

MINUTES OF MARCH 19, 2002

COMMISSION CONFERENCE

COMMENCED: 9:30 a.m.

ADJOURNED: 11:55 a.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 19, 2002 Regular Commission Conference

DECISION: The minutes were approved.

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

Minutes of
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<u>ITEM NO.</u>	<u>CASE</u>										
2**	Consent Agenda										
PAA	A) Applications for certificates to provide alternative local exchange telecommunications service.										
	<table border="1"> <thead> <tr> <th><u>DOCKET NO.</u></th> <th><u>COMPANY NAME</u></th> </tr> </thead> <tbody> <tr> <td>020103-TX</td> <td>CeriStar, Inc.</td> </tr> <tr> <td>011637-TX</td> <td>University Club Communications, LLC</td> </tr> <tr> <td>020145-TX</td> <td>Intertoll Communication Network Corporation</td> </tr> <tr> <td>020092-TX</td> <td>Pan American Telecom, Incorporated</td> </tr> </tbody> </table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020103-TX	CeriStar, Inc.	011637-TX	University Club Communications, LLC	020145-TX	Intertoll Communication Network Corporation	020092-TX	Pan American Telecom, Incorporated
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011637-TX	University Club Communications, LLC										
020145-TX	Intertoll Communication Network Corporation										
020092-TX	Pan American Telecom, Incorporated										
PAA	B) Request for cancellation of alternative local exchange telecommunications certificate.										
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011593-TI	Viva Telecom, L.L.C.										
011636-TI	University Club Communications, LLC										
PAA	D) DOCKET NO. 020133-TI - Request for cancellation of IXC Certificate No. 5642 by Satelink Paging, LLC, effective 12/31/01.										

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<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda (Continued from previous page)
PAA	E) DOCKET NO. 020125-TP - Request for approval of indirect transfer of control of McLeodUSA Telecommunications Services, Inc., holder of ALEC Certificate No. 7715 and IXC Certificate No. 4807, from McLeodUSA Incorporated to Forstmann Little & Co.

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

<u>ITEM NO.</u>	<u>CASE</u>
3**PAA	<p>Docket No. 001503-TP - Cost recovery and allocation issues for number pooling trials in Florida.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: CMP: Ileri, Casey, Bulecza-Banks, Dowds, Simmons GCL: Christensen</p> <p><u>ISSUE 1</u>: Should the Commission allow carriers the opportunity to seek recovery of costs associated with state-mandated pooling trials?</p> <p><u>RECOMMENDATION</u>: Yes. Staff recommends that the Commission allow carriers the opportunity to seek recovery of costs associated with state-mandated pooling trials. For shared-industry costs for all state pooling trials, the appropriate cost allocation methodology should be the modified version of the LNP method allocated among all service providers in Florida. A carrier seeking recovery of carrier-specific costs should make a filing with this Commission detailing the means by which it proposes to recover its costs, consistent with FCC guidelines and in accordance with federal and state statutes. Each carrier's filing should show that:</p> <ol style="list-style-type: none">1) pooling results in a net cost increase rather than a cost reduction;2) the costs would not have been incurred "but for" and "for the provision of" thousands-block number pooling;3) the costs are "new" costs;4) the costs for which recovery is requested are Florida-specific costs not related to national number pooling; and5) the costs will be recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Telecommunications Act of 1996.

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<u>ITEM NO.</u>	<u>CASE</u>
3**PAA	Docket No. 001503-TP - Cost recovery and allocation issues for number pooling trials in Florida.

(Continued from previous page)

ISSUE 2: If staff's recommendation in Issue 1 is approved, how should FPSC regulated carriers seeking recovery proceed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, staff recommends that the FPSC regulated carriers seeking recovery should file tariffs and all supporting documents related to their cost analysis with the Commission no later than 30 days after the issuance of the final Order. After reviewing the filings, staff should file a recommendation for consideration by the Commission.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If staff's recommendations in Issues 1 and 2 are approved, staff recommends that this docket should remain open pending review of the cost analyses and filed tariffs.

DECISION: The recommendations were approved with the modification to Issue 2 that the companies are to file petitions within 90 days of the order setting forth a cost recovery mechanism that meets federal and state law, and tariffs thereafter.

