

MINUTES OF  
COMMISSION CONFERENCE, MARCH 5, 2002

COMMENCED: 9:35 a.m.

ADJOURNED: 1:40 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  
                    February 5, 2002 Regular Commission Conference

DECISION: The minutes were approved.

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

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>										
2**	Consent Agenda										
PAA	A) Application for certificate to provide alternative access vendor services.										
	<table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>020053-TA</td><td>Latin American Nautilus U.S.A. Inc.</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020053-TA	Latin American Nautilus U.S.A. Inc.						
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>										
020053-TA	Latin American Nautilus U.S.A. Inc.										
PAA	B) Applications for certificates 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>020056-TX</td><td>Momentum Business Solutions, Inc.</td></tr><tr><td>020043-TX</td><td>Wholesale Carrier Services, Inc.</td></tr><tr><td>020085-TX</td><td>Cinergy Communications Company</td></tr><tr><td>020078-TX</td><td>Consolidated Networks, Inc.</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020056-TX	Momentum Business Solutions, Inc.	020043-TX	Wholesale Carrier Services, Inc.	020085-TX	Cinergy Communications Company	020078-TX	Consolidated Networks, Inc.
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>										
020056-TX	Momentum Business Solutions, Inc.										
020043-TX	Wholesale Carrier Services, Inc.										
020085-TX	Cinergy Communications Company										
020078-TX	Consolidated Networks, Inc.										
PAA	C) 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>020044-TI</td><td>Wholesale Carrier Services, Inc.</td></tr><tr><td>011645-TI</td><td>Kiger Telephone &amp; Telephony, LLC</td></tr><tr><td>011655-TI</td><td>Weston Telecommunications, LLC</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020044-TI	Wholesale Carrier Services, Inc.	011645-TI	Kiger Telephone & Telephony, LLC	011655-TI	Weston Telecommunications, LLC		
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>										
020044-TI	Wholesale Carrier Services, Inc.										
011645-TI	Kiger Telephone & Telephony, LLC										
011655-TI	Weston Telecommunications, LLC										

Minutes of  
 Commission Conference  
 March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>														
2**	Consent Agenda  (Continued from previous page)														
PAA	D) Applications for certificates to provide pay telephone service.														
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>DOCKET NO.</u></th> <th style="text-align: left;"><u>COMPANY NAME</u></th> </tr> </thead> <tbody> <tr> <td>020089-TC</td> <td>Donald R. Peterson and Myrna A. Peterson d/b/a F.C. Communications</td> </tr> <tr> <td>020035-TC</td> <td>Sandra T. Avant d/b/a Avant Telcom</td> </tr> <tr> <td>020110-TC</td> <td>Broward County Board of Commissioners d/b/a Broward County Telecommunications Division</td> </tr> <tr> <td>020072-TC</td> <td>Mintesnot Hailemariam</td> </tr> <tr> <td>020096-TC</td> <td>Krinac, Inc.</td> </tr> <tr> <td>020073-TC</td> <td>Thomas J. Powers</td> </tr> </tbody> </table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020089-TC	Donald R. Peterson and Myrna A. Peterson d/b/a F.C. Communications	020035-TC	Sandra T. Avant d/b/a Avant Telcom	020110-TC	Broward County Board of Commissioners d/b/a Broward County Telecommunications Division	020072-TC	Mintesnot Hailemariam	020096-TC	Krinac, Inc.	020073-TC	Thomas J. Powers
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>														
020089-TC	Donald R. Peterson and Myrna A. Peterson d/b/a F.C. Communications														
020035-TC	Sandra T. Avant d/b/a Avant Telcom														
020110-TC	Broward County Board of Commissioners d/b/a Broward County Telecommunications Division														
020072-TC	Mintesnot Hailemariam														
020096-TC	Krinac, Inc.														
020073-TC	Thomas J. Powers														
PAA	E) Request for cancellation of interexchange telecommunications certificate.														
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>DOCKET NO.</u></th> <th style="text-align: left;"><u>COMPANY NAME</u></th> <th style="text-align: left;"><u>EFFECTIVE DATE</u></th> </tr> </thead> <tbody> <tr> <td>020080-TI</td> <td>Metrocall, Inc.</td> <td>12/31/01</td> </tr> </tbody> </table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>	020080-TI	Metrocall, Inc.	12/31/01								
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>													
020080-TI	Metrocall, Inc.	12/31/01													
PAA	F) DOCKET NO. 020054-TP - Emergency joint application for approval of assignment of assets and AAV/ALEC Certificate No. 4025 and IXC Certificate No. 2699 from Winstar Wireless, Inc. to Winstar Communications, LLC.														

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda  (Continued from previous page)
PAA	G) DOCKET NO. 010985-TX - Application for transfer of and name change on Alternative Local Exchange Telecommunications Certificate No. 4847 from CRG International, Inc. d/b/a Network One to OneStar Communications, 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  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
3**PAA	<p>Docket No. 020042-TP - Joint petition for waiver of Rule 25-4.118, F.A.C., to approve acquisition by Weston Telecommunications, LLC of certain assets of Easton Telecom Services, Inc. (holder of IXC Certificate No. 3989 and ALEC Certificate No. 5187).</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Hawkins GCL: Dodson</p> <p><u>ISSUE 1</u>: Should Weston be relieved in this instance of the carrier selection requirement of Rule 25-4.118, Florida Administrative Code? <u>RECOMMENDATION</u>: Yes. Staff agrees that Weston should be relieved in this instance of the carrier selection requirement of Rule 25-4.118, Florida Administrative Code. <u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. This 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.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of  
Commission Conference  
March 5, 2002

ITEM NO.

CASE

---

4\*\*PAA

Docket No. 011497-TL - Petition by Verizon Florida Inc. for approval to revise customer contact protocol.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Palecki

Staff: CMP: Schultz  
GCL: Teitzman

ISSUE 1: Should this Commission permit Verizon to recommend its own intraLATA toll service on new customer contacts after it informs customers that they have a choice of local toll providers and offers to read a list of all available intraLATA toll providers?

RECOMMENDATION: Yes. This Commission should permit Verizon to recommend its own intraLATA toll service on new customer contacts, after it informs customers that they have a choice of local toll providers and offers to read a list of all available intraLATA toll providers.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, the proposed agency action shall become final and effective 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 this order. If no protest to the proposed agency action is filed within 21 days of the date of issuance of the order, this docket should be closed administratively upon issuance of the Consummating Order.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
March 5, 2002

ITEM NO.

CASE

---

5\*\*PAA

Docket No. 020087-TL - Petition by BellSouth Telecommunications, Inc. for expedited review of pooling administrator's denial of request for additional numbering resources for the West Palm Beach Exchange (Royal Palm Beach) and for modification of expedited process for reviewing North American Numbering Plan Administration (NANPA) to include Pooling Administrator Code Denials.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

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

ISSUE 1: Should the Commission overturn NeuStar's decision to deny numbering resources for the Royal Palm Beach switch (WPBHFLRPDS0) in the West Palm Beach Exchange?

RECOMMENDATION: Yes. The Commission should overturn NeuStar's decision to deny the requested numbers, and direct NeuStar to provide BellSouth with numbering resources for the Royal Palm Beach switch (WPBHFLRPDS0) in the West Palm Beach Exchange.

