

MINUTES OF
COMMISSION CONFERENCE, February 19, 2002
COMMENCED: 9:30 a.m.
ADJOURNED: 12:45 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 (**).

1 Approval of Minutes
 January 22, 2002 Regular Commission Conference

DECISION: The minutes were approved.

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

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 Commission Conference
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<u>ITEM NO.</u>	<u>CASE</u>												
2**	Consent Agenda												
PAA	A) Applications for certificates to provide alternative local exchange telecommunications service.												
	<table border="1"> <thead> <tr> <th><u>DOCKET NO.</u></th> <th><u>COMPANY NAME</u></th> </tr> </thead> <tbody> <tr> <td>011616-TX</td> <td>VBNet, Incorporated</td> </tr> <tr> <td>011638-TX</td> <td>Adelphia Business Solutions Investment East, LLC</td> </tr> <tr> <td>011676-TX</td> <td>Colmena Inc.</td> </tr> <tr> <td>011664-TX</td> <td>MYCOMP INS AGENCY CORP.</td> </tr> </tbody> </table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	011616-TX	VBNet, Incorporated	011638-TX	Adelphia Business Solutions Investment East, LLC	011676-TX	Colmena Inc.	011664-TX	MYCOMP INS AGENCY CORP.		
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PAA	B) Applications for certificates to provide interexchange telecommunications service.												
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020041-TC	City of Daytona Beach												
020052-TC	Movie, Television, & Graphics Corp. d/b/a M.T.G.												
020077-TC	Pineapple Willies, Inc.												
PAA	D) DOCKET NO. 020017-TI - Request for cancellation of IXC Certificate No. 4868 by U S WEST Long Distance, Inc., effective 12/31/01.												

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<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda (Continued from previous page)
PAA	E) DOCKET NO. 020064-TC - Request for cancellation of Pay Telephone Certificate No. 7499 by Coin-Tel of Pennsylvania, Inc., effective 1/23/02, and application for certificate to provide pay telephone service by International Payphone Corporation.
PAA	F) DOCKET NO. 020067-GU - Request for acknowledgment of acquisition of Atlantic Utilities, a Florida Division of Southern Union Company d/b/a South Florida Natural Gas, by Florida Public Utilities Company.
PAA	G) Docket No. 020008-TX - Request for approval of transfer of control of Allied Riser of Florida, Inc., holder of ALEC Certificate No. 7401, from Allied Riser Communications Corporation to Cogent Communications Group, Inc., with Allied Riser becoming a wholly owned indirect subsidiary of Cogent.
PAA	H) DOCKET NO. 011642-TX - Application for transfer of and name change on Alternative Local Exchange Telecommunications Certificate No. 4446 from Intetech, L.C. to Campus Communications Group, Inc.
PAA	I) DOCKET NO. 011623-TI - Application for transfer of and name change on Interexchange Telecommunications Certificate No. 4092 from Intetech, L.C. to Campus Communications Group, Inc.
PAA	J) Request for exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls.

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2** Consent Agenda

(Continued from previous page)

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE NO. & LOCATION</u>
020065-TC	ETS Payphones, Inc.	407-872-8534 407-835-9363 Marathon Service Station 4100 S. Orange Blossom Trail Orlando

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

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<u>ITEM NO.</u>	<u>CASE</u>
3**	<p>Docket No. 011368-GU - Proposed adoption of Rule 25-7.072, F.A.C., Codes of Conduct.</p> <p>Critical Date(s): None</p> <p>Rule Status: Proposed</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Jaber</p> <p>Staff: GCL: Bellak CMP: Makin ECR: Hewitt</p> <p><u>ISSUE 1</u>: Should the Commission propose new Rule 25-7.072, Florida Administrative Code, entitled "Codes of Conduct"? <u>RECOMMENDATION</u>: Yes, the Commission should propose the rule, as attached to staff's February 7, 2002 memorandum.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If no requests for hearing or comments are filed, the rule as proposed should be filed for adoption with the Secretary of State and the docket closed.</p> <p><u>DECISION</u>: The recommendations were approved with a modification to the proposed wording in Rule 25-7.072(2)(h) to "may not <u>affirmatively</u> promote or advertise its affiliate's relationship with the utility <u>for purposes of soliciting subscribership.</u>"</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

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<u>ITEM NO.</u>	<u>CASE</u>
4**	<p>Docket No. 020095-EU - Proposed amendment to Rule 25-6.0345, F.A.C., Safety Standards for Construction of New Transmission and Distribution.</p> <p>Critical Date(s): None</p> <p>Rule Status: Proposed</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: GCL: Bellak AUS: Ruehl ECR: Hewitt</p> <p><u>ISSUE 1</u>: Should the Commission propose amendments of Rule 6.0345, F.A.C.? <u>RECOMMENDATION</u>: Yes, the Commission should propose the rule amendments.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If no requests for hearing or comments are filed, the rule amendment as proposed should be filed for adoption with the Secretary of State and the docket closed.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

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<u>ITEM NO.</u>	<u>CASE</u>
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5	Docket No. 011615-TP - Complaint of KMC Telecom III, Inc. for enforcement of interconnection agreement with Sprint-Florida, Incorporated.
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Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Jaber

Staff: GCL: Teitzman, Fordham
CMP: Barrett

(Motion to Dismiss - Oral argument requested; argument at Commission's discretion.)

