

MINUTES OF FEBRUARY 18, 2003

COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.

ADJOURNED: 3:05 p.m.

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

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

1Approval of Minutes

January 21, 2003 Regular Commission Conference

DECISION: The minutes were approved.

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

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ITEM NO. CASE

2**Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
021232-TX	The Gulas Group, L.L.C.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030064-TI	ORCA TELECOM, INC
030069-TI	Cinergy Communications Company
021259-TI	Convergia, Inc.
021231-TI	The Gulas Group, L.L.C.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030083-TX	Avix Technologies, Inc.	12/31/02

PAA D) DOCKET NO. 030108-TP - Request for cancellation of IXC Certificate No. 7761 and ALEC Certificate No. 7517 by OnePoint Services, L.L.C. d/b/a RCP Services, effective December 20, 2002.

PAA E) DOCKET NO. 021203-TX - Request for approval of name change on ALEC Certificate No. 8140 from Star Phone Reconnect Incorporated to Armour E611 Incorporated and approval of transfer of control from current stockholders to Patricia Mayes.

PAA F) DOCKET NO. 030019-TP - Request for approval of intracorporate reorganization whereby Time Warner

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ITEM NO. CASE

2** Consent Agenda

(Continued from previous page)

Entertainment-Advance/Newhouse Partnership has formed TWEAN Subsidiary, LLC as a wholly owned subsidiary to oversee operations of Time Warner Cable Information Services (Florida), LLC d/b/a Time Warner Cable Information Services d/b/a Time Warner Cable d/b/a Time Warner Communications (holder of ALEC Certificate No. 8015 and IXC Certificate No. 8016).

PAA G) Request for exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls.

DOCKET NO.	COMPANY NAME	PHONE NO. & LOCATION
030079-TC	BellSouth Public Communications, Inc.	904-829-9457 City of St. Augustine 150 Charlotte Street St. Augustine
		904-829-9189 City of St. Augustine 75 King Street St. Augustine
		904-824-0890 904-829-9278 City of St. Augustine 24 Cathedral Place St. Augustine

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2** Consent Agenda

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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE NO. & LOCATION</u>
		904-808-9921
		904-808-9976
		City of St. Augustine
		40 St. George Street
		St. Augustine

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

DECISION: The recommendation was approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
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3**Docket No. 030045-EU - Proposed amendments to Rule 25-6.0183, F.A.C., Electric Utility Procedures for Generating Capacity Shortage Emergencies.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: GCL: Moore
ECR: Sickel, Ballinger, Hewitt

ISSUE 1: Should the Commission propose amendments to Rule 25-6.0183, F.A.C., Electric Utility Procedures for Generating Capacity Shortage Emergencies?

RECOMMENDATION: Yes.

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

RECOMMENDATION: Yes.

DECISION: The recommendations were approved.

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

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4**Docket No. 021011-EC - Informal complaint against Withlacoochee River Electric Cooperative, Inc. by Saddlebrook Resort Condominium Association, Inc., request for determination that Saddlebrook's unit owners be allowed to take service from WREC through master meters, and for reclassification of SRCA owners under WREC's rate structure as General Service Demand accounts rather than Residential.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Holley
ECR: Kummer

ISSUE 1: Should the Commission approve Saddlebrook's and WREC's Joint Motion for Approval of Stipulation for Dismissal with Prejudice of Informal Complaint?

RECOMMENDATION: Yes. The stipulation should be accepted, and Saddlebrook's informal complaint should be dismissed with prejudice as requested by the stipulation.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves the parties' stipulation and Saddlebrook's complaint is dismissed, this docket should be closed.

DECISION: This item was deferred.

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5**PAADocket No. 030030-EI - Complaint of Charo Rojo against Florida Power & Light Company for alleged overbilling and damages to equipment. (Deferred from February 4, 2003 conference.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: GCL: Fordham
AUS: Ruehl
CAF: Hicks

ISSUE 1: Should the Commission dismiss the complaint of Ms. Charo Rojo?

RECOMMENDATION: Yes. The Commission should dismiss the complaint of Ms. Charo Rojo.

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: This item was deferred.

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6**PAADocket No. 021178-TL - Complaint of Delia Smith against GTC,
Inc. d/b/a GT Com for unauthorized charges to phone bill.
(Deferred from January 21, 2003 conference.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Bradley

Staff: GCL: Dodson, Taylor
CAF: Smith
CMP: Mathis

ISSUE 1: Should the Commission deny Complaint No. 450414T,
filed by Ms. Delia Smith against GT Com?