ISSUE 2: Should the Commission apply the same process and guidelines for future Pooling Administrator's one thousand-block code denials as in the existing administrative process set up for NANPA ten thousand-block code denials?

RECOMMENDATION: Yes. Staff recommends that the Commission apply the same process and guidelines for future Pooling Administrator's one thousand-block code denials as in the existing administrative process set up for NANPA ten thousand-block code denials, as set forth in the analysis portion of staff's February 21, 2002 memorandum. If the Commission approves staff's recommendation, the expedited process should be posted on the Commission Web site, staff should be directed to administratively dispose of these petitions as set forth herein, and appropriate modifications should be made to the Administrative Procedures Manual (APM) to reflect this process.

Minutes of  
Commission Conference  
March 5, 2002

ITEM NO.

CASE

---

5\*\*PAA

Docket No. 020087-TL - Petition by BellSouth Telecommunications, Inc. for expedited review of pooling administrator's denial of request for additional numbering resources for the West Palm Beach Exchange (Royal Palm Beach) and for modification of expedited process for reviewing North American Numbering Plan Administration (NANPA) to include Pooling Administrator Code Denials.

(Continued from previous page)

ISSUE 3: 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  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
6**PAA	Docket No. 011286-TP - Request for approval of consummation of transaction arising out of Chapter 11 status whereby all Florida operations and assets of Teligent Services, Inc., holder of ALEC Certificate No. 4804, IXC Certificate No. 4850, and AAV Certificate No. 4707, will be assigned from Teligent, Inc. to TAC License Corp., a wholly owned subsidiary of Teligent Acquisition Corp.; and request for assignment and name change on ALEC Certificate No. 4804, IXC Certificate No. 4850, and AAV Certificate No. 4707 from Teligent to TAC.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Williams  
GCL: Elliott

ISSUE 1: Should Order No. PSC-01-2154-PAA-TP, issued November 5, 2001, and Order No. PSC-01-2437-CO-TP, issued December 13, 2001, be vacated in part, in regard to the assignment and name change on ALEC Certificate No. 4804, IXC Certificate No. 4850, and AAV Certificate No. 4707?

RECOMMENDATION: Yes. The Commission should vacate in part Order No. PSC-01-2154-PAA-TP, issued November 5, 2001, and Order No. PSC-01-2437-CO-TP, issued December 13, 2001, in regard to the assignment and name change on ALEC Certificate No. 4804, IXC Certificate No. 4850, and AAV Certificate No. 4707.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon issuance of the Commission's Order to vacate in part Order No. PSC-01-2154-PAA-TP, issued November 5, 2001, and Order No. PSC-01-2437-CO-TP, issued December 13, 2001.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
March 5, 2002

ITEM NO.

CASE

---

7\*\*PAA

Docket No. 011008-TI - Application for certificate to provide interexchange telecommunications service by TELECUBA, INC. (Deferred from February 19, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

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

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

RECOMMENDATION: Yes. TELECUBA, INC. should be granted Interexchange Telecommunications Certificate No. 8055 to operate within Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the expiration of the protest period and issuance of a Consummating Order. If a person whose substantial interests are affected by the Commission's proposed agency action files a written protest within 21 days of the issuance date of the proposed agency action, the docket should remain open.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
8**PAA	<p>Docket No. 011270-TC - Application for certificate to provide pay telephone service by Carey Lannon d/b/a Wired Communications.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Pruitt GCL: K. Pena, B. Keating</p> <p><u>ISSUE 1</u>: Should the Commission grant Carey Lannon d/b/a Wired Communications a certificate to provide pay telephone service in the State of Florida as provided by Section 364.3375, Florida Statutes? <u>RECOMMENDATION</u>: No. The applicant should not be granted a certificate to provide pay telephone service in Florida.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.</p>

DECISION: The recommendations were approved.

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

<u>ITEM NO.</u>	<u>CASE</u>
9**PAA	<p>Docket No. 010828-SU - Application for staff-assisted rate case in Highlands County by Harder Hall - Howard, Inc.</p> <p>Critical Date(s): 11/8/02 (15-month effective date)</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: ECR: Costner, Fitch, Wetherington GCL: Harris</p> <p><u>ISSUE 1</u>: Is the quality of service provided by Harder Hall-Howard Utilities to its customers satisfactory? <u>RECOMMENDATION</u>: Yes. Based on the quality of product and plant being satisfactory, as well as the utility's attempt to address customer satisfaction, staff recommends that the quality of service of the utility be considered satisfactory.</p> <p><u>ISSUE 2</u>: What portions of the wastewater treatment plant and wastewater collection system should be considered used and useful? <u>RECOMMENDATION</u>: The wastewater treatment plant should be considered 52.7% used and useful and the wastewater collection system should be considered 49.6% used and useful.</p> <p><u>ISSUE 3</u>: What is the appropriate test year rate base for the utility? <u>RECOMMENDATION</u>: The appropriate test year rate base for the utility is \$99,201. The utility should be required to complete all pro forma additions, as discussed in the analysis portion of staff's February 21, 2002 memorandum, within nine months of the effective date of the Commission Order.</p> <p><u>ISSUE 4</u>: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility? <u>RECOMMENDATION</u>: The appropriate rate of return on equity is 10.00% with a range of 9.00% - 11.00%. The appropriate overall rate of return for the utility is 10.00%.</p>

ITEM NO.

CASE

9\*\*PAA

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

(Continued from previous page)

ISSUE 5: What is the appropriate test year revenue?

RECOMMENDATION: The appropriate test year revenue for this utility is \$57,752 for wastewater.

ISSUE 6: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense for this utility is \$72,546.

ISSUE 7: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement is \$82,466 for wastewater.

ISSUE 8: What are the appropriate rates for the system?

RECOMMENDATION: The recommended rates should be designed to produce revenue of \$82,466 excluding miscellaneous service charge revenue, as shown in the staff analysis. 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 rates should not be implemented until notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

ISSUE 9: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The wastewater rates should be reduced, as shown on Schedule No. 4 of staff's memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price

ITEM NO.

CASE

9\*\*PAA

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

(Continued from previous page)

index or pass-through rate adjustment, separate data should be filed for the price index or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

ISSUE 10: What are the appropriate customer deposits for this utility?

RECOMMENDATION: The appropriate customer deposits should be as specified in the staff analysis. 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 the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the customer deposits should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 11: Should HHH's request to implement a late payment charge be approved and, if so, what is the appropriate charge?

RECOMMENDATION: Yes. The utility should be allowed to implement a \$3.00 late payment charge. 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 the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the late payment charges should become effective on the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 12: Should the utility's service availability charges be revised?

RECOMMENDATION: No. The utility's service availability charges should not be revised.

ITEM NO.

CASE

9\*\*PAA

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

(Continued from previous page)

ISSUE 13: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility should file reports with the Division of the Commission Clerk and Administrative Services no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund.

ISSUE 14: Should HHH be ordered to show cause, in writing, within 21 days, why it should not be fined for failure to comply with its tariff, in apparent violation of Sections 367.081(1), and 367.091(3), Florida Statutes?

