

MINUTES OF JANUARY 6, 2004

COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.

ADJOURNED: 10:45 a.m.

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

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

1 Approval of Minutes

December 2, 2003 Regular Commission Conference

DECISION: The recommendations were approved.

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

ITEM NO. CASE

2**Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
031027-TX	Smart Network Solutions Communications Corp
031089-TX	Hotline, Inc. d/b/a Hotline Telephone Service, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
031080-TC	Paragon Communication Services, L.L.C.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE NO. & LOCATION</u>
031058-TC	Alfred Oruwariye d/b/a A & O Communications	813-664-1390 D & G Auto Detail 4401 40th Street Tampa
		813-232-6231 Church of Living God 4601 N. 22nd Avenue Tampa
		813-232-0362 Terri Lee Café 3001 E. Osborne Ave. Tampa

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<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda

(Continued from previous page)

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE NO. & LOCATION</u>
		813-273-6475 Eagle Tires 3816 N. Nebraska Ave. Tampa
		813-221-5137 813-314-0427 813-314-0221 Deeper Life Christian Church 3300 N. Nebraska Ave. Tampa

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

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

3**Docket No. 031097-TL - Request by BellSouth Telecommunications, Inc. for approval of tariff filing to establish 311 NXX code for non-emergency municipal use.

Critical Date(s): 1/7/04 (Proposed effective date of tariff.)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: GCL: Dodson
CMP: Casey

ISSUE 1: Should BellSouth's tariff, which includes language providing that the Florida Public Service Commission will allocate the 311 NXX number, be allowed to go into effect?

RECOMMENDATION: No. BellSouth's tariff, which includes language providing that the Florida Public Service Commission will allocate the 311 NXX number, should not be allowed to go into effect.

DECISION: Staff's modified recommendation, as verbalized at the conference, was approved. The tariff, amended concerning initial assignment of codes, was approved.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves the recommendation in Issue 1, and if no timely protest is filed within 21 days from the issuance of the Order, this docket should be closed.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

4**Docket No. 030923-GU - Petition for approval of revisions to tariff provisions governing extension of mains and services to provide gas service facilities to new customers, by Peoples Gas System.

Critical Date(s): 60-day suspension date: 11/20/03 - company waived the 60-day suspension date to 1/6/04 Agenda

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Makin, Bulecza-Banks, Marshall
ECR: Maurey, Slemkewicz
GCL: Vining, Helton

ISSUE 1: Should the Commission approve the modification to tariff provisions governing Mains and Service Extensions requested by Peoples Gas System?

PRIMARY RECOMMENDATION: No. The Commission should not approve the modifications to tariff provisions governing Mains and Service Extensions requested by Peoples Gas System because there are special circumstances here that warrant deviation from the minimum requirements of Rule 25-7.054, Florida Administrative Code.

ALTERNATE RECOMMENDATION: Yes. The Commission should approve the modifications to tariff provisions governing Mains and Service Extensions requested by Peoples Gas System, because the tariff modification meets the minimum requirements of Rule 25-7.054, Florida Administrative Code.

DECISION: The primary recommendation was denied and the alternate recommendation was approved.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves the alternate staff recommendation in Issue 1, and a protest is filed within 21 days of the issuance of an Order, the tariff should remain in effect with any increase held subject to refund pending resolution of the protest; however, if no timely protest is filed, this docket should be closed upon the issuance of a Consummating Order. If the Commission approves the primary staff recommendation in Issue 1, and no timely protest is filed, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

5**PAADocket No. 030952-GU - Petition for authorization of methodology for final disposition of purchased gas adjustment, and for approval of proposed tariff sheets pertinent to transitional transportation service and transportation aggregation programs, by Florida Division of Chesapeake Utilities Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: CMP: Marshall, Bulecza-Banks, Makin

GCL: Brubaker

ISSUE 1: Should the Commission grant Chesapeake Utilities Corporation's proposal to refund the PGA overrecovery balance of \$246,255 to all its customers who received sales service during 2002?

RECOMMENDATION: Yes. The Commission should approve Chesapeake Utilities Corporation's proposal to refund the final PGA overrecovery balance of \$246,255 to all its customers who received sales service during 2002, effective January 6, 2004, the date of the Commission's vote in this matter.

ISSUE 2: Should the Commission grant Chesapeake Utilities Corporation's proposal to activate the Operational Balancing Account and close all service rate schedules?

RECOMMENDATION: Yes. The Commission should approve Chesapeake Utilities Corporation's proposal to activate the Operational Balancing Account and close all sales service rate schedules, effective January 6, 2004, the date of the Commission's vote in this matter.

ISSUE 3: Should the Commission grant Chesapeake Utilities Corporation's proposal to eliminate the tariff provision that requires a shipper to have a minimum of ten customers?

RECOMMENDATION: Yes. The Commission should grant Chesapeake Utilities Corporation's proposal to eliminate the tariff provision that requires a shipper to have a minimum of ten customers, effective January 6, 2004, the date of the Commission's vote in this matter.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon the issuance of a Consummating Order if no person whose interests are substantially affected by the proposed action files a protest within the 21-day protest period.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

6**PAADocket No. 031023-GU - Petition for approval of transition cost recovery factor true-up by Peoples Gas System.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Marshall, Makin, Bulecza-Banks

GCL: C. Keating

ISSUE 1: Should the Commission grant Peoples' petition to refund the overrecovery true-up balance of \$76,852 to all non-residential customers who paid the transition cost recovery factor during the years 1999 - 2003?

