

**MINUTES OF JULY 15, 2003**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:35 a.m.  
**ADJOURNED:** 10:20 a.m.  
**COMMENCED:** 11:30 a.m.  
**ADJOURNED:** 2:50 p.m.

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

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

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1 Approval of Minutes  
June 17, 2003 Regular Commission Conference

DECISION: The minutes were approved.

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

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2\*\* Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030463-TX	Zone Telecom, Inc.
030565-TX	WorldxChange Corp. d/b/a Acceris Communications Partners and d/b/a Acceris Communications Solutions
030344-TX	Gulf Coast Telecom, Inc.
030521-TX	CM Tel (USA) LLC

PAA B) Applications for certificates to provide pay telephone service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030473-TC	Arctic Fun, Inc.
030502-TC	Sunny Sands Resort Inc
030503-TC	American Management & Holdings Group, Inc.
030514-TC	Trustee Corporation of Camper's Holiday Association, Inc. d/b/a Camper's Holiday Association
030568-TC	Achieva Telecom Services, Inc. d/b/a Talk's Cheap
030567-TC	Jestel Corporation

PAA C) Requests for cancellation of interexchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030218-TI	Sonix4U, Inc.	12/31/01

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2\*\* Consent Agenda

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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030345-TI	ST Long Distance, Inc.	04/15/03
030412-TI	Trex Communications, Inc.	04/25/03
030429-TI	TVMAX Telecommunications, Inc. d/b/a OpTel	04/07/03
030523-TI	Local Telcom Holdings, LLC	04/04/03

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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3

Docket No. 030346-TP - Petition for declaratory statement that NPCR, Inc. d/b/a Nextel Partners, commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier."

Docket No. 030413-TP - Petition for declaratory statement that ALLTEL Communications, Inc., commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier."

Critical Date(s): 7/15/03 (By statute, declaratory statement must be issued or petition denied in Docket No. 030346-TP by this date; in Docket No. 030413-TP, by July 28, 2003.)

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley (030346-TP)  
Deason (030413-TP)

Staff: GCL: Moore  
CMP: Dowds

ISSUE 1: Should the Commission issue a declaratory statement?

RECOMMENDATION: Yes. The petitions satisfy the threshold requirements for a declaratory statement.

ISSUE 2: Should the Commission issue a declaratory statement that Nextel and ALLTEL are not subject to the jurisdiction of the Commission for purposes of determining eligibility for Eligible Telecommunications Carrier ("ETC") status pursuant to 47 U.S.C. § 214(e)?

PRIMARY RECOMMENDATION: Yes.

ALTERNATIVE RECOMMENDATION: No. The Commission should issue a declaratory statement that it has the authority to determine the eligibility of Nextel and ALLTEL for Eligible Telecommunications Carrier ("ETC") status pursuant to 47 U.S.C. s. 214(e).

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3

Docket No. 030346-TP - Petition for declaratory statement that NPCR, Inc. d/b/a Nextel Partners, commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier."

Docket No. 030413-TP - Petition for declaratory statement that ALLTEL Communications, Inc., commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier."

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ISSUE 3: Should these dockets be closed?

RECOMMENDATION: Yes. If the Commission votes to dispose of the petition for declaratory statement, these dockets should be closed.

DECISION: This item was deferred.

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Docket No. 030470-WS - Petition for declaratory statement concerning individual water metering for Grand Isle, a multi-unit residential structure in Lee County, by Florida Water Services Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: GCL: Bellak  
ECR: Hudson

ISSUE 1: Should the Commission issue a Declaratory Statement to the effect that Florida Water is authorized to require individual water metering at Grand Isles pursuant to the dictates of Order No. PSC-03-0484-TRF-WU?

RECOMMENDATION: No. The Commission should deny the Petition.

ISSUE 2: Should the Commission issue a declaratory statement to the effect that at the request of Florida Water or Grand Isle, the Commission shall resolve the issue of individual metering at Grand Isle in the event the parties are not successful in negotiating a developer agreement that addresses this issue?

RECOMMENDATION: No. The Commission should deny the Petition.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission votes to dispose of the petition for declaratory statement, the docket should be closed.

DECISION: This item was withdrawn.

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Docket No. 981079-SU - Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.

Docket No. 020254-SU - Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.

Critical Date(s): 7/25/03 (This item should not be deferred, as loan commitment expires July 25, 2003, if not accepted in writing by that date, or if loan does not close by August 11, 2003, unless otherwise extended in writing.)

