

**MINUTES OF MARCH 16, 2004**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:30 a.m.

**RECESSED:** 10:35 a.m.

**RECONVENED:** 1:00 p.m.

**ADJOURNED:** 1:10 p.m.

**COMMISSIONERS PARTICIPATING:** Chairman Baez  
Commissioner Deason  
Commissioner Bradley  
Commissioner Davidson

Parties were allowed to address the Commission on items designated by double asterisks (\*\*).

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1 Approval of Minutes

February 3, 2004 Regular Commission Conference  
February 17, 2004 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

Agenda for  
Commission Conference  
March 16, 2004

ITEM NO. CASE

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2\*\*Consent Agenda

PAA A) Applications for certificates to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
040124-TX	Southwestern Bell Communications Services Inc. d/b/a SBC Long Distance
040083-TX	DialEz Inc.
040047-TX	US Telesis, Inc.
040114-TX	BW Consulting, L.L.C.
040134-TX	AAA Reconnect, Inc.

PAA B) Docket No. 040021-TX - Request for cancellation of CLEC Certificate No. 7894 by HTG Services, L.L.C., effective 12/31/03.  
Docket No. 040059-TX - Request for cancellation of CLEC Certificate No. 8032 by El Paso Networks, LLC, effective 12/29/03.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
040072-TC	Global Payphone Inc.
040122-TC	Ponce's by the Sea, Inc. d/b/a Conch House Marina Resort
040057-TC	King Harland d/b/a Trecom Payphones
040073-TC	K. Kessler Inc.
040081-TC	Walter E. Southard d/b/a Home Management Systems
040037-TC	Tom Hopper
040128-TC	1-800-RECONEX, Inc. d/b/a USTEL

PAA D) Application for certificate to provide shared tenant service.

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2\*\* Consent Agenda

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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
040065-TS	Sunshine State Communications, Inc.

PAA E) Docket No. 040020-TS - Request for cancellation of STS Certificate No. 7895 by HTG Services, L.L.C. , effective 12/31/03.

PAA F) Docket No. 040117-TA - Request for cancellation of AAV Certificate No. 4839 by Atlantic Telecommunication Systems, Inc., effective 12/31/03.

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

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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3\*\*Docket No. 020407-WS - Application for rate increase in Polk County by Cypress Lakes Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: GCL: Fleming  
AUS: Vandiver  
ECR: Merchant, Willis

Issue 1: Should a fine of \$3,000 be imposed on Cypress Lakes for the utility's apparent violation of Rule 25-30.115, Florida Administrative Code, for its failure to maintain its books and records in conformance with the NARUC USOA?

Recommendation: No. A fine should not be imposed. The utility timely responded to the show cause and has made specific commitments to correct the deficiencies identified by staff. The utility appears to be making efforts to comply with the requirements of Rule 25-30.115, Florida Administrative Code. Attachment 1 to staff's March 4, 2004 memorandum is a summary of the deficiencies identified by staff and the utility's response.

Issue 2: Should a docket be opened to address Utilities, Inc.'s plan to comply with Rule 25-30.115, Florida Administrative Code, for all Florida subsidiaries?

Recommendation: Yes.

Issue 3: Should this docket be closed?

Recommendation: If no party timely appeals the order, this docket shall be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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4\*\*Docket No. 021066-WS - Investigation into proposed sale of Florida Water Services Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: GCL: Helton  
ECR: Daniel, Kummer, Willis

Issue 1: Should FWSC's Application for Acknowledgment of Sale of Facilities to FWSA submitted February 7, 2003, be considered moot?

Recommendation: Yes. In light of the termination of the purchase agreement between FWSC and FWSA, the Commission should find that FWSC's Application for Acknowledgment of Sale of Facilities to FWSA is moot.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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5\*\*Docket No. 030643-TP - Petition of Verizon Florida Inc. (f/k/a GTE Florida Inc.) against Teleport Communications Group, Inc. and TCG South Florida for review of decision by The American Arbitration Association, in accordance with Attachment 1 Section 11.2(a) of interconnection agreement between GTE Florida Inc. and TCG South Florida. (Deferred from February 3, 2004 conference.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Davidson

Staff: GCL: Banks, Susac  
CMP: Pruitt

Issue 1: Should Verizon Florida Inc.'s request for oral argument be granted?