RECOMMENDATION: No. Show cause proceedings should not be initiated at this time. The utility should hereby be put on notice that it must continue to comply with its tariff and bill accordingly in the future.

ISSUE 15: Should this docket be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional nine months from the effective date of the Order to allow staff to

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
9**PAA	Docket No. 010828-SU - Application for staff-assisted rate case in Highlands County by Harder Hall - Howard, Inc.  (Continued from previous page)  verify completion of pro forma plant items as described in Issue No. 4. Once staff has verified that this work has been completed, the docket should be closed administratively.

DECISION: The recommendations were approved.

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



Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
10**	<p>Docket No. 011006-SU - Application for amendment of Certificate No. 247-S to extend service area in Lee County, by North Fort Myers Utility, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: ECR: Walden GCL: Brubaker</p> <p><u>ISSUE 1</u>: Should NFMU's Motion to Dismiss Objection of Mr. Hale be granted? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: Should the utility's request to amend its certificated territory be approved? <u>RECOMMENDATION</u>: Yes. The utility's request to amend its certificated territory should be approved. The recommended territory is described in Attachment A of staff's February 21, 2002 memorandum.</p> <p><u>ISSUE 3</u>: Should the docket be closed? <u>RECOMMENDATION</u>: The docket can be closed.</p> <p><u>DECISION</u>: This item was deferred.</p>

Minutes of  
Commission Conference  
March 5, 2002

ITEM NO.

CASE

---

11\*\*

Docket No. 011344-WS - Resolution No. 2001-128 by Nassau County, in accordance with Section 367.171, F.S., rescinding Florida Public Service Commission jurisdiction over investor-owned water and wastewater systems in Nassau County. (Deferred from January 22, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Rieger, Mailhot  
GCL: Crosby, Gervasi

ISSUE 1: Should the Commission acknowledge Resolution No. 2001-128, rescinding the Commission's jurisdiction over investor-owned water and wastewater utilities in Nassau County effective September 17, 2001?

RECOMMENDATION: Yes. The Commission should acknowledge Resolution No. 2001-128, rescinding the Commission's jurisdiction over investor-owned water and wastewater utilities in Nassau County, effective September 17, 2001. Certificate No. 001-W, held by Florida Public Utilities Company (FPUC), should be canceled and returned to the Commission within 30 days from when FPUC is no longer a party to, or at the conclusion of, Docket No. 990817-WS. The cancellation of the certificate does not affect the authority of the Commission to collect, or the obligation of FPUC to pay, regulatory assessment fees accrued prior to the September 17, 2001, transfer of jurisdiction to the County.

PAA

ISSUE 2: Does the Commission retain exclusive jurisdiction over United Water Florida Inc.'s (UWF) facilities in Nassau County pursuant to Section 367.171(7), Florida Statutes?

RECOMMENDATION: Yes. Pursuant to Section 367.171(7), Florida Statutes, because UWF operates as a single utility system transversing county boundaries, the County resolution does not rescind the Commission's exclusive jurisdiction over UWF's facilities in Nassau County, as well as in St. Johns and Duval Counties.

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
11**	Docket No. 011344-WS - Resolution No. 2001-128 by Nassau County, in accordance with Section 367.171, F.S., rescinding Florida Public Service Commission jurisdiction over investor-owned water and wastewater systems in Nassau County. (Deferred from January 22, 2002 conference; revised recommendation filed.)

(Continued from previous page)

PAA ISSUE 3: Does the Commission retain exclusive jurisdiction over Florida Water Services Corporation's (FWSC) facilities in Nassau County pursuant to Section 367.171(7), Florida Statutes?

RECOMMENDATION: Yes. Because FWSC's facilities in Nassau County are part of a single utility system transversing county boundaries between Nassau and Duval Counties, the County resolution does not rescind the Commission's exclusive jurisdiction over FWSC's facilities in Nassau County.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. If no protest is received from a substantially affected person to the proposed agency action issues, a consummating order should be issued and this docket should remain open until Docket No. 990817-WS has been closed, after which time this docket should be closed administratively and FPUC'S Certificate No. 001-W should be cancelled.

DECISION: This item was deferred.

ITEM NO.

CASE

---

12\*\*

Docket No. 010119-WS - Application for transfer of facilities of Steeplechase Utility Company, Inc., holder of Certificate Nos. 515-W and 447-S in Marion County, to Florida Water Services Corporation, holder of Certificate Nos. 373-W and 322-S, for cancellation of Certificates 515-W and 447-S, and for amendment of Certificates 373-W and 322-S.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: ECR: Clapp, Iwenjiora, Rieger  
GCL: Brubaker

ISSUE 1: Should the Commission order Steeplechase or Florida Water to show cause, in writing within 21 days, why it should not be fined for failing to charge its authorized wastewater rates, in apparent violation of Section 367.081(1), Florida Statutes?

RECOMMENDATION: No. The Commission should not order Steeplechase and/or Florida Water to show cause, in writing within 21 days, why it should not be fined for failing to charge its authorized wastewater rates, in apparent violation of Section 367.081(1), Florida Statutes. Staff recommends that the utility should impute the revenues that would have been generated if the tariffed gallonage cap had been billed for residential wastewater service. Florida Water should be required to pay its regulatory assessment fees (RAFs) based upon the imputed amount through June 1, 2003. Florida Water should be put on notice that after June 1, 2003, the utility should commence billing in accordance with its tariff, and should continue doing so until authorized to change by this Commission in a subsequent proceeding.

ISSUE 2: Should the transfer of facilities of Steeplechase to Florida Water, the cancellation of Certificates Nos. 515-W and 447-S, and the amendment of Certificates No. 373-W and 322-S be approved?

RECOMMENDATION: Yes. The transfer of facilities of Steeplechase to Florida Water, the cancellation of

<u>ITEM NO.</u>	<u>CASE</u>
12**	<p>Docket No. 010119-WS - Application for transfer of facilities of Steeplechase Utility Company, Inc., holder of Certificate Nos. 515-W and 447-S in Marion County, to Florida Water Services Corporation, holder of Certificate Nos. 373-W and 322-S, for cancellation of Certificates 515-W and 447-S, and for amendment of Certificates 373-W and 322-S.</p> <p>(Continued from previous page)</p> <p>Certificates Nos. 515-W and 447-S, and the amendment of Certificates No. 373-W and 322-S should be approved. A description of the territory being transferred is appended to staff's February 21, 2002 memorandum as Attachment A.</p>
PAA	<p><u>ISSUE 3</u>: What is the rate base of Steeplechase at the time of transfer?</p> <p><u>RECOMMENDATION</u>: The rate bases, which for transfer purposes reflect the net book value, are \$122,498 for the water system and (\$139,747) for the wastewater system as of December 31, 2000.</p>
PAA	<p><u>ISSUE 4</u>: Should an acquisition adjustment be approved?</p> <p><u>RECOMMENDATION</u>: No. An acquisition adjustment was not requested; therefore, an acquisition adjustment should not be included in the calculation of rate base for transfer purposes.</p>
PAA	<p><u>ISSUE 5</u>: Should the rates and charges approved for this utility be continued?</p> <p><u>RECOMMENDATION</u>: Yes. Florida Water should continue charging the rates and charges approved for this utility system until authorized to change by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets. The utility should be required to file a tariff prior to providing reuse service.</p>

Minutes of  
Commission Conference  
March 5, 2002

ITEM NO.