RECOMMENDATION: No. Instead, Peoples should be required to refund \$78,338 which represents the audited overrecovery of its transition cost recovery charge.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon the issuance of a Consummating Order if no person whose interests are substantially affected by the proposed action files a protest within the 21-day protest period.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

7**PAADocket No. 031038-TL - Petition for approval to revise customer contact protocol by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Pruitt
GCL: Susac

ISSUE 1: Should the Commission permit BellSouth to recommend its own intraLATA toll service on new customer contacts after it informs customers that they have a choice of local toll providers and offers to read a list of all available intraLATA toll providers?
RECOMMENDATION: Yes. This Commission should permit BellSouth to recommend its own intraLATA toll service on new customer contacts after it informs customers that they have a choice of local toll providers and offers to read a list of all available intraLATA toll providers.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

8**PAADocket No. 030619-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 5742 issued to The Mobile Phone Company, 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: Christensen

ISSUE 1: Should the Commission cancel The Mobile Phone Company, Inc.'s CLEC Certificate No. 5742 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

RECOMMENDATION: The Commission should cancel The Mobile Phone Company, Inc.'s CLEC Certificate No. 5742 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code, with an effective date of December 31, 2003. If the past due fee, including statutory late payment charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Florida Department of Financial Services for further collection efforts. If the Commission's Order is not protested, the company's CLEC Certificate No. 5742 should be cancelled administratively. If The Mobile Phone Company, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, The Mobile Phone Company, Inc. should be required to immediately cease and desist providing competitive local exchange service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**PAADocket No. 030968-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 5625 issued to Choctaw Communications, Inc. d/b/a Smoke Signal Communications for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Rojas

ISSUE 1: Should the Commission impose a \$1,000 penalty or cancel Choctaw Communications, Inc. d/b/a Smoke Signal Communications' certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

RECOMMENDATION: The Commission should impose a \$1,000 penalty or cancel the company's certificate with an effective date of December 31, 2003, if the penalty and the Regulatory Assessment Fees, including statutory late payment charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission. If the Commission's Order is not protested and the penalty and Regulatory Assessment Fees, including statutory late payment charges, are not received, the company's Certificate No. 5625 should be cancelled administratively with an effective date of December 31, 2003, and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If Choctaw Communications, Inc. d/b/a Smoke Signal Communications' certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange service in Florida.

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ITEM NO.

CASE

9**PAA

Docket No. 030968-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 5625 issued to Choctaw Communications, Inc. d/b/a Smoke Signal Communications for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

10**PAADocket No. 031015-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 7887 issued to NationNet Communications Corporation for violation of Rules 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Records and Reports; Rules Incorporated.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Dodson

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel NationNet Communications Corporation's CLEC Certificate No. 7887 for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480, Florida Administrative Code, Records & Reports; Rules Incorporated?

RECOMMENDATION: The Commission should impose a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel NationNet Communications Corporation's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory late payment charges, and the information required by Rule 25-24.480, Florida Administrative Code, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission. If the company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory late payment charges, and required information are not received, the company's certificate should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If NationNet Communications Corporation's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange service in Florida.

ITEM NO.

CASE

10**PAA

Docket No. 031015-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 7887 issued to NationNet Communications Corporation for violation of Rules 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Records and Reports; Rules Incorporated.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

11**PAA Cancellation by Florida Public Service Commission of CLEC certificates for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 031010-TX - Pan American Telecom, Incorporated

Docket No. 031014-TX - National Telecom, LLC

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: McKay

ISSUE 1: Should the Commission grant the companies listed on Attachment A of staff's December 23, 2003 memorandum a voluntary cancellation of their respective certificates?

RECOMMENDATION: The Commission should not grant the companies listed on Attachment A of staff's memorandum a voluntary cancellation of their respective certificates. Rather, the Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate is cancelled, as listed on Attachment A, in accordance with the Commission's Order from this recommendation, the respective companies should be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. These dockets should then be closed upon issuance of a Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

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

Docket No. 030622-TX - Sun-Tel USA, Inc.

Docket No. 030665-TX - BullsEye Telecom, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: McKay

ISSUE 1: Should the Commission accept the settlement offer proposed by each company listed on Attachment A of staff's December 23, 2003 memorandum to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, which implements Section 364.336, Florida Statutes?

RECOMMENDATION: The Commission should accept each company's respective 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 any of the companies listed on Attachment A of staff's memorandum fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be cancelled administratively. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A of staff's December 23, 2003 memorandum should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

13**Docket No. 030833-TS - Cancellation by Florida Public Service Commission of STS Certificate No. 2293 issued to St. Vincent's Medical Center, Inc., for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission grant St. Vincent's Medical Center, Inc. a voluntary cancellation of STS Certificate No. 2293?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its STS certificate with an effective date of December 2, 2003. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, St. Vincent's Medical Center, Inc. should be required to immediately cease and desist providing shared tenant service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14**PAADocket No. 031077-TI - Compliance investigation of Optrix Telecommunication, Inc. for apparent violation of Sections 364.02 and 364.04, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Curry

GCL: Rojas

ISSUE 1: Should the Commission impose a \$25,000 penalty upon O.T.I. for its apparent violation of Sections 364.02 (13) and 364.04, Florida Statutes, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

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

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

the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida upon issuance of the Consummating Order until the company pays the penalty, files a tariff and provides the Commission with current contact information.

ITEM NO.

CASE

14**PAA

Docket No. 031077-TI - Compliance investigation of Optrix Telecommunication, Inc. for apparent violation of Sections 364.02 and 364.04, Florida Statutes.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

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

1. The company's tariff, and
2. The company's current contact information, and
3. The payment of the penalty, or

upon referral of the penalty to the Department of Financial Services.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

15**PAADocket No. 031034-TI - Finding of insolvency cancellation by Florida Public Service Commission of IXC Registration No. TJ590 issued to VirtualCom, Inc. for violation of Section 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Fordham

ISSUE 1: Should the Commission grant VirtualCom, Inc.'s request for cancellation of its tariff and removal of IXC Registration No. TJ590 due to the finding of insolvency?