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez (981079-SU)  
Davidson (020254-SU)

Staff: GCL: Gervasi  
ECR: Clapp, Redemann, Revell

ISSUE 1: Should Hudson be required to show cause, in writing, within 21 days, as to why it should not be fined up to \$5,000 per day from July 1, 2003, until the date of connection to the County and transfer of territory from the County to Hudson, in apparent violation of Order No. PSC-02-1626-PAA-SU?

RECOMMENDATION: Yes. Pursuant to the express direction of Order No. PSC-02-1626-PAA-SU, show cause proceedings should be immediately initiated. Hudson should be required to show cause, in writing, within 21 days, as to why it should not be fined in the amount of \$1,500, for failure to complete construction to the Signal Cove area and file proof of the transfer of territory from the County to Hudson by June 30, 2003, in apparent violation of Order No. PSC-02-1626-PAA-SU. The show cause order should incorporate the conditions stated in the analysis portion of staff's July 2, 2003 memorandum.

DECISION: The recommendation was approved with the modification that show cause proceedings will be initiated if construction to Signal

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5\*\*

Docket No. 981079-SU - Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.

Docket No. 020254-SU - Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.

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Cove is not completed within eight months of loan closing, with company to show cause why it should not be fined up to \$5,000 per day, from 6/30/03 to 7/15/03, for amount up to \$75,000, if construction is not complete.

ISSUE 2: Should Hudson's Motion for Extension of Time to File Proof of Transfer of Territory be granted?

RECOMMENDATION: Yes. Hudson's Motion for Extension of Time to File Proof of Transfer of Territory should be granted. The eight-month time period should begin on the loan closure deadline of August 11, 2003, and should expire on April 11, 2004, with potential additional extensions of time available to accommodate any unavoidable construction delays. Hudson should be required to file proof of the closing of the new construction loan, in Dockets Nos. 981079-SU and 020254-SU, within ten days of the loan closure date. Further, Hudson should be required to continue to file quarterly progress reports in Docket No. 020254-SU, listing total expenses to date, anticipated remaining expenses, and an estimated date to complete construction to Signal Cove. The first quarterly progress report should be due on November 11, 2003, with a second quarterly progress report due on February 11, 2004. Finally, Hudson should be required to file proof of the completion of construction to the Signal Cove area in Dockets Nos. 981079-SU and 020254-SU, and of the transfer of territory from the County to Hudson in Docket No. 981079-SU, by April 11, 2004. If construction is not completed by that date, Hudson should be required to explain with specificity why the delay was truly unavoidable. The utility should be urged to make the completion of construction of the Signal Cove facilities a first priority.



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Docket No. 981079-SU - Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.

Docket No. 020254-SU - Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.

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DECISION: The recommendation was approved with the clarification that "unavoidable construction delays" are only force majeure. Reports are due monthly.

ISSUE 3: Should Dockets Nos. 981079-SU and 020254-SU be closed?

RECOMMENDATION: No. The dockets should remain open pending completion of the construction to Signal Cove and proof of the transfer of the Signal Cove territory from the County to Hudson, and resolution of the show cause proceedings.

DECISION: The recommendation was approved.

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

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6\*\*

Docket No. 030448-WS - Disposition of delinquent regulatory assessment fees for Meadows Utility Company, Inc. in Citrus County.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: GCL: Fleming  
CCA: Moore  
ECR: Kaproth

ISSUE 1: Should Meadows Utility Company, Inc. be ordered to show cause, in writing, within 21 days why it should not be fined for failure to remit its regulatory assessment fees as required by Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code?

RECOMMENDATION: No. A show cause proceeding should not be initiated. Staff further recommends that the Commission refer the utility's unpaid regulatory assessment fees (RAFs) and associated penalties and interest to the Department of Financial Services for permission to write off the accounts as uncollectible.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. Because no further action is necessary, this docket should be closed.

DECISION: The recommendations were approved.

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

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7\*\*

Docket No. 020507-TL - Complaint of Florida Competitive Carriers Association against BellSouth Telecommunications, Inc. regarding BellSouth's practice of refusing to provide FastAccess Internet Service to customers who receive voice service from a competitive voice provider, and request for expedited relief.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: CMP: Bulecza-Banks, Casey  
GCL: Christensen

ISSUE 1: Should the Commission grant AT&T, WorldCom, ITC^DeltaCom, and AIN's Motion to Strike Portions of the Rebuttal Testimony and Exhibits WKM-2 and WKM-3 of W. Keith Milner?

