

**MINUTES OF
COMMISSION CONFERENCE JULY 9, 2002**

COMMENCED: 9:30 a.m.

ADJOURNED: 2:40 p.m.

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

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

1 Approval of Minutes
 June 11, 2002 Regular Commission Conference
 June 13, 2002 Special Commission Conference

DECISION: The minutes were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>														
2**	Consent Agenda														
PAA	A) Applications for certificates to provide alternative local exchange telecommunications service.														
	<table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>020506-TX</td><td>Laser Telecom, LLC</td></tr><tr><td>020501-TX</td><td>DukeNet Communications, LLC</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020506-TX	Laser Telecom, LLC	020501-TX	DukeNet Communications, LLC								
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PAA	B) Application for certificate to provide alternative access vendor telecommunications service.														
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PAA	E) Applications for certificates to provide pay telephone service.														

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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020475-TC	Laura Senger
020486-TC	Eric Kofler
020497-TC	Taylor County Board of County Commissioners

- PAA F) DOCKET NO. 020482-TP - Request for approval of acquisition of indirect control over U.S. TelePacific Corp. d/b/a TelePacific Communications (holder of ALEC Certificate No. 7493 and IXC Certificate No. 7494) by SIPCO Limited.
- PAA G) DOCKET NO. 020251-TP - Application for approval of transfer of control of XO Communications, Inc., sole shareholder of XO Long Distance Services, Inc., (holder of IXC Certificate No. 7290) and XO Florida, Inc. (holder of IXC Certificate No. 3505 and ALEC Certificate No. 5648), pursuant to corporate restructuring involving the issuance and sale of new common stock from Craig O. McCaw and existing shareholders of XO to shareholders of restructured and recapitalized XO Communications, Inc.
- PAA H) DOCKET NO. 020402-TP - Request for approval of merger of PhoneTel Technologies, Inc. (holder of IXC Certificate No. 2974 and PATS Certificate No. 3644) with Davel Communications, Inc. (parent company of Telaleasing Enterprises, Inc., holder of PATS Certificate No. 2358), whereby PhoneTel will become a wholly owned subsidiary of Davel; and request for cancellation of IXC Certificate No. 2974 and PATS Certificate No. 3644.
- PAA I) DOCKET NO. 020160-TI - Application by BAK Communications, LLC (holder of IXC Certificate No. 8008) for authority to acquire the assets, including customer base, of Voice Vision International, Inc.

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PAA J) DOCKET NO. 020491-TI - Request for approval of proforma intracorporate restructuring whereby Lockheed Martin Global Telecommunications Services, Inc. (holder of IXC Certificate 7978) will become a direct wholly owned subsidiary of Lockheed Martin Corporation.

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

DECISION: The recommendation was approved.

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

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3**

Docket No. 000154-SU - Proposed Rule 25-30.432, F.A.C.,
Flows to be Used for Wastewater Treatment Plant Used and
Useful Calculations.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: GCL: Moore, Jaeger
ECR: Wetherington, Willis, Hewitt

ISSUE 1: Should the Commission propose Rule 25-30.432,
Florida Administrative Code, Wastewater Treatment Plant Used
and Useful Calculations?

RECOMMENDATION: Yes.

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

RECOMMENDATION: Yes. The docket should be closed if no
requests for hearing or comments are filed.

DECISION: The recommendations were approved.

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

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4**

Docket No. 020420-TP - Complaint by BellSouth Telecommunications, Inc. against MCI WorldCom Communications, Inc. regarding practices in reporting of percentage interstate usage for compensation for jurisdictional access services.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Christensen
CMP: J. Brown

ISSUE 1: Should the Commission acknowledge BellSouth's withdrawal of its Complaint against WorldCom, Inc. and close the docket?

RECOMMENDATION: Yes. The Commission should acknowledge BellSouth's withdrawal of its Complaint against WorldCom, Inc., find that the Voluntary Dismissal renders any and all outstanding motions moot, and close this Docket.