RECOMMENDATION: Yes. The Commission should deny Complaint
No. 450414T filed by Ms. Delia Smith. Ms. Smith has failed
to show that charges to her GT Com bill were not justified
or that GT Com failed to properly credit her accounts for
payments made. Finally, the total local exchange and long
distance charges on her bill at the time she filed the
complaint have been removed by the company.

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 issuance of a Consummating
Order.

DECISION: This item was deferred.

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7**Docket No. 000242-WS - Request for acknowledgment of transfer of receivership of Enterprise Utilities Corporation (Deltona) from Florida Water Services Corporation to Volusia County and cancellation of Certificates Nos. 316-W and 264-S.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: GCL: Christensen, Gervasi
ECR: Brady

ISSUE 1: Should the Commission authorize Commission legal staff to file a motion seeking to withdraw as a party from Circuit Court Case No. 81-5258-CA-01?

RECOMMENDATION: Yes. The Commission should authorize Commission legal staff to file a motion seeking to withdraw as a party from Circuit Court Case No. 81-5258-CA-01.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation on Issue 1, then the Commission should authorize staff to administratively close the docket upon the Court granting its motion to withdraw as a party to the civil case.

DECISION: The recommendations were approved.

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

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8**Docket No. 030022-GU - Petition for modification of transportation cost recovery factors by Florida Public Utilities Company.

Critical Date(s): 3/3/03 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Makin, Bulecza-Banks, Marshall
GCL: C. Keating

ISSUE 1: Should the Commission grant FPUC's petition for modification of its NTAC cost recovery factors?

RECOMMENDATION: Yes. The Commission should grant FPUC's petition for modification of its NTAC cost recovery factors effective March 1, 2003.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If a protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order approving this tariff, the tariff should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: CMP: Broussard, Hallenstein, Harvey, Kelley,
Simmons, Vinson
GCL: Fordham

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

RECOMMENDATION: Yes. Staff believes the Commission should approve the Performance Measurement Plan for Verizon Florida as outlined in Staff's Revised Proposal in Section III.

DECISION: The recommendation was approved with the modification that the existing FCC metrics were adopted, and the balance of staff's remaining proposed metrics is set for hearing on the Commission's own motion.

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 should become final upon the issuance of a Consummating Order. Any protest of the Commission's decision in this matter should identify with specificity the item or measure being protested and should not prevent the remainder of the order from becoming final and effective. 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 until: 1) completion of the development of a Florida-specific Verizon Performance Measurements Plan; 2) full implementation of the Verizon OSS Performance Measurements; 3) Verizon measurement reporting systems for ALECs are completely and accurately

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9**PAA

Docket No. 000121C-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (VERIZON FLORIDA TRACK)

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operational; 4) commencement of six-month reviews of performance measurements have begun; and 5) the completion of the initial third-party audit.

DECISION: The recommendation was approved with modification based on the Commission's decision in Issue 1 and addition of the second sentence.

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

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10**PAADocket No. 030080-TP - Petition for expedited waiver of carrier selection requirements of Rule 25-4.118, F.A.C., for transfer of customer base of Mpower Communications Corp. (holder of IXC Certificate No. 5752 and ALEC Certificate No. 5279) to Florida Digital Network, Inc. (holder of IXC Certificate No. 7048 and ALEC Certificate No. 5715).

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Pruitt
GCL: Fordham

ISSUE 1: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of local and long distance customers from Mpower Communications Corp. to Florida Digital Network, Inc.?

RECOMMENDATION: Yes.

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, Bradley, Davidson

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<u>ITEM NO.</u>	<u>CASE</u>
11**Docket No.	020664-TI - Compliance investigation of bigredwire.com, Inc. for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries. Docket No. 021089-TI - Application for certificate to provide interexchange telecommunications service by bigredwire.com, Inc. (Deferred from February 4, 2003 conference; revised recommendation filed.)
	Critical Date(s): None
	Commissioners Assigned: Full Commission Prehearing Officer: Administrative
	Staff: CMP: Buys, Williams GCL: Banks, Dodson
	<u>ISSUE 1:</u> Should the Commission accept the settlement offer proposed by bigredwire.com, Inc. (Bigredwire) to resolve the apparent violations of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries? <u>RECOMMENDATION:</u> No. The Commission should not accept the settlement offer because the payment period is unduly lengthy.
PAA	<u>ISSUE 2:</u> Should the Commission grant bigredwire.com, Inc. (Bigredwire) a certificate to provide interexchange telecommunications service within the state of Florida in Docket No. 021089-TI? <u>RECOMMENDATION:</u> No.
	<u>ISSUE 3:</u> Should Docket No. 020664-TI be closed? <u>RECOMMENDATION:</u> If the Commission approves staff's recommendation in Issue 1, Bigredwire should be required to either remit the penalties totaling \$35,000 established in Order No. PSC-02-1285-PAA-TI or request a hearing within 21 days of the issuance of the Order from this recommendation. If the company does not request a hearing, this Docket should be closed upon issuance of an Order consummating Order No. PSC-02-1285-PAA-TI. If the penalties have not been paid before the issuance of the Consummating Order,

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<u>ITEM NO.</u>	<u>CASE</u>
11**	Docket No. 020664-TI - Compliance investigation of bigredwire.com, Inc. for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries. Docket No. 021089-TI - Application for certificate to provide interexchange telecommunications service by bigredwire.com, Inc. (Deferred from February 4, 2003 conference; revised recommendation filed.)