RECOMMENDATION: The Commission should grant the company a finding of insolvency cancellation of its tariff and removal of IXC Registration No. TJ590 with an effective date of November 7, 2003. In addition, the Division of the Commission Clerk and Administrative Services will be notified that the 2002 and 2003 RAFs, including statutory late payment charges for the year 2002, should not be sent to the Florida Department of Financial Services for collection, but that permission for the Commission to write off the uncollectible amount should be requested. If the tariff is cancelled and the company's name removed from the register in accordance with the Commission's Order from this recommendation, VirtualCom, Inc. should be required to immediately cease and desist providing intrastate interexchange service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

16**Docket No. 030804-TI - Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ626 issued to MYCOMP INS AGENCY CORP. for violation of Section 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission grant MYCOMP INS AGENCY CORP. a voluntary removal from the register of IXC Registration No. TJ626 and cancel its tariff?

RECOMMENDATION: The Commission should grant MYCOMP INS AGENCY CORP. a voluntary removal from the register of IXC Registration No. TJ626 and cancel its tariff with an effective date of November 17, 2003. If the tariff is cancelled and the company's name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the company's tariff and removal from the register of Registration No. TJ626 as no other issues need to be addressed by the Commission.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

17**PAA Cancellation of tariffs and removal from register by Florida Public Service Commission of IXC registrations for violation of Section 364.336, Florida Statutes.

Docket No. 030969-TI - National Accounts, Inc.

Docket No. 031011-TI - Pan American Telecom, Incorporated

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: McKay

ISSUE 1: Should the Commission grant the companies listed on Attachment A of staff's December 23, 2003 memorandum voluntary removal from the register and cancellation of their respective tariffs?

RECOMMENDATION: The Commission should not grant the companies listed on Attachment A of staff's memorandum voluntary removal from the register and cancellation of their respective tariffs. Rather, the Commission should remove each company, as listed on Attachment A, from the register on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment A, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange service in Florida. If any of the companies listed on Attachment A have their respective tariff cancelled and name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding RAF, including statutory late payment charges.

ITEM NO.

CASE

17**PAA

Cancellation of tariffs and removal from register by Florida Public Service Commission of IXC registrations for violation of Section 364.336, Florida Statutes.

(Continued from previous page)

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. These dockets should then be closed upon issuance of a Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

18**Docket No. 030776-TI - Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ374 issued to Next Communications, Inc. for violation of Section 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Christensen

ISSUE 1: Should the Commission accept the settlement offer proposed by Next Communications, Inc. to resolve the apparent violation of Section 364.336, Florida Statutes?

RECOMMENDATION: The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission order, the company's tariff should be cancelled and its name removed from the register administratively. In addition, the company should be required to immediately cease and desist providing intrastate interexchange service in Florida. If the company's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, the company should be required to first pay any outstanding RAF, including statutory late payment charges, and the contribution.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the tariff and removal from the register.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

19**Docket No. 030717-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 5917 issued to Resource Express 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: McKay

ISSUE 1: Should the Commission grant Resource Express Inc. a voluntary cancellation of PATS Certificate No. 5917?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its PATS certificate with an effective date of October 29, 2003. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Resource Express Inc. should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

20**Docket No. 030710-TC - Cancellation by Florida Public Service Commission of PATS
Certificate No. 5909 issued to Publicall Telecommunications Inc. for violation of Rule
25-4.161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Rojas

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

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

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1,
this docket should be closed as no other issues need to be addressed by the Commission.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

21**Docket No. 030727-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 7818 issued to Federal Correctional Institution Miami 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: McKay

ISSUE 1: Should the Commission accept the settlement offer proposed by Federal Correctional Institution Miami to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within 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. 7818 should be cancelled administratively. If Federal Correctional Institution Miami's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

22**PAADocket No. 030736-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 8160 issued to Woodrow J. Zeitlen for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Deferred from September 30, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission impose a \$500 penalty or cancel Woodrow J. Zeitlen's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: The Commission should impose a \$500 penalty or cancel the company's certificate with an effective date of December 31, 2003, if payment of the penalty is not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission. If the Commission's Order is not protested and payment of the penalty is not received, the company's Certificate No. 8160 should be cancelled administratively. If Woodrow J. Zeitlen's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

23**PAADocket No. 031009-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 7891 issued to Mad Dog's Telephone & Wiring, Inc. for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission impose a \$500 penalty or cancel Mad Dog's Telephone & Wiring, Inc.'s Certificate No. 7891 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: The Commission should impose a \$500 penalty or cancel the company's certificate with an effective date of December 31, 2003, if payment of the penalty and past due Regulatory Assessment Fees, including statutory late payment charges for the years 2001 and 2002, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission. If the Commission's Order is not protested and payment of the penalty and past due Regulatory Assessment Fees, including statutory late payment charges, are not received, the company's Certificate No. 7891 should be cancelled administratively. If Mad Dog's Telephone & Wiring, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

24**PAADocket No. 030569-GU - Application for rate increase by City Gas Company of Florida.

Critical Date(s): 1/15/04 (5-month effective date - PAA rate case)

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: ECR: Brinkley, Baxter, Draper, Gardner, Hewitt, Kaproth, Kenny, Lester,
Lingo, C. Romig, Springer, Stallcup, Wheeler, Winters
CMP: Makin
GCL: Jaeger

ISSUE 1: Is City Gas's projected test period of the twelve months ending September 30, 2004 appropriate?

RECOMMENDATION: Yes. With the adjustments recommended by Staff in the following issues, the 2002 and 2004 test years are appropriate.

ISSUE 2: Are City Gas's forecasts of customers and therms for the September 30, 2004, projected test year appropriate?

RECOMMENDATION: Yes. The projected number of customers and therms by rate class as contained in Minimum Filing Requirement (MFR) Schedule G-2, pages 8 through 11, for fiscal year 2004 are appropriate for setting rates.

ISSUE 3: Is the quality of service provided by City Gas adequate?

RECOMMENDATION: Yes. The quality of service provided by City Gas is satisfactory.

ISSUE 4: Should the projected test year rate base be adjusted to remove inactive service lines that have been inactive for five years or more?