CASE

---

12\*\*

Docket No. 010119-WS - Application for transfer of facilities of Steeplechase Utility Company, Inc., holder of Certificate Nos. 515-W and 447-S in Marion County, to Florida Water Services Corporation, holder of Certificate Nos. 373-W and 322-S, for cancellation of Certificates 515-W and 447-S, and for amendment of Certificates 373-W and 322-S.

(Continued from previous page)

ISSUE 6: Should this docket be closed?

RECOMMENDATION: Yes. If no timely protest is received to the proposed agency action issues, a Consummating Order should be issued upon the expiration of the protest period. Should no timely protests be received, the docket should be closed.

DECISION: This item was deferred.

<u>ITEM NO.</u>	<u>CASE</u>
13**	<p>Docket No. 010852-WS - Application for transfer of Certificate Nos. 514-W and 446-S in Bay County from Sandy Creek Utilities, Inc. to Sandy Creek Utility Services, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: ECR: Johnson, Kaproth, Redemann GCL: Crosby, Helton</p> <p><u>ISSUE 1:</u> Should the transfer of Certificate Nos. 514-W and 446-S from Sandy Creek to SCUSI be approved? <u>RECOMMENDATION:</u> Yes. The transfer of Certificate Nos. 514-W and 446-S from Sandy Creek to SCUSI should be approved. The utility is current on its 2000 regulatory assessment fees (RAFs) and annual reports. Sandy Creek should be responsible for remitting to the Commission the 2001 RAFs accruing up to and including June 15, 2001, the date of the transfer. Sandy Creek should also be responsible for submitting an annual report for this time period. SCUSI should be responsible for payment of the 2001 RAFs associated with revenues collected after the transfer date and all future RAFs and annual reports that should be submitted to the Commission. A description of the territory served by the utility is appended to staff's February 21, 2002 memorandum as Attachment A.</p>
PAA	<p><u>ISSUE 2:</u> What is the rate base of Sandy Creek Utilities, Inc. at the time of transfer? <u>RECOMMENDATION:</u> The rate bases, which for transfer purposes reflect the net book value, are \$138,415 for the water system and \$190,667 for the wastewater system as of June 15, 2001. SCUSI should be put on notice that it is required to maintain the utility's books and records in conformance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA).</p>
PAA	<p><u>ISSUE 3:</u> Should an acquisition adjustment be included in the calculation of rate base? <u>RECOMMENDATION:</u> No. SCUSI has not requested an acquisition adjustment and there are no extraordinary circumstances in this case to warrant the inclusion of an acquisition</p>

ITEM NO.

CASE

---

13\*\*

Docket No. 010852-WS - Application for transfer of Certificate Nos. 514-W and 446-S in Bay County from Sandy Creek Utilities, Inc. to Sandy Creek Utility Services, Inc.

(Continued from previous page)

adjustment. Staff recommends that no acquisition adjustment should be included in the calculation of rate base.

ISSUE 4: Should the rates and charges approved for this utility be continued?

RECOMMENDATION: Yes. SCUSI should continue charging the rates and charges approved for this utility system until authorized to change by the Commission in a subsequent proceeding. The tariff reflecting the change in ownership should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

PAA

ISSUE 5: Should the utility file a wastewater tariff reflecting the reclaimed water class of service for the Sandy Creek Ranch Golf Course?

RECOMMENDATION: Yes. The utility should be required to file a wastewater tariff reflecting the reclaimed water class of service at a zero rate for the Sandy Creek Ranch Golf Course within 30 days of the effective date of the order approving the transfer. Staff should be given the authority to administratively approve the tariff provided it is consistent with the Commission's decision. The tariff should be effective for services rendered on or after the stamped approval date of the tariff. The utility should return to the Commission for a determination regarding rates for reclaimed water service prior to providing that service to any other customers. The utility should be required to file a copy of the golf course agreement within 30 days of the consummating order.



Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
13**	Docket No. 010852-WS - Application for transfer of Certificate Nos. 514-W and 446-S in Bay County from Sandy Creek Utilities, Inc. to Sandy Creek Utility Services, Inc.

(Continued from previous page)

ISSUE 6: Should this docket be closed?

RECOMMENDATION: Yes. If no timely protest is received to the proposed agency action issues, upon the expiration of the protest period a Consummating Order should be issued and the docket should be closed.

DECISION: The recommendations were approved. Commissioner Deason dissented on Issue 3.

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

<u>ITEM NO.</u>	<u>CASE</u>
14**	<p>Docket No. 010506-WU - Application for transfer of a portion of the water facilities operated by A. P. Utilities, Inc., holder of Certificate No. 380-W in Marion County, to Marion County Utilities.</p> <p>Critical Date(s):</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Jaber</p> <p>Staff: ECR: Clapp, Kaproth, Walden GCL: Crosby, Helton</p> <p><u>ISSUE 1</u>: Should APU be ordered to show cause, in writing within 21 days, why it should not be fined for serving outside its certificated territory in apparent violation of Section 367.045(2), Florida Statutes? <u>RECOMMENDATION</u>: No. A show cause proceeding should not be initiated.</p> <p><u>ISSUE 2</u>: Should the transfer of a portion of APU's water systems to the County be approved as a matter of right and should Water Certificate No. 380-W be amended to reflect the deletion of territory? <u>RECOMMENDATION</u>: Yes. The transfer of a portion of APU's water systems to the County should be approved as a matter of right pursuant to Section 367.071(4)(a), Florida Statutes, and Water Certificate No. 380-W should be amended to reflect the territory deletion effective June 26, 2001, which is the closing date of the sale. A description of the territory remaining after the partial transfer is appended to staff's February 21, 2002 memorandum as Attachment A.</p> <p>PAA <u>ISSUE 3</u>: Should the Commission open a docket to examine whether APU's sale of its facilities involves a gain that should be shared with APU's remaining customers? <u>RECOMMENDATION</u>: No. The Commission should not open a docket to examine whether APU's sale of its facilities involves a gain that should be shared with APU's remaining customers.</p>

Minutes of  
Commission Conference  
March 5, 2002

ITEM NO.

CASE

---

14\*\*

Docket No. 010506-WU - Application for transfer of a portion of the water facilities operated by A. P. Utilities, Inc., holder of Certificate No. 380-W in Marion County, to Marion County Utilities.

(Continued from previous page)

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. If no protest is received to the proposed agency action issue, the 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  
March 5, 2002

ITEM NO.

CASE

15\*\*PAA

Docket No. 011365-EQ - Petition for approval of amendment to cogeneration contract with Bay County Resource Recovery Facility by Florida Power Corporation. (Deferred from January 8, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Harlow, Bohrmann, Breman, D. Lee  
GCL: Elias

ISSUE 1: Should Florida Power Corporation's petition for approval of an amendment to the purchased power contract with the Bay County Resource Recovery Facility be approved?

