

MINUTES OF MARCH 18, 2003

COMMISSION CONFERENCE

COMMENCED: 9:30 a.m.

ADJOURNED: 9:40 a.m.

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

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

1Approval of Minutes

February 18, 2003 Regular Commission Conference

DECISION: The minutes were approved.

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

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ITEM NO. CASE

2**Consent Agenda

PAA A) Application for certificate to provide alternative local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030049-TX	America's Wireless Choice, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030177-TI	Exergy Group, LLC
030050-TI	American Long Lines, Inc.
030107-TI	Total Call International, Inc.
030116-TI	CR Technologies, Inc.
030161-TI	Entrix Telecom, Inc.
030133-TI	Telecom Management, Inc. d/b/a Pioneer Telephone, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030033-TC	Land for Sale Services Inc
030168-TC	Brothers Services Corporation
030180-TC	Esllys J. Vasquez d/b/a E & G Computers - Electronics

PAA D) Request for cancellation of alternative local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030202-TX	Pinnacle Telcom, Inc.	2/21/03

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ITEM NO. CASE

2** Consent Agenda

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PAA E) Requests for cancellation of interexchange telecommunications certificates.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030162-TI	Westel, Inc.	12/31/02
030054-TI	Transcall America, Inc. d/b/a ATC Long Distance	12/31/02

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

DECISION: The recommendation was approved.

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

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3Docket No. 020507-TL - Complaint of Florida Competitive Carriers Association against BellSouth Telecommunications, Inc. regarding BellSouth's practice of refusing to provide FastAccess Internet Service to customers who receive voice service from a competitive voice provider, and request for expedited relief.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Christensen
CMP: Dowds

ISSUE 1: Should the Commission grant the Florida Competitive Carriers Association's Request for Oral Argument?

RECOMMENDATION: Yes. Staff recommends that the Commission grant oral argument. Staff also recommends that each side be limited to a 10-minute presentation.

ISSUE 2: Should the Commission grant the Florida Competitive Carriers Association's Motion for Reconsideration of Order No. PSC-03-0084-PCO-TL?

RECOMMENDATION: No. Staff recommends that the Commission should find that the Florida Competitive Carriers Association has failed to demonstrate that the Prehearing Officer made a mistake of fact or law in rendering his decision. Therefore, staff recommends that the Commission should deny the Florida Competitive Carriers Association's Motion for Reconsideration.

ISSUE 3: Should the Commission grant the Florida Competitive Carriers Association's Motion for Reconsideration of a Portion of Order No. PSC-03-0180-PCO-TL?

RECOMMENDATION: No. For the reasons articulated in Issue 2 and in the analysis portion of staff's March 6, 2003 memorandum, staff recommends that the Commission should deny the Florida Competitive Carriers Association's Motion for Reconsideration of a Portion of Order No. PSC-03-0180-PCO-TL.

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Docket No. 020507-TL - Complaint of Florida Competitive Carriers Association against BellSouth Telecommunications, Inc. regarding BellSouth's practice of refusing to provide FastAccess Internet Service to customers who receive voice service from a competitive voice provider, and request for expedited relief.

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ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending further proceedings.

DECISION: The item was deferred.

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4**Docket No. 030163-GU - Proposed amendment of Rule 25-7.072,
F.A.C., Code of Conduct.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: GCL: Stern
CMP: Makin
ECR: Hewitt

ISSUE 1: Should the Commission propose amendments to Rule 25-7.072, Florida Administrative Code, titled "Code of Conduct?"

RECOMMENDATION: Yes. The Commission should propose that the rule be amended as shown in the attachment to staff's March 6, 2003 memorandum.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no requests for hearing or comments are filed, the rule as proposed should be filed for adoption with the Secretary of State and the docket closed.

DECISION: The recommendations were approved with modification to subparagraph (d) on page 7 of staff's recommendation.

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

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5**Docket No. 021011-EC - Informal complaint against Withlacoochee River Electric Cooperative, Inc. by Saddlebrook Resort Condominium Association, Inc., request for determination that Saddlebrook's unit owners be allowed to take service from WREC through master meters, and for reclassification of SRCA owners under WREC's rate structure as General Service Demand accounts rather than Residential. (Deferred from February 18, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Holley
ECR: Kummer

ISSUE 1: Should the Commission grant WREC's Motion to Dismiss Saddlebrook's Complaint?