ISSUE 1: Should KMC's Request for Oral Argument on its Response to Sprint's Motion to Dismiss Complaint be granted?

RECOMMENDATION: Yes. The parties should be granted oral argument, because it may aid the Commission in its consideration of the complex issues to be addressed.

ISSUE 2: Should the Commission grant Sprint's Motion to Dismiss?

RECOMMENDATION: Yes. The Commission should grant Sprint's Motion to Dismiss.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 2, the docket should be closed upon issuance of the order.

DECISION: This item was deferred.

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- 6 Docket No. 000824-EI - Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.
Docket No. 001148-EI - Review of the retail rates of Florida Power & Light Company.
Docket No. 010577-EI - Review of Tampa Electric Company and impact of its participation in GridFlorida, a Florida Transmission Company, on TECO's retail ratepayers.

Critical Date(s): None

Commissioners Assigned: ~~Full Commission Jaber, Deason,~~
Baez, Palecki (for this decision)

Prehearing Officer: Baez

Staff: GCL: C. Keating
 CMP: Trapp
 ECR: Ballinger
 MMS: Bass

ISSUE 1: Should the Commission grant the Joint Movants' joint request for oral argument on the joint motion for reconsideration of Order No. PSC-01-2489-FOF-EI?

RECOMMENDATION: No. The basis for the joint motion for reconsideration is adequately and thoroughly described within the motion. Oral argument would not aid the Commission in evaluating and comprehending the issues set forth in the joint motion.

ISSUE 2: Should the Commission grant the Joint Movants' motion for reconsideration of Order No. PSC-01-2489-FOF-EI?

RECOMMENDATION: No. The Commission did not overlook or fail to consider any point of law or fact in rendering Order No. PSC-01-2489-FOF-EI.

ISSUE 3: Should the Commission grant Tampa Electric Company's cross motion for clarification of Order No. PSC-01-2489-FOF-EI?

RECOMMENDATION: The Commission should grant TECO's cross motion for clarification, in part, to reconfirm that it did not vote on Issue 10 as listed in the Prehearing Order. TECO's request that the Commission correct a clerical error in Order No. PSC-10-2489-FOF-EI is moot because the

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<u>ITEM NO.</u>	<u>CASE</u>
6	Docket No. 000824-EI - Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light. Docket No. 001148-EI - Review of the retail rates of Florida Power & Light Company. Docket No. 010577-EI - Review of Tampa Electric Company and impact of its participation in GridFlorida, a Florida Transmission Company, on TECO's retail ratepayers.

(Continued from previous page)

requested correction has already been made in an Amendatory Order.

ISSUE 4: Should these dockets be closed?

RECOMMENDATION: As set forth in Order No. PSC-01-2489-FOF-EI, Docket No. 000824-EI and Docket No. 001148-EI should remain open to permit the Commission to complete its pending rate reviews in those dockets for Florida Power Corporation and Florida Power & Light Company, respectively, and Docket No. 010577-EI should be closed.

DECISION: The recommendation in Issue 1 was denied. The recommendations in Issues 2 - 4 were approved.

Commissioners participating: Jaber, Deason, Baez, Palecki

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ITEM NO.

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7**PAA

Docket No. 020086-TL - Investigation into BellSouth Telecommunications, Inc.'s tariff filing (02-0057) on installment billing.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Gilchrist, Simmons
GCL: Dodson

ISSUE 1: Should the Commission find BST's tariff filing that installment billing is not available to resellers of local exchange service is in violation of Section 364.161(2), Florida Statutes, and the Provisions of The Code of Federal Regulations, Subpart G, Section 51.605?

RECOMMENDATION: Yes. The Commission should find that BST's tariff filing that installment billing is not available to resellers of local exchange service violates Section 364.161(2), Florida Statutes, and the Provisions of The Code of Federal Regulations, Subpart G, Section 51.605. Section A2, Fourth Revised Tariff page 5, should be canceled.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: 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 and the Docket should be closed. If a timely protest is filed, the Docket should remain open and the tariff should remain in effect pending the outcome of further proceedings.

DECISION: The recommendation in Issue 1 was denied. The recommendation in Issue 2 was approved consistent with the decision in Issue 1.

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

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ITEM NO.

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8**PAA

Docket No. 011008-TI - Application for certificate to provide interexchange telecommunications service by TELECUBA, INC. (Deferred from January 22, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Pruitt, Williams
GCL: K. Pena, B. Keating

ISSUE 1: Should the Commission grant TELECUBA, INC. a certificate to provide interexchange telecommunications service within the State of Florida as provided by Section 364.337(3), Florida Statutes?

PRIMARY RECOMMENDATION: No. TELECUBA, INC. should not be granted an interexchange telecommunications service certificate to operate within Florida.

ALTERNATIVE RECOMMENDATION: Yes. If the \$1,000 fine imposed in Docket No. 991542-TI, Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate for Violation of Rules 25-4.0161, F.A.C.(Regulatory Assessment Fees; Telecommunications Companies) and 25-24.480 (2)(A) and (B), F.A.C.(Records & Reports; Rules Incorporated) is paid within seven days of the issuance of the consummating order, TELECUBA, INC. should be granted Interexchange Telecommunications Service Certificate Number 8055 to operate within Florida. If the fine is not timely received, the certificate should be deemed denied.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's primary recommendation in Issue 1, this docket should be closed upon the expiration of the protest period and issuance of a Consummating Order. If the Commission approves staff's alternative recommendation in Issue 1, this docket should be closed upon receipt of the fine, unless a

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8**PAA

Docket No. 011008-TI - Application for certificate to provide interexchange telecommunications service by TELECUBA, INC. (Deferred from January 22, 2002 conference; revised recommendation filed.)