RECOMMENDATION: Yes. Test year Plant in Service, Accumulated Depreciation, and Depreciation Expense should be reduced by \$144,925, \$144,925, and \$10,290 respectively to reflect the 955 inactive service lines that have been inactive for five years or more.

Staff recommends that the Company complete an inactive service line study to determine how many of the 955 service lines should be cut/capped and physically abandoned. The study and retirements should be completed and provided to the Bureau of Safety no later than 24 months from the date of the executed order.

ISSUE 5: Is City Gas's Gas Plant in Service of \$198,469,190 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Gas Plant in Service for the projected test year is \$198,324,265.

ISSUE 6: Should any of the following corporate allocations from NUI Corporation to City Gas be adjusted: Common Plant Allocated in the amount of \$8,128,136,

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Accumulated Depreciation - Common Plant Allocated in the amount of \$3,821,245, and Common Plant Depreciation and Amortization Expense in the amount of \$1,131,596?

RECOMMENDATION: Yes. Common Plant Allocated should be reduced by \$1,766,884, Accumulated Depreciation - Common Plant Allocated should be reduced by \$119,520, and Common Plant Depreciation and Amortization should be reduced by \$302,961, as a result of NUI's projected corporate capital spending reductions due to its pursuit to sell NUI.

In addition, pursuant to Audit Exception No. 3, Common Plant Allocated should be reduced by \$570,346, Accumulated Depreciation - Common Plant should be reduced by \$65,149, and Common Plant Depreciation and Amortization should be reduced by \$15,930 to remove plant unrelated to City Gas.

ISSUE 7: Should any of the following balances be adjusted for non-utility operations: Common Plant in the amount of \$2,405,121, Accumulated Depreciation - Common Plant in the amount of \$1,153,707, and Depreciation and Amortization Expense in the amount of \$131,856?

RECOMMENDATION: Yes. Plant should be reduced \$34,748; Accumulated Depreciation should be reduced \$14,376; and Depreciation Expense should be reduced \$761.

ISSUE 8: Is City Gas's Common Plant Allocated of \$5,723,015 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Common Plant Allocated for the projected test year is \$3,351,037.

ISSUE 9: Are City Gas's Acquisition Adjustment, Accumulated Amortization of Acquisition Adjustment, and related Amortization Expense of \$1,462,697, \$226,472, and \$46,740, respectively, appropriate for the projected test year?

RECOMMENDATION: Yes. City Gas's Acquisition Adjustment, Accumulated Amortization of Acquisition Adjustment, and related Amortization Expense of \$1,462,697, \$226,472, and \$46,740, respectively, are appropriate for the projected test year.

ISSUE 10: Is City Gas's Construction Work in Progress (CWIP) of \$6,452,439 for the projected test year appropriate?

RECOMMENDATION: Yes. City Gas's Construction Work in Progress (CWIP) of \$6,452,439 for the projected test year is appropriate.

ISSUE 11: Is City Gas's Total Plant of \$212,107,341 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Total Plant for the projected test year is \$209,590,438 .

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ISSUE 12: Is City Gas's Accumulated Depreciation of Gas Plant in Service of \$84,927,235 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate Accumulated Depreciation of Gas Plant in Service for the projected test year is \$84,776,445.

ISSUE 13: Is City Gas's requested Accumulated Depreciation and Accumulated Amortization of Plant in Service of \$87,821,245 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Accumulated Depreciation and Amortization of Plant in Service for the projected test year is \$87,471,410.

ISSUE 14: Should an adjustment be made to Interest Accrued in Working Capital?

RECOMMENDATION: Yes. Interest Accrued should be increased by \$100,639 to reflect correction to NUI interest payable.

ISSUE 15: Should an adjustment be made to Accrued Taxes Payable and Tax Collections Payable in Working Capital?

RECOMMENDATION: Yes. Taxes Accrued - General should be increased by \$242,900 and Tax Collections Payable should be increased by \$1,067,188.

ISSUE 16: Have under recoveries and over recoveries related to the Purchased Gas Adjustment and Conservation Cost Recovery been appropriately reflected in the Working Capital Allowance?

RECOMMENDATION: Yes. The Company has appropriately reflected under recoveries and over recoveries in the Working Capital Allowance.

ISSUE 17: Has City Gas accounted for its Asset Retirement Obligations in accordance with Rule 25-14.014, Florida Administrative Code, Accounting for Asset Retirement Obligations under SFAS 143, such that it is revenue-neutral?

RECOMMENDATION: Yes. City Gas has accounted for its Asset Retirement Obligations in accordance with Rule 25-14.014, Florida Administrative Code, Accounting for Asset Retirement Obligations under SFAS 143, such that it is revenue-neutral.

ISSUE 18: Should an adjustment be made to Working Capital Allowance for the net of Deferred Piping and Accumulated Amortization of Deferred Piping?

RECOMMENDATION: Yes. Working Capital Allowance should be increased by \$61,207 for the net of Deferred Piping and Accumulated Amortization of Deferred Piping. This represents an increase to Deferred Piping of \$62,306 and an increase to Accumulated Amortization of Deferred Piping of \$1,099.

ISSUE 19: Is City Gas's Working Capital of \$(864,289) for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Working Capital for the projected test year is \$(2,206,033).

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ISSUE 20: Is City Gas's Rate Base of \$123,421,807 for the September 2004 projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Rate Base for the projected test year is \$119,912,995.

ISSUE 21: Should an adjustment be made to Accumulated Deferred Income Taxes in the capital structure?

RECOMMENDATION: Yes. An adjustment should be made to increase Accumulated Deferred Income Taxes in the capital structure by \$4,713,871 to reflect a balance of \$11,845,018.

ISSUE 22: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?

RECOMMENDATION: The appropriate amount of unamortized investment tax credits (ITCs) is \$536,361. The ITCs should be included in the capital structure at a zero cost rate.