RECOMMENDATION: No. The amendment will: 1) Increase ratepayer costs by \$610,000, immediately, in exchange for estimated benefits that do not occur until 2007; 2) Remove the benefit of zero capacity payments for firm energy from 2013 through 2022; 3) Immediately eliminate Bay County's contingent liability, currently valued at \$21.1 million, which was designed to reimburse ratepayers for early capacity payments in the event Bay County did not perform; and, 4) Expose ratepayers to the uncertainties of the wholesale market from 2007 through 2022. Given these facts, the expected benefits, which are based on replacement power cost estimates through 2022, are not large enough to provide ratepayers with reasonable assurances that savings will actually materialize.

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 recommendation for this item was withdrawn.

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
16	<p>Docket No. 011615-TP - Complaint of KMC Telecom III, Inc. for enforcement of interconnection agreement with Sprint-Florida, Incorporated. (Deferred from February 19, 2002 conference; revised recommendation filed.)</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Jaber</p> <p>Staff: GCL: Teitzman, Fordham CMP: Barrett</p> <p><u>ISSUE 1</u>: Should KMC's Request for Oral Argument on its Response to Sprint's Motion to Dismiss Complaint be granted? <u>RECOMMENDATION</u>: Yes. The parties should be granted oral argument, because it may aid the Commission in its consideration of the complex issues to be addressed.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 2</u>: Should the Commission grant Sprint's Motion to Dismiss? <u>RECOMMENDATION</u>: Yes. The Commission should grant Sprint's Motion to Dismiss.</p> <p><u>DECISION</u>: No vote was taken on this issue. Parties are to begin the negotiation process effective March 5, 2002.</p> <p><u>ISSUE 3</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If the Commission approves staff's recommendation in Issue 2, the docket should be closed upon issuance of the order.</p> <p><u>DECISION</u>: The recommendation was denied. The docket is to remain open.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of  
Commission Conference  
March 5, 2002

ITEM NO.

CASE

---

17\*\*

Docket No. 991936-TI - Initiation of show cause proceedings against Western Telecom for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries, and Section 364.604, F.S., Billing Practices.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Palecki

Staff: GCL: Knight  
CMP: M. Watts

ISSUE 1: Should this docket be closed?

RECOMMENDATION: Yes.

DECISION: The recommendation was approved.

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

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
18**	<p>Docket No. 991437-WU - Application for increase in water rates in Orange County by Wedgefield Utilities, Inc.</p> <p>Critical Date(s): 4/30/02 (extended 8-month effective date)</p> <p>Commissioners Assigned: Jaber, Deason, Baez Prehearing Officer: Jaber</p> <p>Staff: ECR: Kyle, Merchant GCL: Christensen</p> <p><u>ISSUE 1:</u> Should the Commission grant Wedgefield Utilities, Inc. and the Office of Public Counsel's Joint Motion Seeking Commission Approval of Settlement Agreement? <u>RECOMMENDATION:</u> Yes. The Commission should grant Wedgefield Utilities, Inc. and the Office of Public Counsel's Joint Motion Seeking Commission Approval of Settlement Agreement and approve the settlement agreement in its entirety.</p> <p><u>ISSUE 2:</u> What are the appropriate water rates? <u>RECOMMENDATION:</u> If the Commission approves the settlement agreement, monthly rates as shown on Attachment B of staff's February 21, 2002 memorandum should be effective as permanent rates for service rendered as of the stamped approval date on the tariff sheets provided customers have received notice required by Rule 25-30.475, Florida Administrative Code. The utility should provide an affidavit to the Commission of the date notice was given to the customers within ten days after the date of the customer notice.</p> <p><u>ISSUE 3:</u> Should this docket be closed? <u>RECOMMENDATION:</u> Yes. If the Commission approves staff's recommendations on Issues 1 and 2, then this docket should be closed upon the issuance of the final order approving the settlement agreement.</p>

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Deason, Baez

<u>ITEM NO.</u>	<u>CASE</u>
19	<p>Docket 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. (Deferred from December 17, 2001 conference; revised recommendation filed.)</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Jaber, Deason, Palecki Prehearing Officer: Deason</p> <p>Staff: CMP: Dowds GCL: Banks, Fudge MMS: Bethea, Ollila</p> <p><u>LEGAL ISSUE A</u>: What is the Commission's jurisdiction in this matter?</p> <p><u>RECOMMENDATION</u>: Staff believes that the Commission has jurisdiction pursuant to Chapter 364, Florida Statutes, and Section 252 of the Federal Telecommunications Act of 1996 (Act) to arbitrate interconnection agreements, and may implement the processes and procedures necessary to do so in accordance with Section 120.80 (13)(d), Florida Statutes. 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 required. This section requires this Commission to conclude the resolution of any unresolved issues not later than nine months after the date on which the ILEC received the request under this section. In this case, however, the parties have explicitly waived the nine-month requirement set forth in the Act.</p> <p>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.</p>



ITEM NO.

CASE

---

19 Docket 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. (Deferred from December 17, 2001 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 1: For purposes of the new interconnection agreement, should BellSouth be required to provide xDSL service over UNE loops when FDN is providing voice service over that loop?

RECOMMENDATION: (a) Staff recommends that for the purposes of the new interconnection agreement, where BellSouth has deployed a DSLAM in the remote terminal for the purposes of providing DSL service to customers served by that remote terminal, BellSouth should be required to provide a broadband UNE that includes unbundled DSL-capable transmission facilities between the customer's Network Interface Device and BellSouth's central office, including attached electronics that perform DSL multiplexing and splitting functionalities in the remote terminal. (b) Staff recommends the Commission not require BellSouth to offer either its FastAccess Internet Service or its DSL transport service to FDN for resale in the new BellSouth/FDN interconnection agreement. (c) Finally, staff recommends the Commission not require BellSouth to continue to provide its FastAccess Internet Service to end users who obtain voice service from FDN over UNE loops.

ISSUE 11: Should this docket be closed?

RECOMMENDATION: No. The parties should be required to submit a signed agreement that complies with the Commission's decisions in this docket for approval within 30 days of issuance of the Commission's Order. This docket should remain open pending Commission approval of the final arbitration agreement in accordance with Section 252 of the Telecommunications Act of 1996.

DECISION: This item was deferred.