DECISION: The recommendation was approved.

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

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5**

Docket No. 020084-EI - Complaint by National Energy Raters Association against Florida Power & Light Company, Florida Power Corporation, and any other utility engaged in the practice, for alleged violation of Rule 25-17.003(4) (a), F.A.C., which requires every public utility to charge for a Building Energy Efficiency Rating System (BERS) Audit.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Jaeger
ECR: Floyd, Jenkins, Kummer

ISSUE 1: Should Florida Power & Light Company's Motion to Dismiss the Complaint of the National Energy Raters Association be granted?

RECOMMENDATION: Yes. Florida Power & Light Company's Motion to Dismiss the Complaint of the National Energy Raters Association should be granted based on the National Energy Raters Association's lack of standing, and the Complaint should be dismissed with prejudice. If the Commission dismisses the Complaint on this basis, it need not rule on Florida Power and Light's request that the Complaint be dismissed for lack of subject matter jurisdiction, and it need not address Issue 2.

DECISION: The recommendation was approved with clarification discussed concerning lack of standing.

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Association against Florida Power & Light Company, Florida Power Corporation, and any other utility engaged in the practice, for alleged violation of Rule 25-17.003(4) (a), F.A.C., which requires every public utility to charge for a Building Energy Efficiency Rating System (BERS) Audit.

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PAA

ISSUE 2: If the Commission denies Florida Power and Light's Motion to Dismiss the Complaint of the National Energy Raters Association, what is the appropriate disposition of the Complaint?

RECOMMENDATION: The Complaint should be dismissed because the utilities appear to be charging the approved rates and implementing conservation programs approved by the Commission.

DECISION: There was no vote on this issue.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed. If the Commission denies staff's recommendation in Issue 1, but approves staff's recommendation in Issue 2 and no substantially affected person files a protest within 21 days of the issuance of the Order, this docket should be closed upon issuance of a Consummating Order.

DECISION: The recommendation was approved.

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

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6**

Docket No. 020009-WU - Complaint by Mrs. Georgina Giallanza against Florida Water Services Corporation regarding non-provision of service and placement of utility facilities in Lake County. (Deferred from April 2, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Brubaker
CAF: Lowery
ECR: Redemann

ISSUE 1: Does the complaint filed by Ms. Georgina Giallanza against Florida Water Services Corporation state a basis upon which relief may be granted by the Florida Public Service Commission?

RECOMMENDATION: No. The complaint does not state a basis upon which relief may be granted. Staff therefore recommends that the complaint should be dismissed without prejudice on the Commission's own motion.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission votes to approve staff's recommendation in Issue 1, no further action is necessary and the docket should be closed upon issuance of the Order.

DECISION: This item was deferred.

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7**PAA

Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.
Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company. (Deferred from June 18, 2002 conference.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: GCL: Brown, Harris
ECR: Haff

ISSUE 1: Should the Commission deny CPV Cana's petition for waiver of Rule 25-22.080, Florida Administrative Code?

RECOMMENDATION: Yes. In Order PSC-02-0703-PCO-EI, issued April 23, 2002, the Commission granted an emergency waiver of Rule 25-22.080 in these proceedings; therefore, this petition for waiver is moot.

ISSUE 2: Should these Dockets be closed?

RECOMMENDATION: No. These Dockets should remain open to address this on-going need determination proceeding.

DECISION: The recommendations were approved.

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

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8**

Docket No. 020105-EI - Joint petition of Florida Power Corporation and Tampa Electric Company for expedited declaratory relief concerning provision of electric service to an industrial customer's facilities located in Tampa Electric Company's Commission-approved service territory.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Echternacht
ECR: Breman, Windham

ISSUE 1: Should the Commission approve the proposed Settlement Agreement (Attachment A of staff's June 27, 2002 memorandum)?