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person whose substantial interests are affected by the Commission's proposed agency action files a written protest within 21 days of the issuance date of the proposed agency action. If the fine is not timely received, the docket should be administratively closed and the certificate deemed denied.

DECISION: This item was deferred.

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9**	<p>Docket No. 010591-TI - Cancellation by Florida Public Service Commission of IXC Certificate No. 2497 issued to AmeriVision Communications, Inc. for violation of Order No. PSC-00-0827-PAA-TI.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: CMP: Kennedy GCL: Fordham</p> <p><u>ISSUE 1</u>: Should the Commission accept AmeriVision Communications, Inc.'s proposed settlement, whereby the company would make a voluntary payment of \$5,000 to the General Revenue Fund to resolve the company's apparent violation of Order No. PSC-00-0827-PAA-TI? <u>RECOMMENDATION</u>: No. The Commission should reject AmeriVision's proposed settlement, whereby the company would make a voluntary payment of \$5,000 to the General Revenue Fund to resolve the company's apparent violation of Order No. PSC-00-0827-PAA-TI and set this docket for hearing.</p> <p><u>DECISION</u>: The recommendation was denied. The company's settlement offer will be accepted. The company was directed to file its application for name change by the end of next week (3/1/02).</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Whether the Commission approves or denies staff's recommendation in Issue 1, this docket should remain open.</p> <p><u>DECISION</u>: The recommendation was approved consistent with the decision in Issue 1.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

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ITEM NO.

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10**PAA

Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Deferred from November 19, 2001 conference; revised recommendation filed.)

Docket No. 011143-TX - EasyComm Corporation
Docket No. 011145-TX - All Kinds Cashed, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason (011143)
Prehearing Officer: Jaber (011145)

Staff: CMP: Isler
GCL: Elliott, K. Pena, B. Keating

ISSUE 1: Should the Commission impose a \$1,000 fine or cancel each company's respective certificate, as listed on Attachment A of staff's February 7, 2002 memorandum, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$1,000 fine or cancel each company's respective certificate as listed on Attachment A if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within seven (7) days after the issuance of the Consummating Order. The fine 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 Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the certificate numbers listed on Attachment A should be canceled administratively.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order,

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<u>ITEM NO.</u>	<u>CASE</u>
10**PAA	Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Deferred from November 19, 2001 conference; revised recommendation filed.)

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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 fine 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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11**PAA

Docket No. 011100-TS - Cancellation by Florida Public Service Commission of Shared Tenant Services Telecommunications Certificate No. 3479 issued to Apex Professional Services, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Deferred from November 19, 2001 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Jaber

Staff: CMP: Isler
GCL: K. Pena, B. Keating

ISSUE 1: Should the Commission impose a \$500 fine or cancel Apex Professional Services, Inc.'s certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within seven (7) days after the issuance of the Consummating Order. The fine 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 Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's Certificate No. 3479 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.

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

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11**PAA

Docket No. 011100-TS - Cancellation by Florida Public Service Commission of Shared Tenant Services Telecommunications Certificate No. 3479 issued to Apex Professional Services, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Deferred from November 19, 2001 conference; revised recommendation filed.)

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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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ITEM NO.

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12**PAA

Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 011291-TX - Lindsey L. Harris d/b/a H & L Taxhaus Communications

Docket No. 011307-TX - XSPEDIUS Corp.

Docket No. 011315-TX - Trans National Communications International, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: CMP: Isler

GCL: K. Pena, B. Keating

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate as listed on Attachment A of staff's February 7, 2002 memorandum, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's respective certificate as listed on Attachment A if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within seven (7) days after the issuance of the Consummating Order. The fine 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 Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the certificate numbers listed on Attachment A should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

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12**PAA

Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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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 fine 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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13**PAA

Docket No. 011244-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 7166 issued to Legends Communications, 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: Deason

Staff: CMP: Isler
GCL: K. Pena, B. Keating

ISSUE 1: Should the Commission impose a \$500 fine or cancel Legends Communications, Inc.'s certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine is not received by the Commission within seven (7) days after the issuance of the Consummating Order. The fine 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 Commission's Order is not protested and the fine is not received, the company's Certificate No. 7166 should be cancelled administratively.

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 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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14**

Docket No. 011130-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 4769 issued to Easy Phone, Inc. d/b/a Easy Tel, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Deferred from November 19, 2001 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Jaber

Staff: CMP: Isler
GCL: Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by Easy Phone, Inc. d/b/a Easy Tel, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) 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. 4769 should be canceled administratively.

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 \$500 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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15**

Docket No. 011065-TI - Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 7580 issued to Next Communications, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480(2)(a) and (b), F.A.C., Records & Reports; Rules Incorporated.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Knight

ISSUE 1: Should the Commission accept the settlement offer proposed by Next Communications, Inc. to resolve the apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480(2)(a) and (b), F.A.C., 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) 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. 7580 should be canceled administratively.