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

ITEM NO.

CASE

4**PAA

Docket No. 011654-TI - Investigation and determination of appropriate method for refunding overcharges assessed on intrastate calls made using prepaid calling services by Locus Telecommunications, Inc. (Deferred from the February 5, 2002 Commission Conference.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Buys
ECR: Draper, Vendetti
GCL: Teitzman

ISSUE 1: Should the Commission accept Locus Telecommunications, Inc.'s proposal to submit a payment of \$3,896.75, plus interest of \$87.30, for a total of \$3,984.05, to the General Revenue Fund for overcharging end-users on intrastate calls made using prepaid calling services provided through the *Satellite Phone Card* from May 1, 2001, through August 31, 2001?

RECOMMENDATION: Yes. The Commission should accept Locus Telecommunications, Inc.'s offer to submit a payment of \$3,896.75, plus interest of \$87.30, for a total of \$3,984.05, to the General Revenue Fund for overcharging end-users on intrastate calls made using prepaid calling services provided through the *Satellite Phone Card* from May 1, 2001, through August 31, 2001. The payment should be received by the Commission within ten business days after the issuance of the Consummating Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the General Revenue Fund. If Locus Telecommunications, Inc. fails to pay in accordance with its offer, Certificate No. 7439 should be canceled administratively and this docket should be closed.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of

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ITEM NO.

CASE

4**PAA

Docket No. 011654-TI - Investigation and determination of appropriate method for refunding overcharges assessed on intrastate calls made using prepaid calling services by Locus Telecommunications, Inc. (Deferred from the February 5, 2002 Commission Conference.)

(Continued from previous page)

the issuance of the Proposed Agency Action Order. This docket should remain open pending the receipt of the \$3,984.05 contribution. Upon receipt of the contribution, it should be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund, and this docket should be closed administratively. If the company fails to pay the settlement contribution, this docket may be closed administratively upon cancellation of Locus Telecommunications, Inc.'s certificate.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

5**PAA

Docket No. 020049-TI - Investigation and determination of appropriate method for refunding overcharges, and interest, assessed on intrastate calls made using prepaid calling services by Ultimate Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Buys
ECR: Draper, Vendetti
GCL: Elliott

ISSUE 1: Should the Commission accept Ultimate Communications, Inc.'s proposal to submit a lump sum payment of \$1,886.30, plus interest of \$56.55, for a total of \$1,942.85, to the General Revenue Fund for overcharging end-users on intrastate calls made using prepaid calling services provided through the Universal Prepaid Phonecard from October 1, 2000, to December 1, 2001?

RECOMMENDATION: Yes. The Commission should accept Ultimate Communications, Inc.'s offer to submit a lump sum payment of \$1,886.30, plus interest of \$56.55, for a total of \$1,942.85, to the General Revenue Fund for overcharging end-users on intrastate calls made using prepaid calling services provided through the Universal Prepaid Phonecard from October 1, 2000, through December 1, 2001. The payment should be received by the Commission within fourteen calendar days after the issuance of the Consummating Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the General Revenue Fund. If Ultimate Communications, Inc. fails to pay in accordance with its offer, Certificate No. 7036 should be canceled administratively. If Ultimate Communications, Inc.'s certificate is canceled in accordance with the Commission's Order, Ultimate Communications, Inc. should be required to immediately cease and desist providing interexchange telecommunications services in Florida.

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ITEM NO.

CASE

5**PAA

Docket No. 020049-TI - Investigation and determination of appropriate method for refunding overcharges, and interest, assessed on intrastate calls made using prepaid calling services by Ultimate Communications, Inc.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. This docket should remain open pending the receipt of the \$1,942.85 payment. Upon receipt of the payment, it should be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund, and this docket should be closed administratively. If the company fails to make the payment, this docket should be closed administratively upon cancellation of Ultimate Communications, Inc.'s certificate and the issuance of the Commission's Order to cease and desist providing interexchange telecommunications services in Florida.

DECISION: The recommendations were approved.