RECOMMENDATION: Yes. The Commission should approve the proposed Settlement Agreement (Attachment A).

ISSUE 2: Should Docket No. 020105-EI be closed?

RECOMMENDATION: Yes. Docket No. 020105-EI should be closed because no further action is necessary.

DECISION: The recommendations were approved.

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

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9**PAA

Docket No. 020203-EU - Joint petition of Clay Electric Cooperative, Inc. and Gainesville Regional Utilities/City of Gainesville for approval of territorial agreement in Alachua County.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: GCL: Jaeger
ECR: Breman, Windham

ISSUE 1: Should the Commission approve the proposed territorial agreement as it is supplemented?

RECOMMENDATION: Yes. The Commission should approve the territorial agreement as supplemented. The parties should be required to file annual reports as to the status of interim services, as to the status of the completion of transfers, and as to the status of GRU's removal of facilities along Williston Road and Archer Road. The territorial agreement between Clay and Gainesville Regional Utilities should become effective on the date of the Commission order approving it.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no substantially affected person files a protest within 21 days of the issuance of the Proposed Agency Action Order, this docket should be closed upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
10**	<p>Docket No. 020355-TP - Request for arbitration concerning complaint of Time Warner Telecom of Florida, L.P. against Verizon Florida Inc. for alleged breach of terms of interconnection agreement.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Deason</p> <p>Staff: GCL: L. Fordham, Dodson CMP: Schultz</p> <p><u>ISSUE 1</u>: Should the Commission grant Verizon's Motion to Dismiss for Lack of Subject Matter Jurisdiction, or, in the Alternative, Stay? <u>RECOMMENDATION</u>: No. The Commission should deny Verizon's Motion to Dismiss for Lack of Subject Matter Jurisdiction, or, in the Alternative, Stay.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No. This docket should remain open pending resolution of the complaint.</p> <p><u>DECISION</u>: This item was deferred.</p>

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<u>ITEM NO.</u>	<u>CASE</u>
11	<p>Docket No. 000121A-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK)</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: GCL: Fudge CMP: Simmons, Harvey</p> <p><u>ISSUE 1</u>: Should BellSouth Telecommunications, Inc.'s Expedited Petition for Temporary Relief of the Requirements of Order No. PSC-01-1819-FOF-TP be granted? <u>RECOMMENDATION</u>: No. BellSouth should endeavor to meet all performance metrics. For those metrics that BellSouth does not meet, it should make payments as required by the Performance Assessment Plan.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No. This docket should remain open to conduct the six month review process outlined in the Final Order.</p>

DECISION: This item was deferred.

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12**PAA

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

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: CMP: Harvey, Vinson, Broussard, Duffey
GCL: Fudge

ISSUE 1: Should this Commission order BellSouth to file a specific action plan by July 30, 2002, on how it intends to achieve the Service Quality Measure flow-through benchmark by October 30, 2002, and adjust the Self Effectuating Enforcement Mechanism (SEEM) for the flow-through metric?

RECOMMENDATION: Yes. This Commission should order BellSouth to file a specific action plan by July 30, 2002, designed to improve the flow-through Service Quality Measure in order to achieve the mandated benchmark by October 30, 2002, and adjust the Self Effectuating Enforcement Mechanism (SEEM) for the flow-through metric.

ISSUE 2: To assist in resolving the issues within Exceptions 123 and 157 issued by KPMG Consulting in the Florida OSS test, should the Commission order BellSouth to implement metrics to better prevent and then correct software defects within certain intervals?

RECOMMENDATION: Yes. Staff recommends that BellSouth should establish three new metrics as part of the Service Quality Measures in Docket 000121A-TP. A metric for defect correction intervals and a metric for capturing the number of defects found in a release as shown in Attachments 1 and 2, respectively, of staff's June 27, 2002 memorandum should be adopted. Additionally, BellSouth should develop a software validation metric similar to that in use for Verizon New York. These metrics should be effective August 1, 2002.