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they should be forwarded to the Department of Financial Services for further collection efforts. If, however, the company timely requests a hearing, Docket No. 020664-TI should remain open pending further Commission proceedings.

If the Commission denies staff's recommendation in Issue 1 and accepts Bigredwire's revised settlement offer, this Docket should remain open pending remittance of the \$7500 settlement offer. Each payment should be paid to the Florida Public Service Commission to be forwarded to the Department of Financial Services, and should identify the docket number and company name. Upon receipt of the \$7500, this Docket should be closed administratively. If, however, the company fails to comply with the payment terms set forth in its revised settlement proposal, further proceedings should be initiated.

ISSUE 4: Should Docket No. 021089-TI be closed?

RECOMMENDATION: Docket No. 021089-TI should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order, and Bigredwire should cease and desist providing IXC service in Florida.

DECISION: This item was deferred.

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12**PAADocket No. 030040-TI - Compliance investigation of Supreme Telecom Systems, Inc. for apparent violation of Rule 25-24.910, F.A.C., Certificate of Public Convenience and Necessity Required.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Buys
GCL: Knight

ISSUE 1: Should the Commission impose a \$25,000 penalty on Supreme Telecom Systems, Inc. for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

RECOMMENDATION: Yes. If STS fails to timely protest the Commission's Order, and fails to obtain an IXC Certificate of Public Convenience and Necessity, the company should also be required to immediately cease and desist providing prepaid calling services in Florida upon issuance of the Consummating Order until the company obtains an IXC Certificate of Public Convenience and Necessity.

ISSUE 2: Should this docket be closed?

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

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<u>ITEM NO.</u>	<u>CASE</u>
12**PAA	Docket No. 030040-TI - Compliance investigation of Supreme Telecom Systems, Inc. for apparent violation of Rule 25-24.910, F.A.C., Certificate of Public Convenience and Necessity Required.

(Continued from previous page)

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

DECISION: The recommendations were approved.

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

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13**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.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Teitzman

ISSUE 1: Should the Commission accept the settlement offer proposed by Calpoint (Florida), LLC to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

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 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. 7970 should be canceled administratively. If Calpoint (Florida), LLC's certificate is cancelled in accordance with the Commission's Order from this recommendation, Calpoint (Florida), LLC should be required to immediately cease and desist providing alternative local exchange carrier 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.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

14**PAADocket No. 020304-GU - 2002 depreciation filing by Florida
Division of Chesapeake Utilities Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Bradley

Staff: ECR: Gardner, P. Lee, Kenny

AUS: Mills

GCL: Vining

ISSUE 1: Should the currently prescribed depreciation rates of the Florida Division of Chesapeake Utilities Corporation be changed?

RECOMMENDATION: Yes. A comprehensive review of Chesapeake's planning and activity since its prior depreciation filing indicates a need for a revision to the currently prescribed depreciation rates.

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

RECOMMENDATION: Staff recommends approval of the company's requested January 1, 2003, implementation date for new depreciation rates.

ISSUE 3: What are the appropriate depreciation rates?

RECOMMENDATION: Staff's recommended lives, net salvages, reserves, and resultant depreciation rates are shown on Attachment A of staff's February 6, 2003 memorandum. Attachment B shows the estimated annual expenses of about \$1.5 million, based on January 1, 2003, investments and reserves. This represents a decrease in annual expenses of about \$158,000.

ISSUE 4: Should the current amortization of investment tax credits (ITCs) and the flowback of excess deferred income taxes be revised to reflect the approved depreciation rates and recovery schedules?

RECOMMENDATION: Yes. The current amortization of ITCs and the flowback of excess deferred income taxes (EDIT) should be revised to match the actual recovery periods for the related property. The utility should file detailed calculations of the revised ITC amortization and flowback of

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<u>ITEM NO.</u>	<u>CASE</u>
14**PAA	Docket No. 020304-GU - 2002 depreciation filing by Florida Division of Chesapeake Utilities Corporation. (Continued from previous page) EDIT at the same time it files its surveillance report covering the period ending December 31, 2003. <u>ISSUE 5:</u> Should this docket be closed? <u>RECOMMENDATION:</u> Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

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ITEM NO.