RECOMMENDATION: Yes. The Commission should grant WREC's Motion to Dismiss Saddlebrook's Complaint with prejudice.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission either grants WREC's Motion to Dismiss or approves the parties' stipulation, Saddlebrook's complaint will be dismissed with prejudice and this docket should be closed.

DECISION: The item was withdrawn.

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CASE

6**PAA Docket No. 001503-TP - Cost recovery and allocation issues
for number pooling trials in Florida.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: CMP: Salak, Ileri, Casey, Bulecza-Banks

GCL: Christensen, B. Keating

ISSUE 1: Does BellSouth's cost recovery petition for state-mandated number pooling trials comply with the guidelines established pursuant to Commission Order No. PSC-02-0466-PAA-TP?

RECOMMENDATION: Yes. Staff recommends that BellSouth's cost recovery petition for state-mandated number pooling trials complies with the guidelines established pursuant to Commission Order No. PSC-02-0466-PAA-TP, and the Commission should allow BellSouth to recover its carrier-specific costs associated with state-mandated number pooling trials.

ISSUE 2: If the Commission approves staff's recommendation in Issue 1, how should BellSouth recover its carrier-specific costs of \$3,506,844 associated with state-mandated number pooling trials?

PRIMARY RECOMMENDATION: If staff's recommendation in Issue 1 is approved, staff recommends that BellSouth recover its carrier-specific costs of \$3,506,844 associated with state-mandated number pooling trials through a one-time charge allocated among BellSouth's Florida end-user lines located in the state-mandated number pooling areas as of June 30, 2003. BellSouth should also submit its final calculation of the end-user line charge to staff prior to any assessment on customer bills. Staff should be allowed to approve the final assessment administratively; however, any material difference between the estimated one-time charge and the final assessment should be brought before the Commission for approval.

ALTERNATE RECOMMENDATION: If staff's recommendation in Issue 1 is approved, staff recommends that BellSouth recover its carrier-specific costs of \$3,506,844 associated with state-mandated number pooling trials through a one-time charge

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6**PAA	Docket No. 001503-TP - Cost recovery and allocation issues for number pooling trials in Florida. (Continued from previous page) allocated among all of BellSouth's Florida end-user lines as of June 30, 2003. BellSouth should also submit its final calculation of the end-user line charge to staff prior to any assessment on customer bills. Staff should be allowed to approve the final assessment administratively; however, any material difference between the estimated one-time charge and the final assessment should be brought before the Commission for approval. <u>ISSUE 3</u> : Should this docket be closed? <u>RECOMMENDATION</u> : No. 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 order will become final upon issuance of a consummating order. Staff recommends that this docket should remain open pending review of cost recovery petitions from other carriers. <u>DECISION</u> : The item was deferred.

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7**PAADocket No. 000121A-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK)

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: CMP: Harvey, Vinson, Hallenstein, Duffey

GCL: B. Keating, Dodson

ISSUE 1: Should the Commission order BellSouth to implement proposed revisions to the Performance Assessment Plan presented in Attachment 1 of staff's March 6, 2003 memorandum?

RECOMMENDATION: Yes. Staff recommends that BellSouth be ordered to implement the proposed changes to the Performance Assessment Plan as reflected in Attachment 1 for implementation within 60 days of the Commission's Proposed Agency Action Order if the changes are not protested. Additionally, staff recommends that the Commission, on its own motion, require that an Industry Task Force be established to address the problems encountered in calculating the Service Order Accuracy performance measurement.

ISSUE 2: Should Change Management metrics (CM-6 and CM-11) be modified to clarify Commission intent?

RECOMMENDATION: Yes. Staff recommends that BellSouth be ordered to implement the proposed changes to the Performance Assessment Plan. In addition, BellSouth should be ordered to include in CM-11 any "CLEC affecting" changes and August 2002 data as previously ordered. If the Commission approves staff's recommended changes, staff recommends that BellSouth be required to implement them within 60 days of the Commission's Proposed Agency Action Order, if the changes are not protested.

ISSUE 3: Should the Commission adopt Performance Measures for special access services for BellSouth?