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establishment of operations support systems permanent
performance measures for incumbent local exchange
telecommunications companies. (BELLSOUTH TRACK)

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. If no person whose substantial
interests are affected files a protest within 21 days of the
issuance date of the Order, the Order will become final upon
the issuance of a Consummating Order. The docket should
remain open to conduct the six-month review outlined in
Order No. PSC-01-1819-FOF-TP. Staff recommends that if a
protest is filed, then resolution of the protest should be
addressed during the six-month review process.

DECISION: The recommendations were approved with the understanding
that the burden is on BellSouth to file a plan by 7/31/02 stating
whether or not they can meet the 10/30/02 deadline, and stating when
they can reach compliance with the mandated benchmark if they cannot
do so by 10/30/02.

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

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13

Docket No. 960786B-TL - Consideration of BellSouth Telecommunications, Inc.'s entry into interLATA services pursuant to Section 271 of the Federal Telecommunications Act of 1996. (Third Party OSS Testing)
Docket No. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: CMP: Harvey, Vinson, Duffey
GCL: B. Keating, Banks

ISSUE 1: In order to resolve the issues within Exception 88, issued by KPMG Consulting in the Florida OSS test, should BellSouth's proposed change control and software release management process entitled *End-to-End Process Flow, Draft Version 2.1*, dated June 2002, be implemented?

RECOMMENDATION: Yes. BellSouth's proposed change control and software release management process, entitled *End-to-End Process Flow, Draft Version 2.1*, should be implemented.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: No. These dockets should remain open pending further review and Commission consideration of the OSS test results.

DECISION: This item was deferred.

<u>ITEM NO.</u>	<u>CASE</u>
14**PAA	Docket No. 010963-TP - Investigation into telecommunications rate center consolidation in the state of Florida. Critical Date(s): None Commissioners Assigned: Full Commission Prehearing Officer: Palecki Staff: CMP: Ileri, Casey, Bulecza-Banks GCL: Christensen <u>ISSUE 1</u> : Should the Commission proceed with implementing RCC in the State of Florida? <u>RECOMMENDATION</u> : No. Given the success of number pooling in the State of Florida, and the minimal effect of RCC when looking at the exhaust of the North American Numbering Plan (NANP), staff recommends that the Commission should not proceed with implementation of RCC at this time. <u>ISSUE 2</u> : Does the Commission have authority to order RCC in the State of Florida? <u>RECOMMENDATION</u> : If the Commission approves staff's recommendation in Issue 1 that RCC is not needed at this time, staff believes that it is unnecessary to address whether the Commission has the authority to order RCC. <u>ISSUE 3</u> : Should this docket be closed? <u>RECOMMENDATION</u> : Yes. If the Commission approves staff's recommendation, a Proposed Agency Action Order will be issued. Any person whose substantial interests are affected by the proposed agency action may file a protest within 21 days of the issuance of the Commission's Order. If no timely protest is filed, the Order will become final upon the issuance of a Consummating Order. Therefore, this Docket may be closed administratively. If a protest is filed by a person whose substantial interests are affected, if possible, a (any) proceeding should be conducted pursuant to Section 120.57(2), Florida Statutes, or by other appropriate expedited process.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	<p>Docket No. 020460-TX - Compliance investigation of Florida Telephone Services, LLC for apparent violation of Rule 25-4.110(16), F.A.C., Customer Billing for Local Exchange Telecommunications Companies.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Kennedy GCL: L. Fordham</p> <p><u>ISSUE 1</u>: Should the Commission accept the settlement offer proposed by Florida Telephone Services, LLC to resolve the apparent violations of Rule 25-4.110(16), Florida Administrative Code? <u>RECOMMENDATION</u>: Yes. Staff recommends that the Commission should accept Florida Telephone Services, LLC's settlement offer to resolve the apparent violations of Rule 25-4.110(16), Florida Administrative Code.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: If no person whose substantial interests are affected by the Commission's proposed action, files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Proposed Agency Action Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested, FTS will have until July 31, 2002, to submit a written report to the Commission demonstrating that it has complied with the provisions of its settlement proposal. If staff determines that FTS has complied with the provisions of the Commission's Order, then this docket should be closed administratively. If FTS fails to demonstrate that it has complied with the provisions of the Commission's Order, this docket should remain open pending further proceedings.</p>

DECISION: The recommendations were approved.