ISSUE 23: Have rate base and capital structure been reconciled appropriately?

RECOMMENDATION: No. The Commission should adjust City Gas's capital structure to match the investor capital ratios to those of NUI Utilities, Inc. The appropriate investor capital ratios are an equity ratio of 43.35%, a long-term debt ratio of 47.55% and a short-term debt ratio of 9.10%.

ISSUE 24: What is the appropriate cost rate for short-term debt for the September 2004 projected test year?

RECOMMENDATION: The appropriate cost rate for short-term debt is 3.9%.

ISSUE 25: What is the appropriate cost rate for common equity to use in establishing City Gas's revenue requirement?

RECOMMENDATION: The appropriate cost rate for common equity is 11.25%, and the appropriate range is plus or minus 100 basis points.

ISSUE 26: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?

RECOMMENDATION: The appropriate weighted average cost of capital is 7.36%.

ISSUE 27: Has City Gas properly removed Purchased Gas Adjustment Revenues, Expenses, and Taxes-Other from the projected test year?

RECOMMENDATION: No. The Cost of Gas Adjustment to Operating Revenues should be decreased from \$31,127,076 to \$30,972,215, an increase to Adjusted Revenues of \$154,861. The fallout adjustment to Regulatory Assessment Fees from the increase in revenues is taken up in Issue 51.

ISSUE 28: Should an adjustment be made to correct Projected Total Operating revenues?

RECOMMENDATION: Yes. Projected Total Operating revenues should be decreased by \$24,420.

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ISSUE 29: Should test year revenues be increased to offset the amount that the Clewiston Pipeline Extension Project's (Pipeline or project) costs exceed its associated revenues, and, if so, what is the appropriate revenue adjustment?

RECOMMENDATION: Yes. Test year revenues should be increased by \$280,288 to offset the amount that the Pipeline's costs exceed its associated revenues.

ISSUE 30: Is City Gas's projected Total Operating Revenues of \$37,873,588 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Total Operating Revenues for the projected test year is \$38,284,317.

ISSUE 31: Has the Company properly allocated expenses between regulated and non-regulated operations?

RECOMMENDATION: No. City Gas failed to allocate certain costs in its MFRs to non-utility operations. Operations and Maintenance Expense (O&M) should be reduced by \$82,475 to remove non-utility expenses.

ISSUE 32: Should an adjustment be made to Account 891, Maintenance of Measuring and Regulating Station Equipment - City Gate Check Stations, for odorant costs?

RECOMMENDATION: Yes. Account 891 should be increased by \$15,548 for odorant costs for the 2004 projected test year. A corresponding adjustment to reduce working capital allowance by \$7,774 is also appropriate.

ISSUE 33: Should an adjustment be made to Account 903, Customer Records and Collections, for the projected test year?

RECOMMENDATION: Yes. Account 903, Customer Records and Collections, should be reduced by \$117,831.

ISSUE 34: Should an adjustment be made to Account 904, Uncollectible Accounts, and for Bad Debt in the Revenue Expansion Factor?

RECOMMENDATION: Yes. Uncollectible Accounts should be reduced by \$255,258 for the projected test year. The appropriate rate for Bad Debt in the Revenue Expansion Factor is 0.013103.

ISSUE 35: Should an adjustment be made to Account 913, Advertising Expense, for the projected test year?

RECOMMENDATION: Yes, an adjustment should be made to reduce Account 913, Advertising Expense, by \$210,000 for the projected test year.

ISSUE 36: Should an adjustment be made to Account 912, Demonstration and Selling Expense, and Account 916, Miscellaneous Sales Expense, for the projected test year?

RECOMMENDATION: Yes. An adjustment should be made to reduce Account 912, Demonstration and Selling Expense, by \$514,573 and reduce Account 916, Miscellaneous Sales Expense, by \$33,191 for the projected test year.

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ISSUE 37: Should an adjustment be made to Account 921, Office Supplies and Expenses, for miscellaneous expenses that were written off in the projected test year?

RECOMMENDATION: Yes. Account 921, Office Supplies and Expenses, should be reduced by \$328,367 for the projected test year.

ISSUE 38: Should an adjustment be made to Account 921, Office Supplies and Expenses, for Charitable Contributions?

RECOMMENDATION: Yes. Account 921, Office Supplies and Expenses, should be reduced by \$35,633 for Charitable Contributions.

ISSUE 39: Is City Gas's \$(2,847) adjustment to Account 921, Office Supplies and Expenses, for American Gas Association membership dues appropriate?

RECOMMENDATION: No. Account 921, Office Supplies and Expenses, should be reduced by an additional \$13,178 for American Gas Association membership dues related to charitable contributions and advertising that is not informational or educational in nature.

ISSUE 40: This issue has been dropped.

ISSUE 41: Should an adjustment be made to Account 925, Injuries and Damages, for the projected test year?

RECOMMENDATION: Yes, Account 925, Injuries and Damages, should be reduced by \$336,952.

ISSUE 42: Should an adjustment be made to Account 926, Employee Benefits, for the projected test year?

RECOMMENDATION: Yes. Account 926 - Employee Benefits should be reduced by \$50,960 to reflect the removal of a duplicate expense.

ISSUE 43: Should an adjustment be made to Account 928, Regulatory Commission Expense, for Rate Case Expense for the projected test year and what is the appropriate amortization period?

RECOMMENDATION: Yes. Account 928, Regulatory Commission Expense, should be decreased by \$5,671, from \$165,090 to \$159,419; the appropriate rate case expense amortization period is three years; and the appropriate amount of rate case expense from the prior case and this proceeding is \$478,256 to be amortized beginning February, 2004.

ISSUE 44: Are the trend rates used by City Gas to calculate projected O&M expenses appropriate?