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 \$250 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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CASE

16**

Docket No. 011228-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 7209 issued to DialTek, LLC d/b/a DTK Telecommunications, LLC for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C, Rules Incorporated. (Deferred from December 4, 2001 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: K. Pena, B. Keating

ISSUE 1: Should the Commission accept the settlement offer proposed by DialTek, LLC d/b/a DTK Telecommunications, LLC to resolve the apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, Florida Administrative Code, Rules Incorporated?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) 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. 7209 should be canceled administratively.

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 \$200 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

17**

Docket No. 011099-TS - Cancellation by Florida Public Service Commission of Shared Tenant Services Telecommunications Certificate No. 2024 issued to Florida Tax Deeds, Inc. d/b/a Senator Building 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: Jaber

Staff: CMP: Isler
GCL: K. Pena, B. Keating

ISSUE 1: Should the Commission accept the settlement offer proposed by Florida Tax Deeds, Inc. d/b/a Senator Building to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. 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.

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, Palecki, Bradley

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18**

Docket No. 011101-TS - Cancellation by Florida Public Service Commission of Shared Tenant Services Telecommunications Certificate No. 5194 issued to Gaedeke Holdings Ltd. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Deferred from November 19, 2001 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Jaber

Staff: CMP: Isler
GCL: Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by Gaedeke Holdings Ltd. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) 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. 5194 should be canceled administratively.

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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CASE

19**

Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 011131-TX - USLD Communications, Inc.
Docket No. 011149-TX - Qwest Communications Corporation
Docket No. 011292-TX - Florida Consolidated Multi-Media Services, Inc.
Docket No. 011296-TX - David A. Chesson and Ted J. Moss d/b/a Phone-Out/Phone-On
Docket No. 011297-TX - Network Information Solutions, Inc.
Docket No. 011308-TX - Structus TeleSystems, Inc.
Docket No. 011309-TX - Ocius Communications, Inc.
Docket No. 011316-TX - United Communications HUB, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Jaber (011131, 011149)
Baez (011292, 011296, 011297,
011308, 011309, 011316)

Staff: CMP: Isler
GCL: Elliott, K. Pena, B. Keating

ISSUE 1: Should the Commission accept the settlement offer proposed by each company listed on Attachment A of staff's February 7, 2002 memorandum to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?
RECOMMENDATION: Yes. The Commission should accept each company's respective settlement proposal. Any contribution should be received by the Commission within fourteen (14) 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 any of the companies listed on Attachment A fails to pay in accordance with the terms of the Commission Order, that

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19**

Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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company's respective certificate should be canceled administratively.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A 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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CASE

20**

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

Docket No. 010892-TI - Satellite Communications Systems, Inc. d/b/a Satel

Docket No. 011039-TI - TransNet Connect, Inc.

Docket No. 011043-TI - Resort Hospitality Services, Ltd.

Docket No. 011052-TI - NetLojix Telecom, Inc. (Deferred from December 4, 2001 conference; revised recommendation filed.)

Docket No. 011058-TI - Total Call International, Inc.

Docket No. 011094-TI - Structus TeleSystems, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: K. Pena, B. Keating, Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by each company listed on Attachment A of staff's February 7, 2002 memorandum to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept each company's respective settlement proposal. Any contribution should be received by the Commission within fourteen (14) 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 any of the companies listed on Attachment A fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be canceled administratively.

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20**

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

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ISSUE 2: Should these dockets be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A 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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21**

Docket No. 011024-TI - Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 5810 issued to Public Payphone U.S.A., Inc. d/b/a Public Communications Services, 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: Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by Public Payphone U.S.A., Inc. d/b/a Public Communications Services, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal to pay future regulatory assessment fees on a timely basis.

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, Palecki, Bradley

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<u>ITEM NO.</u>	<u>CASE</u>
22**PAA	<p>Cancellation by Florida Public Service Commission of alternative local exchange telecommunications certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.</p> <p>Docket No. 011219-TX - ComScape Communications, Inc. Docket No. 011224-TX - Telecare, Inc. d/b/a Caretele, Inc. Docket No. 011251-TX - Jones Phones</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Isler GCL: Elliott, K. Pena, B Keating</p> <p><u>ISSUE 1</u>: Should the Commission grant the companies listed on Attachment A of staff's February 7, 2002 memorandum a voluntary cancellation of their respective certificates? <u>RECOMMENDATION</u>: Yes. The Commission should grant each company a voluntary cancellation of its telecommunications certificate with an effective date as listed on Attachment A.</p> <p><u>ISSUE 2</u>: Should these dockets be closed? <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 cancellation of the certificates. A protest in one docket should not prevent the action in a separate docket from becoming final.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

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23**PAA	Docket No. 011138-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 5712 issued to A 1 Mobile Tech, 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: Elliott

ISSUE 1: Should the Commission grant A 1 Mobile Tech, Inc. a voluntary cancellation of Certificate No. 5712?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5712 on its own motion, effective October 22, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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24**PAA

Docket No. 991890-WS - Investigation into ratemaking consideration of gain on sale from sales of facilities of Utilities, Inc. of Florida to the City of Maitland in Orange County and the City of Altamonte Springs in Seminole County. (Deferred from January 8, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: ECR: Kyle, Merchant
GCL: Brubaker

ISSUE 1: Was a gain realized on the sale of UIF's Druid Isle water system and a portion of its Oakland Shores water system to the City of Maitland in Orange County?