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

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16**PAA

Docket No. 020291-TI - Cancellation by Florida Public Service Commission of IXC Certificate No. 7598 issued to Enhanced Global Convergence Services, Inc. d/b/a eGCS for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Deferred from May 21, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Elliott

ISSUE 1: Should the Commission grant Enhanced Global Convergence Services, Inc. d/b/a eGCS a voluntary cancellation of IXC Certificate No. 7598?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its certificate with an effective date of October 4, 2001.

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: Jaber, Deason, Baez, Palecki, Bradley

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<u>ITEM NO.</u>	<u>CASE</u>
17**PAA	<p>Docket No. 020478-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 7721 issued to Positive Investments, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Isler GCL: K. Pena, B. Keating</p> <p><u>ISSUE 1</u>: Should the Commission grant Positive Investments, Inc. a voluntary cancellation of ALEC Certificate No. 7721? <u>RECOMMENDATION</u>: No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's ALEC Certificate No. 7721 on its own motion, effective April 10, 2002. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing alternative local exchange telecommunications services in Florida.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

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ITEM NO.

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18**PAA

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

Docket No. 020479-TC - Jeff & Sandi Lund d/b/a Lund Communications

Docket No. 020480-TC - Digital Imaging & Graphics, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Teitzman, K. Pena, B. Keating

ISSUE 1: Should the Commission grant the companies listed on Attachment A of staff's June 27, 2002 memorandum a voluntary cancellation of their respective certificates?

RECOMMENDATION: No. The Commission should not grant the companies a voluntary cancellation of their respective certificates. 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 outstanding fees should be referred to the Office of the Comptroller for further collection efforts. If the certificates for each company as listed on Attachment A are cancelled in accordance with the Commission's Order from this recommendation, the respective companies should be required to immediately cease and desist providing pay telephone services 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

~~MR. PAA~~ of Cancellation by Florida Public Service Commission of pay
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telephone certificates for violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment Fees; Telecommunications
Companies.

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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: Jaber, Deason, Baez, Palecki, Bradley

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19**PAA

Docket No. 020421-TL - Petition for waiver of Rule 25-4.073(1)(f), F.A.C., which prohibits the placement of promotional or merchandising material in automated answering systems, by BellSouth Telecommunications, Inc.

Critical Date(s): 8/14/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: CMP: Fondo, M. Watts
GCL: Dodson

ISSUE 1: Should the Commission approve BellSouth's Petition for Waiver of Rule 25-4.073(1)(f), Florida Administrative Code?

RECOMMENDATION: Yes. Staff recommends that the Commission should approve BellSouth's Petition for Waiver of Rule 25-4.073(1)(f), Florida Administrative Code.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, then a Proposed Agency Action (PAA) Order will be issued. The PAA Order will become final and effective upon the issuance of a Consummating Order, unless a person whose substantial interests are affected files a protest within 21 days of the issuance of the Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, this docket should be closed administratively upon issuance of the Consummating Order.

DECISION: The recommendations were approved.

