

**MINUTES OF FEBRUARY 3, 2004**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:35 a.m.

**ADJOURNED:** 12:40 p.m.

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

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

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1 Approval of Minutes

January 6, 2004 Regular Commission Conference

DECISION: The minutes were approved.

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

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2\*\*Consent Agenda

PAA A) Requests for cancellation of competitive local exchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
031112-TX	Broadwing Local Services Inc.	11/18/03
031108-TX	CityNet Telecom, Inc.	12/15/03

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
031086-TX	Vortex Broadband Communications, Inc.
031096-TX	SNC Communications, LLC
031117-TX	Comtech21, LLC
031113-TX	Network PTS, Inc.
031134-TX	Nigerian-American Investment Corporation d/b/a NAIC Telecommunications

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
031109-TC	Bobby L. Folds
031121-TC	Public Communications Services, Inc.
031126-TC	Lake Forest Master Community Association, Inc.
040012-TC	Miles Unlimited Inc.
040013-TC	Small Shell, Inc. d/b/a Durty Harry's Raw Bar & Saloon

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2**	Consent Agenda
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(Continued from previous page)

PAA	D) DOCKET NO. 031118-TC - Request By Walk-In Phone Centers, Inc. for cancellation of PATS Certificate No. 5395; and application for certificate to provide pay telephone service by AKS Communications, Inc.
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RECOMMENDATION: The Commission should approve the action requested in the dockets referenced above and close these dockets.

DECISION: The recommendation was approved.

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

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3\*\*Docket No. 021066-WS - Investigation into proposed sale of Florida Water Services Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: GCL: Helton

ECR: Daniel, Kummer, Willis

ISSUE 1: Should the Commission find that FWSC's Application for Acknowledgment of Sale of Facilities to FWSA submitted February 7, 2003, be considered moot?

RECOMMENDATION: Yes. In light of the termination of the purchase agreement between FWSC and FWSA, the Commission should find that FWSC's Application for Acknowledgment of Sale of Facilities to FWSA is moot.

ISSUE 2: Should staff file a motion to dissolve the injunction ordered by the Circuit Court against Florida Water Services Corporation?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, staff should file a motion seeking to dissolve the injunction against Florida Water Services Corporation, and seeking to release the bond.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendations in Issues 1 and 2, this docket should be closed.

DECISION: This item was withdrawn.

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4\*\*Docket No. 030643-TP - Petition of Verizon Florida Inc. (f/k/a GTE Florida Inc.) against Teleport Communications Group, Inc. and TCG South Florida for review of decision by The American Arbitration Association, in accordance with Attachment 1 Section 11.2(a) of interconnection agreement between GTE Florida Inc. and TCG South Florida.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Davidson

Staff: GCL: Banks, Susac  
CMP: Pruitt

ISSUE 1: Should Verizon Florida Inc.'s request for oral argument be granted?

RECOMMENDATION: Yes. Staff recommends that Verizon Florida Inc.'s request for oral argument be granted. If the Commission grants oral argument, staff recommends that each party be allowed ten minutes to present oral argument.

ISSUE 2: Did Verizon timely file its appeal of the American Arbitration Association's award according to the parties' interconnection agreement?

RECOMMENDATION: Yes. Staff recommends that Verizon's filing of its appeal of the AAA order should be considered timely.

ISSUE 3: Should TCG's Motion to Dismiss be granted?

RECOMMENDATION: No. TCG's Motion to Dismiss should be denied. As a general matter, the Commission has jurisdiction to resolve disputes arising under an approved interconnection agreement unless its role is restricted by a binding dispute resolution provision in the agreement. The agreement in this case expressly provides that an arbitrator's decision resolving an interconnection agreement dispute shall not be final if (1) a party appeals the decision to the Commission, (2) the matter is within the jurisdiction of the Commission, and (3) the agency agrees to hear the matter. The first two prongs of this provision are met, so it is not appropriate to dismiss for lack of jurisdiction.