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15**PAADocket No. 020344-SU - Application for rate increase in
Monroe County by Key Haven Utility Corporation.

Critical Date(s): 2/26/03 - (PAA rate case 5-month
effective date)

Commissioners Assigned: Full Commission
Prehearing Officer: Bradley

Staff: ECR: Boutwell, Merchant, Rieger
GCL: Jaeger

ISSUE 1: Is the quality of service satisfactory?

RECOMMENDATION: Yes. The overall quality of service provided
by Key Haven Utility Corporation is satisfactory.

DECISION: The recommendation was approved.

ISSUE 2: What adjustments, if any, should be made to the
utility's plant in service?

RECOMMENDATION: Plant in service should be increased by a
total of \$2,391 to remove incorrect reconciling adjustments
and other unsupported and unreported items. Corresponding
adjustments should also be made to increase accumulated
depreciation by \$1,392, and depreciation expense by \$52.

DECISION: The recommendation was approved.

ISSUE 3: Should the abandoned wastewater plant be retired
and the associated non-used and useful adjustments to
utility plant in service be reversed?

RECOMMENDATION: Yes. Plant and accumulated depreciation
should both be decreased by \$325,474 to retire the abandoned
plant. Rate base should be increased to remove the
utility's erroneous non-used and useful adjustment of
\$47,757 associated with this retired plant.

DECISION: The recommendation was approved.

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<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	Docket No. 020344-SU - Application for rate increase in Monroe County by Key Haven Utility Corporation. (Continued from previous page) <u>ISSUE 4</u> : What are the appropriate used and useful percentages for the wastewater treatment facility and wastewater collection system? <u>RECOMMENDATION</u> : The wastewater treatment facility should be considered 79% used and useful. The wastewater collection system should be considered 100% used and useful. Accordingly, rate base should be reduced by \$94,130 and depreciation expense by \$5,002. Non-used and useful property tax expense should be reduced by \$189. <u>DECISION</u> : Consistent with the company's suggestion, the recommendation was approved with the modification that the Commission will recognize the economies of scale concept. Changes to fallout issues are approved. <u>ISSUE 5</u> : What is the appropriate amount for working capital? <u>RECOMMENDATION</u> : The appropriate amount for working capital using the formula method is \$22,492. This is a decrease of \$725 from the utility's requested working capital allowance. <u>DECISION</u> : The recommendation was approved. <u>ISSUE 6</u> : What is the appropriate amount for rate base? <u>RECOMMENDATION</u> : The appropriate wastewater rate base for the test year ended January 31, 2001 is \$915,189. <u>DECISION</u> : The recommendation was approved. (Fallout) <u>ISSUE 7</u> : What is the appropriate weighted average cost of capital including the proper components and cost rates, associated with the capital structure for the test year ended December 31, 2001? <u>RECOMMENDATION</u> : The appropriate weighted average cost of capital should be 9.29%, with a range of 9.00% to 9.58%. The

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<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	Docket No. 020344-SU - Application for rate increase in Monroe County by Key Haven Utility Corporation. (Continued from previous page) appropriate rate of return on equity should be 11.10%, with a range of 10.10% to 12.10%. <u>DECISION</u> : The recommendation was approved. <u>ISSUE 8</u> : What adjustments, if any, should be made to purchased power expenses? <u>RECOMMENDATION</u> : Purchased power expenses should be reduced by \$517 to correct the overstated amount in the filing. <u>DECISION</u> : The recommendation was approved. <u>ISSUE 9</u> : Are any adjustments necessary to miscellaneous expenses? <u>RECOMMENDATION</u> : Yes. Miscellaneous expenses should be reduced by \$1,500 to remove duplicate charges for overhead expenses paid to an affiliate. <u>DECISION</u> : The recommendation was approved. <u>ISSUE 10</u> : Should proforma billing expenses be allowed for the utility to implement a measured service billing structure? <u>RECOMMENDATION</u> : Yes. The appropriate proforma billing expenses of \$9,538 should be allowed. Since the \$1,800 expense paid to the FKAA was already included in the MFRs, the net addition to O&M Expenses should be \$7,738. <u>DECISION</u> : The recommendation was approved. <u>ISSUE 11</u> : What is the appropriate amount of rate case expense? <u>RECOMMENDATION</u> : The appropriate rate case expense for this docket is \$53,915. This expense is to be recovered over four years for an annual expense of \$13,479. The utility's requested rate case expense amortization should be decreased by \$11,521.

<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	Docket No. 020344-SU - Application for rate increase in Monroe County by Key Haven Utility Corporation.