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

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CASE

20**PAA

Docket No. 020474-TI - Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., by WorldxChange Corp. for acquisition of assets of RSL COM U.S.A., Inc., including long distance customer base and assets associated with those operations.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Fondo, Gilchrist
GCL: Elliott

ISSUE 1: Should WorldxChange be relieved in this instance of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, then a Proposed Agency Action (PAA) Order will be issued. The PAA Order will become final and effective upon the issuance of a Consummating Order, unless a person whose substantial interests are affected files a protest within 21 days of the issuance of this Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, this docket should be closed administratively upon issuance of the Consummating Order.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

21**PAA

Docket No. 020294-TP - Joint application for approval of asset purchase agreement and plan of reorganization whereby Norcom Acquisition, LLC, a wholly owned subsidiary of NUI Capital Corp., will purchase substantially all assets of Norcom, Inc. (holder of ALEC Certificate No. 7298 and IXC Certificate No. 4749), and immediately following closing of proposed transaction, Norcom Acquisition will merge with and into NUI Telecom, Inc. (holder of IXC Certificate 4824 and ALEC Certificate 7328), also a wholly owned subsidiary of NUI Capital Corp.; request for relief from carrier selection requirements of Rule 25-4.118, F.A.C.; and request for cancellation of Norcom, Inc.'s Certificates 7298 and 4749.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Williams
GCL: Teitzman

ISSUE 1: Should the Commission approve the asset purchase agreement and plan of reorganization whereby Norcom Acquisition, LLC, a wholly owned subsidiary of NUI Capital Corp., will purchase substantially all assets of Norcom, Inc. (holder of ALEC Certificate No. 7298 and IXC Certificate No. 4749); and immediately following closing of the proposed transaction, Norcom Acquisition will merge with and into NUI Telecom, Inc. (holder of IXC Certificate No. 4824 and ALEC Certificate No. 7328), also a wholly owned subsidiary of NUI Capital Corp; and request for cancellation of Norcom, Inc.'s Certificate Nos. 7298 and 4749?

RECOMMENDATION: Yes.

ISSUE 2: Should the Commission relieve NUI Telecom, Inc. in this instance of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes.

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asset purchase agreement and plan of reorganization whereby Norcom Acquisition, LLC, a wholly owned subsidiary of NUI Capital Corp., will purchase substantially all assets of Norcom, Inc. (holder of ALEC Certificate No. 7298 and IXC Certificate No. 4749), and immediately following closing of proposed transaction, Norcom Acquisition will merge with and into NUI Telecom, Inc. (holder of IXC Certificate 4824 and ALEC Certificate 7328), also a wholly owned subsidiary of NUI Capital Corp.; request for relief from carrier selection requirements of Rule 25-4.118, F.A.C.; and request for cancellation of Norcom, Inc.'s Certificates 7298 and 4749.

(Continued from previous page)

ISSUE 3: 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: Jaber, Deason, Baez, Palecki, Bradley

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ITEM NO.

CASE

22**PAA

Docket No. 011652-TI - Application for certificate to provide interexchange telecommunications service by Envisage, Inc. d/b/a Envisage Texas, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Pruitt
GCL: Elliott

ISSUE 1: Should the Commission grant Envisage, Inc. d/b/a Envisage Texas, Inc. a certificate to provide interexchange telecommunications service within the State of Florida as provided by Section 364.337, Florida Statutes?

RECOMMENDATION: No. Envisage, Inc. d/b/a Envisage Texas, Inc. should not be granted an interexchange telecommunications service certificate to operate in Florida.

ISSUE 2: 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 proposed agency action files a written protest within 21 days of the issuance date of the proposed agency action.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
23**	<p>Docket No. 000090-SU - Application for limited proceeding rate increase in Lee County by Useppa Island Utility, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: ECR: Massoudi, Rendell GCL: Brubaker</p> <p><u>ISSUE 1</u>: Should the utility's request for an extension to complete the required proforma plant improvements be approved? <u>RECOMMENDATION</u>: Yes. The utility's request for an extension to complete the required pro forma plant improvements should be approved. The utility expects to complete all plant improvements by July 1, 2002.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No. This docket should not be closed. It should remain open to allow the utility additional time to complete pro forma plant improvements to the water treatment system. If the utility completes all plant improvements on time, the docket should be closed administratively.</p>