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

ITEM NO. CASE

6**PAA Docket No. 010488-TI - Investigation and determination of method to credit flow-through reductions by eMeritus Communications, Inc. as required by Section 364.163, F.S.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: CMP: Watts
AUS: Vandiver
ECR: D. Draper
GCL: Elliott

ISSUE 1: Should the Commission accept eMeritus Communications, Inc.'s offer of refund and refund calculation of \$13,584.00, plus interest of \$2,250.63, for a total of \$15,834.63, for apparent failure to properly flow-through the 1998 switched access reductions pursuant to Section 364.163(6), Florida Statutes?

RECOMMENDATION: Yes. Staff recommends that the Commission accept the offer of refund and refund calculation of \$13,584.00, plus interest of \$2,250.63, for a total of \$15,834.63, proposed by eMeritus. The one-time refund proposed by eMeritus should be paid during June 2002 to the customers identified by the company. At the end of the refund period, any amount not refundable, including interest, should be remitted to the Commission by July 31, 2002, and forwarded to the Comptroller for deposit in the General Revenue Fund. eMeritus should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by July 31, 2002.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the proposed action recommended herein files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Order will become final and effective upon issuance of a Consummating Order. The docket should be closed administratively once the refund in Issue 1 is complete and the final report is received and reviewed by staff.

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ITEM NO.

CASE

6**PAA

Docket No. 010488-TI - Investigation and determination of method to credit flow-through reductions by eMeritus Communications, Inc. as required by Section 364.163, F.S.

(Continued from previous page)

DECISION: The recommendations were approved.

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

<u>ITEM NO.</u>	<u>CASE</u>
7**PAA	<p>Docket No. 010919-SU - Application for staff-assisted rate case in Marion County by BFF Corp.</p> <p>Critical Date(s): 11/25/02 (15-month effective date)</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: ECR: Merta, Fitch, Edwards GCL: Jaeger</p> <p><u>ISSUE 1</u>: Is the quality of service provided by BFF Corporation since the interconnection with Utilities, Inc. satisfactory? <u>RECOMMENDATION</u>: Yes. The quality of service provided to its customers by BFF Corporation since the interconnection with Utilities, Inc. should be considered satisfactory.</p> <p><u>ISSUE 2</u>: Should the Commission approve a projected test year for this utility? <u>RECOMMENDATION</u>: Yes. The Commission should approve a projected test year for the utility. The historical test year is not representative of the change in revenues and expenses caused by BFF's interconnection with Utilities, Inc. which occurred at the end of the historical test year. Therefore, a projected test year ending August 31, 2002, should be approved.</p> <p><u>ISSUE 3</u>: What percentage of the utility's force main and collection system is used and useful? <u>RECOMMENDATION</u>: Staff recommends that 100% of the force main and 88% of the collection system be considered used and useful.</p> <p><u>ISSUE 4</u>: Should the sprayfield improvement construction costs be considered prudent? <u>RECOMMENDATION</u>: No. The sprayfield improvement construction costs should not be considered prudent and should not be allowed.</p> <p><u>ISSUE 5</u>: What is the appropriate treatment of the land associated with the wastewater treatment plant? <u>RECOMMENDATION</u>: Land in the amount of \$33,221 should be reclassified to Property Held for Future Use and recorded below-the-line. Because this land was included in rate base, the utility should report to this Commission any</p>

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CASE

7**PAA

Docket No. 010919-SU - Application for staff-assisted rate case in Marion County by BFF Corp.

(Continued from previous page)

future sale, foreclosure, or any transaction involving transfer of ownership of the land and any proposed rate reduction resulting therefrom within 60 days of such occurrence.

ISSUE 6: What is the appropriate amount of abandonment/early retirement loss associated with the utility's interconnection with BFF Utilities, Inc. and how should this loss be recovered by the utility?

RECOMMENDATION: The appropriate amount of abandonment/early retirement loss associated with the utility's interconnection with BFF is \$12,922. This loss should be recovered through rates over a five-year period. If the Commission finds that the sprayfield improvements are prudent and complied with the requirements of the operating permit and enforcement actions of DEP, the appropriate amount of abandonment/early retirement loss is \$133,107 and should be recovered through rates over a 20-year period.