Recommendation: Yes. Staff recommends that Verizon Florida Inc.'s request for oral argument be granted. If the Commission grants oral argument, staff recommends that each party be allowed ten minutes to present oral argument.

Issue 2: Did Verizon timely file its appeal of the American Arbitration Association's award according to the parties' interconnection agreement?

Recommendation: Yes. Staff recommends that Verizon's filing of its appeal of the AAA order should be considered timely.

Issue 3: Should TCG's Motion to Dismiss be granted?

Recommendation: No. TCG's Motion to Dismiss should be denied. As a general matter, the Commission has jurisdiction to resolve disputes arising under an approved interconnection agreement unless its role is restricted by a binding dispute resolution provision in the agreement. The agreement in this case expressly provides that an arbitrator's decision resolving an interconnection agreement dispute shall not be final if (1) a party appeals the decision to the Commission, (2) the matter is within the jurisdiction of the Commission, and (3) the agency agrees to hear the matter. The first two prongs of this provision are met, so it is not appropriate to dismiss for lack of jurisdiction.

The Motion and Response do not, however, provide sufficient information for staff to recommend whether the Commission should exercise its discretion to "agree" to hear an appeal under the third prong. Therefore, staff recommends that within 20 days of the issuance of the Order, Verizon should submit a memorandum that (a) identifies the specific factual, legal and policy issues for which review is sought, (b) addresses the reasons that the Commission should agree to review the arbitrator's decision on each issue identified, (c) specifies the type of proceeding that should be held on each issue (e.g., a de novo evidentiary hearing or appellate review based on the record in the arbitration proceeding) and (d) identifies the applicable standard of review for each issue.

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Docket No. 030643-TP - Petition of Verizon Florida Inc. (f/k/a GTE Florida Inc.) against Teleport Communications Group, Inc. and TCG South Florida for review of decision by The American Arbitration Association, in accordance with Attachment 1 Section 11.2(a) of interconnection agreement between GTE Florida Inc. and TCG South Florida. (Deferred from February 3, 2004 conference.)

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TCG should then be given 20 days to respond. Staff would subsequently file a recommendation on whether, and under what procedures, the Commission should agree to hear the appeal.

Issue 4: Should this docket be closed?

Recommendation: If the Commission denies staff's recommendation in Issue 3, this docket shall be closed as no further Commission action is required. If, however, the Commission approves staff's recommendation in Issue 3, this docket should remain open pending the resolution of the issues in the docket.

DECISION: This item was deferred.

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6\*\*Docket No. 040087-WU - Initiation of show cause proceeding against Kemple Water Company for violation of Rule 25-30.110, Florida Administrative Code.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: GCL: Rodan  
ECR: Kaproth, Peacock

Issue 1: Should Kemple be ordered to show cause, in writing, within 21 days, why it should not be fined for failure to file annual reports by the dates due as required by Rule 25-30.110(3), Florida Administrative Code?

Recommendation: No. A show cause proceeding should not be initiated. Staff recommends that the penalties calculated according to Rule 25-30.110(7), Florida Administrative Code, for delinquent annual reports should not be assessed.

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: Baez, Deason, Bradley, Davidson



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7\*\*PAA Docket No. 030995-TI - Compliance investigation of Cybertel, Communications Corp.  
for apparent violations of Sections 364.02(13), 364.04, and 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: CMP: Watts

