

MINUTES OF JUNE 11, 2002

COMMISSION CONFERENCE

COMMENCED: 9:30 a.m.

ADJOURNED: 9:40 a.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
 April 23, 2002 Regular Commission Conference
 April 26, 2002 Special Commission Conference
 May 8, 2002 Special Commission Conference

DECISION: The minutes were approved.

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

Minutes of
Commission Conference
June 11, 2002

<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda
	A) Applications for certificates to provide alternative local exchange telecommunications service.
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020341-TX	Talk Unlimited Now, Inc.
020431-TX	Utilities Commission, New Smyrna Beach
	B) Applications for certificates to provide interexchange telecommunications service.
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020299-TI	Choice Telco, LLC
020321-TI	Arizona Telephony Brokers, L.L.C.
020440-TI	con-next Site Solutions, Inc.
	C) Applications for certificates to provide pay telephone service.
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020383-TC	Glenn Pollack
020392-TC	Todd Eric Mooney d/b/a TEM Communications
020401-TC	590 Petroleum, Inc.
020416-TC	Paul Chang
020418-TC	North Coast Payphones, Inc.
020393-TC	Spearman Distributors, Inc.
PAA	D) Request for cancellation of alternative local exchange telecommunications certificate.

Minutes of Consent Agenda
Commission Conference
June 11, 2002

ITEM NO. CASE

(Continued from previous page)

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
020450-TX	Everest Connections Corporation	4/15/02

PAA E) DOCKET NO. 020430-TP - Request for cancellation of IXC Certificate No. 7590 and ALEC Certificate No. 7386 by CoreComm Florida, Inc., and of IXC Certificate No. 4047 by OCOM Corporation d/b/a Cellular Long Distance, effective April 15, 2002.

PAA F) DOCKET NO. 020374-TP - Request for cancellation of STS Certificate No. 7649 and IXC Certificate No. 7650 by Travelers Media, Inc., effective 12/31/01.

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

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
June 11, 2002

ITEM NO.

CASE

3**

Docket No. 011374-TP - Complaint by BellSouth Telecommunications, Inc. against VarTec Telecom, Inc. d/b/a VarTec Telecom and Clear Choice Communications regarding practices in the reporting of percent interstate usage for compensation for jurisdictional access services.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Fudge
CMP: J. Brown

ISSUE 1: Should the Commission acknowledge BellSouth's withdrawal of its Complaint against VarTec Telecom, Inc. d/b/a VarTec Telecom and Clear Choice Communications and close the docket?

RECOMMENDATION: Yes. The Commission should acknowledge BellSouth's withdrawal of its Complaint against VarTec Telecom, Inc. d/b/a VarTec Telecom and Clear Choice Communications, 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

Minutes of
Commission Conference
June 11, 2002

ITEM NO.

CASE

4**PAA

Docket No. 020399-TI - Joint petition by AT&T Communications of the Southern States, LLC d/b/a AT&T, d/b/a Lucky Dog Phone Co., d/b/a ACC Business, d/b/a SmarTalk, d/b/a Unispeaksm Service, d/b/a www.prepaidserviceguide.com, d/b/a CONQUEST ("AT&T"), and AT&T Broadband Phone of Florida, LLC d/b/a AT&T Digital Phone ("AT&T Broadband") for waiver of carrier selection requirements in Rule 25-4.118, F.A.C., to facilitate transfer of certain long distance customers from AT&T to AT&T Broadband.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Pruitt
GCL: Fordham

ISSUE 1: Should the Commission relieve AT&T Broadband in this instance of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes.

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, Palecki, Bradley

ITEM NO.

CASE

5**

Docket No. 011073-WS - Application for rate increase in Broward County by Ferncrest Utilities, Inc.

Critical Date(s): 6/11/02 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Fletcher, Greene, Merchant, D. Draper

GCL: Harris

ISSUE 1: Should the utility's proposed final rates be suspended?

RECOMMENDATION: Yes. Ferncrest's proposed final water and wastewater rates should be suspended. The docket should remain open pending the Commission's final action on the utility's requested rate increase.

ISSUE 2: What is the appropriate interim test year?

RECOMMENDATION: The simple average test year ended December 31, 2001, is the appropriate test year for interim purposes.

ISSUE 3: Should an interim revenue increase be approved?

RECOMMENDATION: Yes. On an interim basis, the utility should be authorized to collect annual water and wastewater revenues as indicated below:

	<u>Revenues</u>	<u>\$ Increase</u>	<u>% Increase</u>
Water	\$599,644	\$70,341	13.29%
Wastewater	\$687,003	\$12,734	1.89%

ISSUE 4: What are the appropriate interim water and wastewater rates?