The Motion and Response do not, however, provide sufficient information for staff to recommend whether the Commission should exercise its discretion to "agree" to hear an appeal under the third prong. Therefore, staff recommends that within 20 days of the issuance of the Order, Verizon should submit a memorandum that (a) identifies the specific factual, legal and policy issues for which review is sought, (b) addresses the reasons that the Commission should agree to review the arbitrator's decision on each issue identified, (c) specifies the type of proceeding that should be held on each issue (e.g., a de novo evidentiary hearing or appellate review based on the record in the arbitration proceeding) and (d) identifies the applicable standard of review for each issue. TCG should then be given 20 days to respond. Staff would subsequently file a

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4\*\*

Docket No. 030643-TP - Petition of Verizon Florida Inc. (f/k/a GTE Florida Inc.) against Teleport Communications Group, Inc. and TCG South Florida for review of decision by The American Arbitration Association, in accordance with Attachment 1 Section 11.2(a) of interconnection agreement between GTE Florida Inc. and TCG South Florida.

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recommendation on whether, and under what procedures, the Commission should agree to hear the appeal.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: If the Commission denies staff's recommendation in Issue 3, this docket shall be closed as no further Commission action is required. If however, the Commission approves staff's recommendation in Issue 3, this docket should remain open pending the resolution of the issues in the docket.

DECISION: This item was deferred.

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5Docket No. 030851-TP - Implementation of requirements arising from Federal Communications Commission's triennial UNE review: Local Circuit Switching for Mass Market Customers.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: GCL: Susac, Rojas, Teitzman

CMP: Lee, Dowds

ISSUE 1: Should AARP's Motion for Reconsideration be granted?

RECOMMENDATION: No. AARP has not identified a point of fact or law which was overlooked or which the Prehearing Officer failed to consider in rendering his decision. Therefore, the Motion for Reconsideration should be denied.

DECISION: The recommendation was approved. The Commission, on its own motion, voted to allow intervention by AARP, with the understanding that they take the case as they find it.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. Irrespective of whether the Commission approves or denies staff's recommendation in Issue 1, the docket should remain open to ascertain whether a requesting carrier is not impaired by lack of access to incumbent local exchange companies' unbundled local switching.

DECISION: The recommendation was approved. Additionally, on its own motion, the Commission voted to grant BellSouth's motion for extension of time.

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

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6Docket No. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory. Docket No. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Deason

Staff: GCL: Teitzman, B. Keating, Rojas  
CMP: T. Brown, Dowds

ISSUE 1: Should the Motions for Reconsideration and/or Clarification filed by Verizon, Covad, Sprint, and FDN be granted?

RECOMMENDATION: No. Reconsideration should not be granted, because the Motions do not identify a mistake of fact or law in the Commission's decision. The Commission should, however, clarify certain aspects of its decision as more fully set forth in the body of staff's January 22, 2004 recommendation.

ISSUE 2: Should these Dockets be closed?

RECOMMENDATION: No. These Dockets should remain open to address the remaining pricing issues.

DECISION: The recommendations were approved.

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



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7\*\*PAADocket No. 000121A-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK) (Deferred from August 19, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: CMP: Simmons, Harvey, K. Kennedy

GCL: B. Keating, Dodson

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

RECOMMENDATION: BellSouth should be required to modify the SEEM plan for Tier 1 and Tier 2 to incorporate the severity of a performance measure failure in the manner recommended in the analysis portion of staff's January 22, 2004 memorandum.

BellSouth's modified SEEM plan should be submitted within 60 days from the date of the Order from staff's recommendation.

ISSUE 2: Should this docket be closed?

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

DECISION: This item was deferred.

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8\*\*PAADocket No. 031114-TL - Request for permission to change demarcation point specified in Rule 25-4.0345(1)(b), F.A.C., by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Lewis  
GCL: Fordham

ISSUE 1: Should the Commission grant BellSouth's request for a waiver of Rule 25-4.0345(1)(b), Florida Administrative Code, for nonresidential service at Naval Station Mayport?