GCL: Rojas

Issue 1: Should the Commission accept Cybertel, Communications Corp.'s (Cybertel's) settlement offer to pay all outstanding Regulatory Assessment Fees (RAFs), including any statutory penalty and interest charges, resolve any outstanding consumer complaints, voluntarily contribute \$5,000 to the General Revenue Fund, pay the \$500 penalty imposed in PAA Order No. PSC-02-1443-PAA-TI, sell its Florida customer base to ComTech21, LLC, and discontinue providing intrastate interexchange telecommunications service in Florida effective February 12, 2004, to resolve the apparent violations of Sections 364.02(13), 364.04, and 364.336, Florida Statutes?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested and Cybertel complies with its settlement offer, this docket should be closed administratively. If Cybertel fails to pay the Regulatory Assessment Fees owed, with penalty and interest, within 30 days of the issuance of the Consummating Order, this docket should remain open pending further proceedings.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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8\*\*PAADocket No. 030629-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 7770 issued to Delta Phones, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and compliance investigation for apparent violation of Rule 25-22.032(5)(a), F.A.C., Customer Complaints.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay

Issue 1: Should the Commission accept the \$250 settlement offer proposed by Delta Phones, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes.

Issue 2: Should the Commission impose a penalty on Delta Phones, Inc. of \$10,000 per apparent violation, for a total of \$20,000, for the two apparent violations of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints, or cancel Delta Phones, Inc.'s CLEC Certificate No. 7770 and require the company to immediately cease and desist providing CLEC services in Florida, if the company fails to timely protest the Commission's Order and fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order?

Recommendation: Yes.

Issue 3: Should this docket be closed?

Recommendation: No.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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9\*\*PAADocket No. 031014-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 7839 issued to National Telecom, LLC, for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay

Issue 1: Should the Commission grant National Telecom, LLC a voluntary cancellation of CLEC Certificate No. 7839 with an effective date of July 17, 2003, and require National Telecom, LLC to immediately cease and desist providing competitive local exchange service in Florida if the company's certificate is cancelled in accordance with the Commission's Order from this recommendation?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: No.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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10\*\*PAABankruptcy cancellation by Florida Public Service Commission of IXC registrations.

Docket No. 040116-TI - Touch America, Inc.

Docket No. 040139-TI - Telecommunications Resources, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: McKay, Banks

Issue 1: Should the Commission grant the companies cancellation of their respective tariffs and removal from the register with effective dates as listed on Attachment A of staff's March 4, 2004 memorandum due to bankruptcy; notify the Division of the Commission Clerk and Administrative Services that any unpaid RAFs, including statutory penalty and interest charges, should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the companies to immediately cease and desist providing intrastate interexchange telecommunications service in Florida?

Recommendation: Yes.

Issue 2: Should these dockets be closed?

Recommendation: No.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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11\*\*Docket No. 040170-GU - Request for extension of time to file fiscal year 2003 certification letter and required schedules by City Gas Company of Florida.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Slemkewicz  
GCL: Jaeger

Issue 1: Should City Gas Company of Florida's request for an extension of time until June 30, 2004, to file its fiscal year 2003 certification letter and required schedules be approved?

Recommendation: Yes. City Gas Company of Florida's request for an extension of time until June 30, 2004, to file its fiscal year 2003 certification letter and required schedules should be approved.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open until such time that City Gas actually files its fiscal year 2003 certification letter and required schedules. Staff should be authorized to administratively close this docket upon receipt of the required documents.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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12\*\*PAADocket No. 040049-EG - Petition for approval of low-income weatherization program by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Colson  
GCL: Brown

Issue 1: Should Florida Power & Light Company's (FPL) Petition for Approval of its Low-Income Weatherization Program, including recovery of reasonable and prudent costs for the program through the ECCR clause, be approved?

Recommendation: Yes. FPL is to file Program Standards for the Low-Income Weatherization Program for administrative approval after the program is approved by the Commission.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, and no timely protest is filed within 21 days of the issuance of the Commission's order, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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13\*\*Docket No. 040008-EI - Petition for approval of depreciation rate applicable to new plant subaccounts for Hines Unit 2 by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Gardner, Colson  
GCL: Jaeger

Issue 1: Should the Commission approve Progress Energy's petition for approval of depreciation rate for newly established Hines Unit 2 plant subaccounts on a preliminary basis?

Recommendation: Yes. For Hines Unit 2, PEF proposes a 30-year average service life, a negative net salvage value of 10%, and a depreciation rate of 3.7%. This should be approved on a preliminary basis. The depreciation expenses should be trued up when final action, expected to occur during May 2004, is taken by the Commission in this docket.