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

24**

Docket No. 020101-WS - Request for approval of transfer of majority organizational control of CWS Communities LP d/b/a Crystal Lake Club, holder of Certificate Nos. 525-W and 454-S in Highlands County, from CWS Communities Trust to CP Limited Partnership, known in Florida as Chateau Communities Limited Partnership.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: ECR: Clapp, C. Romig
GCL: Crosby, Echternacht

ISSUE 1: Should the transfer of majority organizational control of CWS Communities, LP d/b/a Crystal Lake Club from CWS Communities Trust to CP Limited Partnership, known in Florida as Chateau Communities Limited Partnership, be approved?

RECOMMENDATION: Yes. The transfer of majority organizational control should be approved.

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

RECOMMENDATION: Yes. The rates and charges approved for the utility should be continued. The tariff will not change since the transfer of majority organizational control affected only the parent of Crystal Lake.

ISSUE 3: Should the docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

25**

Docket No. 020102-WU - Request for approval of transfer of majority organizational control of CWS Communities LP, holder of Certificate No. 518-W in Lake County, from CWS Communities Trust to CP Limited Partnership, known in Florida as Chateau Communities Limited Partnership.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: ECR: Clapp, C. Romig
GCL: Crosby, Vining

ISSUE 1: Should the transfer of majority organizational control of CWS Communities, LP, from CWS Communities Trust to CP Limited Partnership, known in Florida as Chateau Communities Limited Partnership, be approved?

RECOMMENDATION: Yes. The transfer of majority organizational control should be approved.

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

RECOMMENDATION: Yes. The rates and charges approved for the utility should be continued. The tariff will not change since the transfer of majority organizational control affected only the parent of CWS.

ISSUE 3: Should the docket be closed?

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

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

26**

Docket No. 020122-WS - Request for approval of transfer of majority organizational control of CWS Communities LP d/b/a Palm Valley, holder of Certificate Nos. 277-W and 223-S in Seminole County, from CWS Communities Trust to CP Limited Partnership, known in Florida as Chateau Communities Limited Partnership.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: ECR: Clapp, C. Romig
GCL: Crosby, C. Keating

ISSUE 1: Should the transfer of majority organizational control of CWS Communities, LP d/b/a Palm Valley from CWS Communities Trust to CP Limited Partnership, known in Florida as Chateau Communities Limited Partnership, be approved?

RECOMMENDATION: Yes. The transfer of majority organizational control should be approved.

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

RECOMMENDATION: Yes. The rates and charges approved for the utility should be continued. The tariff will not change since the transfer of majority organizational control affected only the parent of Palm Valley.

ISSUE 3: Should the docket be closed?

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

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
27**	<p>Docket No. 990817-WS - Application by Florida Water Services Corporation for amendment of Certificates Nos. 171-W and 122-S to add territory in Nassau County.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: ECR: Redemann GCL: Christensen, Gervasi</p> <p><u>ISSUE 1</u>: Should the Commission approve the Settlement Agreement, filed January 6, 2000, as amended by the Amendment to the Settlement Agreement, filed April 19, 2000, by Florida Water Services Corporation and Florida Public Utilities Company?</p> <p><u>RECOMMENDATION</u>: Yes. The Commission should approve the Settlement Agreement, filed January 6, 2000, as amended by the Amendment to the Settlement Agreement, filed April 19, 2000, by Florida Water Services Corporation and Florida Public Utilities Company, and Florida Public Utilities Company's protest should be considered withdrawn.</p> <p><u>ISSUE 2</u>: Should this docket be closed?</p> <p><u>RECOMMENDATION</u>: No. This docket should remain open pending the processing of the amendment application.</p>

DECISION: The recommendations were approved.