RECOMMENDATION: Yes. The Commission should approve the waiver for BellSouth to provide a single demarcation point for the nonresidential subscribers located within the boundaries of Mayport.

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 order will become final upon issuance of a consummating order. Staff recommends that this docket should be administratively closed upon issuance of a consummating order.

DECISION: The recommendations were approved.

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

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9\*\*Docket No. 031013-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 7737 issued to Kernan Associates, Ltd. d/b/a St. Johns Estates, for violation of Rule 25-24.0161, F.A.C, Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay

ISSUE 1: Should the Commission accept the settlement offer proposed by Kernan Associates, Ltd. d/b/a St. Johns Estates to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within 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 Florida Department of Financial Services 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. 7737 should be cancelled administratively. If Kernan Associates, Ltd. d/b/a St. Johns Estates' certificate is cancelled in accordance with the Commission's Order from this recommendation, 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: 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: Baez, Deason, Jaber, Bradley, Davidson

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10\*\*Docket No. 030943-TI - Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ525 issued to Telecom New Zealand Communications (USA) Limited, Inc. for violation of Section 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay

ISSUE 1: Should the Commission grant Telecom New Zealand Communications (USA) Limited, Inc. a voluntary removal from the register of IXC Registration No. TJ525 and cancel its tariff?

RECOMMENDATION: The Commission should grant Telecom New Zealand Communications (USA) Limited, Inc. a voluntary removal from the register of IXC Registration No. TJ525 and cancel its tariff with an effective date of May 22, 2003. If the tariff is cancelled and the company's name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the company's tariff and removal from the register of Registration No. TJ525 as no other issues need to be addressed by the Commission.

DECISION: The recommendations were approved.

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

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11\*\*Docket No. 030806-TI - Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ634 issued to Universal Carriers, Inc. d/b/a Universal Communications, Inc. for violation of Section 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay

ISSUE 1: Should the Commission accept the settlement offer proposed by Universal Carriers, Inc. d/b/a Universal Communications, Inc. to resolve the apparent violation of Section 364.336, Florida Statutes?

RECOMMENDATION: 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 Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission order, the company's tariff should be cancelled and its name removed from the register administratively. In addition, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida. If the company's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, the company should be required to first pay any outstanding RAF, including statutory late payment charges, and the contribution.

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 tariff and removal from the register.

DECISION: The recommendations were approved.

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

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12Docket No. 030954-GU - Petition for rate increase by Indiantown Gas Company.

Critical Date(s): 2/15/04 (60-day suspension date)  
5/15/04 (5-month effective date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: ECR: Merta, Kenny, Maurey, Wheeler, Springer  
GCL: Fleming

ISSUE 3: Should the request for a permanent increase in rates and charges be suspended for Indiantown?

RECOMMENDATION: Yes. Staff recommends that the requested permanent increase in rates and charges of \$306,751 be suspended for Indiantown.

ISSUE 4: Is Indiantown's proposed interim test year rate base of \$642,589 appropriate?

RECOMMENDATION: No. The appropriate interim test year rate base for Indiantown is \$572,394.

ISSUE 5: Is Indiantown's proposed interim test year net operating income of (\$27,273) appropriate?

RECOMMENDATION: No. The appropriate interim test year net operating income for Indiantown is (\$57,415).

ISSUE 6: Are Indiantown's proposed return on equity of 10.50% and overall cost of capital of 9.14% appropriate for purposes of determining interim rates?

RECOMMENDATION: Yes and no. While the appropriate return on equity for purposes of determining interim rates is 10.50%, the appropriate overall cost of capital is 9.10%.

ISSUE 7: Is Indiantown's proposed interim revenue expansion factor of 1.6114 appropriate?

RECOMMENDATION: No. The appropriate revenue expansion factor is 1.2512.

ISSUE 8: Should Indiantown's requested interim revenue increase of \$138,602 be granted?