RECOMMENDATION: No. The customer growth rates contained in MFR Schedule G-2, page 12 of 34, of 0.18% for fiscal year 2003 and 0.12% for fiscal year 2004 are not appropriate. The appropriate customer growth rates are -0.15% for fiscal year 2003 and -0.56% for fiscal year 2004. In addition, for the projected test year, the Commission should use 2.0% for the general inflation rate instead of the 2.2% proposed by City. Staff recommends that the Commission accept City Gas's payroll trend rates.

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ISSUE 45: Has City Gas used the appropriate trend basis for each O&M account?

RECOMMENDATION: No. The customer growth factor should not be applied to the “other” expense portions of O&M Account Nos. 886, 921, 923, 926, 930.2, 931.

ISSUE 46: Should the projected test year O&M expense be adjusted for the effect of any changes to trend rates or bases?

RECOMMENDATION: Yes. Notwithstanding specific adjustments to O&M expense accounts in earlier issues, O&M should be reduced an additional \$59,750 as a result of lowering the inflation and customer growth rates, changing the trend bases on select accounts, and recalculating the application of compound rates to be consistent with the Commission methodology used in prior gas rate cases.

ISSUE 47: Is City Gas’s O&M Expense of \$24,068,151 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of O&M Expense for the projected test year is \$22,040,803.

ISSUE 48: Should an adjustment be made to projected Depreciation Expense for non-utility depreciation that was incorrectly removed?

RECOMMENDATION: Yes. The projected test year Depreciation Expense should be increased by \$115,860 to correct the error.

ISSUE 49: What adjustments, if any, should be made to the depreciation expense to reflect the Commission’s decision in Docket No. 030222-GU?

RECOMMENDATION: The appropriate adjustment for depreciation expense to reflect the Commission’s decision in Docket No. 030222-GU should be a reduction of \$243,449.

ISSUE 50: Is City Gas’s Depreciation and Amortization Expense of \$8,395,317 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Depreciation and Amortization Expense for the projected test year is \$7,937,786.

ISSUE 51: Is City Gas’s Taxes Other Than Income of \$2,216,926 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Taxes Other Than Income is \$2,298,239, an increase of \$81,313.

ISSUE 52: Is City Gas’s Income Tax Expense of \$(403,763), which includes current and deferred income taxes and interest reconciliation, for the projected test year appropriate?

RECOMMENDATION: No. The appropriate income tax expense, including current taxes, deferred income taxes, and interest reconciliation, is \$707,170.

ISSUE 53: Is City Gas’s projected Total Operating Expenses of \$34,276,631 appropriate?

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RECOMMENDATION: No. The appropriate amount of Total Operating Expenses for the projected test year is \$32,983,985.

ISSUE 54: Is City Gas's projected Net Operating Income of \$3,596,957 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate amount of Net Operating Income for the projected test year is \$5,300,332.

ISSUE 55: What is the appropriate revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for City Gas?

RECOMMENDATION: The appropriate Revenue Expansion Factor is 0.612409, and the appropriate Net Operating Income Multiplier is 1.6329.

ISSUE 56: Is City Gas's requested annual operating revenue increase of \$10,489,305 for the projected test year appropriate?

RECOMMENDATION: No. The appropriate annual operating revenue increase for the projected test year is \$5,756,404.

ISSUE 57: Are City Gas's estimated revenues from sales of gas by rate class at present rates for the projected test year appropriate?

RECOMMENDATION: No. The adjustment to correct estimated sales of gas by rate class at present rates for the projected test year is addressed in Issue 28.

ISSUE 58: What is the appropriate cost of service methodology to be used in allocating costs to the rate classes?

RECOMMENDATION: The appropriate methodology is Staff's cost of service methodology adjusted for adjustments made to rate base, operation and maintenance expense, and net operating income.

ISSUE 59: What are the appropriate Customer Charges?

RECOMMENDATION: Staff's recommended customer charges are as follows:

Rate Class	Staff Recommended Customer Charge
GS-1	\$8.00
GS-100	\$9.50
GS-220	\$11.00
GS-600	\$12.00
GS-1,200	\$15.00
GS-6,000	\$30.00

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GS-25K	\$80.00
GS-60K	\$150.00
GS-120K	\$250.00
GS-250K	\$300.00
GS-1,250K	\$500.00
Gas Lighting	N/A
Natural Gas Vehicles	\$15.00
Contract Demand	\$400.00

ISSUE 60: What are the appropriate per therm Distribution Charges?

RECOMMENDATION: Staff's recommended per therm Distribution Charges are contained in Attachment 7, pages 1-4, to their December 23, 2003 memorandum.

ISSUE 61: What is the appropriate Demand Charge?

RECOMMENDATION: The appropriate demand charge is \$0.314 per Demand Charge Quantity. Staff's development of the recommended demand charge is shown in Attachment 8 of their memorandum and discussed in Issue 67.

ISSUE 62: What are the appropriate Miscellaneous Service Charges?

RECOMMENDATION: Staff's recommended Miscellaneous Service Charges are shown below:

Type of Miscellaneous Charge	Staff-Recommended Charge
Residential Connect	\$50.00
Non-Residential Connect	\$110.00
Residential Reconnect after non-payment	\$37.00
Non-Residential Reconnect after non-payment	\$80.00
Change of Account	\$20.00

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Customer Requested Temporary Disconnection	See Issue 74.
Bill Collection in lieu of Disconnection	\$20.00
Late Payment Charge	Greater of \$5.00 or 1.5%
Returned Check Charge	Greater of \$25.00 or 5%
Copy of Tariff	This charge should be eliminated.

ISSUE 63: If the Commission grants a revenue increase to City Gas, how should the increase be allocated to the rate classes?

RECOMMENDATION: Staff's recommended allocation of the revenue increase to the rate classes is contained in Attachment 6, page 16 of 16, of their memorandum. This allocation and the per-therm rates that result must be adjusted to reflect a slight difference between the increase upon which the rates were calculated and staff's recommended increase as shown in Issue 56.

ISSUE 64: Should City Gas's proposal to replace its existing rate classes with 11 new volumetric-based rate classes be approved?