Issue 2: What should be the effective date of the implementation for the new depreciation rate for Hines Unit 2?

Recommendation: Staff recommends December 4, 2003 as an implementation date for Progress Energy's proposed depreciation rate on a preliminary basis.

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open pending final Commission action on Progress Energy's proposed depreciation rate.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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14\*\*PAADocket No. 020408-SU - Application for rate increase in Seminole County by Alafaya Utilities, Inc.

Critical Date(s): 3/16/04 (5-month effective date - PAA rate case)

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Fletcher, Merchant, Merta, Rendell, Redemann, Daniel, Willis  
GCL: Vining

**(All issues proposed agency action except Issues 23 through 26.)**

Issue 1: Is the quality of service by Alafaya Utilities, Inc. satisfactory?

Recommendation: Yes. The utility's overall quality of service is satisfactory.

Issue 2: Are any adjustments necessary to reflect the appropriate 2001 test year plant in service?

Recommendation: Yes. Based on an original cost study and several audit adjustments, plant in service should be decreased by \$511,081 on a 13-month average basis and by \$594,921 on a year-end basis. In addition, Miscellaneous Deferred Debits should be increased by \$5,079 on a 13-month average basis and by \$66,029 on a year-end basis. Further, Contractual Services-Other should be increased by \$16,507.

Issue 3: What is the appropriate value of the utility's land?

Recommendation: The original cost of the utility's land is \$60,843. As a result, land should be increased by \$34,588.

Issue 4: What adjustments should be made to accumulated depreciation?

Recommendation: To correct errors in the reserve account and to reflect the corresponding adjustments to plant, accumulated depreciation should be increased by \$666,361 on a 13-month average basis and by \$825,467 on a year-end basis. A corresponding adjustment should be made to increase test year depreciation expense by \$143,861.

Issue 5: Should adjustments be made to contributions in aid of construction (CIAC) and accumulated amortization of CIAC?

Recommendation: Yes. The appropriate 13-month average test year CIAC balance should be \$9,566,581, which represents an increase of \$340,686. The appropriate 13-month average test year accumulated amortization of CIAC balance should be \$3,450,340, which represents an increase of \$931,457. A corresponding adjustment should be made to increase the test year amortization expense by \$154,964.

Issue 6: Should an adjustment be made to the utility's pro forma plant additions?

Recommendation: Yes. The total pro forma plant additions should be \$2,939,504. As a result, the utility's requested amount of pro forma plant should be increased by \$92,245.



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

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Accordingly, accumulated depreciation and depreciation expense should both be increased by \$43,643.

Issue 7: What are the used and useful percentages of the utility's wastewater treatment plant, wastewater collection system, and reuse water system?

Recommendation: Alafaya's wastewater treatment plant is 75.6% used and useful, the collection system is 100% used and useful, and the reuse system is 100% used and useful. Accordingly, staff's recommended non-used and useful plant, depreciation expense, and property taxes should be \$175,111, \$28,444, and \$653, respectively.

Issue 8: What is the appropriate working capital allowance?

Recommendation: The appropriate working capital allowance should be \$259,263. As a result, working capital should be increased by \$146,363. O&M expenses should be decreased by \$19,467.

Issue 9: What is the appropriate rate base?

Recommendation: Consistent with other recommended adjustments, the appropriate 13-month average rate base for the test year ending December 31, 2001 is \$5,800,937.

Issue 10: Are any adjustments appropriate to the utility's cost of capital, and what is the appropriate weighted average cost of capital for the test year ended December 31, 2001?

Recommendation: Yes. To reflect the appropriate balances, long-term debt and common equity should be increased by \$1,747,588 and \$736,050, respectively, and short-term debt should be decreased by \$293,262. The appropriate cost rates for long and short-term debt should be 8.63% and 5.18%, respectively. Alafaya's total accumulated deferred income taxes should be included in the calculation of the utility's overall cost of capital with no proration. The appropriate amount of accumulated deferred income taxes for Alafaya should be \$517,298, which represents an increase of \$19,136. The return on equity should be 11.47%, with a range of 10.47% to 12.47%. The appropriate overall cost of capital is 8.72%, with a range of 8.31% to 9.13%.

