

**MINUTES OF JUNE 17, 2003**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:35 a.m.

**ADJOURNED:** 1:30 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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1Approval of Minutes

May 20, 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>
030398-TX	Spectrotel, Inc.
030433-TX	BAK Communications, LLC

PAA B) Requests for cancellation of competitive local exchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030436-TX	Group Long Distance, Inc.	04/08/03
030455-TX	Consolidated Networks, Inc.	03/11/03

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\*\*PAADocket No. 030391-EU - Joint petition for approval of amendment to territorial agreement between Florida Power & Light Company and City of Lake Worth Utilities.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: GCL: Brown  
ECR: Breman

ISSUE 1: Should the Commission grant the joint petition of FPL and Lake Worth to amend their territorial agreement?  
RECOMMENDATION: Yes. The amended agreement should become effective the date of the Commission's consummating order approving the agreement.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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4\*\*PAADocket No. 030406-EU - Joint petition for approval of term extension to territorial agreements in Citrus and Pasco Counties, by Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Deason

Staff: GCL: C. Keating  
ECR: Windham

ISSUE 1: Should the Commission grant the joint petition of Withlacoochee River Electric Cooperative, Inc., and Progress Energy Florida, Inc., for approval of an Amendment to the parties' Citrus, West Pasco, and East Pasco territorial agreements?

RECOMMENDATION: Yes. The joint petition should be granted. The Amendment should become effective as of the date that the Commission's order approving the Amendment becomes final by issuance of a consummating order.

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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5\*\*PAADocket No. 000121C-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (VERIZON FLORIDA TRACK)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Deason

Staff: CMP: Broussard, Harvey, Vinson  
GCL: Fordham

ISSUE 1: Should the Commission approve and adopt the "Joint Motion to Approve Stipulation on a Performance Measurement Plan for Verizon Florida Inc." as the Performance Measurement Plan (PMP) for Verizon Florida Inc.?

RECOMMENDATION: Yes. Staff believes the Commission should approve and adopt the stipulation as the Performance Measurement Plan for Verizon Florida (Attachment A to staff's June 5, 2003 memorandum). The Plan should be effective for the September 2003 reporting period, which would include August 2003 data.

ISSUE 2: 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 should become final upon the issuance of a Consummating Order. Thereafter, this docket should remain open until: 1) completion of the development of a Florida-specific Verizon Performance Measurements Plan; 2) full implementation of the Florida Verizon OSS Performance Measurements; 3) Verizon measurement reporting systems for CLECs are completely and accurately operational; 4) completion of the first review of performance measurements by the California Public Utilities Commission; and 5) the completion of the first third-party audit of the PMP while applicable to Verizon Florida.

DECISION: The recommendations were approved with clarification provided on Issue 1 at the conference.

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

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<u>ITEM NO.</u>	<u>CASE</u>
6**Docket No.	021181-TC - Application for certificate to provide pay telephone service by Phillips & Brooks/Gladwin, Inc.
	Critical Date(s): None
	Commissioners Assigned: Full Commission Prehearing Officer: Administrative
	Staff: CMP: McCoy, Pruitt GCL: Teitzman
PAA	<p><u>ISSUE 1:</u> Should the Commission grant Phillips &amp; Brooks/Gladwin, Inc. a certificate to provide pay telephone service within Florida as provided by Sections 364.335 and 364.3375, Florida Statutes?</p> <p><u>RECOMMENDATION:</u> No. Phillips &amp; Brooks/Gladwin, Inc. should not be granted a pay telephone certificate to operate in Florida.</p> <p><u>ISSUE 2:</u> Should the Commission direct staff to administratively deny incomplete or inaccurate telecommunications applications in the future in the manner consistent with proposed Section 2.07.C.20 of the Administrative Procedures Manual (APM)?</p> <p><u>RECOMMENDATION:</u> Yes. The Commission should direct staff to administratively deny all incomplete or inaccurate telecommunications applications in the future in the manner consistent with proposed Section 2.07.C.20 of the APM. If the Commission approves staff's recommendation in Issue 2, Section 2.07.C.20 of the APM should be updated as reflected in Attachment A of staff's June 5, 2003 memorandum.</p> <p><u>ISSUE 3:</u> Should this docket be closed?</p> <p><u>RECOMMENDATION:</u> Yes. If no person whose substantial interests are affected by the proposed agency action files a protest to Issue 1 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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7\*\*Docket No. 020091-WS - Application for transfer of majority organizational control of Service Management Systems, Inc., holder of Certificates Nos. 517-W and 450-S in Brevard County, from Petrus Group, L.P. to IRD Osprey, LLC d/b/a Aquarina Utilities.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: ECR: Brady, Bass, Redemann  
GCL: Vining