RECOMMENDATION: Yes. Staff believes a gain of \$61,669 was realized on the sale of UIF's Druid Isle water system and a portion of its Oakland Shores water system to the City of Maitland in Orange County.

ISSUE 2: Was a gain realized on the sale of UIF's Green Acres Campground water and wastewater facilities to the City of Altamonte Springs in Seminole County?

RECOMMENDATION: Yes. Staff believes a gain of \$269,661 was realized on the sale of UIF's Green Acres Campground water and wastewater facilities to the City of Altamonte Springs in Seminole County.

ISSUE 3: Should the gains on the Maitland and Altamonte sales be shared with the remaining ratepayers of UIF?

RECOMMENDATION: No. The remaining Orange and Seminole County UIF customers should not receive recovery of the realized gains from the Maitland or Altamonte sales.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If no timely protest is filed by a substantially affected party, this docket should be closed upon the issuance of a consummating order.

DECISION: This item was deferred.

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CASE

25**PAA

Docket No. 010789-EI - 2001 Depreciation and Dismantling Study by Gulf Power Company.

Critical Date(s): 2/25 - 28/02, 3/1/02 (Rate case hearings in Docket No. 010949-EI.)

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: ECR: Meeks, P. Lee, Gardner, Lester, C. Romig, Haff
GCL: Stern

ISSUE 1: Should Gulf's current depreciation rates, amortization schedules, and provision for dismantlement be revised?

RECOMMENDATION: Yes. A review of the company's plans and activity indicates the need for revising its depreciation rates and provision for dismantlement.

ISSUE 2: What should be the implementation date for the recommended depreciation rates and dismantlement provision?

RECOMMENDATION: Staff recommends approval of the company's proposed January 1, 2002, date of implementation for the new depreciation rates and dismantlement accruals.

Additionally, staff recommends an effective date for the depreciation rate and dismantlement provision for Smith Unit 3 that is concurrent with the in-service date of the unit.

ISSUE 3: What is the appropriate annual provision for dismantlement?

RECOMMENDATION: Staff recommends an annual provision for dismantlement of \$6.2 million beginning January 1, 2002, as shown on Attachment A of staff's February 7, 2002 memorandum. This represents an increase of approximately \$560,000 over the current approved annual accrual. Additionally, an annual dismantlement provision of about \$310,000 is recommended for Smith Unit 3, effective with its in-service date, currently estimated to be June 1, 2002. At that time the total annual dismantlement provision will be \$6.5 million. Further, staff recommends that Gulf provide site-specific dismantlement studies for both Pea Ridge and Smith Unit 3 at the next review cycle.

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25**PAA

Docket No. 010789-EI - 2001 Depreciation and Dismantling Study by Gulf Power Company.

(Continued from previous page)

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 EDIT at the same time it files its surveillance report for the month its revised rates become effective.

ISSUE 5: What are the appropriate depreciation rates?

RECOMMENDATION: The staff recommended lives, net salvages, reserves, and resultant depreciation rates are shown on Attachment B of staff's memorandum. These rates result in an increase in annual depreciation expense of approximately \$1 million, based on January 1, 2002 investments as shown on Attachment C. Including the impact of Smith Unit 3, the increase in annual expense is approximately \$12.4 million.

ISSUE 6: Should this docket be closed?

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

DECISION: The recommendations were approved. Further, the Commissioners clarified that the hearing will rely on testimony as filed.

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

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26**	<p>Docket No. 011682-SU - Application for increase in wastewater service availability charges in Lee County by Forest Utilities, Inc.</p> <p>Critical Date(s): 3/1/02 (60-day suspension date)</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Deason</p> <p>Staff: ECR: Fletcher, Merchant GCL: Espinoza</p> <p><u>ISSUE 1</u>: Should Forest's proposed tariff sheets to increase its system capacity charge be suspended? <u>RECOMMENDATION</u>: Yes, Forest's proposed tariff sheets to increase its system capacity charge should be suspended pending further investigation. This docket should remain open pending the completion of the service availability case.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

ITEM NO.

CASE

27

Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

Critical Date(s): None

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

Staff: CMP: King, Barrett, T. Brown, J-E. Brown, Shultz,
Turner
GCL: Knight

ISSUE B: Which agreement template shall be used as the base agreement into which the Commission's decision on the disputed issues will be incorporated?

RECOMMENDATION: BellSouth's most current template agreement should be used as the base agreement into which the Commission's decision on disputed issues will be incorporated.

ISSUE 1: What are the appropriate fora for the submission of disputes under the new agreement?

RECOMMENDATION: Staff believes that the appropriate forum for the submission of disputes under the new agreement is the Commission.

ISSUE 4: Should the Interconnection Agreement contain language to the effect that it will not be filed with the Florida Public Service Commission for approval prior to an ALEC obtaining ALEC certification from the Florida Public Service Commission?

RECOMMENDATION: Yes. The agreement should include language that it will not be filed with the Florida Public Service Commission for approval prior to an ALEC obtaining ALEC certification from this Commission.

ISSUE 5: Should BellSouth be required to provide to Supra a download of all of BellSouth's Customer Service Records ("CSRs")?