RECOMMENDATION: No. Staff recommends that the Commission should not grant AT&T, WorldCom, ITC^DeltaCom, and AIN's Motion to Strike Portions of the Rebuttal Testimony and Exhibits WKM-2 and WKM-3 of W. Keith Milner.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending further proceedings.

DECISION: This item was withdrawn.

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8\*\*

Docket No. 030300-TP - Petition for expedited review of BellSouth Telecommunications Inc.'s intrastate tariffs for pay telephone access services (PTAS) rate with respect to rates for payphone line access, usage, and features, by Florida Public Telecommunications Association.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: CMP: Dowds  
GCL: Dodson

ISSUE 1: Should the Commission grant BellSouth's partial Motion to Dismiss regarding the requests for refunds contained in FPTA's Petition for Expedited Review of BellSouth's Tariffs with Respect to Rates for Payphone Line Access, Usage, and Features?

RECOMMENDATION: No. The Commission should not grant BellSouth's partial Motion to Dismiss regarding the requests for refunds contained in FPTA's Petition for Expedited Review of BellSouth's Tariffs with Respect to Rates for Payphone Line Access, Usage, and Features. This matter should, instead, be set for hearing.

ISSUE 2: Should Docket No. 030300-TP be closed?

RECOMMENDATION: No. If staff's recommendation in Issue 1 is approved, Docket No. 030300-TP should remain open pending final disposition by the Commission.

DECISION: The recommendations were approved.

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

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9\*\*

Docket No. 030452-GU - Petition for authorization to establish new small volume customer classifications and rates for experimental transitional transportation service program, by Florida Division of Chesapeake Utilities Corporation.

Critical Date(s): 7/16/03 (60-day suspension date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Makin, Bulecza-Banks  
ECR: Wheeler  
GCL: Brubaker

ISSUE 1: Should the Commission approve the Company's petition to establish new small volume customer classifications and rates for the experimental transitional transportation service program?

RECOMMENDATION: Yes. The Commission should approve the new small volume customer classifications and rates for the experimental transitional transportation service program, effective the date of the Commission vote in this matter.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If a protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order approving the rates, the rates 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 recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
10**PAA	<p>Docket No. 030512-EI - Request for approval to begin depreciating Fort Myers Combustion Turbines 3A and 3B using whole life depreciation rates currently approved for Martin Power Plant, Unit No. 4, by Florida Power &amp; Light Company.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: ECR: P. Lee, Sickel GCL: Rodan</p> <p><u>ISSUE 1</u>: Should new depreciation rates be approved for Florida Power &amp; Light's Fort Myers Combustion Turbines 3A and 3B? <u>RECOMMENDATION</u>: Yes. The whole life depreciation rates shown on Attachment A of staff's July 2, 2003 memorandum should be approved for the Fort Myers Combustion Turbines 3A and 3B, pending a comprehensive study in 2005 pursuant to Order No. PSC-02-1103-PAA-EI, issued August 12, 2002, in Docket No. 020332-EI. The rates reflect those underlying the currently prescribed remaining life rates for Martin Common and Unit No. 4.</p> <p><u>ISSUE 2</u>: What should be the implementation date for depreciation rates for the Fort Myers Combustion Turbines 3A and 3B? <u>RECOMMENDATION</u>: Depreciation rates should be implemented June 1, 2003, effective with the in-service date of the combustion turbines, as FPL has proposed.</p> <p><u>ISSUE 3</u>: Should this docket be closed? <u>RECOMMENDATION</u>: 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.</p>

DECISION: The recommendations were approved.

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

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11\*\*

Docket 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: P. Lee, Haff, Lester  
GCL: Brown

ISSUE 1: Should the Commission approve FPL's proposed annual dismantlement accruals on a preliminary basis?

RECOMMENDATION: Yes. FPL's proposed annual dismantlement accruals, as shown on Attachment A of staff's July 2, 2003 memorandum, should be approved on a preliminary basis. The effect of this proposal would increase dismantlement expenses by an estimated \$918,000 for 2003. The expenses should be trued up when final action, expected to occur in November 2003, is taken by the Commission in this docket.

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 this docket be closed?

RECOMMENDATION: No. This docket should remain open pending final Commission action on FPL's proposed annual dismantlement accruals.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
12**PAA	Docket No. 030337-GU - Petition for permission to dispose of certain records, pursuant to Rule 25-7.015(3), F.A.C., by Florida Division of Chesapeake Utilities Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: ECR: Romig  
AUS: Vandiver  
GCL: Rodan

ISSUE 1: Should Chesapeake's petition for permission to dispose of certain records, pursuant to Rule 25-7.015(3), Florida Administrative Code, be approved?

