staff's recommendation in Issue 3, staff recommends that the requests for stay be denied.

DECISION: The recommendation was approved.

ISSUE 7: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation, no further action would be required.

DECISION: The recommendation was approved.

Commissioners participating: Jaber, Deason, Baez, Palecki

ITEM NO.

CASE

25ADocket No. 020384-GU - Petition for rate increase by Peoples Gas System.

Critical Date(s): 2/27/03 (8-month effective date)

Commissioners Assigned: Jaber, Deason, Baez, Bradley
Prehearing Officer: Baez

Staff: ECR: Wheeler, E. Draper, Springer
GCL: Vining

ISSUE 71: If the Commission grants a revenue increase to Peoples, how should the increase be allocated to the rate classes?

RECOMMENDATION: Staff's recommended allocation of the increase to the rate classes is shown in Attachment 1 of staff's December 16, 2002 memorandum.

ISSUE 72: Is Peoples' proposal to apply uniform rates and service charges to all customers, including customers formerly served by West Florida Gas, appropriate?

RECOMMENDATION: Yes. Peoples' proposal to apply uniform rates and service charges to all customers, including customers formerly served by West Florida Gas, is appropriate.

ISSUE 73: Should any increase in rates for the customers of the former West Florida Natural Gas Company be phased in over several years?

RECOMMENDATION: No. The increase in rates for the customers of the former West Florida Natural Gas Company should not be phased in over several years.

ISSUE 77: Are Peoples' proposed customer classes and riders and their associated term requirements appropriate?

RECOMMENDATION: Yes.

ISSUE 86: Are Peoples' proposed changes to the Correction of Imbalances provision of its Individual Transportation Rider appropriate?

RECOMMENDATION: Yes.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Deason, Baez, Bradley

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26**PAADocket No. 020999-TX - Complaint of Mel Citron against Supra Telecommunications and Information Systems, Inc. regarding quality of service.

Critical Date(s): None

Commissioners Assigned: Deason, Baez, Palecki
Prehearing Officer: Palecki

Staff: GCL: Banks
CAF: Plescow
CMP: McDonald

ISSUE 1: Should the Commission deny Complaint No. 411314T, filed by Mr. Mel Citron against Supra Telecommunications and Information Systems, Inc.?

RECOMMENDATION: Yes. The Commission should deny Complaint No. 411314T filed by Mr. Mel Citron.

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. This docket should then be closed upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Palecki

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27**Docket No. 020071-WS - Application for rate increase in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida.

Critical Date(s): 12/30/02 (60-day suspension date)

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

Staff: ECR: Kyle, Merchant
GCL: Gervasi, Holley

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

RECOMMENDATION: Yes. UIF's proposed water and wastewater rates should be suspended. The docket should remain open pending the Commission's final action on the utility's requested rate increase.

DECISION: The recommendation was approved.

Commissioners participating: Deason, Baez, Bradley

ITEM NO.

CASE

28Docket No. 010795-TP - Petition by Sprint Communications Company Limited Partnership for arbitration with Verizon Florida Inc. pursuant to Section 251/252 of the Telecommunications Act of 1996. (Deferred from November 5, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Baez, Palecki, Bradley
Prehearing Officer: Baez

Staff: CMP: Fulwood, Barrett, Simmons
GCL: Teitzman, Banks, B. Keating

LEGAL ISSUE A: What is the Commission's jurisdiction in this matter?

RECOMMENDATION: Staff believes that the Commission has jurisdiction pursuant to Chapter 364, Florida Statutes, and Section 252 of the Federal Telecommunications Act of 1996 (Act) to arbitrate interconnection agreements, and may implement the processes and procedures necessary to do so in accordance with Section 120.80 (13) (d), Florida Statutes. Section 252 of the Act states that a State Commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions required. This section requires this Commission to conclude the resolution of any unresolved issues not later than nine months after the date on which the ILEC received the request under this section. In this case, however, the parties have explicitly waived the nine-month requirement set forth in the Act.

Further, Section 252(e) of the Act reserves the state's authority to impose additional conditions and terms in an arbitration not inconsistent with the Act and its interpretation by the FCC and the courts.