RECOMMENDATION: Yes. City Gas's proposal to replace its existing rate classes with 11 new volumetric-based rate classes should be approved.

ISSUE 65: Should City Gas's proposed minimum bill provision for customers using 60,000 therms or more per year be approved?

RECOMMENDATION: Yes. City Gas's proposed minimum bill provision for customers using 60,000 therms or more per year should be approved.

ISSUE 66: To which customer classes should City Gas's Competitive Rate Adjustment Rider be applied?

RECOMMENDATION: The Competitive Rate Adjustment Rider should be applied to all customers that do not receive an alternate fuel discount pursuant to City Gas's Alternate Fuel Discount Rider. The Alternate Fuel Discount Rider is addressed in Issue 69.

ISSUE 67: Is City Gas's proposal to bill certain of its customers a demand charge based on their Demand Charge Quantity appropriate?

RECOMMENDATION: No. The Commission should not approve City Gas's proposal. In lieu of City Gas's proposal, the Commission should approve a demand charge of \$0.314 for rate schedules GS-120K, GS-250K, and GS-1,250K, with a separate Demand Charge Quantity established for the winter season (November through March) and for the summer season (April through October). Staff's development of the recommended

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demand charge is shown in Attachment 8 of their memorandum. Staff's recommendation does not change City Gas's revenue requirement. This is a rate design issue only.

ISSUE 68: Should City Gas's proposal to eliminate its interruptible rate classes be approved?

RECOMMENDATION: Yes. City Gas's proposal to eliminate its interruptible rate classes should be approved.

ISSUE 69: Should City Gas's proposal to apply its existing Alternate Fuel Discount (AFD) as a rider be approved?

RECOMMENDATION: Yes. City Gas's proposal to apply its existing Alternate Fuel Discount (AFD) as a rider should be approved.

ISSUE 70: Should City Gas's proposal to lower the eligibility threshold for discounts to customers who have alternate fuel capability from 250,000 to 120,000 therms per year be approved?

RECOMMENDATION: Yes. City Gas's proposal to lower the eligibility threshold for discounts to customers who have alternate fuel capability from 250,000 to 120,000 therms per year should be approved.

ISSUE 71: Should City Gas's proposal to consolidate its sales and transportation customer classifications be approved?

RECOMMENDATION: Yes. City Gas's proposal to consolidate its sales and transportation customer classifications should be approved.

ISSUE 72: Should City Gas's proposal to eliminate its Standby Sales Service provision be approved?

RECOMMENDATION: Yes. City Gas's proposal to eliminate its Standby Sales Service provision should be approved.

ISSUE 73: Should City Gas's proposed new Transportation Supply Service (TSS) rate schedule be approved?

RECOMMENDATION: Yes, with the exception of the tariff language contained in Special Conditions paragraph 3 of the proposed rate schedule, which should be removed.

ISSUE 74: Is City Gas's proposed new Temporary Disconnect Charge appropriate?

RECOMMENDATION: No. The proposed charge should not be approved.

ISSUE 75: Are City Gas's proposed Daily Imbalance Charges appropriate?

RECOMMENDATION: Yes. City Gas's proposed Daily Imbalance Charges are appropriate.

ISSUE 76: Are City Gas's proposed new monthly charges applicable to Third Party Suppliers appropriate?

RECOMMENDATION: Yes. City Gas's proposed new monthly charges applicable to Third Party Suppliers are appropriate.

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ISSUE 77: Are City Gas's proposed new Unauthorized Gas Use provision and the associated per therm charge appropriate?

RECOMMENDATION: Yes. City Gas's proposed new Unauthorized Gas Use provision and the associated per therm charge are appropriate.

ISSUE 78: Is City Gas's proposal to expand the existing Contract Transportation Service (KTS) rate schedule to include sales service customers appropriate?

RECOMMENDATION: Yes. City Gas's proposal to expand the existing KTS rate schedule to include sales service customers is appropriate.

ISSUE 79: What is the appropriate effective date for City Gas's revised rates and charges?

RECOMMENDATION: The revised rates and charges should become effective for meter readings on or after 30 days following the date of the Commission vote approving the rates and charges.

ISSUE 80: Should any portion of the \$2,942,306 interim increase granted by Order No. PSC-03-1217-PCO-GU, issued on October 27, 2003, be refunded to customers?

RECOMMENDATION: No portion of the \$2,942,306 interim revenue increase should be refunded.

ISSUE 81: Should City Gas be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case?

RECOMMENDATION: Yes. The Company should be required to fully describe the entries and adjustments that will be either recorded or used in preparing reports submitted to the Commission.

ISSUE 82: Should City Gas's energy conservation cost recovery factors approved in Docket No. 030004-GU, Order No. PSC-03-1374-FOF-GU, be realigned to reflect the new rate classes in this case?

RECOMMENDATION: Yes. City Gas should file realigned conservation cost recovery factors using the approved revenue requirement in this case based on new rate classes. See Commission Order No. PSC-00-2536-TRF-EG.

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ITEM NO.

CASE

24**PAA

Docket No. 030569-GU - Application for rate increase by City Gas Company of Florida.

(Continued from previous page)

ISSUE 83: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon the issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.

DECISION: This item was deferred.

ITEM NO.

CASE

25**PAADocket No. 030558-EI - Request for approval of revised fossil dismantlement studies by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: ECR: Gardner, Haff, Lester

CMP: Lee

GCL: Brown

ISSUE 1: Should the preliminary provision for dismantlement for FPL be changed?

RECOMMENDATION: Yes. Staff recommends that the annual dismantlement accruals approved on a preliminary basis by Order No. PSC-03-0872-FOF-EI, issued July 29, 2003, be increased \$2.2 million as shown on Attachment A of staff's December 23, 2003 memorandum. These accruals reflect current estimates of dismantlement costs on a site-specific basis using the latest inflation forecasts and a 16% contingency factor. FPL should true up the 2003 dismantlement expenses upon final action in this docket by the Commission.