(Continued from previous page)

DECISION: The recommendation was approved.

ISSUE 12: What adjustments, if any, should be made to taxes other than income?

RECOMMENDATION: Taxes other than income should be reduced by \$140 to reflect miscellaneous adjustments.

DECISION: The recommendation was approved.

ISSUE 13: What is the test year operating income before any revenue increase?

RECOMMENDATION: Based on the adjustments discussed in previous issues, staff recommends that the test year operating income before any provision for increased revenues should be \$15,569.

DECISION: The recommendation was approved.

ISSUE 14: What is the appropriate revenue requirement?

RECOMMENDATION: The following revenue requirement should be approved.

	<u>Test Year</u>	<u>\$</u>	<u>Revenue</u>	<u>%</u>
	<u>Revenues</u>	<u>Increase</u>	<u>Requirement</u>	<u>Increase</u>
Wastewater	\$241,107	\$72,704	\$313,811	30.15%

DECISION: The recommendation was approved. (Fallout)

ISSUE 15: What is the appropriate rate structure for this utility?

RECOMMENDATION: The appropriate rate structure for this utility is the base facility/gallonage charge rate structure.

DECISION: The recommendation was approved.

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<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	Docket No. 020344-SU - Application for rate increase in Monroe County by Key Haven Utility Corporation. (Continued from previous page) <u>ISSUE 16</u> : What is the appropriate level for the residential wastewater gallonage cap? <u>RECOMMENDATION</u> : The appropriate level for the residential wastewater gallonage cap is 10,000 gallons per month. <u>DECISION</u> : The recommendation was approved. <u>ISSUE 17</u> : What are the recommended rates for this utility? <u>RECOMMENDATION</u> : The recommended rates should be designed to produce annual revenues of \$313,391, excluding miscellaneous revenues. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commissions approved rates. 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), FAC, provided the customers have received notice. The rates may not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice. <u>DECISION</u> : The recommendation was approved. (Fallout) <u>ISSUE 18</u> : In determining whether an interim refund is appropriate, how should the refund be calculated, and what is the amount of the refund, if any? <u>RECOMMENDATION</u> : The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and the proforma billing expense. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenues granted. Based on this calculation, the utility should be required to refund 6.34% <u>2.28%</u> of wastewater revenues collected under interim rates. Therefund should be made with interest in accordance with Rule 25-30.360(4), FAC. The utility should treat any

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15**PAA	Docket No. 020344-SU - Application for rate increase in Monroe County by Key Haven Utility Corporation.

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unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), FAC.

DECISION: The recommendation was approved with the modification that the interim refund plus interest is to be credited to CIAC. (Fallout)

ISSUE 19: 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 wastewater rates should be reduced as shown on Schedule No. 4 of staff's February 6, 2003 memorandum to remove \$14,114, which represents the annual amount of rate case expense amortization included in rates, grossed up for regulatory assessment fees. The decrease in rates should become effective immediately following the expiration of the four-year 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 reductions no later than one month prior to the actual date of the required rate reductions.

DECISION: The recommendation was approved.

ISSUE 20: Should the utility's current service availability charge be revised?

RECOMMENDATION: Yes. The utility's existing system capacity charge of \$1,200 should be cancelled, and replaced with an increased plant capacity charge of \$1,800 for each new ERC. Additionally, each new ERC should be assessed \$700 as a main extension charge. If there is no timely protest to the Commission's PAA by a substantially affected person, the utility should file the appropriate revised tariff sheets and a proposed notice within twenty days of the effective date of the PAA Order. The revised tariff sheets should be approved administratively upon staff's

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verification that the tariffs are consistent with the Commission's decision and the utility's proposed notice is adequate. If the revised tariff sheets are approved, the system capacity and main extension charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(2), FAC, providing the appropriate notice has been made. The notice shall be mailed or hand-delivered to all persons in the service area who have filed a written request for service within the past 12 calendar months or who have been provided a written estimate for service within the past 12 calendar months. The utility shall provide proof of the date the notice was given within 10 days after the date of the notice.

DECISION: The recommendation was approved.

ISSUE 21: Should the docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff, and the refund has been completed and verified by staff. Once these actions are complete, this docket may be closed administratively and the escrow account may be released.

DECISION: The recommendation was approved.

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

ITEM NO.

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16**PAA Docket No. 010869-WS - Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: ECR: Fitch, Davis

GCL: Jaeger

ISSUE 1: Should East Marion's rates be reduced to remove the rate impact of the fence replacements not completed by the utility?

RECOMMENDATION: Yes. Water rates should be reduced by 0.58% (\$126) annually and wastewater rates should be reduced by 4.47% (\$1,248) annually. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates within seven days of the date of the consummating order. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. The appropriate water and wastewater rates are reflected on Schedule A of staff's February 6, 2003 memorandum.