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

<u>ITEM NO.</u>	<u>CASE</u>
28	Docket No. 020567-WS - Investigation of possible overearnings by Lake Groves Utilities, Inc. in Lake County. Critical Date(s): None Commissioners Assigned: Full Commission Prehearing Officer: Baez Staff: ECR: Kyle, Boutwell, D. Draper, Merchant GCL: Jaeger

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ISSUE 1: Should the Commission initiate an overearnings investigation of Lake Groves Utilities, Inc.?
RECOMMENDATION: Yes. The Commission should initiate an investigation of the utility for possible overearnings. The test year for the investigation should be the year ended December 31, 2001. The docket should remain open pending the Commission's completion of the investigation.
ISSUE 2: Should any amount of annual water revenue be held subject to refund, and, if so, what is the appropriate amount ?
RECOMMENDATION: Yes. The utility should hold annual water revenues of \$397,548, or 52.96%, subject to refund, based on the following:

Revenue Requirement	\$353,074
2001 Test Year Revenue	\$750,622
Amount Subject to Refund	\$397,548
Percent Subject to Refund	52.96%

No wastewater revenues should be held subject to refund.
ISSUE 3: What is the appropriate security to guarantee the amount subject to refund?
RECOMMENDATION: The utility should be required to file a corporate undertaking, guaranteed in writing by Utilities, Inc., to guarantee the amount subject to refund within 10 days of the effective date of the order opening this investigation. The corporate undertaking should be in the amount of \$334,000. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should be required to

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overearnings by Lake Groves Utilities, Inc. in Lake County.

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provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. The utility should be put on notice that failure to comply in a timely manner with these requirements will result in the initiation of a show cause proceeding.

DECISION: The recommendations were approved.

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

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29**

Docket No. 020485-WS - Request for approval of tariff filing to modify service availability policy for Stonecrest (Steeplechase) by Florida Water Services Corporation in Marion County.

Critical Date(s): 7/7/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Massoudi, Rendell
GCL: C. Keating

ISSUE 1: Should the utility's request for a tariff filing to modify the service availability policy for Stonecrest (Steeplechase) by Florida Water Services Corporation in Marion County be approved?

RECOMMENDATION: Yes. The utility's request for a tariff filing to modify the service availability policy for Stonecrest (Steeplechase) by FWSC in Marion County should be approved. Therefore, the utility's revised tariff sheets filed on June 3, 2002 should be approved as filed.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, the revised tariff should become effective on or after the stamped approval date in accordance with Rule 25-30.475(2), Florida Administrative Code. In the event that a timely protest is filed, the tariff should remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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30**

Docket No. 020437-WU - Request for approval of new service classification tariff filing in Buena Vista subdivision in Pasco County by Utilities, Inc. of Florida.

Critical Date(s): 7/13/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Revell, Merchant
GCL: Brubaker

ISSUE 1: Should the utility's proposed tariff sheet containing rates for general service customers be approved?
RECOMMENDATION: Yes. The utility's proposed charges for general service customers should be approved and should be effective for service rendered on or after staff's approval of the filed tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice and after staff verification that the proposed customer notice is adequate. The utility should provide proof that the customers have received notice within 10 days after the date of the notice.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no protest occurs within 21 days of the issuance date of the Order, the Tariff Order will become final upon the issuance of a Consummating Order and the docket should be closed.

DECISION: The recommendations were approved.

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

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31 Docket No. 010743-TL - Petition for review of proposed numbering plan relief for the 407/321 area codes by Neustar, Inc., as North American Numbering Plan Administrator (NANPA), on behalf of Florida telecommunications industry.

Critical Date(s): None

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

Staff: GCL: L. Fordham
 CMP: Casey, Ileri

ISSUE 1: Should the Commission grant BellSouth's Motion for Reconsideration of Order No. PSC-02-0743-FOF-TL?

RECOMMENDATION: No. The Commission should deny BellSouth's Motion for Reconsideration of Order No. PSC-02-0743-FOF-TL.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, there would be no remaining issues and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Palecki, Bradley