

MINUTES OF July 1, 2003

COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.

ADJOURNED: 11:15 a.m.

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

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

1 Approval of Minutes
June 3, 2003 Regular Commission Conference

DECISION: The minutes were approved.

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

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Commission Conference
July 1, 2003

ITEM NO. CASE

2** Consent Agenda

PAA A) Request for cancellation of competitive local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030465-TX	OpTel (Florida) Telecom, Inc. d/b/a OpTel	5/22/03

PAA B) Request for cancellation of shared tenant services certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030466-TS	TVMAX Telecommunications, Inc. d/b/a OpTel	5/22/03

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

DECISION: The recommendation was approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
3**	<p>Docket No. 030405-TL - Proposed amendments to Rules 25-4.017, 25-4.0405, 25-4.135, and repeal of Rules 25-4.1352 and 25-4.1357, F.A.C.</p> <p>Critical Date(s): None</p> <p>Rule Status: Proposed</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Deason</p> <p>Staff: GCL: Moore ECR: Mailhot, Hewitt</p> <p><u>ISSUE 1</u>: Should Rules 25-4.017, 25-4.0405, and 25-4.135, Florida Administrative Code, be amended and Rules 25-4.1352 and 25-4.1357, Florida Administrative Code, be repealed? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: If no requests for hearing or comments are filed, should the proposed rule amendments be filed for adoption with the Secretary of State and the docket be closed? <u>RECOMMENDATION</u>: Yes.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Bradley, Davidson</p>

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<u>ITEM NO.</u>	<u>CASE</u>
4**PAA	<p>Docket No. 010977-TL - State certification of rural telecommunications carriers pursuant to 47 C.F.R. 54.314.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Dowds EXT: Fogleman GCL: B. Keating</p> <p><u>ISSUE 1</u>: Should the Commission certify to the FCC and to the USAC that for the year 2004 ALLTEL Florida, Inc., Frontier Communications of the South, Inc., GTC, Inc., Indiantown Telecommunications Systems, Inc., Northeast Florida Telephone Company, TDS Telecom, and Smart City Telecom will only use the federal high-cost support they receive for the provision, maintenance and upgrading of facilities and services for which the support is intended? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No. This docket should remain open in order to deal with future certification of rural telephone companies.</p>

DECISION: The recommendations were approved.

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

Agenda for
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ITEM NO.

CASE

5**PAA

Docket No. 030314-TI - Request by WorldxChange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., in transfer of IXC customers from Local Telcom Holdings, LLC to WorldxChange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communication Solutions. (Deferred from June 3, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Williams
GCL: Dodson

ISSUE 1: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of long distance customers from Local Telcom Holdings, LLC to Worldxchange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
6**PAA	<p>Docket No. 030363-GU - Joint petition for approval of gas transportation agreement between Florida Public Utilities Company and City of Lake Worth, and request for expedited treatment.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Bradley</p> <p>Staff: CMP: Makin, Marshall, Bulecza-Banks ECR: Slemkewicz, Lester GCL: Brubaker</p> <p><u>ISSUE 1</u>: Should the Commission approve the new Transportation Agreement between Florida Public Utilities (FPUC) and the City of Lake Worth (CLW)? <u>RECOMMENDATION</u>: Yes. The Commission should approve the Gas Transportation Agreement between FPUC and CLW, effective the date of the Commission vote in this matter.</p> <p><u>DECISION</u>: The recommendation was approved with the modification that the effective date is April 1, 2003.</p> <p><u>ISSUE 2</u>: Should the Commission approve FPUC's proposal to give the Commission jurisdiction over any excess earnings for calendar year 2003 and to accrue up to a maximum of \$2 million in its environmental reserves for calendar year 2003? <u>RECOMMENDATION</u>: Yes. The Commission should approve FPUC's proposal (Attachment 1 of staff's June 19, 2003 memorandum) to give the Commission jurisdiction over any excess earnings for calendar year 2003 and to accrue up to a maximum of \$2 million in its environmental reserves for calendar year 2003.</p> <p><u>DECISION</u>: The recommendation was approved with instructions to staff concerning inclusion of language in order related to the Commission's retaining of jurisdiction over the Company's environmental reserves.</p>

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ITEM NO.

CASE

6**PAA

Docket No. 030363-GU - Joint petition for approval of gas transportation agreement between Florida Public Utilities Company and City of Lake Worth, and request for expedited treatment.

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ISSUE 3: Should this docket be closed?