RECOMMENDATION: No. BellSouth should not be required to allow Supra to download all CSRs as that would be contrary to the Telecommunications Act's prohibitions against

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Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

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unauthorized access or disclosure of Customer Proprietary Network Information (CPNI).

ISSUE 10: Should the rate for a loop be reduced when the loop utilizes Digitally Added Main Line (DAML) equipment?

RECOMMENDATION: No. Staff recommends that BellSouth's rate for a loop should not be reduced when the loop utilizes Digitally Added Main Line (DAML) equipment. When changes are to be made to an existing Supra loop that may adversely affect the end user, BellSouth should provide Supra with prior notification.

ISSUE 11A: Under what conditions, if any, should the Interconnection Agreement state that the parties may withhold payment of disputed charges?

ISSUE 11B: Under what conditions, if any, should the Interconnection Agreement state that the parties may withhold payment of undisputed charges?

ISSUE 63: Under what circumstances, if any, would BellSouth be permitted to disconnect service to Supra for nonpayment?

RECOMMENDATION: Both parties should be allowed to withhold payment of charges disputed in good faith during the pendency of the dispute. Neither party should be allowed to withhold payment of undisputed charges. BellSouth should be permitted to disconnect Supra for nonpayment of undisputed charges.

ISSUE 11B: Under what conditions, if any, should the Interconnection Agreement state that the parties may withhold payment of undisputed charges?

RECOMMENDATION: Both parties should be allowed to withhold payment of charges disputed in good faith during the pendency of the dispute. Neither party should be allowed to withhold payment of undisputed charges. BellSouth should be permitted to disconnect Supra for nonpayment of undisputed charges.

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Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

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ISSUE 12: Should BellSouth be required to provide transport to Supra Telecom if that transport crosses LATA boundaries?

RECOMMENDATION: No. BellSouth should not be required to provide transport to Supra Telecom if that transport crosses LATA boundaries.

ISSUE 15: What Performance Measurements should be included in the Interconnection Agreement?

RECOMMENDATION: Staff acknowledges Order No. PSC-01-1819-FOF-TP, in the generic Performance Measurements docket, Docket No. 000121-TP, established appropriate performance measurements applicable to BellSouth in the state of Florida. These measurements and BellSouth's forthcoming performance assessment plan will apply to BellSouth only. Staff does not believe that it is necessary to include those performance measurements in the parties' interconnection agreement, although the parties may choose to do so.

ISSUE 16: Under what conditions, if any, may BellSouth refuse to provide service under the terms of the interconnection agreement?

RECOMMENDATION: BellSouth should not be required to provision services for which rates, terms and conditions are not identified in the interconnection agreement, prior to negotiating and executing an amendment.

ISSUE 18: What are the appropriate rates for the following services, items or elements set forth in the proposed Interconnection Agreement?

- (A) Resale
- (B) Network Elements
- (C) Interconnection
- (D) Collocation
- (E) LNP/INP
- (F) Billing Records
- (G) Other

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Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

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RECOMMENDATION: Staff recommends that the appropriate rates to be set forth in the Interconnection Agreement for (B) Network Elements, (C) Interconnection, (E) LNP/INP, (F) Billing Records, and (G) Other are those ordered in Docket No 990649-TP, and in Docket No. 000649-TP (specifically for line-sharing). For the network elements for which rates have not been established by this Commission, the rates should be BellSouth's tariffed rates, which should not be subject to true-up.

ISSUE 19: Should calls to Internet Service Providers be treated as local traffic for the purposes of reciprocal compensation?

RECOMMENDATION: The FPSC currently lacks the jurisdiction to address the issue of whether calls to ISPs should be treated as local traffic for the purposes of reciprocal compensation.

ISSUE 20: Should the Interconnection Agreement include validation and audit requirements which will enable Supra Telecom to assure the accuracy and reliability of the performance data BellSouth provides to Supra Telecom?

RECOMMENDATION: No. The Interconnection Agreement need not include validation and audit requirements which would enable Supra Telecom to assure the accuracy and reliability of the performance data BellSouth provides to Supra Telecom. Order No. PSC-01-1819-FOF-TP in the generic Performance Measurements docket, Docket No. 000121-TP, established the appropriate validation and audit requirements applicable to BellSouth. Even though staff does not recommend requiring the parties to include the validation and audit requirements in the Interconnection Agreement, staff acknowledges that the parties may choose to do so.

ISSUE 21: What does "currently combines" mean as that phrase is used in 47 C.F.R. §51.315(b)?

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Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

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ISSUE 22: Under what conditions, if any, may BellSouth charge Supra Telecom a "non-recurring charge" for combining network elements on behalf of Supra Telecom?

ISSUE 23: Should BellSouth be directed to perform, upon request, the functions necessary to combine unbundled network elements that are ordinarily combined in its network? If so, what charges, if any, should apply?

ISSUE 24: Should BellSouth be required to combine network elements that are not ordinarily combined in its network? If so, what charges, if any, should apply?

RECOMMENDATION: BellSouth should only be required to provide combined UNEs at TELRIC prices, if such elements are already physically combined in BellSouth's network. In all other instances, BellSouth should not be obligated to combine UNEs for Supra; however, BellSouth may agree to do so, and should be allowed to charge whatever fee it deems appropriate.

ISSUE 22: Under what conditions, if any, may BellSouth charge Supra Telecom a "non-recurring charge" for combining network elements on behalf of Supra Telecom?