ISSUE 7: What is the appropriate projected test year rate base for the utility?

RECOMMENDATION: The appropriate projected test year rate base for the utility is \$150,636.

ISSUE 8: Should the Commission continue the penalty reduction approved in Order No. PSC-98-0763-FOF-SU, by reducing BFF's return on equity by 100 basis points for mismanagement and unsatisfactory quality of service prior to the mandated interconnection?

RECOMMENDATION: Yes. The Commission should continue the penalty approved in Order No. PSC-98-0763-FOF-SU, by reducing BFF's return on equity by 100 basis points for mismanagement and unsatisfactory quality of service prior to the DEP mandated interconnection.

ISSUE 9: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity is 10.34% with a range of 10.34% - 12.34%. The appropriate overall rate of return for the utility is 9.27%.

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CASE

7**PAA

Docket No. 010919-SU - Application for staff-assisted rate case in Marion County by BFF Corp.

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ISSUE 10: What is the appropriate projected test year revenue?

RECOMMENDATION: The appropriate projected test year revenue for this utility is \$64,120 for wastewater.

ISSUE 11: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense for this utility is \$57,118.

ISSUE 12: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement is \$71,082 for wastewater.

ISSUE 13: What are the appropriate rates for the system?

RECOMMENDATION: The recommended rates should be designed to produce revenue of \$70,833 excluding miscellaneous service charge revenue, as shown in the analysis portion of staff's March 7, 2002 memorandum. 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 14: 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 March 7, 2002 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 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

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CASE

7**PAA

Docket No. 010919-SU - Application for staff-assisted rate case in Marion County by BFF Corp.

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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.

ISSUE 15: What are the appropriate customer deposits for this utility?

RECOMMENDATION: The appropriate customer deposits should be as specified in the analysis portion of staff's March 7, 2002 memorandum. The utility should file revised tariff sheet, 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 16: 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 analysis portion of staff's March 7, 2002 memorandum. 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

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Docket No. 010919-SU - Application for staff-assisted rate case in Marion County by BFF Corp.

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monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund.

ISSUE 17: Should the docket be closed?

RECOMMENDATION: Yes. If no timely protest is filed by a substantially affected person, this docket should be closed upon issuance of a Consummating Order.

DECISION: The recommendations were approved with the corrections noted in Issues 6 and 8.

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

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ITEM NO.

CASE

8**

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. (Deferred from March 5, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: ECR: Walden
GCL: Brubaker

ISSUE 1: Should NFMU's Motion to Dismiss Objection of Mr. Hale be granted?

RECOMMENDATION: Yes.

ISSUE 2: Should the utility's request to amend its certificated territory be approved?

RECOMMENDATION: Yes. The utility's request to amend its certificated territory should be approved. The recommended territory is described in Attachment A of staff's March 7, 2002 memorandum.

ISSUE 3: Should the docket be closed?

RECOMMENDATION: Yes. If staff's recommendations in Issues 1 and 2 are approved, no further action is required and the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**

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. (Deferred from March 5, 2002 conference; revised recommendation filed.)

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. Further, staff recommends that FWSC's proposed plan, including the customer notice and proposed meeting, is a reasonable solution to giving the customers notice of its intent to begin billing based on the 10,000 gallon cap in June, 2003.

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CASE

9**

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. (Deferred from March 5, 2002 conference; revised recommendation filed.)

(Continued from previous page)

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 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 can be found on Attachment A of staff's March 7, 2002 memorandum.

PAA ISSUE 3: What is the rate base of Steeplechase at the time of transfer?

RECOMMENDATION: The rate bases, which for transfer purposes reflect the net book value, are \$115,815 for the water system and (\$139,747) for the wastewater system as of December 31, 2000.

PAA ISSUE 4: Should an acquisition adjustment be approved?

RECOMMENDATION: No. An acquisition adjustment was not requested; therefore, an acquisition adjustment should not be included in the calculation of rate base for transfer purposes.

PAA ISSUE 5: Should the rates and charges approved for this utility be continued?

RECOMMENDATION: 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.

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ITEM NO.

CASE

9**

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. (Deferred from March 5, 2002 conference; revised recommendation filed.)