RECOMMENDATION: Yes. Staff recommends that the Commission approve the diagnostic special access measures and

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7**PAA

Docket No. 000121A-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK)

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benchmarks included in Attachment 3 of staff's March 6, 2003 memorandum, and that BellSouth be required to implement them within 60 days of the Commission's Proposed Agency Action Order unless protested.

ISSUE 4: Should the Commission approve the BellSouth policy on reposting of performance data and recalculation of SEEM payments?

RECOMMENDATION: No. Staff recommends that BellSouth be ordered to revise its reposting policy to include all SQM measurements and to eliminate the 100-transaction threshold. Additionally, BellSouth should be required to provide the reason for any reposting. If the Commission approves staff's recommended changes, staff recommends that BellSouth be required to implement them within 60 days of the Commission's Proposed Agency Action Order unless protested.

ISSUE 5: Should the Commission provide an implementation date for the revisions to the Performance Assessment Plan required by Order No. PSC-02-1736-PAA-TP, issued December 10, 2002?

RECOMMENDATION: Yes. Staff recommends that the changes required in Order No. PSC-02-1736-PAA-TP should also be implemented within 60 days of the Commission's Proposed Agency Action Order relating to Issues 1 through 4 above.

ISSUE 6: Should this docket be closed?

RECOMMENDATION: No. If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order. If no timely protest of the Commission's Proposed Agency Action Order is filed, the approved changes should be implemented within 60 days of

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7**PAA

Docket No. 000121A-TP - Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK)

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the Proposed Agency Action Order. Thereafter, this Docket should remain open to conduct the periodic six-month reviews of the performance assessment plan outlined in Order No. PSC-01-1819-FOF-TP. Any protest of the Commission's decision in this matter should identify with specificity the item or measure being protested, and any such protest should not prevent the remainder of the Order from becoming final and effective.

DECISION: The item was deferred.

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8**Docket No. 020664-TI - Compliance investigation of bigredwire.com, Inc. for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.
Docket No. 021089-TI - Application for certificate to provide interexchange telecommunications service by bigredwire.com, Inc. (Deferred from February 18, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Buys, Williams
GCL: Banks, Dodson

ISSUE 1: Should the Commission accept the settlement offer proposed by bigredwire.com, Inc. (Bigredwire), including a contribution of \$7,500 to the State General Revenue Fund paid in 12 equal monthly installments of \$625 each, to resolve the apparent violations of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?
RECOMMENDATION: Yes. The first installment should be received by the Commission within fourteen calendar days from the issuance date of the Commission's Order and should identify the docket number and company name. Each subsequent payment should be due within 30-day intervals following the first payment and should also identify the docket number and company name. The Commission should forward the payments to the Department of Financial Services for deposit in the General Revenue Fund. If the company fails to comply with the payment terms set forth in its settlement proposal, staff will initiate further proceedings.

PAA ISSUE 2: Should the Commission grant bigredwire.com, Inc. (Bigredwire) a certificate to provide interexchange telecommunications service within the state of Florida in Docket No. 021089-TI?

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Docket No. 020664-TI - Compliance investigation of bigredwire.com, Inc. for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

Docket No. 021089-TI - Application for certificate to provide interexchange telecommunications service by bigredwire.com, Inc. (Deferred from February 18, 2003 conference; revised recommendation filed.)

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RECOMMENDATION: Yes. The Commission should grant Bigredwire Certificate of Public Convenience and Necessity No. 8275, to provide IXC service within the state of Florida in Docket No. 021089-TI.

ISSUE 3: Should Docket No. 020664-TI be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, Docket No. 020664-TI should remain open pending remittance of Bigredwire's contribution totaling \$7,500. The docket should be closed administratively upon receipt of the company's last installment of \$625. If the Commission denies staff's recommendation on Issue 1, Docket No. 020664-TI should remain open pending a resolution to the rule violations.

ISSUE 4: Should Docket No. 021089-TI be closed?

RECOMMENDATION: Docket No. 021089-TI should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order.

DECISION: The recommendations were approved.

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

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9**Docket No. 021118-EI - Petition for approval of revised tariffs and updated charges for underground residential and commercial distribution service by Tampa Electric Company.

Critical Date(s): 7/1/03 (8-month effective date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Draper, Breman
CMP: Yambor
GCL: Brubaker

ISSUE 1: Should the Commission approve TECO's updated tariff sheets and charges associated with the installation of underground residential and commercial distribution facilities?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective on March 18, 2003. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

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10**Docket No. 030122-EI - Petition for approval of revised lighting tariffs by Tampa Electric Company.