ISSUE 1: Should the transfer of majority organizational control of Service Management Systems, Inc. from the Petrus Group, L.P. to IRD Osprey, LLC d/b/a Aquarina Utilities be approved?

RECOMMENDATION: Yes. The transfer of majority organizational control is in the public interest and should be approved.

ISSUE 2: Should the scrivener errors in the territory description be corrected?

RECOMMENDATION: Yes. The scrivener errors described in staff's analysis should be corrected as shown in Attachment A of staff's June 5, 2003 memorandum. In addition, within 90 days from the date of the order approving the transfer, the utility should be required to file revised water and wastewater territory descriptions, consolidated territory maps, and revised tariff sheets. Upon verification that the revised territory descriptions accurately reflect the utility's approved service territory, staff should be given the authority to issue an administrative order in this docket approving the revised territory descriptions.

ISSUE 3: 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 filing reflecting the change in majority control should be approved and effective for services rendered or connections made on or after the stamped approval date.

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Docket No. 020091-WS - Application for transfer of majority organizational control of Service Management Systems, Inc., holder of Certificates Nos. 517-W and 450-S in Brevard County, from Petrus Group, L.P. to IRD Osprey, LLC d/b/a Aquarina Utilities.

(Continued from previous page)

ISSUE 4: Should the docket be closed?

RECOMMENDATION: No. The docket should remain open pending receipt of revised water and wastewater territory descriptions, composite territory maps, and revised tariff sheets. Upon verification that the revised territory descriptions accurately reflect the utility's approved service territory, staff should be given the authority to issue an administrative order in this docket approving the revised territory descriptions and closing the docket.

DECISION: The recommendations were approved.

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



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8\*\*PAADocket No. 030400-EM - Requests for approval of electric utilities' long-term energy emergency plans, filed pursuant to Rule 25-6.0185, F.A.C.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Munroe  
GCL: Vining

ISSUE 1: Should the current long-term energy emergency plans included in Attachment A of staff's June 5, 2003 memorandum be approved?

RECOMMENDATION: Yes. The plans meet the established criteria for long-term energy emergency plans.

ISSUE 2: When should affected utilities file a compliance letter or plan update?

RECOMMENDATION: Each affected utility should file the next compliance letter or plan update no later than January 31, 2006 and every three calendar years thereafter.

ISSUE 3: 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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9Docket No. 990649B-TP - Investigation into pricing of unbundled network elements (Sprint/Verizon track).

Critical Date(s): None

Commissioners Assigned: Jaber, Deason, Baez, Bradley  
Prehearing Officer: Baez

Staff: GCL: Christensen  
CMP: T. Brown, Cater, Dowds, King, Marsh, Wright  
ECR: Kenny, P. Lee, Lester

ISSUE 1: Should the parties be granted oral argument?

RECOMMENDATION: No. Staff recommends that the Commission deny FDN and KMC's Joint Request for Oral Argument.

ISSUE 2: Has the Commission impermissibly reversed the burden of proof?

RECOMMENDATION: No. Staff recommends that the Commission find that it did not overlook a point of fact or law, nor was there an impermissible reversal of the burden of proof.

