

**MINUTES OF JUNE 18, 2002**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:32 a.m.

**ADJOURNED:** 1:15 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  
May 21, 2002 Regular Commission Conference

DECISION: The minutes were approved.

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

Minutes of  
Commission Conference  
June 18, 2002

<u>ITEM NO.</u>	<u>CASE</u>								
2**	Consent Agenda								
PAA	A) Application for certificate 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>020239-TX</td><td>Broadview Networks, Inc.</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020239-TX	Broadview Networks, Inc.				
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>								
020239-TX	Broadview Networks, Inc.								
PAA	B) Applications for certificates to provide interexchange telecommunications service.								
	<table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>020330-TI</td><td>Global Internetworking, Inc.</td></tr><tr><td>020238-TI</td><td>Broadview Networks, Inc.</td></tr><tr><td>020271-TI</td><td>Telliss, LLC</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020330-TI	Global Internetworking, Inc.	020238-TI	Broadview Networks, Inc.	020271-TI	Telliss, LLC
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>								
020330-TI	Global Internetworking, Inc.								
020238-TI	Broadview Networks, Inc.								
020271-TI	Telliss, LLC								

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

Minutes of  
Commission Conference  
June 18, 2002

<u>ITEM NO.</u>	<u>CASE</u>
3	<p>Docket No. 011368-GU - Proposed adoption of Rule 25-7.072, F.A.C., Codes of Conduct. (Deferred from May 21, 2002 Commission Conference.)</p> <p>Critical Date(s): None</p> <p>Rule Status: Adoption</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Jaber</p> <p>Staff: GCL: Bellak CMP: Makin ECR: Hewitt</p> <p><u>ISSUE 1:</u> Should the Commission file Rule 25-7.072 for adoption despite JAPC's objections? <u>PRIMARY RECOMMENDATION:</u> Yes. The rule should be filed for adoption. <u>ALTERNATIVE RECOMMENDATION:</u> No. The rule should not be proposed at this time.</p> <p><u>DECISION:</u> The primary recommendation was approved; the alternative recommendation was denied. Commissioners Deason and Bradley dissented.</p> <p><u>ISSUE 2:</u> If the rule is filed for adoption, should this docket be closed? <u>RECOMMENDATION:</u> Yes. The docket should be closed.</p> <p><u>DECISION:</u> The recommendation was approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of  
Commission Conference  
June 18, 2002

<u>ITEM NO.</u>	<u>CASE</u>
4**	<p>Docket No. 011615-TP - Complaint of KMC Telecom III, Inc. for enforcement of interconnection agreement with Sprint-Florida, Incorporated.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Jaber</p> <p>Staff: CMP: Barrett GCL: Teitzman</p> <p><u>ISSUE 1</u>: Should the Commission acknowledge KMC Telecom III, Inc.'s Notice of Voluntary Dismissal? <u>RECOMMENDATION</u>: Yes. KMC's voluntary dismissal divests the Commission of jurisdiction over this matter. The only further action the Commission should take is to acknowledge the dismissal, find that any pending motions are rendered moot, and close the docket.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

5\*\*PAA

Docket No. 011140-TI - Initiation of show cause proceedings against Orion Telecommunications Corp d/b/a Orion Telecommunications Corp of New York for apparent violation of Rule 25-24.910, F.A.C., Certificate of Public Convenience and Necessity Required.