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
20	<p>Docket No. 950379-EI - Determination of regulated earnings of Tampa Electric Company pursuant to stipulations for calendar years 1995 through 1999.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Jaber, Baez Prehearing Officer: Baez</p> <p>Staff: ECR: Merchant, Willis GCL: Vining</p> <p><u>ISSUE 1</u>: Should the Commission grant OPC's Motion for Reconsideration of Order No. PSC-01-2515-FOF-EI? <u>RECOMMENDATION</u>: No. OPC has not demonstrated that the Commission overlooked or failed to consider a material and relevant point of fact or law; accordingly, OPC's Motion for Reconsideration should be denied.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: The docket should be closed after the time for filing an appeal has run.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Baez</p>

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
21	<p>Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Jaber, Baez, Palecki Prehearing Officer: Palecki</p> <p>Staff: CMP: King, Barrett, J-E Brown, T. Brown, Schultz, Turner GCL: Knight, Christensen, B. Keating</p> <p><u>ISSUE I</u>: Should Supra's February 13, 2002, Motion for Oral Argument be granted? <u>RECOMMENDATION</u>: No. Staff recommends that oral argument on Issue 1 be denied.</p> <p><u>DECISION</u>: The recommendation was denied.</p> <p><u>ISSUE II</u>: Should Supra's February 18, 2002, Motion for Oral Argument be granted? <u>RECOMMENDATION</u>: No. Staff recommends that Supra's request be denied.</p> <p><u>DECISION</u>: The recommendation was denied.</p> <p><u>ISSUE III</u>: Should Supra's Motion for Rehearing, Appointment of a Special Master, and Indefinite Deferral be granted? <u>RECOMMENDATION</u>: No. The Commission should deny Supra's Motion for Rehearing, Appointment of a Special Master, and Indefinite Deferral.</p> <p><u>DECISION</u>: The recommendation was approved with a modification to include denial of Supra's oral modification to its motion for referral to DOAH instead of appointment of a Special Master.</p>

<u>ITEM NO.</u>	<u>CASE</u>
21	<p>Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)</p> <p>(Continued from previous page)</p> <p><u>ISSUE IV</u>: Should Supra's Renewed Motion for Indefinite Stay and In the Alternative Renewed Motion for Oral Argument be granted?</p> <p><u>RECOMMENDATION</u>: No. Staff recommends that Supra's motion is an improper, premature pleading not contemplated by Order No. PSC-02-0202-PCO-TP, Commission rules, or the Rules of Civil Procedure.</p> <p><u>DECISION</u>: The recommendation was approved with a modification to the extent that oral argument was granted.</p> <p><u>ISSUE B</u>: Which agreement template shall be used as the base agreement into which the Commission's decision on the disputed issues will be incorporated?</p> <p><u>RECOMMENDATION</u>: BellSouth's most current template agreement should be used as the base agreement into which the Commission's decision on disputed issues will be incorporated.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 1</u>: What are the appropriate fora for the submission of disputes under the new agreement?</p> <p><u>RECOMMENDATION</u>: Staff believes that the appropriate forum for the submission of disputes under the new agreement is the Commission.</p> <p><u>DECISION</u>: The recommendation was approved. Commissioner Palecki dissented.</p> <p><u>ISSUE 4</u>: Should the Interconnection Agreement contain language to the effect that it will not be filed with the Florida Public Service Commission for approval prior to an</p>

Minutes of  
Commission Conference  
March 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
21	<p>Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)</p> <p>(Continued from previous page)</p> <p>ALEC obtaining ALEC certification from the Florida Public Service Commission?</p> <p><u>RECOMMENDATION</u>: Yes. The agreement should include language that it will not be filed with the Florida Public Service Commission for approval prior to an ALEC obtaining ALEC certification from this Commission.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 5</u>: Should BellSouth be required to provide to Supra a download of all of BellSouth's Customer Service Records ("CSRs")?</p> <p><u>RECOMMENDATION</u>: No. BellSouth should not be required to allow Supra to download all CSRs as that would be contrary to the Telecommunications Act's prohibitions against unauthorized access or disclosure of Customer Proprietary Network Information (CPNI).</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 10</u>: Should the rate for a loop be reduced when the loop utilizes Digitally Added Main Line (DAML) equipment?</p> <p><u>RECOMMENDATION</u>: No. Staff recommends that BellSouth's rate for a loop should not be reduced when the loop utilizes Digitally Added Main Line (DAML) equipment. When changes are to be made to an existing Supra loop that may adversely affect the end user, BellSouth should provide Supra with prior notification.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 11A</u>: Under what conditions, if any, should the Interconnection Agreement state that the parties may withhold payment of disputed charges?</p>

ITEM NO.

CASE

---

21

Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 11B: Under what conditions, if any, should the Interconnection Agreement state that the parties may withhold payment of undisputed charges?

ISSUE 63: Under what circumstances, if any, would BellSouth be permitted to disconnect service to Supra for nonpayment?

RECOMMENDATION: Both parties should be allowed to withhold payment of charges disputed in good faith during the pendency of the dispute. Neither party should be allowed to withhold payment of undisputed charges. BellSouth should be permitted to disconnect Supra for nonpayment of undisputed charges.

DECISION: The recommendation was approved.

ISSUE 11B: Under what conditions, if any, should the Interconnection Agreement state that the parties may withhold payment of undisputed charges?

RECOMMENDATION: Both parties should be allowed to withhold payment of charges disputed in good faith during the pendency of the dispute. Neither party should be allowed to withhold payment of undisputed charges. BellSouth should be permitted to disconnect Supra for nonpayment of undisputed charges.

DECISION: The recommendation was approved.

ISSUE 12: Should BellSouth be required to provide transport to Supra Telecom if that transport crosses LATA boundaries?

RECOMMENDATION: No. BellSouth should not be required to provide transport to Supra Telecom if that transport crosses LATA boundaries.

DECISION: The recommendation was approved.

ITEM NO.

CASE

---

21

Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 15: What Performance Measurements should be included in the Interconnection Agreement?

RECOMMENDATION: Staff acknowledges Order No. PSC-01-1819-FOF-TP, in the generic Performance Measurements docket, Docket No. 000121-TP, established appropriate performance measurements applicable to BellSouth in the state of Florida. These measurements and BellSouth's forthcoming performance assessment plan will apply to BellSouth only. Staff does not believe that it is necessary to include those performance measurements in the parties' interconnection agreement, although the parties may choose to do so.

DECISION: The recommendation was approved.

ISSUE 16: Under what conditions, if any, may BellSouth refuse to provide service under the terms of the interconnection agreement?

RECOMMENDATION: BellSouth should not be required to provision services for which rates, terms and conditions are not identified in the interconnection agreement, prior to negotiating and executing an amendment.

DECISION: The recommendation was approved.

ISSUE 18: What are the appropriate rates for the following services, items or elements set forth in the proposed Interconnection Agreement?

- (A) Resale
- (B) Network Elements
- (C) Interconnection
- (D) Collocation
- (E) LNP/INP
- (F) Billing Records

ITEM NO.

CASE

---

21 Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

(G) Other

RECOMMENDATION: Staff recommends that the appropriate rates to be set forth in the Interconnection Agreement for (B) Network Elements, (C) Interconnection, (E) LNP/INP, (F) Billing Records, and (G) Other are those ordered in Docket No 990649-TP, and in Docket No. 000649-TP (specifically for line-sharing). For the network elements for which rates have not been established by this Commission, the rates should be BellSouth's tariffed rates, which should not be subject to true-up, unless the parties agree otherwise.

DECISION: The recommendation was approved with the noted modification.

ISSUE 19: Should calls to Internet Service Providers be treated as local traffic for the purposes of reciprocal compensation?

RECOMMENDATION: The FPSC currently lacks the jurisdiction to address the issue of whether calls to ISPs should be treated as local traffic for the purposes of reciprocal compensation.

DECISION: The recommendation was approved.

ISSUE 20: Should the Interconnection Agreement include validation and audit requirements which will enable Supra Telecom to assure the accuracy and reliability of the performance data BellSouth provides to Supra Telecom?