ISSUE 3: Did the Commission overlook or fail to consider a point of fact or law regarding the deaveraging approach utilized in this proceeding?

RECOMMENDATION: No. Staff recommends that the Commission did not overlook or fail to consider a point of fact or law regarding the deaveraging approach utilized in this proceeding.

ISSUE 4: Did the Commission overlook or fail to consider a point of fact or law regarding the fill factors utilized in this proceeding?

RECOMMENDATION: No. Staff recommends that the Commission did not overlook or fail to consider a point of fact or law concerning Sprint's fill factors.

ISSUE 5: Did the Commission overlook or fail to consider a point of fact or law regarding the customer locations utilized in this proceeding?

RECOMMENDATION: No. Staff recommends that the Commission find that it did not overlook or fail to consider a point of fact or law regarding the customer locations utilized in this proceeding.

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9                   Docket No. 990649B-TP - Investigation into pricing of unbundled network elements (Sprint/Verizon track).

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ISSUE 6: Did the Commission overlook or fail to consider a point of fact or law regarding Cable Material and Placement Costs utilized in this proceeding?

RECOMMENDATION: No. Staff recommends that the Commission find that the Commission did not overlook or fail to consider any point of fact or law regarding Cable Material and Placement Costs utilized in this proceeding.

ISSUE 7: Did the Commission overlook or fail to consider a point of fact or law regarding expenses in rendering its decision in this proceeding?

RECOMMENDATION: No. Staff recommends that the Commission find that it did not overlook or fail to consider any point of fact or law in rendering its decision regarding expenses utilized in this proceeding.

ISSUE 8: Did the Commission overlook or fail to consider a point of fact or law regarding Work-Times For Non-Recurring Charges utilized in this proceeding?

RECOMMENDATION: No. Staff recommends that the Commission find that FDN and KMC's Motion did not identify any point of fact or law which was overlooked or which the Commission failed to consider regarding the Work-Times for Non-Recurring Charges utilized in this proceeding.

ISSUE 9: Did the Commission overlook or fail to consider a point of fact or law regarding Non-Recurring OSS Charges utilized in this proceeding?

RECOMMENDATION: No. Staff recommends that the Commission find that it did not overlook or fail to consider any point of fact or law in rendering its decision regarding Non-Recurring OSS Charges utilized in this proceeding.

ISSUE 10: Did the Commission overlook or fail to consider a point of fact or law regarding whether its rates may discourage competition and did not establish fair and reasonable rates?

RECOMMENDATION: No. Staff recommends that the Commission find that it did not overlook or fail to consider any point of fact or law in rendering its decision regarding the rates established in this proceeding.

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9                   Docket No. 990649B-TP - Investigation into pricing of unbundled network elements (Sprint/Verizon track).

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ISSUE 11: Should the Commission acknowledge AT&T Communications of the Southern States, LLC (AT&T) and WorldCom, Inc., MCI WorldCom Communications, Inc., MCImetro Access Transmission Services LLC and Intermedia Communications, Inc. (collectively "WorldCom") withdrawal of their Motion for Reconsideration of Order No. PSC-02-1574-FOF-TP, filed December 2, 2002?

RECOMMENDATION: Yes. Staff recommends that the Commission should acknowledge the withdrawal of AT&T and WorldCom's Motion for Reconsideration of Order No. PSC-02-1572-FOF-TP.

ISSUE 12: Should this docket be closed?

RECOMMENDATION: Staff recommends that this portion of the docket remain open until the expiration of the appeal period. Should no appeal be taken on the Sprint portion of this docket, staff recommends that staff should be granted administrative authority to close the Sprint portion of this docket. However, staff notes that currently there is an appeal pending on the Verizon portion of this docket, and therefore, this docket should remain open for further proceedings in the Verizon portion.

DECISION: The recommendations were approved; Chairman Jaber and Commissioner Baez dissented on Issue 3.