Docket No. 011661-TI - Application for certificate to provide interexchange telecommunications service by Orion Telecommunications Corp d/b/a Orion Telecommunications Corp of New York.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: GCL: Elliott, Knight  
CMP: Buys, Williams

ISSUE 1: Should the Commission accept Orion Telecommunications Corp d/b/a Orion Telecommunications Corp of New York's settlement proposal dated December 13, 2001, including a voluntary payment of \$20,000, to resolve the show cause proceeding in Docket No. 011440-TI for the apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

RECOMMENDATION: Yes. The Commission should accept Orion Telecommunications Corp d/b/a Orion Telecommunications Corp of New York's settlement proposal dated December 13, 2001, including a voluntary payment of \$20,000, which was submitted with its settlement proposal, to resolve the show cause proceeding in Docket No. 011440-TI for the apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. The Commission should forward the voluntary payment to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

ISSUE 2: Should the Commission grant Orion Telecommunications Corp d/b/a Orion Telecommunications Corp of New York a certificate to provide interexchange

5th PAA of Docket No. 011140-TI - Initiation of show cause proceedings  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

against Orion Telecommunications Corp d/b/a Orion Telecommunications Corp of New York for apparent violation of Rule 25-24.910, F.A.C., Certificate of Public Convenience and Necessity Required.

Docket No. 011661-TI - Application for certificate to provide interexchange telecommunications service by Orion Telecommunications Corp d/b/a Orion Telecommunications Corp of New York.

(Continued from previous page)

telecommunications service within the State of Florida in Docket No. 011661-TI?

RECOMMENDATION: Yes. The Commission should grant Orion Telecommunications Corp d/b/a Orion Telecommunications Corp of New York, Florida Public Service Commission Certificate No. 8042, to provide IXC service within the State of Florida in Docket No. 011661-TI.

ISSUE 3: Should Docket Nos. 011661-TI and 011140-TI be closed?

RECOMMENDATION: Docket No. 011661-TI should be closed 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 the issuance of the Proposed Agency Action Order.

Docket No. 011140-TI should be closed 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 the issuance of the Proposed Agency Action Order. If the Commission denies staff's recommendation in Issue 1, Docket No. 011140-TI should remain open pending resolution of the show cause proceeding.

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

Minutes of  
Commission Conference  
June 18, 2002

<u>ITEM NO.</u>	<u>CASE</u>
6**PAA	<p>Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power &amp; Light Company.</p> <p>Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power &amp; Light Company.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Deason</p> <p>Staff: GCL: Brown, Harris ECR: Haff</p> <p><u>ISSUE 1:</u> Should the Commission deny CPV Cana's petition for waiver of Rule 25-22.080, Florida Administrative Code? <u>RECOMMENDATION:</u> 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.</p> <p><u>ISSUE 2:</u> Should these Dockets be closed? <u>RECOMMENDATION:</u> No. These Dockets should remain open to address this ongoing need determination proceeding.</p> <p><u>DECISION:</u> This item was deferred.</p>

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

7                   Docket No. 011622-EG - Petition by Tampa Electric Company  
d/b/a Peoples Gas System for determination that rate  
structure of Withlacoochee River Electric Cooperative, Inc.  
is discriminatory, interferes with approved energy  
conservation programs, and is contrary to the legislative  
intent of the Florida Energy Efficiency and Conservation  
Act.

Critical Date(s):   None

Commissioners Assigned:   Full Commission  
Prehearing Officer:       Palecki

Staff:   GCL:   Stern  
          CMP:   Bulecza-Banks, Wright, S. Brown  
          ECR:   Kummer

ISSUE 1: Should the Motion to Dismiss filed by Withlacoochee  
River Electric Cooperative be granted?

RECOMMENDATION: Yes. The Motion should be granted because  
Peoples lacks standing.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: This docket should be closed 32 days after  
the issuance of the order to allow the time for filing an  
appeal to run.

DECISION: The recommendations were approved.

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



Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

8\*\*

Docket No. 011333-EU - Petition of City of Bartow to modify territorial agreement or, in the alternative, to resolve territorial dispute with Tampa Electric Company in Polk County.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: GCL: Vining

ECR: Breman, D. Lee

ISSUE 1: Should the Commission grant Tampa Electric Company's Motion to Dismiss?

RECOMMENDATION: Yes. The Commission should grant Tampa Electric Company's Motion to Dismiss. Bartow's petition is not ripe at this time for adjudication by the Commission, and the Commission should dismiss Bartow's petition without prejudice.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission adopts staff's recommendation and grants TECO's Motion to Dismiss, this docket should be closed.