(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 expiration of the protest period. Should no timely protests be received, the docket should be closed.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
10**PAA	<p>Docket No. 010616-WS - Complaint by Dr. William F. Weir against Sun Communities Finance, LLC d/b/a Water Oak Utility in Lake County regarding present method of charging customers.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: ECR: Costner, Biggins GCL: Espinoza</p> <p><u>ISSUE 1</u>: Should Sun Communities Finance, LLC d/b/a Water Oak Utilities be required to provide a wastewater vacation rate? <u>RECOMMENDATION</u>: No. Sun Communities should not be required to provide a wastewater vacation rate.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If no protest occurs within 21 days of the issuance date of the Order, the PAA Order will become final upon issuance of a Consummating Order and the docket should be closed.</p> <p><u>DECISION</u>: This item was deferred.</p>

ITEM NO.

CASE

11**PAA

Docket No. 020045-WU - Investigation of overearnings for Morningside Utilities, Inc. in Osceola County.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Costner, Fitch, Edwards
GCL: Gervasi

ISSUE 1: What percentage of the utility's water treatment system and distribution system is used and useful?

RECOMMENDATION: Staff recommends that both the water treatment plant and distribution system be considered 100% used and useful.

ISSUE 2: What is the appropriate average test year rate base for this utility?

RECOMMENDATION: The appropriate average test year rate base for Morningside is \$52,103.

ISSUE 3: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity is 11.34% with a range of 10.34% - 12.34%. The appropriate overall rate of return for the utility is 10.30%.

ISSUE 4: What is the appropriate test year operating revenue?

RECOMMENDATION: The appropriate test year operating revenue should be \$101,854.

ISSUE 5: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expenses for this utility is \$81,823.

ISSUE 6: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement is \$87,190.

ISSUE 7: Did Morningside earn in excess of its authorized return on equity for the test year ended December 31, 2000?

RECOMMENDATION: Yes. The Commission should acknowledge that \$14,664 of the utility's water revenue exceeds staff's recommended 11.34% return on equity.

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

ITEM NO.

CASE

11**PAA

Docket No. 020045-WU - Investigation of overearnings for Morningside Utilities, Inc. in Osceola County.

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RECOMMENDATION: The approved rates should be designed to produce revenue of \$81,505 excluding miscellaneous service charge revenue, as shown in the analysis portion of staff's March 7, 2002 memorandum. 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: Should the utility's system capacity charge be revised, and if so, what is the appropriate system capacity charge?

RECOMMENDATION: Staff recommends that the utility's system capacity charge be discontinued.

ISSUE 10: In the event of a protest of the Proposed Agency Action (PAA) Order, should any amount of annual water revenues be held subject to refund?

RECOMMENDATION: Yes. In the event of a protest of the PAA Order, the utility should be allowed to continue collecting existing rates as temporary rates. However, in order to protect utility customers from potential overearnings, the utility should hold \$14,664 (15.25%) of annual service revenues subject to refund.

ISSUE 11: In the event of a protest of the PAA Order, what is the appropriate security to guarantee the amount subject to refund?

RECOMMENDATION: The security should be in the form of a bond or letter of credit in the amount of \$9,916. Alternatively, the utility could establish an escrow agreement with an independent financial institution. If security is provided through an escrow agreement, the utility should escrow 15.25% of its monthly service revenues as detailed in Issue 10. By no later than the twentieth day of each month, the utility should file a report showing the amount of revenues collected each month and the amount of

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11**PAA

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revenues collected to date relating to the amount subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

ISSUE 12: Should this docket be closed?

RECOMMENDATION: Yes. If no timely protest is received to the PAA issues upon expiration of the protest period, the Order will become final upon issuance of the Consummating Order. In the event of a protest, the utility should be allowed to continue collecting existing rates as temporary rates, but the utility should hold annual revenues subject to refund, as set forth in Issue 10 of this recommendation.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
12**PAA	Docket No. 011365-EQ - Petition for approval of amendment to cogeneration contract with Bay County Resource Recovery Facility by Florida Power Corporation. (Recommendation withdrawn from March 5, 2002 agenda; 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: Yes. The contract costs are currently above market costs and are expected to remain above market until 2013. The revised amendments will allow FPC to replace the contract's above market priced capacity in 2007. The revised amendment retains Bay County's contingent liability until the proposed contract termination date. This is consistent with the intent of Commission Order No. 19509, which guaranteed any payments from Bay County's contingent liability to FPC's ratepayers to compensate ratepayers for early capacity payments made to Bay County. The \$610,000 payment to Bay County should be recovered by FPC through the fuel and purchased power cost recovery clause.