RECOMMENDATION: No. The Interconnection Agreement need not include validation and audit requirements which would enable Supra Telecom to assure the accuracy and reliability of the performance data BellSouth provides to Supra Telecom. Order No. PSC-01-1819-FOF-TP in the generic Performance Measurements docket, Docket No. 000121-TP, established the



ITEM NO.

CASE

---

21 Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

appropriate validation and audit requirements applicable to BellSouth. Even though staff does not recommend requiring the parties to include the validation and audit requirements in the Interconnection Agreement, staff acknowledges that the parties may choose to do so.

DECISION: The recommendation was approved.

ISSUE 21: What does "currently combines" mean as that phrase is used in 47 C.F.R. §51.315(b)?

ISSUE 22: Under what conditions, if any, may BellSouth charge Supra Telecom a "non-recurring charge" for combining network elements on behalf of Supra Telecom?

ISSUE 23: Should BellSouth be directed to perform, upon request, the functions necessary to combine unbundled network elements that are ordinarily combined in its network? If so, what charges, if any, should apply?

ISSUE 24: Should BellSouth be required to combine network elements that are not ordinarily combined in its network? If so, what charges, if any, should apply?

RECOMMENDATION: BellSouth should only be required to provide combined UNEs at TELRIC prices, if such elements are already physically combined in BellSouth's network. In all other instances, BellSouth should not be obligated to combine UNEs for Supra; however, BellSouth may agree to do so, and should be allowed to charge a market-based fee.

DECISION: The recommendation was approved with the modification that the parties are encouraged to negotiate fees.

ISSUE 22: Under what conditions, if any, may BellSouth charge Supra Telecom a "non-recurring charge" for combining network elements on behalf of Supra Telecom?

ITEM NO.

CASE

---

21 Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

RECOMMENDATION: BellSouth should only be required to provide combined UNEs at TELRIC prices, if such elements are already physically combined in BellSouth's network. In all other instances, BellSouth should not be obligated to combine UNEs for Supra; however, BellSouth may agree to do so, and should be allowed to charge a market-based fee.

DECISION: See vote in combined Issues 21 - 24.

ISSUE 23: Should BellSouth be directed to perform, upon request, the functions necessary to combine unbundled network elements that are ordinarily combined in its network? If so, what charges, if any, should apply?

RECOMMENDATION: BellSouth should only be required to provide combined UNEs at TELRIC prices, if such elements are already physically combined in BellSouth's network. In all other instances, BellSouth should not be obligated to combine UNEs for Supra; however, BellSouth may agree to do so, and should be allowed to charge a market-based fee.

DECISION: See vote in combined Issues 21 - 24.

ITEM NO.

CASE

---

21 Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 24: Should BellSouth be required to combine network elements that are not ordinarily combined in its network? If so, what charges, if any, should apply?

RECOMMENDATION: BellSouth should only be required to provide combined UNEs at TELRIC prices, if such elements are already physically combined in BellSouth's network. In all other instances, BellSouth should not be obligated to combine UNEs for Supra; however, BellSouth may agree to do so, and should be allowed to charge a market-based fee.

DECISION: See vote in combined Issues 21 - 24.

ISSUE 28: What terms and conditions and what separate rates, if any, should apply for Supra Telecom to gain access to and use BellSouth's facilities to serve multi-tenant environments?

RECOMMENDATION: Staff recommends that in order for Supra to gain access to and use BellSouth facilities to serve multi-tenant environments, an ALEC access terminal should be established to accommodate the necessary connections. Staff recommends that the appropriate rates for all of the addressed subloop elements should be the BellSouth rates established by this Commission in its Final Order in Docket No. 990649-TP.

DECISION: The recommendation was approved.

ISSUE 29: Is BellSouth obligated to provide local circuit switching at UNE rates to Supra to serve the first three lines to a customer located in Density Zone 1? Is BellSouth obligated to provide local circuit switching at UNE rates to Supra to serve four or more lines provided to a customer located in Density Zone 1?

ITEM NO.

CASE

---

21 Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

RECOMMENDATION: Staff's recommendation is twofold. First, staff recommends that BellSouth should be obligated to provide local circuit switching at UNE rates to Supra to serve the first three lines to a customer located in Density Zone 1. Second, staff recommends that BellSouth should not be obligated to provide local circuit switching at UNE rates to Supra to serve four or more lines provided to a customer located in Density Zone 1, as long as the other criteria for FCC Rule 51.319(c)(2) are met.

DECISION: The recommendation was approved.

ISSUE 32: (A) Under what criteria may Supra Telecom charge the tandem switching rate?

(B) Based on Supra Telecom's network configuration as of January 31, 2001, has Supra Telecom met these criteria?

RECOMMENDATION: Staff notes that Phase II of Docket No. 000075-TP will address this very issue in detail, and the criteria developed in that docket will apply. However, staff believes that the initial threshold, based on § 51.711(a)~~(2)~~ (3), is that Supra's "switch" must serve a geographic area comparable to that served by BellSouth's tandem switch. Staff believes the record indicates that Supra has not deployed a switch in the state of Florida; therefore, staff recommends that Supra does not meet the criteria for the tandem switching rate at this time.

DECISION: The recommendation was approved with the noted correction.

ISSUE 33: What are the appropriate means for BellSouth to provide unbundled local loops for provision of DSL service when such loops are provisioned on digital loop carrier facilities?

ITEM NO.

CASE

---

21

Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

RECOMMENDATION: Staff recommends that either of BellSouth's two proposed solutions would permit Supra to provide unbundled local loops for the provision of DSL service when such loops are provisioned on DLC facilities. The first solution would move the end user to a loop that is suitable for xDSL service. The second solution is to allow Supra to collocate its DSLAM equipment in the same RT housing where BellSouth's DSLAM equipment is located. If BellSouth cannot accommodate collocation at a particular RT where a BellSouth DSLAM is located, staff recommends that BellSouth unbundle the BellSouth packet switching functionality at the RT in accordance with FCC requirements.

DECISION: The recommendation was approved.

ISSUE 34: What coordinated cut-over process should be implemented to ensure accurate, reliable and timely cut-overs when a customer changes local service from BellSouth to Supra Telecom?

RECOMMENDATION: The coordinated cut-over process proposed by BellSouth should be implemented to ensure accurate, reliable and timely cut-overs when service is transferred from a BellSouth switch to a Supra switch. Additionally, staff recommends that BellSouth should be required to implement a single "C" (Change) order process in lieu of its "D" (Disconnect) and "N" (New) order process when provisioning UNE-P conversions.

DECISION: The recommendation was approved.

ISSUE 38: Is BellSouth required to provide Supra Telecom with nondiscriminatory access to the same databases BellSouth uses to provision its customers?

ITEM NO.

CASE

---

21

Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

RECOMMENDATION: No. BellSouth is only required to provide Supra with nondiscriminatory access to OSS functionality, and not to provide direct access to the same databases BellSouth uses to provision its customers.

DECISION: The recommendation was approved.

ISSUE 40: Should Standard Message Desk Interface-Enhanced ("SMDI-E"), Inter-Switch Voice Messaging Service ("IVMS") and any other corresponding signaling associated with voice mail messaging be included within the cost of the UNE switching port? If not, what are the appropriate charges, if any?