DECISION: The recommendation was denied. The Commission recognized the outstanding order for fence replacement and requires the utility to comply within 90 days. Additionally, revenues are to be held subject to refund on a going-forward basis. Non-compliance of fence replacement by the utility will result in a show cause proceeding.

ISSUE 2: In the event of a protest of the PAA Order, what is the appropriate security to guarantee the amount subject to refund?

RECOMMENDATION: The security should be in the form of a bond or letter of credit in the amount of \$926.

Alternatively, the utility could establish an escrow agreement with an independent financial institution. If security is provided through an escrow agreement, the utility should escrow 0.58% of its monthly water service revenues and 4.47% of its monthly wastewater services

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revenues as detailed in Issue No. 1. By no later than the twentieth day of each month, the utility should file a report showing the amount of revenues collected each month and the amount of revenues collected to date relating to the amount held subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

DECISION: The recommendation was approved.

ISSUE 3: Should East Marion Sanitary Systems, Inc., be ordered to show cause, in writing, within 21 days, why it should not be fined for its failure to complete the pro forma fence replacements in a timely manner as required by Order No. PSC-02-1168-PAA-WS?

RECOMMENDATION: No. Show cause proceedings should not be initiated at this time.

DECISION: The recommendation was approved.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. This docket should not be closed. It should remain open pursuant to Order No. PSC-02-1168-PAA-WS, issued August 26, 2002, in Docket No. 010869-WS. If the utility meets the land requirements pursuant to the above referenced order and if no timely protest is filed by a substantially affected person, the docket should be closed administratively upon staff's verification that land requirements have been met. If a protest is filed within 21 days of the issuance of the Order, the tariffs should remain in effect with any increase held subject to refund pending resolution of the protest, and the docket should remain open.

DECISION: The recommendation was approved.

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

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17**Docket No. 020650-WU - Application for partial transfer of facilities in Marion County from Marion Utilities, Inc. to Silver Springs Regional Water and Sewer, Inc., a non-profit corporation, and for amendment of Certificate No. 347-W.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Davidson

Staff: ECR: Rieger, Clapp, Jones
GCL: Crosby, Brubaker

ISSUE 1: Should Marion Utilities, Inc.'s application for partial transfer of facilities in Marion County to Silver Springs Regional Water and Sewer, Inc., and for amendment of Certificate No. 347-W be granted?

RECOMMENDATION: Yes. Marion Utilities, Inc.'s application for partial transfer of facilities effective July 31, 2002, and for amendment of Certificate No. 347-W to delete the territory described in Attachment A of staff's February 6, 2003 memorandum is in the public interest and should be granted. Marion is responsible for the applicable regulatory assessment fees for the period of January 1, 2002 through July 31, 2002. In addition, Marion should include in its 2002 annual report the operations related to this system from January 1, 2002 through July 31, 2002.

DECISION: The recommendation was approved as modified.

PAA ISSUE 2: Should the Commission open a docket to examine whether Marion's sale of its Quad Villas Estates/Sugar Hill system involves a gain that should be shared with other customers?

RECOMMENDATION: No. The Commission should not open an investigation to further evaluate the gain on sale aspects for the Quadvillas Estates/Sugar Hill Quadvillas system.

ISSUE 3: Should this docket be closed?

DECISION: The recommendation was approved.

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Docket No. 020650-WU - Application for partial transfer of facilities in Marion County from Marion Utilities, Inc. to Silver Springs Regional Water and Sewer, Inc., a non-profit corporation, and for amendment of Certificate No. 347-W.

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RECOMMENDATION: Yes. If staff's recommendations in Issues 1 and 2 are approved, and no protest is received from a substantially affected person to the proposed agency action issue, a consummating order should be issued and this docket should be closed.

DECISION: The recommendation was approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
18**Docket No.	020930-SU - Application for transfer of majority organizational control of Colony Park Utilities, Inc. holder of Certificate No. 137-S in Brevard County, from Robert Warren, Lenore Warren, William Warren, and Carol Kendall to Eileen Rogow, Arthur Rogow, and Philip Young.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: ECR: Clapp, Kaproth
GCL: Crosby, Helton

ISSUE 1: Should the transfer of majority organizational control of Colony Park Utilities, Inc. from Robert Warren, Lenore Warren, William Warren and Carol Kendall to Eileen G. Rogow, Arthur Rogow, and Philip Young be approved?

RECOMMENDATION: Yes. The transfer of majority organizational control is in the public interest and should be approved. The buyers should be reminded that the utility is subject to all of the provisions of Chapter 367, Florida Statutes, and Chapters 25-9, 25-22, and 25-30, Florida Administrative Code.