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

DECISION: The recommendation was approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
7**	<p>Docket No. 030001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: ECR: Bohrmann, McNulty, Draper GCL: C. Keating, Rodan</p> <p><u>ISSUE 1</u>: Should the Commission approve a mid-course correction to FPL's authorized fuel and purchased power cost recovery factors to collect its \$214.1 million under-recovery for February through May 2003? <u>RECOMMENDATION</u>: Yes. The Commission should approve FPL's petition for a mid-course correction to collect its \$214.1 million under-recovery for February through May 2003. This approval would mitigate the rate impact of FPL collecting this amount during 2004.</p> <p><u>ISSUE 2</u>: What is the appropriate effective date for FPL's revised fuel cost recovery factors? <u>RECOMMENDATION</u>: FPL's revised fuel cost recovery factors should become effective for meter readings on or after July 31, 2003.</p> <p><u>ISSUE 3</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No.</p>

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
8**PAA	<p>Docket No. 021192-WS - Application for staff-assisted rate case in Highlands County by Damon Utilities, Inc.</p> <p>Critical Date(s): 2/27/04 (15-month effective date)</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Bradley</p> <p>Staff: ECR: Biggins, Bruce, Davis GCL: Rodan</p> <p><u>ISSUE 2</u>: Is the quality of service provided by Damon Utilities, Inc. considered satisfactory? <u>RECOMMENDATION</u>: The quality of service provided by Damon Utilities, Inc. should be considered satisfactory.</p> <p><u>ISSUE 2</u>: What portions of Damon Utilities, Inc. are used and useful? <u>RECOMMENDATION</u>: The Damon Utilities, Inc. water treatment plant is considered to be 100%, the water distribution system is considered to be 95.6%, the wastewater treatment plant is considered to be 23.3%, and the wastewater collection system is considered 86.2% used and useful.</p> <p><u>ISSUE 3</u>: What is the appropriate average test year rate base for the utility? <u>RECOMMENDATION</u>: The appropriate average test year rate base for Damon is \$41,033 for water and \$21,309 for wastewater.</p> <p><u>ISSUE 4</u>: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility? <u>RECOMMENDATION</u>: The appropriate return on equity is 11.10% with a range of 10.10% - 12.10%. The appropriate overall rate of return is 8.04%.</p> <p><u>ISSUE 5</u>: What are the appropriate test year revenues? <u>RECOMMENDATION</u>: The appropriate test year revenues for this utility are \$42,275 for water and \$29,448 for wastewater.</p> <p><u>ISSUE 6</u>: What is the appropriate amount of operating expense? <u>RECOMMENDATION</u>: The appropriate amount of operating expense for this utility is \$40,382 for water and \$28,603 for wastewater.</p>

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8**PAA

Docket No. 021192-WS - Application for staff-assisted rate case in Highlands County by Damon Utilities, Inc.

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ISSUE 7: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement is \$43,747 for water and \$30,357 for wastewater.

ISSUE 8: What is the appropriate water rate structure for this utility?

RECOMMENDATION: The appropriate water rate structure is a continuation of the current base facility and uniform gallonage charge rate structure. A rate structure should be implemented such that the entire revenue requirement increase is recovered through the gallonage charge.

ISSUE 9: Are adjustments to reflect repression of residential consumption to the water and wastewater systems appropriate in this case, and, if so, what are the appropriate adjustments?

RECOMMENDATION: Yes. A repression adjustment of 274.3 thousand gallons (kgal) to residential water consumption and a corresponding adjustment of 219.4 kgal to residential wastewater consumption is appropriate. In order to monitor the effects of the recommended revenue increase, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenue billed. These reports should be provided, by customer class and meter size, on a quarterly basis for a period of two years, beginning with the first billing period after the increased rates go into effect.

ISSUE 10: What are the appropriate rates for this utility's water and wastewater systems?

RECOMMENDATION: The recommended rates should be designed to produce revenue of \$43,747 for water and \$30,357 for wastewater, as shown in the analysis portion of staff's June 19, 2003 memorandum. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

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ISSUE 11: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The water and wastewater rates should be reduced as shown on Schedules 4 and 4A of staff's memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

ISSUE 12: What are the appropriate customer deposits for this utility?

RECOMMENDATION: The appropriate customer deposits should be the recommended charges as specified in the analysis portion of staff's memorandum. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should approve the revised tariff sheets upon verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the customer deposits should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 13: Should the utility's service availability charges be revised?

RECOMMENDATION: Yes. The utility's service availability charges should be revised to reflect a plant capacity charge

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of \$74 and a main extension charge of \$228 for water and a main extension charge of \$138 for wastewater. The utility's existing plant capacity charge for wastewater should be discontinued. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff will approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

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

RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

ISSUE 15: Should the docket be closed?

RECOMMENDATION: Yes. If no timely protest is filed by a substantially affected person, this docket should be closed upon the issuance of a Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the

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<u>ITEM NO.</u>	<u>CASE</u>
8**PAA	Docket No. 021192-WS - Application for staff-assisted rate case in Highlands County by Damon Utilities, Inc. (Continued from previous page) tariffs should remain in effect with any increase held subject to refund pending resolution of the protest, and the docket should remain open.

DECISION: The recommendations were approved.

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