Commissioners participating: Jaber, Deason, Baez, Bradley

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10 Docket No. 011666-TP - Petition by Global NAPS, Inc. for arbitration pursuant to 47 U.S.C. 252(b) of interconnection rates, terms and conditions with Verizon Florida Inc.

Critical Date(s): None

Commissioners Assigned: Deason, Baez, Davidson  
Prehearing Officer: Deason

Staff: CMP: Marsh, Barrett, Cater, King, Muskovac  
GCL: Fordham

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

RECOMMENDATION: Staff believes that the Commission has jurisdiction pursuant to Chapter 364, Florida Statutes, and Section 252 of the Federal Telecommunication Act of 1996 (Act) to arbitrate interconnection agreements. Section 252 states that a State Commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions as required. Further, staff believes that while Section 252(e) of the Act reserves the state's authority to impose additional conditions and terms in an arbitration not inconsistent with the Act and its interpretation by the FCC and the courts, the Commission should use discretion in the exercise of such authority.

DECISION: The recommendation was approved.

ISSUE 1(a): May GNAPS designate a single physical point of interconnection per LATA on Verizon's existing network?

RECOMMENDATION: Yes. GNAPS may designate a single physical point of interconnection per LATA on Verizon's network. Verizon should be permitted to require a Memorandum of Understanding when a fiber meet is requested.

DECISION: The recommendation was approved.

ISSUE 1(b): If GNAPS chooses a single point of interconnection (SPOI) per LATA on Verizon's network, should Verizon receive any compensation from GNAPS for transporting

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10	<p>Docket No. 011666-TP - Petition by Global NAPS, Inc. for arbitration pursuant to 47 U.S.C. 252(b) of interconnection rates, terms and conditions with Verizon Florida Inc.</p> <p>(Continued from previous page)</p> <p>Verizon local traffic to this SPOI? If so, how should the compensation be determined?</p> <p><u>RECOMMENDATION</u>: No. Each party is responsible for transporting its own traffic to the SPOI.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 2</u>: Should the parties' interconnection agreement require mutual agreement on the terms and conditions relating to the deployment of two-way trunks when GNAPS chooses to use them?</p> <p><u>RECOMMENDATION</u>: Yes. Both parties' engineers should coordinate the use of two-way trunking, due to the potential impact on both parties' networks. However, in the event the parties cannot agree, GNAPS has the right to make the final decision.</p> <p><u>DECISION</u>: The recommendation was approved with additional language provided by staff at the conference.</p> <p><u>ISSUE 3(a)</u>: Should GNAPS be required to provide collocation to Verizon at GNAPS' facilities in order to interconnect with GNAPS?</p> <p><u>ISSUE 3(b)</u>: If Verizon cannot collocate at GNAPS' facilities, should GNAPS charge Verizon distance-sensitive rates for transport?</p> <p><u>RECOMMENDATIONS</u>:</p> <ul style="list-style-type: none"><li>(a) No. GNAPS should not be required to provide collocation to Verizon, but is encouraged to do so.</li><li>(b) If Verizon charges distance-sensitive rates for transport, and cannot collocate at GNAPS' facilities, GNAPS is permitted to charge Verizon distance-sensitive rates for transport. However, based on staff's recommendation in Issue 1A, a physical point of interconnection must be on</li></ul>

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Verizon's network which negates the need for Verizon to purchase transport from GNAPs.

DECISION: There was no vote on this issue.

ISSUE 4: Which carrier's local calling area should be used as the basis for determining intercarrier compensation obligations?

RECOMMENDATION: Consistent with the Commission's decision in Docket No. 000075-TP, the originating carrier's retail local calling area should be the basis for determining intercarrier compensation. In order to implement this decision, GNAPs should provide Verizon with details of its originating carrier proposal. At a minimum, this information should include responses to the eight questions found on page 6 of Exhibit 2. Implementation of the originating carrier plan should not delay the filing of the interconnection agreement. Therefore, if all other matters are incorporated into an interconnection agreement, except for the details of the originating carrier plan, the parties should file the agreement. Once the originating carrier implementation details are determined, the parties may file an amendment to their agreement.