DECISION: This item was withdrawn.

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

9\*\*PAA

Docket No. 020302-GU - Petition for expansion of energy conservation programs and factors by Florida Public Utilities Company.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: S. B. Brown, Bulecza-Banks, Casey  
GCL: Holley

ISSUE 1: Should the Commission approve Florida Public Utilities Company's (FPUC) modified Petition for Expansion of Energy Conservation Programs and Factors?

RECOMMENDATION: Yes. The Commission should grant FPUC's modified petition for approval for Expansion of Energy Conservation Programs and Factors.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's proposed agency action files a protest within 21 days of the issuance of the Order. If a protest is filed within 21 days from the issuance of the Order, the programs should not be implemented until after a resolution of the protest.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

10\*\*PAA

Docket No. 020473-TP - Emergency petition by BellSouth Telecommunications, Inc. for temporary waiver of Rule 25-4.118, F.A.C. (carrier selection requirements), for transfer of local business customer base of Adelphia Business Solutions of Jacksonville, Inc. and Adelphia Business Solutions Investment, LLC.

Critical Date(s): 6/24/02 (Decision.)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Pruitt  
GCL: Elliott

ISSUE 1: Should the Commission grant BellSouth Telecommunications, Inc.'s emergency petition for a temporary waiver of Rule 25-4.118, Florida Administrative Code, beginning July 11, 2002 and ending July 21, 2002?

RECOMMENDATION: Yes. Staff recommends that the Commission grant BellSouth's emergency petition for a temporary waiver beginning July 11, 2002 and ending July 21, 2002.

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, Palecki, Bradley

Minutes of  
Commission Conference  
June 18, 2002

<u>ITEM NO.</u>	<u>CASE</u>
11**PAA	<p>Docket No. 020119-TP - Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs and for investigation of BellSouth's promotional pricing and marketing practices, by Florida Digital Network, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: CMP: Barrett, Simmons, Casey, Bulecza-Banks, Gilchrist GCL: Banks, Dodson</p> <p><u>ISSUE 1</u>: Should BellSouth's 2002 Key Customer tariff filing (T-020035) be canceled? <u>RECOMMENDATION</u>: No. BellSouth's 2002 Key Customer tariff filing (T-020035) should not be canceled.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 2</u>: Should any restrictions be placed on BellSouth's marketing practices used for BellSouth's "win-back" promotions? <u>RECOMMENDATION</u>: Yes. BellSouth should be prohibited from initiating any "win-back" activities to regain a customer for thirty days after the conversion to an Alternate Local Exchange Company (ALEC) is complete. The Commission should also prohibit BellSouth from including any marketing information in its final bill sent to customers who have switched providers, and prohibit BellSouth's wholesale division from sharing information with its retail division, such as informing the retail division when a customer is switching.</p> <p><u>DECISION</u>: The recommendation was approved with the exception of the 30-day wait-out period and acknowledgment of BellSouth's voluntary 10-day wait-out period.</p>

ITEM NO.

CASE

---

cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs and for investigation of BellSouth's promotional pricing and marketing practices, by Florida Digital Network, Inc.

(Continued from previous page)

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected protests the Commission's PAA decision within 21 days of the issuance of the Order from this recommendation, the Order will become final upon issuance of a Consummating Order.

If, however, a timely protest of the Commission's PAA Order is filed, this matter should be set for hearing to address the issues in dispute. The issues set forth herein should be considered severable, and any issue not specifically protested should be deemed stipulated in accordance with Section 120.80(13)(b), Florida Statutes. The Docket should remain open pending the outcome of the hearing. Pending the resolution of the hearing process, staff believes that BellSouth should be precluded from filing any tariff that extends, mirrors, or builds upon the 2002 Key Customer Tariff provisions addressed in the proceeding until the Commission resolves the matters addressed at hearing. Staff notes that pending the outcome of the hearing there would be no need to address revenues collected under the tariff since the tariff will terminate prior to the anticipated close of the protest period.

DECISION: The recommendation was approved with the exception that BellSouth will not be prohibited from filing a like tariff during the interim in the event a protest is filed.

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

Minutes of  
Commission Conference  
June 18, 2002

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

---

12\*\*                   Docket No. 010977-TL - State certification of rural telecommunications carriers pursuant to 47 C.F.R. 54.314.

Critical Date(s):   None

Commissioners Assigned:   Full Commission  
Prehearing Officer:        Administrative

Staff:   CMP:   Dowds  
          GCL:   B. Keating

ISSUE 1: Should the Commission certify to the FCC and to USAC that for the year 2003 ALLTEL Florida, Inc., Frontier Communications of the South, Inc., GTC, Inc., Indiantown Telecommunications Systems, Inc., Northeast Florida Telephone Company, TDS Telecom, and Smart City Telecom will only use the federal high-cost support they receive for the provision, maintenance and upgrading of facilities and services for which the support is intended?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open in order to deal with future certification of rural telephone companies.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

13\*\*PAA

Docket No. 020394-TC - Bankruptcy cancellation by Florida Public Service Commission of PATS Certificate No. 5012 issued to Crescent Public Communications, Inc., effective 4/30/02.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: Dodson

ISSUE 1: Should the Commission grant Crescent Public Communications, Inc.'s request for cancellation of its Pay Telephone Certificate No. 5012 due to bankruptcy?

RECOMMENDATION: Yes. The Commission should grant the company a bankruptcy cancellation of its Pay Telephone Certificate No. 5012 with an effective date of April 30, 2002. In addition, the Division of the Commission Clerk and Administrative Services will be notified that the 1999, 2000, 2001, and 2002 RAFs, including statutory penalty and interest charges for the years 1998, 1999, 2000, and 2001, should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write off the uncollectible amount should be requested. 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 pay telephone service in Florida.

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 the issuance of the Proposed Agency Action Order. The docket should then be closed.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

14\*\*PAA

Docket No. 020444-TI - Bankruptcy cancellation by Florida Public Service Commission of IXC Certificate No. 7824 issued to Novo Networks Metro Services, Inc., effective 5/14/02.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: Dodson

ISSUE 1: Should the Commission grant Novo Networks Metro Services, Inc.'s request for cancellation of its IXC Certificate No. 7824 due to bankruptcy?

RECOMMENDATION: Yes. The Commission should grant the company a bankruptcy cancellation of its IXC Certificate No. 7824 with an effective date of May 14, 2002. In addition, the Division of the Commission Clerk and Administrative Services will be notified that the 2001 and 2002 RAFs, including statutory penalty and interest charges for the year 2001, should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write off the uncollectible amount should be requested. 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 interexchange telecommunications services in Florida.

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 the issuance of the Proposed Agency Action Order. The docket should then be closed.

DECISION: The recommendations were approved.

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



Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

15\*\*PAA

Docket No. 020288-TP - Cancellation by Florida Public Service Commission of IXC Certificate No. 6034 and ALEC Certificate No. 5588 issued to Vision Prepaid Services, Inc., for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: Teitzman

ISSUE 1: Should the Commission grant Vision Prepaid Services, Inc. a voluntary cancellation of IXC Certificate No. 6034 and ALEC Certificate No. 5588?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificates. The Commission should cancel the company's IXC Certificate No. 6034 and ALEC Certificate No. 5588 on its own motion, effective August 8, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificates are cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing IXC and ALEC services in Florida.

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

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

16\*\*

Docket No. 020451-TC - Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 4147 issued to Fernando Ferrarone for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: K. Pena, B. Keating

ISSUE 1: Should the Commission grant Fernando Ferrarone a voluntary cancellation of Pay Telephone Certificate No. 4147?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its certificate with an effective date of December 15, 2001. In addition, the Division of the Commission Clerk and Administrative Services will be notified that the 2001 RAF, including statutory penalty and interest charges, should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write off the uncollectible amount should be requested. 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 pay telephone service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the certificate as no other issues need to be addressed by the Commission.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

---

17\*\*PAA

Docket No. 020340-GU - Request by Florida Public Utilities Company for depreciation rates to reflect acquisition of Atlantic Utilities, a Florida Division of Southern Union Company d/b/a South Florida Natural Gas.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: ECR: Meeks  
GCL: Echternacht

ISSUE 1: Should Florida Public Utilities Company's request for consolidated depreciation rates be granted?

RECOMMENDATION: Yes. Staff recommends approval of the consolidated depreciation rates shown on Attachment A, page 5 of staff's June 6, 2002 memorandum. These rates represent a composite of the rates currently approved for the assets affected by the purchase of the distribution system of South Florida Natural Gas. The impact of these consolidated rates is a slight increase in annual depreciation expense of approximately \$200.

ISSUE 2: What should be the implementation date for the new consolidated depreciation rates?

RECOMMENDATION: Staff recommends approval of FPUC's requested January 1, 2002, implementation date for the new consolidated depreciation rates.

ISSUE 3: When should FPUC file its next comprehensive depreciation study?

RECOMMENDATION: Pursuant to Rule 25-7.045(8)(a), Florida Administrative Code, FPUC is required to file its next comprehensive depreciation review by March 10, 2004.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the proposed agency action files a

~~With PAA~~ of Docket No. 020340-GU - Request by Florida Public Utilities  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

Company for depreciation rates to reflect acquisition of Atlantic Utilities, a Florida Division of Southern Union Company d/b/a South Florida Natural Gas.

(Continued from previous page)

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

Minutes of  
Commission Conference  
June 18, 2002

<u>ITEM NO.</u>	<u>CASE</u>
18**PAA	<p>Docket No. 020327-EI - Request for extension of time until July 26, 2002, to file depreciation study for Fernandina Beach electric division with implementation date of 1/1/03, by Florida Public Utilities Company.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: ECR: P. Lee GCL: C. Keating</p> <p><u>ISSUE 1</u>: Should Florida Public Utility Company's request for a waiver of Rule 25-6.0436(8)(a), Florida Administrative Code, be granted?</p> <p><u>RECOMMENDATION</u>: Yes. The Commission should grant FPUC's rule waiver request for an extension of time to file its depreciation study no later than July 26, 2002. The requested waiver will serve the purposes of the underlying statutes, and FPUC will experience substantial hardship if its Petition is denied.</p> <p><u>ISSUE 2</u>: Should this docket be closed?</p> <p><u>RECOMMENDATION</u>: Yes. A consummating order should be issued and this docket should be closed if no person whose substantial interests are affected by the proposed action files a protest within the 21-day protest period.</p>

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

---

19\*\*PAA

Docket No. 020006-WS - Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4) (f), F.S.

Critical Date(s): 12/31/02 (Pursuant to Section 367.081 (4) (f), Florida Statutes.)

Commissioners Assigned: Full Commission  
Prehearing Officer: Deason

Staff: ECR: D. Draper, Lester  
GCL: Vining

ISSUE 1: What is the appropriate range of returns on common equity for water and wastewater (WAW) utilities pursuant to Section 367.081(4) (f), Florida Statutes?

RECOMMENDATION: Staff recommends that the current leverage formula methodology be applied using updated financial data. Staff recommends the following leverage formula:

$$\text{Return on Common Equity} = 9.65\% + 0.582/\text{Equity Ratio}$$

Where the Equity Ratio = Common Equity / (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 10.23% @ 100% equity to 11.10% @ 40% equity

ISSUE 2: Should the Commission use the water and wastewater leverage formula approved in this docket to reestablish the return on equity (ROE) for all water and wastewater utilities that currently have an authorized ROE?

RECOMMENDATION: Yes. For WAW utilities that have authorized ROEs, the Commission should reestablish the authorized ROE using the water and wastewater leverage formula approved in Issue 1. The appropriate equity ratio for determining the new authorized ROE should be the equity ratio that the Commission used to determine the utility's last authorized ROE. The appropriate range for the new authorized ROE is the ROE plus or minus 100 basis points.

~~WPA~~ of Docket No. 020006-WS - Water and wastewater industry annual  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4) (f), F.S.

(Continued from previous page)

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
June 18, 2002

<u>ITEM NO.</u>	<u>CASE</u>
20	<p>Docket No. 010827-EI - Petition by Gulf Power Company for approval of purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased capacity and purchased energy.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: ECR: Harlow GCL: Stern</p> <p><u>ISSUE 1</u>: Should Gulf's Request for Immediate Return of Confidential Information Provided Pursuant to Discovery be granted? <u>RECOMMENDATION</u>: The Commission should find that the Request is rendered moot because the appropriate documents have been returned to Gulf.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: This docket should be closed 32 days after the issuance of the order to allow the time for filing an appeal to run.</p>

DECISION: The recommendations were approved.

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



Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

21\*\*PAA

Docket No. 011605-EI - Review of investor-owned electric utilities' risk management policies and procedures.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Palecki

Staff: ECR: McNulty, Bohrmann

GCL: C. Keating

ISSUE 1: For the period March 1999 to March 2001, did FPC take reasonable steps to manage the risk associated with changes in natural gas prices?

RECOMMENDATION: Yes. Based upon FPC's expectations of future changes in natural gas prices and regulatory treatment of its fuel procurement activities, FPC took reasonable steps to manage the risk associated with changes in natural gas prices.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If no person whose substantial interests are affected by the Commission's proposed agency action on Issue 1 files a protest within 21 days of the issuance of the order, the Commission's proposed agency action shall become final upon issuance of a consummating order. However, the docket shall remain open to address the remaining issues established in this docket.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

22\*\*PAA

Docket No. 020295-EQ - Petition for approval of standard offer contract based on 2005 combined cycle avoided unit and accompanying Rate Schedule COG-2, by Florida Power Corporation.

Critical Date(s): 7/1/02 (90-day deadline on rule waiver request)  
12/2/02 (8-month effective date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Colson, Springer  
GCL: Holley

ISSUE 1: Should the Commission grant FPC's Petition for a waiver of the ten-year minimum contract term required by rule 25-17.0832(4)(e)7, Florida Administrative Code, to allow FPC to provide a five-year term?

RECOMMENDATION: Yes. FPC has demonstrated that the purpose of the underlying statute will be met, and that FPC and its ratepayers will suffer substantial hardship if the variance is not granted.

ISSUE 2: Should the Commission grant FPC's Petition for a waiver of the requirement in Rule 25-17.0832(4)(e)5, Florida Administrative Code, that the open solicitation period for a utility's standard offer contract must terminate prior to its issuance of a notice of Request for Proposal (RFP) based on the standard offer contract's avoided unit?

RECOMMENDATION: Yes. FPC has demonstrated that the purpose of the underlying statute will be met, and that strict adherence to the closure provision of the standard offer contract would create a substantial hardship on FPC and its customers.

ISSUE 3: Should FPC's petition for approval of a new Standard Offer Contract, based upon a combined cycle (CC) unit with an in-service date of December 1, 2005, and associated tariffs be approved?

RECOMMENDATION: Yes. FPC's Standard Offer Contract complies with Rule 25-17.0832, Florida Administrative Code. Thus, the Standard Offer Contract and associated tariffs should be approved.

~~2nd PAA~~ of Docket No. 020295-EQ - Petition for approval of standard  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

offer contract based on 2005 combined cycle avoided unit and accompanying Rate Schedule COG-2, by Florida Power Corporation.