Issue 11: Are any adjustments necessary to test year revenues?

Recommendation: Yes. To correct the gallons sold to 3 inch and 4 inch meter customers, test year revenues should be increased by \$4,212.

Issue 12: Should a pro forma reuse revenue adjustment be made to test year revenues?

Recommendation: Yes. Reuse revenues should be increased by \$55,025 to reflect current and projected reuse consumption.

Issue 13: Should an adjustment be made to salaries, pension and benefits, and payroll taxes?

Recommendation: Yes. Salaries and pension and benefits should be reduced by \$18,662 and \$83,173, respectively. In addition, payroll taxes should be reduced by \$27,773.

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

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Issue 14: Should further O&M expense adjustments be made due to lack of support documentation and misclassifications?

Recommendation: Yes. O&M expenses should be reduced by \$500 to remove an unsupported amount.

Issue 15: Should an adjustment be made to the O&M expenses allocated from WSC?

Recommendation: Yes. O&M expenses should be reduced by \$10,189 to reflect the appropriate expense allocation from WSC.

Issue 16: What is the appropriate amount of rate case expense?

Recommendation: The appropriate rate case expense for this docket is \$93,360. This expense should be recovered over four years for an annual expense of \$23,318. This results in a decrease to the rate case expense requested in the MFRs of \$4,285.

Issue 17: Should any other adjustments be made to the utility's taxes other than income?

Recommendation: Yes. Regulatory assessment fees (RAFs) should be decreased by \$332 to correct the booked amount of test year RAFs. Real estate and tangible personal property taxes should be decreased by \$2,017 to reflect the appropriate historical test year property taxes. Further, tangible personal property taxes should be decreased by \$17,588 to reflect the appropriate pro forma property taxes.

Issue 18: What is the test year operating income before any revenue increase or decrease?

Recommendation: Based on the adjustments discussed in previous issues, staff recommends that the test year operating income before any provision for increased or decreased revenues should be \$385,995.

Issue 19: What is the appropriate revenue requirement?

Recommendation: The following revenue requirement should be approved.

	<u>Test Year</u> <u>Revenues</u>	<u>\$ Increase</u>	<u>Revenue</u> <u>Requirement</u>	<u>% Increase</u>
Wastewater	\$1,870,715	\$200,879	\$2,071,594	10.74%

Issue 20: What are the appropriate monthly wastewater rates?

Recommendation: The appropriate monthly rates are shown on Schedule 4 of staff's March 4, 2004 memorandum. The recommended rates are designed to produce revenues of \$1,984,124, excluding miscellaneous service and reuse revenues. 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 of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. In addition, the rates should not be implemented until after staff has approved the proposed customer notice, and after the

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

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notice has been received by the customers. The utility should provide proof of the date the notice was given no less than 10 days after the date of the notice.

Issue 21: What is the appropriate reuse rate for this utility?

Recommendation: The appropriate reuse rate for this utility is a \$6.00 monthly flat rate for residential use and a \$0.25 per thousand gallon rate for the general service golf course. The appropriate residential reuse availability charge is \$5.00. The utility should file revised tariff sheets which are consistent with the Commission's decision within one month of the Commission's final vote. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. 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.

Issue 22: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: Since the revenue requirement for the interim test year is less than the revenue requirement for the interim collection period, no refund is required.

Issue 23: 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 4 of staff's March 4, 2004 memorandum to remove \$24,440, which represents the annual amount of rate case expense amortization included in rates, grossed up for regulatory assessment fees. The decrease in rates should become effective immediately following the expiration of the four-year 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 reductions 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 index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease, and for the reduction in the rates due to the amortized rate case expense.

Issue 24: Should the utility be required to show cause, in writing within 21 days, why it should not be fined \$3,000 for its apparent violation of Rules 25-30.115 and 25-30.450, Florida Administrative Code, for its failure to maintain its books and records in conformance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA)?