DECISION: The recommendation was approved. With specific respect to Verizon, the originating carrier's retail local calling area should be the basis for determining intercarrier compensation for Verizon-originated traffic. Judgment is withheld on determining GNAPs' local calling area for purposes of their intercarrier compensation for GNAPs' originated traffic. Instead, GNAPs is directed to provide the necessary details of its originating carrier proposal to Verizon and staff within 30 days from the effective date of the order arising from this decision and should include at a minimum responses to the eight discovery questions posed by Verizon in Exhibit 2 at page 6.

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Staff was directed to discuss in the order reasonable expectations that should be included in future plans in regard to this issue and specific local calling areas of the CLECs to allow the Commission to evaluate and bring forth any issues ahead of time instead of prolonging the arbitration after a decision is made.

ISSUE 5: Should GNAPs be permitted to assign NXX codes to customers that do not physically reside in the local calling area associated with that NXX code?

RECOMMENDATION: Consistent with the Commission's decision in Docket No. 000075-TP, staff recommends that GNAPs should be permitted to assign telephone numbers to end users physically located outside the rate center to which the telephone number is homed. In addition, intercarrier compensation for non-ISP calls to these numbers should be based upon the end points of the particular calls. Non-ISP calls terminated to end users outside the local calling area in which their NPA/NXXs are homed are not local calls. Therefore, carriers will not be obligated to pay reciprocal compensation for this traffic; rather, access charges should apply. Moreover, virtual NXX traffic and FX traffic should be treated the same for intercarrier compensation purposes (i.e., access charges should apply).

DECISION: The recommendation was approved based on analysis and explanation offered by staff at the conference.

ISSUE 6: Should the parties' interconnection agreement include a change in law provision specifically devoted to the ISP Remand Order?

RECOMMENDATION: No. The parties' interconnection agreement need not include a change in law provision specifically devoted to the ISP Remand Order.

DECISION: The recommendation was approved.



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ISSUE 7: Should the parties' interconnection agreement incorporate by reference each parties' respective tariffs?  
RECOMMENDATION: Staff recommends that the interconnection agreement cover the terms and conditions of the relationship between GNAPs and Verizon. Notwithstanding this, if the agreement references the tariff because the specific terms and conditions of a service are not contained in the agreement, the terms and conditions contained in the tariff should prevail. Staff also recommends that the rates set forth in the agreement's pricing attachment should prevail unless a tariff change is approved by this Commission or the Federal Communications Commission.

DECISION: The recommendation was approved.

ISSUE 8: What amounts and types of insurance should GNAPs be required to obtain?  
RECOMMENDATION: The insurance requirements should be those detailed in the position of Verizon.

DECISION: The recommendation was approved as modified by staff at the conference.

ISSUE 9: To what extent should the parties be permitted to conduct audits to ensure (i) the accuracy of each other's bills, and (ii) appropriate use and disclosure of Verizon OSS Information?  
RECOMMENDATION: Staff recommends that Verizon's proposed audit requirements be included in the interconnection agreement. These audit requirements are narrow enough in scope and frequency to allow for the evaluation of billing accuracy and contain provisions that prevent access to the confidential business information of the audited party.

DECISION: The recommendation was approved.

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ISSUE 10: When should a change in law be implemented?

RECOMMENDATION: A change in law should be implemented when it takes effect.

DECISION: The recommendation was approved.

ISSUE 11: Should GNAPs be permitted access to network elements that have not already been ordered unbundled?

RECOMMENDATION: No. GNAPs should only be permitted access to network elements that have already been ordered unbundled.

DECISION: The recommendation was approved.

ISSUE 12: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending submission and final approval of the parties' Interconnection Agreement.

DECISION: The recommendation was approved.

Commissioners participating: Deason, Baez, Davidson