RECOMMENDATION: BellSouth should only be required to provide combined UNEs at TELRIC prices, if such elements are already physically combined in BellSouth's network. In all other instances, BellSouth should not be obligated to combine UNEs for Supra; however, BellSouth may agree to do so, and should be allowed to charge whatever fee it deems appropriate.

ISSUE 23: Should BellSouth be directed to perform, upon request, the functions necessary to combine unbundled network elements that are ordinarily combined in its network? If so, what charges, if any, should apply?

RECOMMENDATION: BellSouth should only be required to provide combined UNEs at TELRIC prices, if such elements are already physically combined in BellSouth's network. In all other instances, BellSouth should not be obligated to

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Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

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combine UNEs for Supra; however, BellSouth may agree to do so, and should be allowed to charge whatever fee it deems appropriate.

ISSUE 24: Should BellSouth be required to combine network elements that are not ordinarily combined in its network? If so, what charges, if any, should apply?

RECOMMENDATION: BellSouth should only be required to provide combined UNEs at TELRIC prices, if such elements are already physically combined in BellSouth's network. In all other instances, BellSouth should not be obligated to combine UNEs for Supra; however, BellSouth may agree to do so, and should be allowed to charge whatever fee it deems appropriate.

ISSUE 28: What terms and conditions and what separate rates, if any, should apply for Supra Telecom to gain access to and use BellSouth's facilities to serve multi-tenant environments?

RECOMMENDATION: Staff recommends that in order for Supra to gain access to and use BellSouth facilities to serve multi-tenant environments, an ALEC access terminal should be established to accommodate the necessary connections. Staff recommends that the appropriate rates for all of the addressed subloop elements should be the BellSouth rates established by this Commission in its Final Order in Docket No. 990649-TP.

ISSUE 29: Is BellSouth obligated to provide local circuit switching at UNE rates to Supra to serve the first three lines to a customer located in Density Zone 1? Is BellSouth obligated to provide local circuit switching at UNE rates to Supra to serve four or more lines provided to a customer located in Density Zone 1?

RECOMMENDATION: Staff's recommendation is twofold. First, staff recommends that BellSouth should be obligated to provide local circuit switching at UNE rates to Supra to serve the first three lines to a customer located in Density

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Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

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Zone 1. Second, staff recommends that BellSouth should not be obligated to provide local circuit switching at UNE rates to Supra to serve four or more lines provided to a customer located in Density Zone 1, as long as the other criteria for FCC Rule 51.319(c)(2) are met.

ISSUE 32: (A) Under what criteria may Supra Telecom charge the tandem switching rate?

(B) Based on Supra Telecom's network configuration as of January 31, 2001, has Supra Telecom met these criteria?

RECOMMENDATION: Staff notes that Phase II of Docket No. 000075-TP will address this very issue in detail, and the criteria developed in that docket will apply. However, staff believes that the initial threshold, based on § 51.711(a)(2), is that Supra's "switch" must serve a geographic area comparable to that served by BellSouth's tandem switch. Staff believes the record indicates that Supra has not deployed a switch in the state of Florida; therefore, staff recommends that Supra does not meet the criteria for the tandem switching rate at this time.

ISSUE 33: What are the appropriate means for BellSouth to provide unbundled local loops for provision of DSL service when such loops are provisioned on digital loop carrier facilities?

RECOMMENDATION: Staff recommends that either of BellSouth's two proposed solutions would permit Supra to provide unbundled local loops for the provision of DSL service when such loops are provisioned on DLC facilities. The first solution would move the end user to a loop that is suitable for xDSL service. The second solution is to allow Supra to collocate its DSLAM equipment in the same RT housing where BellSouth's DSLAM equipment is located. If BellSouth cannot accommodate collocation at a particular RT where a BellSouth DSLAM is located, staff recommends that BellSouth unbundle the BellSouth packet switching functionality at the RT in accordance with FCC requirements.

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ISSUE 34: What coordinated cut-over process should be implemented to ensure accurate, reliable and timely cut-overs when a customer changes local service from BellSouth to Supra Telecom?

RECOMMENDATION: The coordinated cut-over process proposed by BellSouth should be implemented to ensure accurate, reliable and timely cut-overs when service is transferred from a BellSouth switch to a Supra switch. Alternatively, the language agreed to by BellSouth and AT&T, and approved by this Commission in Order No. PSC-01-2357-FOF-TP, in resolution of this issue in Docket 000731-TP, should be incorporated. Additionally, staff recommends that BellSouth should be required to implement a single "C" (Change) order process in lieu of its "D" (Disconnect) and "N" (New) order process when provisioning UNE-P conversions.

ISSUE 38: Is BellSouth required to provide Supra Telecom with nondiscriminatory access to the same databases BellSouth uses to provision its customers?

RECOMMENDATION: No. BellSouth is only required to provide Supra with nondiscriminatory access to OSS functionality, and not to provide direct access to the same databases BellSouth uses to provision its customers.

ISSUE 40: Should Standard Message Desk Interface-Enhanced ("SMDI-E"), Inter-Switch Voice Messaging Service ("IVMS") and any other corresponding signaling associated with voice mail messaging be included within the cost of the UNE switching port? If not, what are the appropriate charges, if any?