ISSUE 1: In the new Sprint/Verizon interconnection agreement:

- (A) For the purposes of reciprocal compensation, how should local traffic be defined?
- (B) What language should be included to properly reflect the FCC's recent ISP Remand Order?

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RECOMMENDATION: For the purposes of reciprocal compensation, the jurisdiction of calls dialed via 00- or 7/10D should be defined based upon the end points of a call. Thus, calls dialed in this manner, which originate and terminate in the same local calling area, should be defined as local traffic.

ISSUE 2: For the purposes of the new Sprint/Verizon interconnection agreement:

- (A) Should Sprint be permitted to utilize multi-jurisdictional interconnection trunks?
- (B) Should reciprocal compensation apply to calls from one Verizon customer to another Verizon customer, that originate and terminate on Verizon's network within the same local calling area, utilizing Sprint's "00-" dial around feature?

RECOMMENDATION: (A) Until such time that Sprint demonstrates to Verizon or this Commission that its billing system can separate multi-jurisdictional traffic transported on the same facility, staff recommends that Sprint should not be allowed to utilize multi-jurisdictional trunks. Staff trusts that Sprint will work cooperatively with Verizon and the Ordering and Billing Forum on its billing system;

(B) Staff recommends that when Sprint demonstrates to Verizon or this Commission that its billing system can separate multi-jurisdictional traffic transported on the same facility, Sprint's proposal for compensation should apply to "00-" calls that originate and terminate on Verizon's network within the same local calling area.

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ISSUE 3: For the purposes of the new Sprint/Verizon interconnection agreement, should Verizon be required to provide custom calling/vertical features, on a stand-alone basis, to Sprint at wholesale discount rates?

RECOMMENDATION: Yes. Verizon should be required to provide custom calling/vertical features, on a stand-alone basis, to Sprint. The provision of these services should be at Verizon's current wholesale discount rate for all resold services, 13.04%. The current wholesale discount rate should apply until such time as Verizon may choose to calculate, and this Commission approves, an avoided cost calculation that specifically addresses stand-alone custom calling features.

ISSUE 12: Should changes made to Verizon's Commission-approved collocation tariffs, made subsequent to the filing of the new Sprint/Verizon interconnection agreement, supercede the terms set forth at the filing of this agreement?

RECOMMENDATION: Yes. Staff recommends that changes made to Verizon's Commission-approved collocation tariffs, made subsequent to the filing of the new Sprint/Verizon interconnection agreement, should supercede the terms set forth at the filing of this agreement. Staff recommends that this be accomplished by including specific reference to the Verizon collocation tariffs in the parties' interconnection agreement. However, staff believes that Sprint shall retain the right, when it deems appropriate, to contest any future Verizon collocation tariff revisions by filing a petition with the Commission.

ISSUE 15: For the purposes of the new interconnection agreement, should Sprint be required to permit Verizon to collocate equipment in Sprint's central offices?

RECOMMENDATION: Staff recommends that Sprint should not be required to allow Verizon to collocate its equipment in

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Sprint central offices when Sprint is not the incumbent local exchange carrier. However, staff believes that the parties should negotiate, since Verizon proposes a reasonable means to reduce the amount of transport involved in interconnection.

ISSUE 17: 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 arbitrated agreement in accordance with Section 252 of the Telecommunications Act of 1996.

DECISION: The recommendations were approved with Legal Issue A having been approved at the November 5, 2002 conference.

Commissioners participating: Baez, Palecki, Bradley

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29**Docket No. 021062-TL - Petition for determination as to whether sufficient justification exists to implement Emergency Service Continuity Plan tariff and, if so, for emergency waiver of Rule 25-4.118, F.A.C., by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Baez, Palecki, Bradley
Prehearing Officer: Palecki

Staff: GCL: Knight
CMP: Simmons, Pruitt

ISSUE 1: Should the Commission acknowledge BellSouth's withdrawal of its Petition for Implementation of BellSouth's Emergency Service Continuity Tariff and Emergency Rule Waiver, without Prejudice, and close this Docket?

RECOMMENDATION: Yes. The Commission should acknowledge BellSouth's withdrawal of its Petition for Implementation of BellSouth's Emergency Service Continuity Tariff and Emergency Rule Waiver, without Prejudice, find that the voluntary dismissal renders any and all outstanding motions moot, and close this docket.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Palecki, Bradley