Recommendation: No. Although it appears the utility's books and records are not maintained in compliance with the NARUC USOA, the utility's compliance with this

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14\*\*PAA

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

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issue is being addressed in Docket No. 020407-WS. In Docket No. 020407-WS, staff is recommending that the Commission open a separate docket to address the compliance of all of UI's Florida subsidiaries with Rule 25-30.115, Florida Administrative Code. Further, as discussed in Issue 17, rate case expense has been adjusted to remove excessive costs incurred for poor recordkeeping.

Issue 25: Should the utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission-approved adjustments?

Recommendation: Yes. To ensure that the utility adjusts its books in accordance with the Commission's decision, Alafaya should provide proof, within 90 days of an effective order finalizing this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Issue 26: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff, ~~and the refund has been completed and verified by staff.~~ Once these actions are complete, this docket may be closed administratively, and the corporate undertaking should escrow account may be released.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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CASE

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15\*\*PAADocket No. 030423-WU - Investigation into 2002 earnings of Residential Water Systems, Inc. in Marion County.

Critical Date(s): 5/3/04 (Statutory deadline for 2002 price index.)

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Merta, Bruce, Lingo, Massoudi, Rendell, Willis  
AUS: Vandiver  
GCL: Jaeger

Issue 1: Is the quality of service provided by RWS considered satisfactory?

Recommendation: Yes. The quality of service provided by RWS should be considered satisfactory.

DECISION: The recommendation was approved.

Issue 2: Does the utility have excessive unaccounted for water and, if so, what adjustments should be made?

Recommendation: Yes. RWS had approximately 11.71% excessive unaccounted for water in the year 2002. Therefore, allowable expenses for purchased electricity and chemicals should be reduced by 11.71% in 2002.

DECISION: The recommendation was approved.

Issue 3: What portions of RWS are used and useful?

Recommendation: The water treatment plant and water distribution systems for years 2002, 2003, and 2004 should be considered 100% used and useful.

DECISION: The recommendation was approved.

Issue 4: Did RWS earn above the range of its authorized rate of return for the average test year ended December 31, 2002?

Recommendation: Yes. The utility's revenues exceeded the range of its authorized rate of return of 5.09% by \$71,299 (35.98%) for the test year ended December 31, 2002.

DECISION: The recommendation was approved as modified pursuant to agreement between staff and the company.

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15\*\*PAA

Docket No. 030423-WU - Investigation into 2002 earnings of Residential Water Systems, Inc. in Marion County.

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Issue 5: Did RWS earn above the range of its authorized return for the interim collection period ended December 31, 2003?

Recommendation: Yes. RWS earnings for the interim collection period ended December 31, 2003, exceeded its authorized rate of return of 7.46% by \$58,435, or 27.44%.

DECISION: The recommendation was approved as modified pursuant to agreement between staff and the company.

Issue 6: Should the Commission update the utility's authorized return on equity (ROE), and if so, what is the appropriate return on equity for the projected test year ended December 31, 2004?

Recommendation: Yes. The utility's authorized ROE should be updated to establish the return based on the current leverage formula for the projected test year ended December 31, 2004, and on a going-forward basis. Based on the current leverage formula, the utility's ROE is 11.46%, with a range from 10.46% to 12.46%.

DECISION: The recommendation was approved.

Issue 7: What is the appropriate methodology for projecting customers and consumption for the projected test year ending December 31, 2004, and what are the appropriate ERCs and gallons (billing determinants) to be used for ratesetting for the 2004 projected test year?

Recommendation: The appropriate methodology for projecting customers is simple linear regression, and the appropriate methodology for projecting consumption is based on historical average consumption per bill per customer class and meter size. The appropriate billing determinants to be used for ratesetting for the 2004 projected test year are 10,680 ERCs and 88,614,432 gallons.

DECISION: The recommendation was approved.

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Issue 8: What is the appropriate revenue requirement for RWS for the projected test year ended December 31, 2004?