RECOMMENDATION: No. After making the above adjustments, the interim revenue increase for Indiantown should be \$137,014.

ISSUE 9: How should the interim revenue increase for Indiantown be distributed among the rate classes?

RECOMMENDATION: Any interim revenue increase approved should be applied evenly across the board to all rate classes based on their base rate revenues, as required by Rule 25-7.040, Florida Administrative Code, and should be recovered on a cents-per-term basis. The interim rates should be made effective for all meter readings made on or after thirty days from the date of the vote approving any interim increase. The

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12 Docket No. 030954-GU - Petition for rate increase by Indiantown Gas Company.

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Company should give notice to customers of the interim increase commencing with the first bill for service that reflects the increase.

ISSUE 10: What is the appropriate security to guarantee the amount collected subject to refund?

RECOMMENDATION: The appropriate security to guarantee the funds collected subject to refund is an irrevocable letter of credit, a surety bond, or an escrow agreement. With respect to these three forms of security, staff recommends Indiantown pursue the method that is least expensive for the Company.

ISSUE 9: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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13\*\*Docket No. 030999-EG - Petition for approval of modifications to Residential New Construction and Residential Energy Management DSM programs by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: ECR: Haff, Ballinger, Baxter, Munroe

GCL: M. Brown

ISSUE 1: Should the Commission approve PEF's petition to modify its Residential New Construction program?

RECOMMENDATION: Yes. Incorporating the changes proposed by PEF, the Residential New Construction program is expected to continue to meet the policy objectives of the Florida Energy Efficiency and Conservation Act, to continue to be monitorable, and continue to be cost-effective.

DECISION: The recommendation was approved.

ISSUE 2: Should the Commission approve PEF's petition to modify its Residential Energy Management program?

PRIMARY RECOMMENDATION: No. By controlling only the secondary strip heat portion of a heat pump, PEF would essentially place customers on a "no load-control" program with no reduction in credit payment. The existing program continues to be cost-effective, so there is no urgency to correct a problem. It appears that PEF is proposing the changes to the program to increase participating customer satisfaction with little or no incremental benefit to the remaining body of ratepayers.

ALTERNATE RECOMMENDATION: Yes. Incorporating the changes proposed by PEF, the Residential Energy Management program is expected to continue to meet the policy objectives of the Florida Energy Efficiency and Conservation Act, continue to be monitorable, and continue to be cost-effective.

DECISION: Issue 2 was withdrawn.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves the primary staff recommendation in Issue 2, and no timely protest is filed, this docket should be closed upon the issuance of a Consummating Order. If the Commission approves the alternate staff recommendation in Issue 2, and a protest is filed within 21 days of the issuance of



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13\*\*

Docket No. 030999-EG - Petition for approval of modifications to Residential New Construction and Residential Energy Management DSM programs by Progress Energy Florida, Inc.

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an Order, the tariff should remain in effect pending resolution of the protest; however, if no timely protest is filed, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendation was approved. Additionally, the order will acknowledge the company's withdrawal of a portion of its petition.

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

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14\*\*Docket No. 031100-EI - Petition for approval of tariffs offering energy profiler online service and remote access service by Progress Energy Florida, Inc.

Critical Date(s): 2/8/04 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Baxter

GCL: Brown

ISSUE 1: Should Progress Energy Florida, Inc.'s proposed new Energy Profiler Online Tariff and Remote Access Tariff be suspended?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

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15\*\*Docket No. 031107-EI - Petition for approval of revisions to Sections 3.02 and 3.05 of Part III, New Service Extensions, Tariff Rules and Regulations, by Progress Energy Florida, Inc.

Critical Date(s): 2/16/04 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Wheeler

GCL: Fleming

ISSUE 1: Should the Commission approve PEF's request to modify Section 3.02 of its tariff regarding the extension of distribution facilities for new overhead electric service?

RECOMMENDATION: Yes.