RECOMMENDATION: No. SMDI-E, IVMS, and any other corresponding signaling associated with voice mail messaging should not be included within the cost of the UNE switching port. The appropriate rates are those found in BellSouth's FCC No. 1 tariff. In addition, if Supra chooses to provide its own link, it should notify BellSouth and BellSouth should determine within a reasonable time frame whether or not there are any other unbundled elements associated with completing that service and what, if any, additional charges are associated with that service.

DECISION: The recommendation was approved.

ITEM NO.

CASE

---

21 Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 42: What is the proper time frame for either party to render bills?

RECOMMENDATION: The proper time frame for either party to render bills is one year, unless the bill was in dispute, meet point billing guidelines require either Party to rely on records provided by the other Party, or customer provided data such as PLU or PIU factors or other ordering data is incorrect.

DECISION: The recommendation was approved.

ISSUE 46: Is BellSouth required to provide Supra Telecom the capability to submit orders electronically for all wholesale services and elements?

RECOMMENDATION: No. BellSouth is not required to provide Supra with the capability to submit orders electronically for all wholesale services and elements, as long as BellSouth provisions orders for complex services for itself and ALECs in a like fashion and in substantially the same time and manner.

DECISION: The recommendation was approved.

ISSUE 47: When, if at all, should there be manual intervention on electronically submitted orders?

RECOMMENDATION: BellSouth should be allowed to manually intervene on Supra's electronically submitted orders in the same manner as it does for its own retail orders.

DECISION: The recommendation was approved.

ISSUE 49: Should Supra Telecom be allowed to share with a third party the spectrum on a local loop for voice and data

ITEM NO.

CASE

---

21 Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

when Supra Telecom purchases a loop/port combination and if so, under what rates, terms and conditions?

RECOMMENDATION: Yes. Staff recommends that Supra Telecom be allowed to share with a third party the spectrum on a local loop for voice and data when it purchases a loop/port combination (alternatively referred to as "line splitting"). In addition, staff recommends that BellSouth should not be required to provide its DSL services to Supra's voice customers served via UNE-P.

DECISION: The recommendation was approved.

ISSUE 57: Should BellSouth be required to provide downloads of RSAG, LFACS, PSIMS and PIC databases without license agreements and without charge?

RECOMMENDATION: No. BellSouth should not be required to provide downloads of RSAG and LFACS without license agreements and without charge. However, the parties may choose to negotiate downloads of these databases as well as the rates, terms, and conditions of such an arrangement.

DECISION: The recommendation was approved.

ISSUE 59: Should Supra Telecom be required to pay for expedited service when BellSouth provides services after the offered expedited date, but prior to BellSouth's standard interval?

RECOMMENDATION: No. This Commission should not require Supra to pay for expedited service when BellSouth provides the service after the promised expedited date, but prior to BellSouth's standard interval.

DECISION: The recommendation was approved.



ITEM NO.

CASE

---

21

Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 60: When BellSouth rejects or clarifies a Supra Telecom order, should BellSouth be required to identify all errors in the order that caused it to be rejected or clarified?

RECOMMENDATION: No. BellSouth should not be required to identify all errors in the order. Because it may not be feasible for BellSouth to process the order beyond the point where the rejection occurred, BellSouth should only be required to identify the error that triggered the rejection.

DECISION: The recommendation was approved with the modification that BellSouth should be required to identify all readily apparent errors in the order.

ISSUE 61: Should BellSouth be allowed to drop or "purge" orders? If so, under what circumstances may BellSouth be allowed to drop or "purge" orders, and what notice should be given, if any?

RECOMMENDATION: Yes. BellSouth should be allowed to "purge" orders on the 11th business day after a clarification request, if a supplemental LSR is not submitted by Supra that is responsive to the clarification request on the original LSR. Furthermore, staff recommends that no additional notification is necessary on the 11th business day when an LSR is about to be purged, provided that the BellSouth Business Rules are universally available to Supra and all ALECs.

DECISION: The recommendation was approved.

ISSUE 62: Should BellSouth be required to provide completion notices for manual orders for the purposes of the interconnection agreement?

ITEM NO.

CASE

---

21 Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

RECOMMENDATION: No. BellSouth should not be required to provide completion notices for manual orders for the purposes of the interconnection agreement.

DECISION: The recommendation was approved.

ISSUE 63: Under what circumstances, if any, would BellSouth be permitted to disconnect service to Supra for nonpayment?

RECOMMENDATION: Both parties should be allowed to withhold payment of charges disputed in good faith during the pendency of the dispute. Neither party should be allowed to withhold payment of undisputed charges. BellSouth should be permitted to disconnect Supra for nonpayment of undisputed charges.

DECISION: The recommendation was approved.

ISSUE 65: Should the parties be liable in damages, without a liability cap, to one another for their failure to honor in one or more material respects any one or more of the material provisions of the Agreement for purposes of this interconnection agreement?

RECOMMENDATION: No. Staff believes that it is appropriate for the Commission to make its determination on whether or not to impose a condition or term based upon whether the term or condition is required to ensure compliance with the requirements of Sections 251 or 252. Liability for damages, without a liability cap, is not an enumerated item under

ITEM NO.

CASE

---

21

Docket No. 001305-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Deferred from February 19, 2002 conference; revised recommendation filed.)

(Continued from previous page)

Sections 251 and 252 of the Act. Further, Staff believes that the record does not support a finding that a liability for damages provision, without a liability cap, is required to implement an enumerated item under Sections 251 and 252 of the Act. Staff recommends that the Commission not impose adoption of such a provision.

DECISION: The recommendation was approved.

ISSUE 66: Should Supra Telecom be able to obtain specific performance as a remedy for BellSouth's breach of contract for purposes of this interconnection agreement?

RECOMMENDATION: No. Staff believes that it is appropriate for the Commission to make its determination on whether or not to impose a condition or term based upon whether the term or condition is required to ensure compliance with the requirements of Sections 251 or 252. Specific performance is not an enumerated item under Sections 251 or 252 of the Act. Further, Staff believes that the record does not support a finding that a specific performance provision is required to implement an enumerated item under Sections 251 or 252 of the Act. Staff recommends that the Commission not impose a specific performance provision when it is not required under Section 251 or 252 of the Act.

DECISION: The recommendation was approved.

ISSUE 67: Should this docket be closed?

RECOMMENDATION: No. The parties should be required to submit a signed agreement that complies with the Commission's decisions in this docket for approval within 30 days of issuance of the Commission's Order. This docket should remain open pending Commission approval of the final

Minutes of  
Commission Conference  
March 5, 2002

ITEM NO.

CASE

---

21                   Docket No. 001305-TP - Petition by BellSouth  
Telecommunications, Inc. for arbitration of certain issues  
in interconnection agreement with Supra Telecommunications  
and Information Systems, Inc. (Deferred from February 19,  
2002 conference; revised recommendation filed.)

(Continued from previous page)

arbitration agreement in accordance with Section 252 of the  
Telecommunications Act of 1996.

DECISION: The recommendation was approved.

Commissioners participating: Jaber, Baez, Palecki