ISSUE 2: Should the existing rates and charges for the utility be continued?

RECOMMENDATION: Yes. The rates and charges approved for the utility should be continued. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

ISSUE 3: Should the docket be closed?

RECOMMENDATION: Yes. There are no issues remaining and the docket should be closed upon the issuance of the Final Order.

DECISION: The recommendations were approved with the modification to Issue 1 that the new owners were put on notice that if the utility is transferred in the future without first seeking approval from the Commission, a show cause proceeding will be initiated.

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

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19Docket No. 020129-TP - Joint petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications objecting to and requesting suspension of proposed CCS7 Access Arrangement tariff filed by BellSouth Telecommunications, Inc.

Critical Date(s): None

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

Staff: CMP: Gilchrist, Fulwood, Simmons
GCL: Teitzman, Christensen

ISSUE 1: (Factual) To what kind of traffic does BellSouth's CCS7 Access Arrangement Tariff apply?

RECOMMENDATION: Staff recommends that the evidence supports a finding that BellSouth's CCS7 access tariff applies to non-local intrastate traffic and to local traffic if the carrier does not have an approved interconnection agreement with BellSouth.

DECISION: The recommendation was approved.

ISSUE 2: (Factual) Did BellSouth provide CCS7 access service to ALECs, IXCs, and other carriers prior to filing its CCS7 Tariff?

RECOMMENDATION: Staff recommends that the evidence supports a finding that BellSouth provided CCS7 access service to ALECs, IXCs, and other carriers prior to filing its CCS7 tariff.

DECISION: The recommendation was approved.

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ISSUE 3: (Factual) Is BellSouth's CCS7 Access Arrangement Tariff revenue neutral? Why or why not?

RECOMMENDATION: Staff recommends that the evidence supports a finding that BellSouth's CCS7 Access Arrangement Tariff is not revenue neutral. Whether viewed in its current form or from the standpoint of the one future agreed upon adjustment, the tariff is not revenue neutral.

DECISION: The recommendation was approved.

ISSUE 4: (Legal) Does BellSouth's CCS7 Access Arrangement Tariff violate Section 364.163 or any other provisions of Chapter 364, Florida Statutes?

RECOMMENDATION: Staff recommends that the evidence supports a finding that the tariff violates Section 364.163, Florida Statutes, because BellSouth's intrastate and interstate per minute access rates must reach parity before any specific network access rate may be increased.

DECISION: The recommendation was denied. The Commission determined that this is an existing access service that meets the parameters of Section 364.163, F.S.

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ISSUE 5: (Factual) What does BellSouth charge subscribers under the CCS7 Access Arrangement Tariff for the types of traffic identified in Issue 1?

RECOMMENDATION: Staff recommends that the evidence supports a finding that under the CCS7 Access Arrangement Tariff, BellSouth charges the following for the types of traffic identified in Issue 1:

Monthly (Recurring) Charges:

CCS7 Signaling Connection, per 56 kbps facility	\$155.00
CCS7 Signaling Termination, per STP port	\$337.05

One-time (Nonrecurring) Charges:

CCS7 Signaling Connection, per 56 kbps facility	\$150.00
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CCS7 Point Code Establishment or Change	<u>1st</u>	<u>Add'l</u>
Originating Point Code	\$40.00	\$ 8.00
Per Destination Point Code	\$ 8.00	\$ 8.00

Usage (Per Signaling Message) Charges:

Call Set Up, per message (ISUP)	\$.000035
TCAP, per message	\$.000123

DECISION: The recommendation was approved.

ISSUE 6: (Factual/Policy) Is more than one carrier billed for Integrated Services Digital Network User Part (ISUP), for the same segment of any given call, under the BellSouth CCS7 Access Arrangement Tariff? If so, is it appropriate?

RECOMMENDATION: Staff recommends that the evidence supports a finding that pursuant to its tariff, BellSouth does not bill multiple carriers for the same message on any given segment of a call. Staff recommends that BellSouth's billing methodology, from a technical perspective, is

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accurate; however, staff believes that it is not possible for a carrier to report the appropriate jurisdictional factors without purchasing a message counting system. Consequently, without a message counting system, messages would be inappropriately billed under BellSouth's default jurisdictional factor, as discussed in Issue 8.

DECISION: The recommendation was approved.

ISSUE 7: (Factual/Policy) Under BellSouth's CCS7 Access Arrangement Tariff, is BellSouth billing ISUP and Transactional Capabilities Application Part (TCAP) message charges for calls that originate on an ALEC's network and terminate on BellSouth's network? If so, is it appropriate?