ISSUE 2: Should the Commission approve PEF's request to modify Section 3.05 of its tariff regarding the relocation or modification of existing electric facilities?

RECOMMENDATION: Yes.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If Issues 1 and 2 are approved, this tariff should become effective on April 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 recommendations were approved.

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

ITEM NO.

CASE

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16\*\*Docket No. 031110-EQ - Petition for approval of new standard offer contract for qualifying cogeneration and small power production facilities and for approval of associated revisions to tariff schedules COG-1 and COG-2 by Tampa Electric Company.

Critical Date(s): 2/15/04 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Harlow, Colson, Wheeler

GCL: Rodan

ISSUE 1: Should Tampa Electric Company's (TECO) petition for approval of a new Standard Offer Contract, based upon a combustion turbine unit with an in-service date of May 1, 2006, including revisions to the associated COG-1 and COG-2 tariffs, be approved?

RECOMMENDATION: Yes. TECO's new Standard Offer Contract complies with Rule 25-17.0832, Florida Administrative Code. TECO's proposed methodology for calculating identifiable avoided incremental O&M costs, as indicated in the proposed tariffs, appropriately represents the variable O&M costs which are avoided by TECO due to the purchase of as-available energy, and complies with Rule 25-17.0825, Florida Administrative Code.

ISSUE 2: On what date should TECO's proposed Standard Offer Contract become effective?

RECOMMENDATION: TECO's proposed Standard Offer Contract and COG-1 and COG-2 tariffs should become effective upon the issuance of a consummating order if there is no timely protest filed.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, and no timely protest is filed within 21 days of the issuance of the Commission's order, this docket should be closed, and the tariff should become effective, upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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17\*\*Docket No. 031093-EQ - Petition for approval of revised standard offer contract and revised COG-2 rate schedule by Florida Power & Light Company.

Critical Date(s): 2/3/04 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Haff, Baxter, Maurey, Sickel

GCL: Vining

ISSUE 1: Should Florida Power & Light's proposed revised standard offer contract and COG-2 rate schedule be suspended?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

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18Docket No. 030443-WS - Application for rate increase in Pasco County by Labrador Utilities, Inc.

Critical Date(s): 2/3/04 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Greene, Merchant, Maurey, Edwards

GCL: C. Keating

ISSUE 1: Should an interim revenue increase be approved?

RECOMMENDATION: Yes. On an interim basis, the utility should be authorized to collect annual revenues as indicated below:

<u>System</u>	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$52,720	\$141,117	\$193,837	267.67%
Wastewater	\$124,032	\$146,292	\$270,324	117.95%

ISSUE 2: What are the appropriate interim rates?

RECOMMENDATION: The service rates in effect as of June 30, 2003, should be increased by 262.91% and 117.05% for water and wastewater, respectively, to generate the recommended increases for the interim period. The revised tariff sheets will be approved upon staff's verification that the tariff sheets are consistent with the Commission's decision. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice and the required security has been filed. The utility should provide proof to staff of the date notice was given within 10 days after the date of the notice.

ISSUE 3: What is the appropriate security to guarantee the interim rate increase?

RECOMMENDATION: A corporate undertaking is acceptable contingent upon receipt of the written guarantee of the parent company, Utilities, Inc. (UI), and written confirmation of UI's continued attestation that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states. UI should be required to file a corporate undertaking on behalf of its subsidiaries to guarantee any potential refunds of revenues collected under interim conditions. UI's total guarantee should be a cumulative amount of \$704,180. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be

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

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made with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending the Commission's final action to determine permanent rates.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

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19\*\*Docket No. 030517-SU - Application for approval of new rate for bulk wastewater service agreement with City of Cape Coral in Lee County, by North Fort Myers Utility, Inc.

Critical Date(s): 2/10/04 (8-month effective date)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Revell, Merchant, Willis

GCL: C. Keating

ISSUE 1: Should the Commission decline to rule upon NFMU's application for approval of a new rate for a bulk wastewater service agreement between NFMU and the City?