ISSUE 2: What should be the implementation date for the revised annual dismantlement accruals?

RECOMMENDATION: Staff recommends a January 1, 2003, implementation date for FPL's proposed dismantlement provision.

ISSUE 3: Should any reserve allocations be made?

RECOMMENDATION: Yes. Staff recommends that the residual dismantlement reserves for the Ft. Myers and Sanford steam units be transferred to the respective repowered units.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the Commission's 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: Baez, Deason, Jaber, Bradley, Davidson

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ITEM NO.

CASE

26**Docket No. 031069-EI - Petition for authority to implement proposed Military Base Facilities Charge Rider by Gulf Power Company.

Critical Date(s): 1/20/04 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Wheeler, Draper
GCL: Vining

ISSUE 1: Should Gulf Power Company's proposed Military Base Facilities Charge Rider tariff be suspended?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

27**Docket No. 030636-WS - Application for transfer of facilities to The City of Edgewater in Volusia County, and for cancellation of Certificate Nos. 374-W and 323-S, by Terra Mar Village Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Clapp, Romig

GCL: Jaeger

ISSUE 1: Should the transfer of the Terra Mar water and wastewater facilities in Volusia County to the City of Edgewater be approved?

RECOMMENDATION: Yes. The transfer of the Terra Mar facilities in Volusia County to the City of Edgewater should be approved as a matter of right pursuant to Section 367.071(4)(a), Florida Statutes. Certificate Nos. 374-W and 323-S should be cancelled, effective July 25, 2003.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of pending Docket No. 030828-WS, Complaint Nos. 512346 and 533120W contesting high water and wastewater bills for December 2002 and April 2003, respectively, filed by Mr. Harold Shriver against Terra Mar Village Utilities, Inc., in Volusia County, and until Certificate Nos. 374-W and 323-S are cancelled administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

28**Docket No. 030931-WS - Joint application for acknowledgment of sale of land and facilities of Florida Water Services Corporation to Charlotte County; and for cancellation of Certificate Nos. 570-W and 496-S in Charlotte County, and Certificate Nos. 306-W and 255-S in Charlotte and Lee Counties. (Deferred from November 3, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Clapp, Kaproth, Willis
GCL: Holley

ISSUE 1: Should the transfer of Florida Water Services Corporation's Deep Creek water and wastewater land and facilities located in Charlotte County, and the Burnt Store water and wastewater land and facilities located in Charlotte and Lee County to Charlotte County be approved?

RECOMMENDATION: Yes. The transfer of Florida Water Service Corporation's Deep Creek water and wastewater land and facilities located in Charlotte County, and the Burnt Store water and wastewater land and facilities located in Charlotte and Lee County to Charlotte County should be approved as a matter of right as of December 12, 2003, pursuant to Section 367.071(4)(a), Florida Statutes. The utility should submit an actual Regulatory Assessment Fee (RAF) return with a final RAF payment, if needed, by March 31, 2004. Certificate Nos. 306-W, 570-W, 255-S, and 496-S should be cancelled administratively at the conclusion of any pending dockets concerning the Charlotte and Lee County facilities.

ISSUE 2: Should the Commission open a docket to examine whether FWSC's sale of the Charlotte Systems to the County involves a gain that should be shared with FWSC's remaining customers?

RECOMMENDATION: Yes. The Commission should open a docket to examine whether FWSC's sale of the Charlotte Systems involves a gain that should be shared with FWSC's remaining customers.

ITEM NO.

CASE

28**

Docket No. 030931-WS - Joint application for acknowledgment of sale of land and facilities of Florida Water Services Corporation to Charlotte County; and for cancellation of Certificate Nos. 570-W and 496-S in Charlotte County, and Certificate Nos. 306-W and 255-S in Charlotte and Lee Counties. (Deferred from November 3, 2003 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 3: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of any pending dockets concerning the Charlotte and Lee County facilities, and until Certificate Nos. 306-W, 570-W, 255-S, and 496-S are cancelled administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

29**Docket No. 030971-SU - Application for transfer of wastewater facility of Sky Acres Enterprises d/b/a Terrace Park Ventures to Pasco County Utilities, and for cancellation of Certificate No. 505-S in Pasco County.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: ECR: Johnson, Romig

GCL: Brown

ISSUE 1: Should Terrace Park be ordered to show cause within 21 days why it should not remit a statutory penalty in the amount of \$76.53 and interest in the amount of \$15.47, for violation of Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for failure to timely pay regulatory assessment fees for 2002?

RECOMMENDATION: No. A show cause proceeding should not be initiated under these circumstances. The Commission should refer the utility's unpaid penalties and interest to the Department of Financial Services for permission to write off the accounts as uncollectible.

ISSUE 2: Should the transfer of the wastewater facilities of Sky Acres Enterprises d/b/a Terrace Park Ventures to Pasco County be approved?

RECOMMENDATION: Yes. The transfer to Pasco County should be approved as a matter of right, effective January 24, 2003. If the Commission approves staff's recommendation in Issue 1, Certificate No. 505-S should be cancelled.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed. However, if a show cause proceeding is initiated, this docket should remain open pending the outcome.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

30**Docket No. 020554-WS - Petition by Florida Water Services Corporation (FWSC) for determination of exclusive jurisdiction over FWSC's water and wastewater land and facilities in Hernando County, and application for certificate of authorization for existing utility currently charging for service.

Critical Date(s): None

Commissioners Assigned: Deason, Baez, Bradley

Prehearing Officer: Baez

Staff: GCL: Holley
ECR: Rieger, Walden

ISSUE 1: Should the Commission acknowledge Florida Water Services Corporation's Notice of Dismissal of Petition and Withdrawal of Application?

RECOMMENDATION: Yes. Staff recommends that this Commission acknowledge the utility's Notice of Dismissal of Petition and Withdrawal of Application.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley