

**MINUTES OF MARCH 4, 2003**

**COMMISSION CONFERENCE**

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

**ADJOURNED:** 11:45 a.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

February 4, 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) Application for certificate to provide alternative local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030063-TX	McGraw Communications, Inc.

PAA B) Applications for certificates to provide interexchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030070-TI	Innovative Communication Solutions, Inc.
030085-TI	IBN Intertelecom, Inc.
030044-TI	Business Network Long Distance, Inc.
030101-TI	Transcom Communications, Inc. d/b/a Comm Port Communications, Inc.
021113-TI	Telesphere, Inc. d/b/a Telesphere Services, Inc.
021165-TI	Florida Phone Systems, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030075-TC	Public Telephone Corporation
030131-TC	Holiday Travel Park Co-Op, Inc.
030145-TC	Kim's Seafood Market

PAA D) DOCKET NO. 021090-TX - Application for approval of transfer of control of Comm South Companies, Inc. d/b/a

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<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda  (Continued from previous page)  Florida Comm South (holder of ALEC Certificate No. 7742) from Arbros Communications, Inc. to Arcomm Holding Co.
PAA	E) DOCKET NO. 021268-TX - Application for transfer of ALEC Certificate No. 5324 from ALEC, Inc. d/b/a Volaris Telecom, Inc. to O1 Communications of Florida, Inc.
PAA	F) DOCKET NO. 021200-TP - Request for transfer of IXC Certificate No. 3179 from Vantas Management Virginia, Inc. and STS Certificate No. 3598 from Chicago Suites, Inc. d/b/a HQ Global Workplaces to HQ Global Workplaces, Inc.; and for cancellation of Vantas Management Virginia, Inc.'s STS Certificate No. 2688, effective 11/18/02.
PAA	G) DOCKET NO. 020921-TI - Joint application for approval of acquisition of assets of Premiere Communications, Inc. (holder of IXC Certificate No. 2958) by Voicecom Telecommunications, LLC, and transfer and name change on Premiere Communications, Inc.'s Certificate No. 2958 to Voicecom Telecommunications, LLC.
PAA	H) DOCKET NO. 030105-TI - Application for assignment of assets and transfer of IXC Certificate No. 5190 out of bankruptcy from Teleglobe USA Inc. to Teleglobe USA LLC, and for subsequent transfer of control of Teleglobe USA LLC to TLGB Corporation.

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2\*\* Consent Agenda

(Continued from previous page)

PAA I) DOCKET NO. 030018-TP - Joint application for approval of intracompany reorganization and merger transaction whereby Frontier Communications of America, Inc. ("Frontier", holder of ALEC Certificate No. 7599 and IXC Certificate No. 7600 and subsidiary of Citizens Communications Company) will be merged into Citizens Telecommunications Company d/b/a Citizens Communications Company ("Citizens", holder of IXC Certificate No. 4465 and subsidiary of Citizens Communications Company), with Citizens' IXC Certificate 4465 being canceled and service being provided under the name Frontier Communications of America, Inc.

PAA J) DOCKET NO. 030061-TI - Request for approval of change in corporate ownership whereby RNK Inc. d/b/a RNK Telecom, Inc. (holder of IXC Certificate No. 8265) will become a wholly owned subsidiary of RNK Holding Company.

PAA K) Requests for cancellation of interexchange telecommunications certificates.

DOCKET NO.	COMPANY NAME	EFFECTIVE DATE
030062-TI	QCC, Inc.	10/11/02
030043-TI	BCGI Communications Corp.	12/31/02
030142-TI	American Telecommunica- tions & Technology, Inc. d/b/a Amtel	12/31/02

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2**	Consent Agenda  (Continued from previous page)
PAA	L) DOCKET NO. 030136-TS - Request for cancellation of Shared Tenant Certificate No. 5247 by Interlink Communications Partnership, LLC d/b/a Charter Communications, effective 12/31/02.

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. 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: Dowds

GCL: Christensen

DECISION: The item was deferred.

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4\*\*PAADocket No. 021246-TX - Request for approval of transfer of assets and ALEC Certificate No. 7500 from Yipes Transmission, Inc. to Yipes Enterprise Services, Inc., due to plan of reorganization.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Hawkins  
GCL: Dodson

ISSUE 1: Should the Commission approve the request for approval to transfer the assets and certificate of Yipes Transmission, Inc. (holder of ALEC Certificate No. 7500) to Yipes Enterprise Services, Inc.?

RECOMMENDATION: Yes. The Commission should approve the request for approval to transfer the assets and certificate of Yipes Transmission, Inc. (holder of ALEC Certificate No. 7500) to Yipes Enterprise Services, Inc.

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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5\*\*PAADocket No. 020992-TI - Application for certificate to provide interexchange telecommunications service by NETEL, INC.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Pruitt  
GCL: Taylor

ISSUE 1: Should the Commission grant NETEL, INC. a certificate to provide interexchange telecommunications service within the state of Florida as provided by Section 364.337(3), Florida Statutes?

RECOMMENDATION: Yes. NETEL, INC. should be granted Florida Public Service Commission Certificate No. 8303.

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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6\*\*PAADocket No. 020326-TI - Application for certificate to provide interexchange telecommunications service by Gaecom Telecommunication, LLC.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Hawkins  
GCL: Taylor

ISSUE 1: Should the Commission grant Gaecom Telecommunication, Inc. (Gaecom) a certificate to provide interexchange telecommunications service within the state of Florida?

RECOMMENDATION: No. The Commission should not grant Gaecom a certificate to provide IXC service within the state of Florida and its application should be denied.

ISSUE 2: Should Docket No. 020326-TI be closed?

RECOMMENDATION: Yes. This docket should be closed upon the issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order.

DECISION: The recommendations were approved.

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

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7\*\*PAA Docket No. 021140-TI - Application for certificate to provide interexchange telecommunications service by AS System Technology, Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Williams  
GCL: Teitzman

ISSUE 1: Should the Commission grant AS System Technology, Corporation (AS) a certificate to provide interexchange telecommunications service within the state of Florida?

RECOMMENDATION: No. The Commission should not grant AS a certificate to provide IXC service within the state of Florida.

ISSUE 2: Should Docket No. 021140-TI be closed?

RECOMMENDATION: Yes. The docket 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.

DECISION: The recommendations were approved with the modification that the recommendation should indicate "PAA."

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

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8\*\*PAADocket No. 030072-TI - Bankruptcy cancellation by Florida  
Public Service Commission of IXC Certificate No. 7232 issued  
to PF.Net Network Services Corp., effective 12/31/02.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: Rojas

ISSUE 1: Should the Commission grant PF.Net Network  
Services Corp.'s request for cancellation of its IXC  
Certificate No. 7232 due to bankruptcy?

RECOMMENDATION: Yes. The Commission should grant the  
company a bankruptcy cancellation of its IXC Certificate No.  
7232 with an effective date of December 31, 2002. In  
addition, the Division of the Commission Clerk and  
Administrative Services will be notified that the 2002 RAF  
should not be sent to the Florida Department of Financial  
Services 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 carrier 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, Bradley, Davidson

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9\*\*PAADocket No. 030073-TC - Bankruptcy cancellation by Florida  
Public Service Commission of PATS Certificate No. 783 issued  
to Elcotel, Inc., effective 12/31/02.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay

ISSUE 1: Should the Commission grant Elcotel, Inc.'s  
request for cancellation of its PATS Certificate No. 783  
due to bankruptcy?

RECOMMENDATION: Yes. The Commission should grant the  
company a bankruptcy cancellation of its PATS Certificate  
No. 783 with an effective date of December 31, 2002. In  
addition, the Division of the Commission Clerk and  
Administrative Services will be notified that the 2002 RAF  
and 1997 penalty and interest charges should not be sent to  
the Florida Department of Financial Services 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, Bradley, Davidson

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10\*\*Docket No. 030001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: ECR: Bohrmann, McNulty, D. Lee, E. Draper, Springer  
GCL: C. Keating

ISSUE 1: Should the Commission approve a mid-course correction to Progress Energy Florida's (PEF) authorized capacity cost recovery factors to refund its projected \$21.1 million over-recovery for 2003?

RECOMMENDATION: Yes. The Commission should approve a mid-course correction to PEF's authorized capacity cost recovery factors to refund its projected end-of-period \$21.1 million over-recovery for 2003.

ISSUE 2: Should the Commission approve a mid-course correction to PEF's authorized fuel and purchased power cost recovery factors to collect \$28.5 million of its \$66.3 million under-recovery for 2002?

RECOMMENDATION: Yes. The Commission should approve a mid-course correction to PEF's authorized fuel and purchased power cost recovery factors to collect \$28.5 million of its \$66.3 million 2002 under-recovery during the remainder of 2003. This approval would mitigate the rate impact of PEF collecting this amount during 2004.

ISSUE 3: Should the Commission approve a mid-course correction to PEF's authorized fuel and purchased power cost recovery factors to collect its projected \$93.9 million under-recovery for 2003?

RECOMMENDATION: Yes. PEF's request for mid-course correction of its fuel factors should be approved for the following four reasons: 1) PEF's projected underrecovery based on the current factors exceeds the ten percent threshold for reporting purposes; 2) PEF's projected underrecovery is based on reasonable fuel price assumptions; 3) the proposed mid-course correction would most likely result in better price signals to PEF customers; and 4) the

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Docket No. 030001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.

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proposed mid-course correction may prevent more severe customer rate impacts in 2004. Any over-recovery that PEF collects due to the proposed fuel cost recovery factors will be refunded to PEF's ratepayers with interest.

ISSUE 4: If the Commission approves PEF's petition for a mid-course correction, in whole or in part, what should be the effective date of the mid-course correction?

RECOMMENDATION: The effective date should be the cycle one billing day for April 2003, which begins March 28, 2003. If the Commission does not approve staff's recommendations in Issues 1, 2 and 3, this issue is moot.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: No.

DECISION: The recommendations were approved.

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

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11\*\*Docket No. 030001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: ECR: Bohrmann, McNulty, E. Draper  
GCL: C. Keating, Helton

ISSUE 1: Should the Commission approve a mid-course correction to FPL's authorized fuel and purchased power cost recovery factors to collect its \$72.5 million under-recovery for 2002?

RECOMMENDATION: Yes. The Commission should approve FPL's petition for a mid-course correction to collect its \$72.5 million under-recovery for 2002. This approval would mitigate the rate impact of FPL collecting this amount during 2004.

DECISION: The recommendation was approved.

ISSUE 2: Should the Commission approve a mid-course correction to FPL's authorized fuel and purchased power cost recovery factors to collect FPL's projected \$274.9 million under-recovery in 2003?

PRIMARY RECOMMENDATION: Yes. FPL's request for mid-course correction of its fuel factors should be approved for the following four reasons: 1) FPL's projected under-recovery based on the current factors exceeds the ten percent threshold for reporting purposes; 2) FPL's projected under-recovery is based on reasonable fuel price assumptions; 3) the proposed mid-course correction would most likely result in better price signals to FPL customers; and 4) the proposed mid-course correction may prevent more severe customer rate impacts in 2004. Any over-recovery that FPL collects due to the proposed fuel cost recovery factors will be refunded to FPL's ratepayers with interest.

DECISION: The primary recommendation was approved.

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Docket No. 030001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.

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ALTERNATE RECOMMENDATION: No. For reasons set forth in staff's February 25, 2003 memorandum, the Commission should authorize FPL to collect \$101.2 million of its projected 2003 under-recovery during the remainder of 2003. The Commission should also authorize FPL to collect, subject to regulatory review, the remaining \$173.7 million of its projected 2003 under-recovery during 2004. If the Commission approves staff's recommendation in Issue 1 and alternate staff's recommendation in this issue, the Commission will have authorized FPL to collect its projected \$347.4 million under-recovery over a 21-month time period, compared with nine months as FPL requested.

DECISION: The alternative recommendation was denied.

ISSUE 3: If the Commission approves FPL's petition, in whole or in part, for a mid-course correction, what should be the effective date of the mid-course correction?

RECOMMENDATION: If the Commission does not approve staff's recommendations in Issues 1 and 2, this issue is moot. If the Commission approves staff's recommendations in Issue 1, Issue 2, or both, the effective date should be April 2, 2003.

DECISION: The recommendation was approved.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No.

DECISION: The recommendation was approved.

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



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11A\*\*Docket No. 030001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: ECR: Bohrmann, McNulty, Draper  
GCL: C. Keating

ISSUE 1: Should the Commission approve a mid-course correction to Tampa Electric's authorized fuel and purchased power cost recovery factors to collect its projected \$60.6 million under-recovery for 2003?

RECOMMENDATION: No. Instead, the Commission should authorize Tampa Electric to recover during the period April through December, 2003, \$34.6 million of its projected 2003 under-recovery of fuel and purchased power costs due to higher projected natural gas and residual oil prices. Also, the Commission should authorize Tampa Electric to recover in 2003 \$26.0 million of its 2002 under-recovery of \$28.6 million. The Commission would authorize Tampa Electric to collect a total of \$60.6 million from April through December, 2003. The Commission should defer recovery of the \$26.0 million in replacement power costs associated with the early shutdown of Gannon Units 1-4 until the Commission determines the prudence of this decision. Any over-recovery that Tampa Electric collects due to the proposed fuel cost recovery factors will be refunded to Tampa Electric's ratepayers with interest.

DECISION: The recommendation was approved. Additionally, staff was directed to schedule discussions with TECO, OPC, and FIPUG concerning early shutdown of Gannon Units 1-4.

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<u>ITEM NO.</u>	<u>CASE</u>
11A**	<p>Docket No. 030001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.</p> <p>(Continued from previous page)</p> <p><u>ISSUE 2</u>: If the Commission approves Tampa Electric's petition for a mid-course correction, what should be the effective date of the mid-course correction?</p> <p><u>RECOMMENDATION</u>: The effective date should be the cycle one billing day for April 2003, which falls on March 31, 2003. If the Commission does not approve recovery of any additional under-recovery amounts, this issue is moot.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 3</u>: Should this docket be closed?</p> <p><u>RECOMMENDATION</u>: No.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Bradley, Davidson</p>

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12\*\*Docket No. 030051-EG - Petition for modification of residential on-call program and for approval of residential load control pilot project by Florida Power & Light Company.

Critical Date(s): 3/17/03 (60-day suspension date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Haff, Baxter, Sickel  
GCL: Holley

ISSUE 1: Should FPL's Petition to Modify its Residential On-Call Program and Approve its Residential On-Call Pilot Project be approved?

RECOMMENDATION: Yes. Effective April 1, 2003, FPL's Residential On-Call Program should be closed to new participants and be replaced with FPL's proposed Residential On-Call Pilot Project. The proposed On-Call Pilot Project is expected to provide FPL with information on how load management customers respond to reduced monthly credits. The program is expected to continue to meet the policy objectives of the Florida Energy Efficiency and Conservation Act, to continue to be monitorable, and continue to be cost-effective.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, new Rate Schedule RLP and modified Rate Schedule RSL should become effective on April 1, 2003. If a protest is filed within 21 days of the issuance of the order, these tariffs should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
13**Docket No.	030005-WS - Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4) (a), F.S.
	Critical Date(s): 3/31/03 (Statutory reestablishment deadline.)
	Commissioners Assigned: Full Commission Prehearing Officer: Deason
	Staff: ECR: Fitch, Rendell GCL: Rodan

ISSUE 1: Should the Commission withdraw the provision in Proposed Agency Action Order No. PSC-03-0149-PAA-WS requiring that an affirmation be added to the price index application regarding the utility's active complaints, corrective orders, and outstanding citations with the Department of Environmental Protection, County Health Departments, and the Public Service Commission?

RECOMMENDATION: Yes. The affirmation requirement should be withdrawn from Proposed Agency Action Order No. PSC-03-0149-PAA-WS. According to the FWA, once the affirmation is withdrawn from the PAA order, it will withdraw its protest. Once the protest is withdrawn, the March 7, 2003 hearing should be cancelled and staff should initiate the rulemaking process. All other provisions of Proposed Agency Action Order No. PSC-03-0149-PAA-WS should remain intact and will become final since there was no protest concerning those provisions.

DECISION: The Commission acknowledged withdrawal of the protest, canceled the March 7, 2003 hearing, and closed the docket.

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<u>ITEM NO.</u>	<u>CASE</u>
13**	Docket No. 030005-WS - Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4) (a), F.S.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open until the FWA withdraws its protest. Once the withdrawal is received, staff will bring it to the Commission for acknowledgment, and the docket can be closed after the acknowledgment is made.

DECISION: The recommendation was denied. The docket will be closed as a result of today's decision.

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

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14\*\*Docket No. 020761-WU - Request for approval of revisions to water tariff regarding individual metering of multi-family and multi-unit structures by Florida Water Services Corporation.

Critical Date(s): 3/16/03 (8-month effective date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: ECR: Hudson  
GCL: Stern

ISSUE 1: Should Florida Water Services Corporation's proposed tariff revisions for the individual metering of newly constructed multi-family and multi-unit structures be approved?

RECOMMENDATION: No. Florida Water's proposed tariff revisions for the individual metering of newly constructed multi-family and multi-unit structures should not be approved. Staff recommends a workshop be scheduled to explore the potential costs and benefits of adopting individual metering of multi-family and multi-unit structures as a policy.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if no protest is filed within 21 days of the issuance of the order.

DECISION: The item was withdrawn.

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15\*\*Docket No. 020831-WS - Rescission by Nassau County of Resolution No. 2001-128, which rescinded Florida Public Service Commission jurisdiction over investor-owned water and wastewater systems in Nassau County.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: ECR: Rieger  
GCL: Gervasi

ISSUE 1: Should FPUC's Motion for Extension of Time to File Revised Tariff Sheets be granted?

RECOMMENDATION: Yes. FPUC should be given a 90-day extension of time from the issuance date of the Order arising from this recommendation within which to either file the revised tariff sheets required by Order No. PSC-02-1411-FOF-WS, or to file a transfer application pursuant to Rule 25-30.037(4), Florida Administrative Code, if the sale of its water division to the City of Fernandina Beach is consummated.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to allow FPUC time to revise its tariff to reflect a revised territory description of its service area or to file a transfer application pursuant to Rule 25-30.037(4), Florida Administrative Code. If FPUC files the revised tariff sheets, upon verification that the tariff sheets comply with Rule 25-30.035(9), Florida Administrative Code, an administrative order should be issued reflecting the revised territory description and closing the docket. If FPUC instead consummates the sale of its water division to the City, this docket should be closed administratively once the transfer application is filed and a new docket should be opened to process the transfer application.

DECISION: The item was deferred.

ITEM NO.

CASE

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16 Docket No. 020408-SU - Application for rate increase in  
Seminole County by Alafaya Utilities, Inc.

Critical Date(s): 3/11/03 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Fletcher, Merchant, Maurey

GCL: Vining

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

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

DECISION: The recommendation was approved.

ISSUE 2: Should an interim revenue increase be approved?

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

<u>Adjusted Test</u>		<u>Revenue</u>	
<u>Year Revenues</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
\$1,811,478	\$46,387	\$1,857,865	2.56%

DECISION: The recommendation was approved.

ISSUE 3: What are the appropriate interim rates?

RECOMMENDATION: The interim rates should be designed to  
allow the utility the opportunity to generate annual  
operating revenues of \$1,857,865, which represents an  
increase of \$46,387. To generate this revenue increase, the  
service rates in effect as of December 31, 2001, should be  
increased by ~~2.56%~~ 2.59%. 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 rates should not be



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16	Docket No. 020408-SU - Application for rate increase in Seminole County by Alafaya Utilities, Inc.
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implemented until the required security has been filed and proper notice has been received by the customers. The utility should provide proof to staff of the date notice was given within 10 days after the date of the notice.

DECISION: The recommendation was approved with the correction made by staff at the conference to change the percentage increase from 2.56% to 2.59%, as shown in the underlined text above.

ISSUE 4: What is the appropriate security to guarantee the interim increase?

RECOMMENDATION: A corporate undertaking is acceptable contingent upon receipt of the written guarantee of the parent company, Utilities, Inc. (UI), and written confirmation of UI's continued attestation that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states. UI should be required to file a corporate undertaking on behalf of its subsidiaries to guarantee any potential refunds of revenues collected under interim conditions. UI's total guarantee should be a cumulative amount of \$565,833, which includes the incremental amount subject to refund in this docket of \$31,057. 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 recommendation was approved.

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

<u>ITEM NO.</u>	<u>CASE</u>
17**Docket No.	010828-SU - Application for staff-assisted rate case in Highlands County by Harder Hall - Howard, Inc.
	Critical Date(s): None
	Commissioners Assigned: Full Commission
	Prehearing Officer: Baez
	Staff: ECR: Fitch GCL: Harris
PAA	<p><u>ISSUE 1:</u> Should HHH's rates be reduced to remove the rate impact of the pro forma plant items not completed by the utility?</p> <p><u>RECOMMENDATION:</u> Yes. Wastewater rates should be reduced by 16.64% (\$13,722) annually. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. The appropriate wastewater rates are reflected on Schedule A of staff's February 20, 2003 memorandum.</p> <p><u>ISSUE 2:</u> In the event of a protest of the PAA Order, what is the appropriate security to guarantee the amount subject to refund?</p> <p><u>RECOMMENDATION:</u> The security should be in the form of a bond or letter of credit in the amount of \$9,248. Alternatively, the utility could establish an escrow agreement with an independent financial institution. If security is provided through an escrow agreement, the utility should escrow 16.64% of its monthly wastewater services revenues as detailed in Issue No. 1. By no later than the twentieth day of each month, the utility should file a report showing the amount of revenues collected each month and the amount of revenues collected to date relating to the amount held 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.</p> <p><u>ISSUE 3:</u> Should HHH be ordered to show cause, in writing, within 21 days, why it should not be fined for failing to</p>

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Docket No. 010828-SU - Application for staff-assisted rate case in Highlands County by Harder Hall - Howard, Inc.

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complete all of the pro forma additions required by Order No. PSC-02-0382-PAA-SU?

RECOMMENDATION: No. A show cause proceeding should not be initiated.

ISSUE 4: Should the docket be closed?

RECOMMENDATION: Yes. If no timely protest is filed by a substantially affected person, this docket should be closed upon the issuance of a Consummating Order. If a protest is filed within 21 days of the issuance of the Order, the existing tariffs should remain in effect with the difference in revenues held subject to refund pending resolution of the protest, and the docket should remain open.

DECISION: The item was withdrawn.

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<u>ITEM NO.</u>	<u>CASE</u>
18**Docket No.	020707-SU - Application for transfer of Certificate No. 281-S from RealNor Hallandale, Inc. in Lee County to Bonita Springs Utilities, a not-for-profit corporation, and for cancellation of Certificate No. 281-S.
	Critical Date(s): None
	Commissioners Assigned: Full Commission Prehearing Officer: Davidson
	Staff: ECR: Clapp, Bass GCL: Echternacht
	<u>ISSUE 1</u> : Should the transfer of facilities from RealNor to BSU and the cancellation of Certificate No. 281-S be approved?
	<u>RECOMMENDATION</u> : Yes. The transfer of facilities from RealNor to BSU and the cancellation of Certificate No. 281-S as of January 7, 2003, should be approved. <u>Further, staff recommends that the utility should not be required to file a 2002 annual report, except for Schedule S-9 to support the 2002 RAFs.</u>
	<u>DECISION</u> : The recommendation was approved with modified language read by staff at conference and indicated by underlining in wording above.
	<u>ISSUE 2</u> : Should this docket be closed?
	<u>RECOMMENDATION</u> : Yes. This docket should be closed.
	<u>DECISION</u> : The recommendation was approved.
	Commissioners participating: Jaber, Deason, Baez, Bradley, Davidson

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19Docket No. 010098-TP - Petition by Florida Digital Network, Inc. for arbitration of certain terms and conditions of proposed interconnection and resale agreement with BellSouth Telecommunications, Inc. under the Telecommunications Act of 1996.

Critical Date(s): None

Commissioners Assigned: Jaber, Deason

Prehearing Officer: Deason

Staff: CMP: Dowds

GCL: Banks

ISSUE 1: What language should be included in the parties' agreement to memorialize the Commission's decision regarding the provision of FastAccess?

RECOMMENDATION: The recommendations on disputed language contained in the analysis portion of staff's February 20, 2003 memorandum should be reflected in the parties' agreement.

DECISION: The recommendation was approved with clarifications and modifications as discussed and made to Issues IV and VII in the conference and to be reflected by staff in its order.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendations in Issue 1, this docket should remain open in order that the parties may file their final interconnection agreement. Staff recommends that the parties be required to file the final interconnection agreement within 30 days from the issuance date of the Order resolving the disputed contract language.

DECISION: The recommendation was approved.

Commissioners participating: Jaber, Deason

ITEM NO.

CASE

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20Docket No. 030006-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): None

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

Staff: ECR: Lester  
GCL: Vining

ISSUE 1: Does the Commission have legal authority under Section 367.081(4) (f), Florida Statutes, to reestablish a utility's rate of return on common equity by the leverage graph formula where the utility already has a rate of return on common equity established by the Commission?

RECOMMENDATION: Yes. Together Sections 367.081(4) (f), 367.081(2) (a), and 367.0822, Florida Statutes, provide the Commission with the authority to adjust the rates of return on common equity for all water and wastewater utilities in one generic proceeding using the leverage formula.

ISSUE 2: Does the Commission have legal authority under Section 367.081(2) (a), Florida Statutes, to reestablish the range of returns on common equity for water and wastewater utilities that have previously established rates of return on common equity?