RECOMMENDATION: Yes. Staff recommends that the Company be allowed to dispose of the acquired company records listed on Attachment 1 of staff's June 26, 2003 memorandum.

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: Jaber, Deason, Baez, Bradley, Davidson



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<u>ITEM NO.</u>	<u>CASE</u>
13**	<p>Docket No. 030067-WU - Application for approval of special service availability contract (developer agreement) with Avatar Properties Inc. and bulk water service agreement with Florida Governmental Utility Authority, by O&amp;S Water Company, Inc. in Osceola County.</p> <p>Docket No. 030160-WU - Application for amendment of Certificate No. 510-W to extend water service area in Osceola County by O&amp;S Water Company, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: ECR: Iwenjiora, Rieger GCL: Jaeger</p>
PAA	<p><u>ISSUE 1</u>: Should O&amp;S Water Company's request for approval of its special service availability contract between O&amp;S and API be approved?</p> <p><u>RECOMMENDATION</u>: Yes. The special service availability contract between O&amp;S and API should be approved. The utility should file tariffs to implement the special service availability contract. The tariffs should become effective for connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(2), Florida Administrative Code, if no protest is filed within 21 days of the Order.</p> <p><u>ISSUE 2</u>: Should O&amp;S Water Company, Inc.'s application for amendment of Certificate No. 510-W be granted?</p> <p><u>RECOMMENDATION</u>: Yes. O&amp;S Water Company, Inc.'s application for amendment to expand its territory, as described in Attachment A of staff's July 2, 2003 memorandum, is in the public interest and should be granted. The utility should charge the customers in the territory added herein the monthly service rates contained in its current tariff until authorized to change by the Commission. The appropriate service availability policy and charges are discussed in Issue 3.</p>
PAA	<p><u>ISSUE 3</u>: Should O&amp;S Water Company, Inc. be authorized to change its approved service availability policy and charges for the Yates development?</p>

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CASE

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13\*\*

Docket No. 030067-WU - Application for approval of special service availability contract (developer agreement) with Avatar Properties Inc. and bulk water service agreement with Florida Governmental Utility Authority, by O&S Water Company, Inc. in Osceola County.

Docket No. 030160-WU - Application for amendment of Certificate No. 510-W to extend water service area in Osceola County by O&S Water Company, Inc.

(Continued from previous page)

RECOMMENDATION: Yes. The utility should be authorized to collect and remit to FGUA the FGUA plant capacity charge of \$1,200 per ERC in lieu of the utility's previously approved plant capacity and guaranteed revenue charges for new connections in the Yates development. The utility should file tariffs to reflect the change in its service availability policy and charges for the southern portion of its territory. The tariffs should become effective for connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(2), Florida Administrative Code if no protest is filed within 21 days of the Order. Further, the utility should mail or hand-deliver a notice of the change in the utility's service availability policy and charges for the southern portion of the utility's territory to the owners of the Yates development. The utility shall provide proof of the date the notice was given within 10 days after the date of the notice. In the event that a timely protest is filed, the tariff should remain in effect and the applicable charges should be held subject to refund pending resolution of the protest.

ISSUE 4: Should these dockets be closed?

RECOMMENDATION: No. Docket Nos. 030067-WU and 030160-WU should remain open pending expiration of the protest period. If a timely protest is not filed, a Consummating Order should be issued and the dockets should be closed. In the event that a timely protest is filed, the dockets should remain open pending resolution of the protest.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
14**	<p>Docket No. 011172-TP - Petition by Global NAPS, Inc. for arbitration of unresolved issues arising out of interconnection negotiations with Sprint-Florida, Incorporated.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Deason, Baez, Bradley Prehearing Officer: Deason</p> <p>Staff: GCL: Fordham CMP: Simmons</p> <p><u>ISSUE 1</u>: Should the Commission dismiss GNAPS' Petition for Arbitration of Unresolved Issues Arising Out of Interconnection Negotiations with Sprint-Florida, Incorporated for lack of prosecution? <u>RECOMMENDATION</u>: Yes. GNAPS has failed to diligently pursue its Petition. Thus, the Petition should be dismissed.</p> <p><u>ISSUE 2</u>: Should this Docket be closed? <u>RECOMMENDATION</u>: Yes. If the Commission approves staff's recommendation in Issue 1, this Docket will require no further action, and should be closed.</p>

DECISION: This item was withdrawn.