(Continued from previous page)

ISSUE 4: On what date should FPC's proposed Standard Offer Contract become effective?

RECOMMENDATION: FPC's proposed standard offer contract should become effective upon the issuance of the consummating orders for the waivers if there is no timely protest filed to either the waivers or the standard offer contract portion of the order.

ISSUE 5: 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

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

23\*\*

Docket No. 020388-WS - Request for approval to increase meter installation fees to conform to current cost in Lake County by Sun Communities Finance, LLC d/b/a Water Oak Utility.

Critical Date(s): 7/1/02 (60-day suspension date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Deason

Staff: ECR: Merta, Rendell  
GCL: Echternacht

ISSUE 1: Should Sun Communities' proposed tariff sheets to increase meter installation fees to conform to the current cost be suspended?

RECOMMENDATION: Yes. Sun Communities' proposed tariff sheets to increase its meter installation fees to conform to the current cost should be suspended pending further investigation by staff. This docket should remain open pending completion of staff's investigation.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

24\*\*PAA

Docket No. 010616-WS - Complaint by Dr. William F. Weir against Sun Communities Finance, LLC d/b/a Water Oak Utility in Lake County regarding present method of charging customers.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Rendell, Merta  
GCL: Holley

ISSUE 1: Should the Commission approve the proposed settlement?

RECOMMENDATION: Yes. The Commission should approve the proposed settlement. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that revised tariff sheets are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon issuance of the Consummating Order if no person whose interests are substantially affected by the proposed action files a protest with the 21-day protest period.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

---

25\*\*

Docket No. 011651-WU - Application for transfer of majority organizational control of Pinecrest Ranches, Inc., holder of Certificate No. 588-W in Polk County, from James O. Vaughn and Margaret S. Hankin to S. Norman Duncan and Richard S. Little.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Jaber

Staff: ECR: Brady, Kaproth  
GCL: Crosby, Helton

ISSUE 1: Should the transfer of majority organizational control of Pinecrest Ranches, Inc. from James O. Vaughn and Margaret S. Hankin to S. Norman Duncan and Richard S. Little be approved?

RECOMMENDATION: Yes. The transfer of majority organizational control of Pinecrest Ranches, Inc., should be approved effective the date of Commission vote. A description of the utility's approved territory is appended to staff's June 6, 2002 memorandum as Attachment A. The buyers should be responsible for filing the utility's 2002 annual report and remitting 2002 regulatory assessment fees.

ISSUE 2: Should the rates and charges approved for Pinecrest Ranches, Inc. be continued?

RECOMMENDATION: Yes. The rates and charges approved for the utility should be continued until authorized to change by the Commission. The tariff reflecting the transfer of majority organizational control should be approved and effective for services rendered or connections made on or after the stamped approval date.

ISSUE 3: Should this 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

Minutes of  
Commission Conference  
June 18, 2002

ITEM NO.

CASE

---

26\*\*

Docket No. 011402-WU - Notice of abandonment of water services in Marion County by Silver City Utilities, and application for transfer of water facilities from Silver City Utilities to Silver City Oaks Inc., a non-profit corporation, and for cancellation of Certificate No. 413-W.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Brady, Iwenjiora, Redemann  
GCL: Harris

ISSUE 1: Should Silver City Utilities, Inc., be ordered to show cause, in writing, within 21 days, why it should not be fined for apparent violation of Section 367.081(1), Florida Statutes?

RECOMMENDATION: No. Show cause proceedings should not be initiated.

ISSUE 2: Should the transfer of facilities from Silver City Utilities to Silver City Oaks Inc., be approved?

RECOMMENDATION: Yes. The transfer to Silver City Oaks Inc., an exempt entity pursuant to Section 367.022(7), Florida Statutes, should be approved and Certificate No. 413-W should be cancelled effective March 27, 2002.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. No further action is required and the docket should be closed.

DECISION: The recommendations were approved.

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