Critical Date(s): 4/3/03 (60-day suspension date)

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Baxter

GCL: Rodan

ISSUE 1: Should the Commission approve TECO's proposed changes to its General Outdoor Lighting Service (OL-1), Premium Outdoor Lighting Service (OL-3), and Street Lighting (SL-2) rate schedules?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, the revised Tariff Sheets Nos. 6.260, 6.261, 6.270, 6.271, and 6.305 should become effective on March 18, 2003. If a protest is filed within 21 days of the issuance of the order, these tariffs should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

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11**PAA Docket No. 010087-WS - Application for approval of reuse plan in Lake County by Sun Communities Finance, LLC d/b/a Water Oak Utility.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: ECR: Fitch, Merta
GCL: Jaeger

ISSUE 1: Should the Commission continue to require the utility to escrow 23.07% of wastewater revenues pursuant to Order No. PSC-00-1165-PAA-WS, issued June 27, 2000, in Docket No. 990243-WS?

RECOMMENDATION: No. The utility should no longer be required to escrow 23.07% of wastewater revenues.

ISSUE 2: Should a portion of the wastewater revenues escrowed pursuant to Order No. PSC-00-1165-PAA-WS, issued June 27, 2000, in Docket No. 990243-WS, be released? And if so, how much?

RECOMMENDATION: Yes. All the monies escrowed to date should be released with the exception of \$6,000 and associated interest which represents overearnings during the 2000 calendar year.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should not be closed. It should remain open pending the completion of the reuse docket. If a protest by a substantially affected person is filed within 21 days of the issuance of the Order, the escrowed monies should remain in escrow pending resolution of the protest, and the docket should remain open.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
12**Docket No.	020928-WU - Application for amendment of Certificate No. 347-W to extend territory and application to increase service availability charges for SummerBrooke service area in Marion County by Marion Utilities, Inc.

Critical Date(s): 4/1/03 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: ECR: Rieger, Johnson
GCL: Crosby, Helton

ISSUE 1: Should Marion Utilities, Inc.'s proposed tariff sheet for service availability charges for the proposed SummerBrooke service area be suspended?

RECOMMENDATION: Yes. Marion Utilities, Inc.'s proposed tariff sheet for service availability charges for the proposed SummerBrooke service area should be suspended pending further investigation by staff. This docket should remain open pending the completion of staff's investigation.

DECISION: The recommendation was approved.

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

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13Docket No. 990649B-TP - Investigation into pricing of unbundled network elements (Sprint/Verizon track).

Critical Date(s): None

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

Staff: GCL: B. Keating, Knight
CMP: Dowds, King, Brown
ECR: Lee, Lester

ISSUE 1: Should the Request for Oral Argument filed by AT&T, MCI WorldCom, and FDN be granted?

RECOMMENDATION: Yes. Staff recommends that oral argument be granted because it appears that it may assist the Commission in rendering its decision in this matter. Staff recommends that oral argument be limited to 10 minutes per side.

ISSUE 2: Should the Commission grant Verizon's Motion for Mandatory Stay Pending Judicial Review?

RECOMMENDATION: No. Staff recommends that the mandatory stay provisions of Rule 25-22.061(1)(a), Florida Administrative Code, pursuant to which Verizon is seeking a mandatory stay, are inapplicable in this situation.

ISSUE 3: Should this Docket be closed?

RECOMMENDATION: No. This Docket should remain open pending resolution of the Motion for Reconsideration and the pending appeal.

DECISION: The item was deferred.

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14Docket No. 020384-GU - Petition for rate increase by Peoples Gas System.

Critical Date(s): None

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

Staff: ECR: Maurey
GCL: Vining

ISSUE 1: Should the Commission clarify Order No. PSC-03-0038-FOF-GU to recognize an allowed range around the authorized return on equity (ROE) of 11.25%?

RECOMMENDATION: Yes. The Commission should clarify Order No. PSC-03-0038-FOF-GU to recognize an allowed range of plus or minus 100 basis points around the authorized ROE of 11.25%.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed after the time for filing an appeal has run.

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Deason, Baez, Bradley