Recommendation: The appropriate revenue requirement for RWS for the projected test year ended December 31, 2004 is \$169,828, which represents a decrease of \$64,203 (-27.43%).

DECISION: This is a fallout issue.

Issue 9: Should RWS be required to complete its pro forma projects by December 31, 2004, and should the revenue related to the pro forma plant be held subject to refund?

Recommendation: Yes. RWS should be required to complete its pro forma projects by December 31, 2004, and should be ordered to hold 4.18% of 2004 revenues subject to refund.

DECISION: The recommendation was approved with the modification that there is no requirement to hold the monies subject to refund, and that the completion date is 12/31/05.

Issue 10: Should RWS be ordered to refund the price index that was implemented May 31, 2002?

Recommendation: Yes. RWS should be required to refund 1.76% of revenues collected from June 1, 2002, through the effective date of the new rates. This refund should be made with interest as required by Rule 25-30.360(4), F.A.C., within 90 days of the date of the Consummating Order. The utility should be required to submit the proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The refund should be made to customers of record as of the date of the Consummating Order pursuant to Rule 25-30.360(3), F.A.C. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C.

DECISION: The recommendation was approved.

Issue 11: Should RWS be ordered to refund its price index rate adjustment that was implemented June 6, 2003 plus revenues held subject to refund that were collected during the interim collection period?

Recommendation: Yes. The utility should be required to refund 1.04% of revenues collected June 6, 2003 through the effective date of the new rates plus 9.09% of revenues collected June 13, 2003, through December 14, 2003, plus 27.44% of revenues collected from December 15, 2003, through the effective date of the new rates. This refund should

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be made with interest as required by Rule 25-30.360(4), F.A.C., within 90 days of the date of the Consummating Order. The utility should be required to submit the proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The refund should be made to customers of record as of the date of the Consummating Order pursuant to Rule 25-30.360(3), F.A.C. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C.

DECISION: The recommendation was approved with the modification that RWS was directed to refund the price index, but to use the remainder of the amount found for the refund to make plant improvements, and to record this as CIAC.

Issue 12: What is the appropriate rate structure for this utility?

Recommendation: The appropriate rate structure for this utility is a two-tier inclining-block rate structure for the residential class. The first usage block should be for monthly consumption of 0-10,000 gallons, and the second usage block for consumption over 10,000 gallons. The inclining-block structure should have rate factors for the first and second blocks of 1.0 and 1.25, respectively, and have a base facility charge (BFC) cost recovery percentage of 40%. The BFC / uniform gallonage charge rate structure should be continued for the general service class.

DECISION: This is a fallout issue.

Issue 13: Is an adjustment to reflect repression of consumption appropriate?

Recommendation: No. The recommended revenue requirement reduction and recommended rate structure results in price decreases to all customers; therefore, a repression adjustment is not appropriate. However, in order to monitor the effects of staff's recommended revenue requirement and rate structure changes, the utility should be ordered to prepare monthly reports, filed on a quarterly basis, detailing the number of bills, the gallons billed and the revenues billed. The reports should be prepared by customer class, meter size and usage block, for a period of two years, after the first month that the rates go into effect.

DECISION: This is a fallout issue.

Issue 14: What are the appropriate monthly rates for service?

Recommendation: The appropriate monthly rates should be designed to produce revenues of \$163,144, excluding Other Revenues. The utility should adjust water



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service rates downward as set forth in the analysis portion of staff's March 4, 2004 memorandum. The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates within 30 days of the Consummating Order. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice, and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

DECISION: This is a fallout issue.

Issue 15: 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 water rates should be reduced as shown on Schedule 4 of staff's March 4, 2004 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 index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

DECISION: The recommendation was approved.

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Issue 16: Should the utility's service availability policy be changed to discontinue service availability charges?

Recommendation: Yes. The utility's service availability policy should be changed to discontinue its service availability charges. However, the meter installation charges as reflected in the utility's water tariff should be continued. The utility should file revised tariff sheets and proposed notice which are consistent with the Commission's vote. The discontinued service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed and provided that customers have been noticed.

DECISION: This issue was withdrawn.