RECOMMENDATION: Yes. Together Sections 367.081(4) (f), 367.081(2) (a), and 367.0822, Florida Statutes, provide the Commission with the authority to adjust the rates of return on common equity for all water and wastewater utilities in one generic proceeding using the leverage formula.

ISSUE 3: Whether the Commission's proposed re-establishment of the range of returns on common equity for water and wastewater utilities that have previously established rates of return on common equity:

(a) violates or is inconsistent with Commission rules and/or policies for establishing rates and/or analyzing whether a utility is under-earning or over-earning;

(b) is arbitrary, capricious or speculative?

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Docket No. 030006-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.

(Continued from previous page)

RECOMMENDATION: (a) No. The reestablishment of ROEs for all water and wastewater utilities with an authorized ROE is consistent with Commission rules, policies, and prior action, and is within the Commission's discretion to implement its statutory obligations in an administratively efficient manner.

(b) No. The reestablishment of authorized ROEs is reasonable and appropriate, and not arbitrary, capricious, or speculative, given that the Commission updates its leverage formula annually resulting in ROEs that reflect current economic conditions. Further, the responsibility of the Commission to monitor the earnings of water and wastewater utilities can be managed only in the context of current ROEs and current economic conditions. Finally, updating the authorized ROEs of water and wastewater utilities in one generic proceeding rather than in many individual proceedings is administratively efficient and cost-effective.

ISSUE 4: Should the Commission use the current leverage formula to reestablish the authorized ROE for all water and wastewater utilities that currently have an authorized ROE?

RECOMMENDATION: Yes. Consideration of a utility's ROE, whether it is previously established or not, is within the Commission's jurisdiction, pursuant to Chapter 367, Florida Statutes. Given that many water and wastewater utilities have authorized ROEs outside the range set by the current leverage formula, and that the Commission can effectively monitor utility earnings only in the context of current ROEs, the Commission should utilize the current leverage formula to update the authorized ROEs for utilities that have authorized ROEs. One proceeding, rather than 94, for reestablishing these authorized ROEs is administratively efficient and cost-effective, which is in the public interest.

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<u>ITEM NO.</u>	<u>CASE</u>
20	Docket No. 030006-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.  (Continued from previous page)  <u>ISSUE 5:</u> Should this docket be closed? <u>RECOMMENDATION:</u> The docket should be closed after the time for filing an appeal has run.  <u>DECISION:</u> The item was deferred.



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21\*\*Docket No. 020999-TX - Complaint of Mel Citron against Supra Telecommunications and Information Systems, Inc. regarding quality of service.

Critical Date(s):

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

Staff: GCL: Banks  
CAF: Plescow  
CMP: McDonald

ISSUE 1: What action should the Commission take regarding Mr. Citron's protest to Order No. PSC-03-0066-PAA-TX, issued on January 8, 2003?

RECOMMENDATION: In this case there remains a factual disagreement as to what actually happened with Mr. Citron's service. Staff, therefore, recommends that the Commission send this matter to the Division of Administrative Hearings (DOAH) for a hearing to determine what actually happened regarding Mr. Citron's telecommunications service and any related billing dispute.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open for further DOAH proceedings.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Davidson

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22\*\*Docket No. 020413-SU - Initiation of show cause proceedings against Aloha Utilities, Inc. in Pasco County for failure to charge approved service availability charges, in violation of Order No. PSC-01-0326-FOF-SU and Section 367.091, Florida Statutes.

Critical Date(s): None

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

Staff: GCL: Gervasi  
ECR: Fletcher, Merchant, Willis

ISSUE 1: Should the Joint Withdrawal of Protests of Adam Smith Enterprises, Inc. and Aloha Utilities, Inc. be acknowledged?

RECOMMENDATION: Yes. The Joint Withdrawal of Protests should be acknowledged, and the PAA portions of Order No. PSC-02-1250-SC-SU should be made final effective March 4, 2003. All other pending motions and requests for orders resolving discovery disputes, as identified in the analysis portion of staff's February 20, 2003 memorandum, should be deemed moot by virtue of the protest withdrawals, and therefore need not be ruled upon. Finally, the escrow account described in the staff analysis may be closed, with all monies deposited therein, including any interest earned, reverting to the utility upon the expiration of the 30-day appeal time of the Order arising from this recommendation.

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: Deason, Bradley, Davidson