RECOMMENDATION: Staff recommends that the evidence supports a finding that pursuant to its CCS7 tariff, BellSouth bills for ISUP and TCAP messages regardless of the originating party or the direction of the message. Staff believes that there are several significant factors beyond the scope of this issue that should be considered in order to determine whether these charges are appropriate, and thus reserves final judgment for Issue 10.

DECISION: The recommendation was approved.

ISSUE 8: (Policy) What is the impact, if any, of BellSouth's CCS7 Access Arrangement Tariff on subscribers? Does such impact, if any, affect whether BellSouth's CCS7 Access Arrangement Tariff should remain in effect?

RECOMMENDATION: Staff recommends that the evidence supports a finding that BellSouth's CCS7 Access Arrangement Tariff would unnecessarily and unreasonably increase costs for competitive carriers that provision their own SS7 networks by requiring that they invest in a system simply to

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reciprocal bill BellSouth. Staff notes that the Commission determined that ALECs are precluded from providing access in BellSouth's territory for themselves or any other entity where interconnection trunks are employed with BellSouth. Therefore, carriers are practically forced to interconnect with BellSouth's SS7 network. Additionally, staff believes that BellSouth's tariff effectively increases access charges for IXCs. Staff believes that Section 364.163, Florida Statutes, precludes BellSouth from increasing intraLATA access charges in this manner. Staff recommends that this impact should be considered in determining whether BellSouth's tariff should remain in effect.

DECISION: A ruling on Issues 8, 10, 11, and 12, is deferred to reopen the record and set for oral argument consistent with discussions at the conference. Oral argument is to be heard at the first available agenda after all noticing requirements are met.

ISSUE 9: (Factual) Does BellSouth bill ILECs for the signaling associated with the types of traffic identified in Issue 1?

RECOMMENDATION: Staff recommends that the evidence supports a finding that BellSouth does not bill ILECs for the signaling associated with local or intrastate traffic. However, while BellSouth does not bill ILECs per message charges, it bills the higher local switching rate, pursuant to section E16 of BellSouth's tariff.

DECISION: The recommendation was approved.

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ISSUE 10: (Factual/Policy) Should BellSouth's CCS7 Access Arrangement Tariff remain in effect? If not, what action(s) should the Florida Public Service Commission take?

RECOMMENDATION: Staff recommends that the evidence supports a finding that BellSouth's CCS7 Access Arrangement tariff should be canceled. BellSouth should be ordered to refund, on a customer-specific basis, any net increase resulting from applying the lower local switching rates and the CCS7 tariff rates, as compared to the higher local switching rates customers would have paid if the CCS7 tariff had not gone into effect. BellSouth should be required to submit a refund plan within 30 days of the Final Order from this recommendation. Further, any revised tariff should reflect the rates, terms, and conditions that existed before the CCS7 tariff went into effect.

DECISION: This issue was deferred.

ISSUE 11: (Policy/Legal) If the tariff is to be withdrawn, what alternatives, if any, are available to BellSouth to establish a charge for non-local CCS7 access service pursuant to Florida law?

RECOMMENDATION: Given the limited nature of the record, staff believes there is insufficient support for a Commission decision. However, if the parties to this docket wish to explore alternatives, staff believes an informal staff workshop could be held for this purpose.

DECISION: This issue was deferred.

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ISSUE 12: Should the docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 10, then the docket should remain open to address the refunds. BellSouth should be required to file a report within 14 days of completion of its refund plan for staff review. If BellSouth satisfactorily completes the refunds in accordance with its plan, this docket should be closed administratively. However, if the Commission denies staff's recommendation on Issue 10, then the docket should be closed upon expiration of the appeals period.

DECISION: This issue was deferred.

Commissioners participating: Jaber, Deason, Baez, Bradley

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20Docket No. 020896-WS - Petition by customers of Aloha Utilities, Inc. for deletion of portion of territory in Seven Springs area in Pasco County.

Critical Date(s): None

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

Staff: GCL: Holley
CAF: Lowery
ECR: Walden

ISSUE 1: Should Mr. Wood's and Dr. Kurien's Request for Reconsideration of Order No. PSC-02-1722-PCO-WS Holding Customer Petition, Along with Motions and Responses Filed Thereto, in Abeyance Until Resolution of Appeal by First DCA be granted?

RECOMMENDATION: No. Since neither party states a point of fact or law that the Commission overlooked or failed to consider in rendering its Order, and neither party seeks reconsideration of the decision by the Commission to hold this docket in abeyance, or of the Commission's decision to order staff to file a motion before the First DCA to expedite Aloha's Appeal, both requests for reconsideration should be denied.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending the outcome of the appeal of the Final Order before the First DCA.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Deason, Baez, Bradley