Issue 17: Should the utility be required to provide proof, within 90 days of the consummating order, that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission-approved adjustments?

Recommendation: Yes. To ensure that the utility adjusts its books in accordance with the Commission's decision, RWS should provide proof, within 90 days of the consummating order, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

DECISION: The recommendation was approved.

Issue 18: Should the docket be closed?

Recommendation: No. If no timely protest is received from a substantially affected person within 21 days of the date of the Proposed Agency Action (PAA) Order, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional ten months after the Consummating Order to allow staff time to verify the utility has completed the pro forma distribution project and to verify that the refund has been made to RWS customers. Upon verification of the above by staff, the docket should be administratively closed.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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16\*\*Docket No. 030655-WU - Application for transfer of facilities and Certificate No. 149-W in Pasco County from Virginia City Utilities, Inc. to Virginia City Utility Company a Division of Community Utilities of Florida, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: ECR: Johnson, Rieger, Romig

GCL: Vining

Issue 1: Should the transfer of the facilities and Certificate No. 149-W from Virginia City to VCUC be approved?

Recommendation: Yes. The transfer of the facilities and Certificate No. 149-W from Virginia City to VCUC is in the public interest and should be approved. The effective date of the transfer should be the date of the Commission vote. VCUC is responsible for remitting the 2003 and all future regulatory assessment fees (RAFs) and annual reports. A description of the territory being transferred is appended to staff's March 4, 2004 recommendation as Attachment A.

PAA Issue 2: What is the rate base of Virginia City at the time of transfer?

Recommendation: The rate base for transfer purposes is \$31,276, as of December 30, 2002.

PAA Issue 3: Should an acquisition adjustment be included in the calculation of rate base?

Recommendation: No. Pursuant to Rule 25-30.0371(2), Florida Administrative Code, an acquisition adjustment should not be included in rate base.

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

Recommendation: Yes. VCUC 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.

Issue 5: 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 and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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17\*\*Docket No. 030656-WU - Application for transfer of facilities and Certificate No. 139-W in Pasco County from Dixie Groves Estates, Inc. to Dixie Groves Utility Company a Division of Community Utilities of Florida, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: ECR: Johnson, Rieger, Romig

GCL: Rodan

Issue 1: Should the transfer of the facilities and Certificate No. 139-W from Dixie Groves to DGUC be approved?

Recommendation: Yes. The transfer of the facilities and Certificate No. 139-W from Dixie Groves to DGUC is in the public interest and should be approved. The transfer should be effective the day of the Commission vote. DGUC is responsible for remitting the 2003 and all future regulatory assessment fees (RAFs) and annual reports. A description of the territory being transferred is appended to staff's March 4, 2004 recommendation as Attachment A.

PAA Issue 2: What is the rate base of Dixie Groves at the time of transfer?

Recommendation: The rate base for transfer purposes is \$29,186 as of December 30, 2002.

PAA Issue 3: Should an acquisition adjustment be included in the calculation of rate base?

Recommendation: No. Pursuant to Rule 25-30.0371(2), Florida Administrative Code, an acquisition adjustment should not be included in rate base.

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

Recommendation: Yes. DGUC 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.

Issue 5: Should this docket be closed?

Recommendation: Yes. If no timely protest is filed by a substantially affected person to the proposed agency action Issues Nos. 2 and 3, a Consummating Order should be issued upon the expiration of the protest period and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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18Docket No. 030438-EI - Petition for rate increase by Florida Public Utilities Company.

Critical Date(s): 4/14/04 (8-month effective date)

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

Staff: ECR: Wheeler, Draper, Springer  
GCL: Brubaker, Fleming

Issue 1: Should Exhibit 4 be admitted into the record for Docket 030438-EI?

Recommendation: Yes. The exhibit should be admitted into the record.

Issue 128: What are the appropriate energy charges?

Recommendation: The appropriate base energy charges are shown in Attachment 2 to staff's March 4, 2004 memorandum.

Issue 137: Should this docket be closed?

Recommendation: Yes. The docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Bradley, Davidson