RECOMMENDATION: Yes. The sale of bulk wastewater service to a governmental authority is exempt from the Commission's jurisdiction pursuant to Section 367.022(12), Florida Statutes, thus the Commission should decline to rule upon NFMU's application.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: This docket should be closed after the time for filing an appeal has run.

DECISION: The recommendations were approved.

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



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CASE

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20\*\*Docket No. 030957-SU - Application for amendment of Certificate No. 379-S for extension of wastewater service area in Seminole County, by Alafaya Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Redemann  
GCL: Vining

ISSUE 1: Should the Commission order Alafaya Utilities, Inc. to show cause, in writing within 21 days, why it should not be fined for its apparent violation of Section 367.045(2), Florida Statutes?

RECOMMENDATION: No. Show cause proceedings should not be initiated.

ISSUE 2: Should Alafaya's application to amend Certificate No. 379-S be granted?

RECOMMENDATION: Yes. Alafaya's amendment application to expand its territory should be granted. The proposed territory amendment is described in Attachment A of staff's January 22, 2004 memorandum. Alafaya should charge the customers in the territory added therein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. No further action is required and the docket should be closed after the time for filing an appeal has run.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
February 3, 2004

ITEM NO.

CASE

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21 Docket No. 990649B-TP - Investigation into pricing of unbundled network elements  
(Sprint/Verizon track).

Critical Date(s): None

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

Staff: GCL: Brown  
CMP: Dowds

ISSUE 1: Should the Commission deny AT&T's Motion for Reconsideration of Order  
Granting Motion for Stay?

RECOMMENDATION: Yes. AT&T has failed to demonstrate a mistake of fact or law  
that requires reconsideration of the Commission's decision.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. The docket should remain open pending further  
proceedings.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Jaber, Bradley

Minutes of  
Commission Conference  
February 3, 2004

ITEM NO.

CASE

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22\*\*Docket No. 010787-TL - Investigation into telephone exchange boundary issues in Sarasota County.

Critical Date(s): None

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

Staff: CMP: Cater, Bulecza-Banks, Casey  
GCL: Dodson

ISSUE 1: Should the Commission acknowledge Janet Rowe Dugan's Notice of Voluntary Dismissal of her petition and close this docket?

RECOMMENDATION: Yes. The Commission should acknowledge Janet Rowe Dugan's Notice of Voluntary Dismissal of her petition, and close this docket.

ISSUE 2: Should this Docket be closed?

RECOMMENDATION: Yes. There is nothing further in this Docket for this Commission to consider, and the Docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Jaber, Davidson

ITEM NO.

CASE

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23Docket No. 020919-TP - Request for arbitration concerning complaint of AT&T Communications of the Southern States, LLC, Teleport Communications Group, Inc., and TCG South Florida for enforcement of interconnection agreements with BellSouth Telecommunications, Inc.

Critical Date(s): None

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

Staff: GCL: Christensen  
CMP: Marsh

ISSUE 1: Should the Commission grant BellSouth Telecommunications, Inc.'s Request for Extension of Time to Respond to AT&T's Motion for Reconsideration of Order No. PSC-03-1082-FOF-TP?

RECOMMENDATION: Yes. Staff recommends that the Commission should grant BellSouth Telecommunications, Inc.'s Request for Extension of Time to Respond to AT&T's Motion for Reconsideration of Order No. PSC-03-1082-FOF-TP.

ISSUE 2: Should the Commission grant AT&T's Request for Oral Argument?

RECOMMENDATION: No. Staff recommends that the Commission deny AT&T's Request for Oral Argument.

ISSUE 3: Should the Commission grant AT&T's Motion for Reconsideration?

RECOMMENDATION: No. Staff recommends that the Commission should deny AT&T's Motion for Reconsideration.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. Upon the expiration of the appellate period, and if no filings are received from the parties within 30 days of the issuance of the order, this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Bradley, Davidson