RECOMMENDATION: No. SMDI-E, IVMS, and any other corresponding signaling associated with voice mail messaging should not be included within the cost of the UNE switching port. The appropriate rates are those found in BellSouth's FCC No. 1 tariff. In addition, if Supra chooses to provide its own link, it should notify BellSouth and BellSouth should determine within a reasonable time frame whether or

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not there are any other unbundled elements associated with completing that service and what, if any, additional charges are associated with that service.

ISSUE 42: What is the proper time frame for either party to render bills?

RECOMMENDATION: The proper time frame for either party to render bills is one year, unless the bill was in dispute, meet point billing guidelines require either Party to rely on records provided by the other Party, or customer provided data such as PLU or PIU factors or other ordering data is incorrect.

ISSUE 46: Is BellSouth required to provide Supra Telecom the capability to submit orders electronically for all wholesale services and elements?

RECOMMENDATION: No. BellSouth is not required to provide Supra with the capability to submit orders electronically for all wholesale services and elements, as long as BellSouth provisions orders for complex services for itself and ALECs in a like fashion and in substantially the same time and manner.

ISSUE 47: When, if at all, should there be manual intervention on electronically submitted orders?

RECOMMENDATION: BellSouth should be allowed to manually intervene on Supra's electronically submitted orders in the same manner as it does for its own retail orders.

ISSUE 49: Should Supra Telecom be allowed to share with a third party the spectrum on a local loop for voice and data when Supra Telecom purchases a loop/port combination and if so, under what rates, terms and conditions?

RECOMMENDATION: Yes. Staff recommends that Supra Telecom be allowed to share with a third party the spectrum on a local loop for voice and data when it purchases a loop/port combination (alternatively referred to as "line splitting"). In addition, staff recommends that BellSouth should not be

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required to provide its DSL services to Supra's voice customers served via UNE-P.

ISSUE 57: Should BellSouth be required to provide downloads of RSAG, LFACS, PSIMS and PIC databases without license agreements and without charge?

RECOMMENDATION: No. BellSouth should not be required to provide downloads of RSAG and LFACS without license agreements and without charge.

ISSUE 59: Should Supra Telecom be required to pay for expedited service when BellSouth provides services after the offered expedited date, but prior to BellSouth's standard interval?

RECOMMENDATION: No. This Commission should not require Supra to pay for expedited service when BellSouth provides the service after the promised expedited date, but prior to BellSouth's standard interval.

ISSUE 60: When BellSouth rejects or clarifies a Supra Telecom order, should BellSouth be required to identify all errors in the order that caused it to be rejected or clarified?

RECOMMENDATION: No. BellSouth should not be required to identify all errors in the order. Because it may not be feasible for BellSouth to process the order beyond the point where the rejection occurred, BellSouth should only be required to identify the error that triggered the rejection.

ISSUE 61: Should BellSouth be allowed to drop or "purge" orders? If so, under what circumstances may BellSouth be allowed to drop or "purge" orders, and what notice should be given, if any?

RECOMMENDATION: Yes, BellSouth should be allowed to "purge" orders on the 11th business day after a clarification request, if a supplemental LSR is not submitted by Supra that is responsive to the clarification request on the original LSR. Furthermore, staff recommends that no additional notification is necessary on the 11th business

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day when an LSR is about to be purged, provided that the BellSouth Business Rules are universally available to Supra and all ALECs.

ISSUE 62: Should BellSouth be required to provide completion notices for manual orders for the purposes of the interconnection agreement?

RECOMMENDATION: No. BellSouth should not be required to provide completion notices for manual orders for the purposes of the interconnection agreement.

ISSUE 63: Under what circumstances, if any, would BellSouth be permitted to disconnect service to Supra for nonpayment?

RECOMMENDATION: Both parties should be allowed to withhold payment of charges disputed in good faith during the pendency of the dispute. Neither party should be allowed to withhold payment of undisputed charges. BellSouth should be permitted to disconnect Supra for nonpayment of undisputed charges.

ISSUE 65: Should the parties be liable in damages, without a liability cap, to one another for their failure to honor in one or more material respects any one or more of the material provisions of the Agreement for purposes of this interconnection agreement?

RECOMMENDATION: No. Staff believes that it is appropriate for the Commission to make its determination on whether or not to impose a condition or term based upon whether the term or condition is required to ensure compliance with the requirements of Sections 251 or 252. Liability for damages, without a liability cap, is not an enumerated item under Sections 251 and 252 of the Act. Further, Staff believes that the record does not support a finding that a liability for damages provision, without a liability cap, is required to implement an enumerated item under Sections 251 and 252 of the Act. Staff recommends that the Commission not impose adoption of such a provision.

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ISSUE 66: Should Supra Telecom be able to obtain specific performance as a remedy for BellSouth's breach of contract for purposes of this interconnection agreement?

RECOMMENDATION: No. Staff believes that it is appropriate for the Commission to make its determination on whether or not to impose a condition or term based upon whether the term or condition is required to ensure compliance with the requirements of Sections 251 or 252. Specific performance is not an enumerated item under Sections 251 or 252 of the Act. Further, Staff believes that the record does not support a finding that a specific performance provision is required to implement an enumerated item under Sections 251 or 252 of the Act. Staff recommends that the Commission not impose a specific performance provision when it is not required under Section 251 or 252 of the Act.

ISSUE 67: Should this docket be closed?

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

DECISION: This item was deferred.