RECOMMENDATION: Ferncrest's requested interim rates are appropriate, which represent interim rate increases of 13.69% for water and 1.95% for wastewater. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The utility should provide proof to staff of the date notice was given within 10 days after the date of notice.

ITEM NO.

CASE

Broward County by Ferncrest Utilities, Inc.

(Continued from previous page)

ISSUE 5: What is the appropriate security to guarantee the interim increase?

RECOMMENDATION: The utility should be required to open an escrow account, file a surety bond, or secure a letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the utility chooses to open an escrow account, it should deposit 13.69% of water interim revenues and 1.95% of wastewater interim revenues collected each month. The surety bond or letter of credit should be in the amount of \$48,712. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

6 Docket No. 000028-TL - Petition by BellSouth Telecommunications, Inc. for waiver of Rules 25-4.107, 25-4.108, and 25-4.113, F.A.C., which require provision of basic telecommunications service to certain locations and persons.

Critical Date(s): None

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

Staff: CMP: M. Watts
GCL: Christensen

ISSUE A: What is the Commission's jurisdiction in this matter?

RECOMMENDATION: Section 120.542, Florida Statutes, authorizes the Commission to grant variances and waivers to requirements of its rules.

ISSUE 1: In the event that BellSouth Telecommunications, Inc. is granted a waiver of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code, as set forth in its petition, will the purpose of the underlying statutes be achieved by other means?

RECOMMENDATION: Yes. Staff believes that BellSouth Telecommunications, Inc. will achieve the underlying purpose of the statute by other means and with conditions imposed.

ISSUE 2: Does the application of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code, as set forth in BellSouth Telecommunications, Inc.'s petition, create a substantial hardship for BellSouth Telecommunications, Inc. or violate principles of fairness?

RECOMMENDATION: The Commission should find that the application of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code, as set forth in BellSouth Telecommunications, Inc.'s petition, creates a substantial hardship for BellSouth Telecommunications, Inc. in this limited circumstance.

ISSUE 3: Should BellSouth Telecommunications, Inc. be granted a waiver of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code, as set forth in its petition?

Minutes of Docket No. 000028-TL - Petition by BellSouth
Commission Conference
June 11, 2002

ITEM NO.

CASE

Telecommunications, Inc. for waiver of Rules 25-4.107, 25-4.108, and 25-4.113, F.A.C., which require provision of basic telecommunications service to certain locations and persons.

(Continued from previous page)

RECOMMENDATION: Yes. The Commission should grant BellSouth Telecommunications, Inc.'s petition for waiver of Rules 25-4.107, 25-4.108, and 25-4.113, Florida Administrative Code, with the condition that BellSouth will make a determination whether an applicant is attempting to obtain service on Mr. Parks' behalf prior to denying service based on the location's association with Mr. Parks.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Deason, Palecki

Minutes of
Commission Conference
June 11, 2002

ITEM NO.

CASE

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

Critical Date(s): None

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

Staff: GCL: Bellak

ISSUE 1: Are Supra's Motion and Supplemental Motion timely
filed pursuant to applicable legal standards for
disqualification motions?

RECOMMENDATION: No. Supra's Motion and Supplemental Motion
are void for lack of timeliness.

ISSUE 2: Are Supra's Motion and Supplemental Motion legally
sufficient to support recusal of the Commission panel from
Docket No. 001305?

RECOMMENDATION: No. Supra's Motion and Supplemental Motion
are not legally sufficient to support recusal of the
Commission panel.

ISSUE 3: Should this docket remain open?

RECOMMENDATION: Yes. The docket should remain open.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Baez, Palecki

Minutes of
Commission Conference
June 11, 2002

ITEM NO.

CASE

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

Critical Date(s): None

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

Staff: GCL: Bellak

ISSUE 1: Are Supra's Motion and Supplemental Motion timely
filed pursuant to applicable legal standards for
disqualification motions?

RECOMMENDATION: No. Supra's Motion and Supplemental Motion
are void for lack of timeliness.

ISSUE 2: Are Supra's Motion and Supplemental Motion legally
sufficient to support recusal of the Commission staff from
Docket No. 001305?

RECOMMENDATION: No. Supra's Motion and Supplemental Motion
are not legally sufficient to support recusal of the staff.

ISSUE 3: Should this docket remain open?

RECOMMENDATION: Yes. The docket should remain open.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Baez, Palecki

Minutes of
Commission Conference
June 11, 2002

ITEM NO.

CASE

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

Critical Date(s): None

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

Staff: GCL: Bellak

ISSUE 1: Is Supra's Motion to Strike an authorized motion?
RECOMMENDATION: No. Supra's Motion to Strike is unauthorized
and cannot be considered.

ISSUE 2: Is Supra's Reply to BellSouth's Opposition
authorized by the administrative rule?
RECOMMENDATION: No. Supra's Reply is unauthorized by Rule
28.106-204 and cannot be considered.

ISSUE 3: Should this docket remain open?
RECOMMENDATION: Yes. The docket should remain open.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Baez, Palecki

Minutes of
Commission Conference
June 11, 2002

<u>ITEM NO.</u>	<u>CASE</u>
-----------------	-------------

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

Critical Date(s): None

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

Staff: GCL: Knight, B. Keating, Christensen
CMP: Simmons, Barrett, Brown, J-E. Brown, King, Schultz, Turner

ISSUE A: Should the Commission grant BellSouth's Motion for Leave to File Supplemental Authority?

RECOMMENDATION: Yes.

DECISION: The recommendation was approved.

ISSUE 1: Should the Commission grant Supra's Motion to Strike and Reply to BellSouth's Opposition to Supra's Motion for Reconsideration for a New Hearing in Docket No. 001305-TP and/or Supra's Motion for Leave to File Reply to BellSouth's Opposition to Motion to Motion to Strike, or in the Alternative, to Strike New Issues Raised in BellSouth's Opposition?

RECOMMENDATION: Staff recommends that Supra's Motion to Strike, as it pertains to Section VI of BellSouth's Opposition to Supra's Motion for Reconsideration for a New Hearing in Docket No. 001305-TP, be denied. As for Supra's Motion for Leave to File Reply to BellSouth's Opposition to Motion to Strike, or in the Alternative, to Strike New Issues Raised in BellSouth's Opposition, staff recommends that the Motion for Leave to File Reply be denied, but that

ITEM NO.

CASE

Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

(Continued from previous page)

the Motion to Strike New Issues Raised in BellSouth's Opposition, specifically those pertaining to BellSouth's request for sanctions, be granted.

DECISION: The recommendation was approved.

ISSUE 2: Should the Commission grant Supra's Motion for Reconsideration of Denial of its Motion for Rehearing of Order No. PSC-02-0413-FOF-TP?

RECOMMENDATION: No. Supra has not identified a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision on these issues. Staff, therefore, recommends that the Motion be denied.

DECISION: The recommendation was approved.

ISSUE 3: Should the Commission grant Supra's Motion for Reconsideration and Clarification of Order No. PSC-02-0413-FOF-TP?

RECOMMENDATION: The Commission should grant, in part, and deny, in part, Supra's Motion for Reconsideration and Clarification of Order No. PSC-02-0413-FOF-TP, as more specifically outlined in the analysis portion of staff's May 30, 2002 memorandum.

DECISION: The recommendation was approved.

ITEM NO.

CASE

Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

(Continued from previous page)

ISSUE 4: Should BellSouth's Motion for Reconsideration of Order No. PSC-02-0637-PCO-TP be granted?

RECOMMENDATION: No. BellSouth has failed to identify a mistake of fact or law in the Prehearing Officer's decision. Therefore staff recommends that the Commission deny BellSouth's Motion for Reconsideration of Order No. PSC-02-0637-PCO-TP.

DECISION: The recommendation was approved.

ISSUE 5: Should BellSouth's May 24, 2002, Motion for Reconsideration of Order No. PSC-02-0663-CFO-TP be granted?

RECOMMENDATION: No. BellSouth has not identified a mistake of fact or law in the Prehearing Officer's decision. Therefore, the Motion should be denied. However, in accordance with Rule 25-22.006(10), Florida Administrative Code, and Order No. PSC-02-0700-PCO-TP, issued May 23, 2002, the information should continue to retain confidential treatment through judicial review.

DECISION: The recommendation was approved. Additionally, staff's recommendation that Supra's motion for clarification and/or reconsideration of Order No. PSC-02-0663-CFO-TP (filed 5/31/02) be denied was also approved.

ISSUE 6: Should Supra's Motion for Reconsideration of Order No. PSC-02-0700-PCO-TP be granted?

RECOMMENDATION: No. Supra has not identified a mistake of fact or law in the Prehearing Officer's decision.

DECISION: The recommendation was approved.

ITEM NO.

CASE

Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.

(Continued from previous page)

ISSUE 7: Should this Docket be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendations in Issues 2 and 4, the parties should be required to file their final interconnection agreement conforming with the Commission's arbitration decision within 14 days of the issuance of the Order from this recommendation. Thereafter, this Docket should remain open pending approval by the Commission of the filed agreement.

DECISION: The recommendation was approved.

Additionally, staff's recommendation that Supra's motion for emergency stay (filed 6/10/02) and second verified motion to disqualify and recuse (filed 6/5/02) be denied was also approved.

Commissioners participating: Jaber, Baez, Palecki