ISSUE 2: Should this docket be closed?
RECOMMENDATION: Yes, if no protest is filed within 21 days of issuance of the order.

DECISION: The recommendations were approved with a modification to Issue 1. The company is to consider a sharing mechanism in this docket and is to respond to the Commission, in writing, within 30 days.

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

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<u>ITEM NO.</u>	<u>CASE</u>
12A**	<p>Docket No. 001148-EI - Review of the retail rates of Florida Power & Light Company. Docket No. 020001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez (001148) Palecki (020001)</p> <p>Staff: ECR: Slemkewicz, Kummer, Wheeler, Bohrmann GCL: Elias, C. Keating</p> <p><u>ISSUE 1</u>: Should the Commission approve the proposed Stipulation and Settlement? <u>RECOMMENDATION</u>: Yes. The Commission should approve the proposed Stipulation and Settlement.</p> <p><u>ISSUE 2</u>: Should the Commission approve FPL's petition for an adjustment to its fuel adjustment factors? <u>RECOMMENDATION</u>: Yes. The Commission should approve FPL's petition for an adjustment to its fuel adjustment factors.</p> <p><u>ISSUE 3</u>: Should Docket No. 001148-EI be closed? <u>RECOMMENDATION</u>: Yes. Docket No. 001148-EI should be closed.</p> <p><u>ISSUE 4</u>: Should Docket No. 020001-EI be closed? <u>RECOMMENDATION</u>: No. Docket No. 020001-EI is an ongoing docket and should remain open.</p>

DECISION: This item will be addressed at a special agenda on Friday, March 22, 2002, at 8:30 a.m.

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<u>ITEM NO.</u>	<u>CASE</u>
13	<p>Docket No. 020001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: GCL: C. Keating ECR: Bohrmann</p> <p><u>ISSUE 1</u>: Should the Commission grant Tampa Electric Company's motion for reconsideration of Order No. PSC-01-2176-PCO-EI? <u>RECOMMENDATION</u>: No. Tampa Electric Company's motion for reconsideration should be denied. The Commission did not overlook or fail to consider any point of fact or law when rendering Order No. PSC-01-2176-PCO-EI.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No. This docket is an ongoing docket and should remain open.</p>

DECISION: This item was withdrawn.

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ITEM NO.

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14**

Docket No. 001097-TP - Request for arbitration concerning complaint of BellSouth Telecommunications, Inc. against Supra Telecommunications and Information Systems, Inc. for resolution of billing disputes.

Critical Date(s): None

Commissioners Assigned: Jaber, Baez, Palecki
Prehearing Officer: Jaber

Staff: CMP: Wright
GCL: Christensen

ISSUE 1: Should the Commission grant BellSouth's Motion for Extension of Time to Respond to Supra's Motion to Dismiss for Lack of Subject Matter Jurisdiction?

RECOMMENDATION: Yes. The Commission should grant BellSouth's Motion for Extension of Time to Respond to Supra's Motion to Dismiss for Lack of Subject Matter Jurisdiction.

ISSUE 2: Should the Commission grant Supra's Motion to Dismiss for Lack of Subject Matter Jurisdiction?

RECOMMENDATION: No. The Commission should deny Supra's Motion to Dismiss for Lack of Subject Matter Jurisdiction.

ISSUE 3: Should the Commission grant BellSouth's Motion to Strike Portions of the Direct Testimony of Olukayode Ramos and David Nilson?

RECOMMENDATION: No. Staff recommends that the Commission should deny BellSouth's Motion to Strike Portions of the Direct Testimony of Olukayode Ramos and David Nilson in its entirety.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending resolution of the complaint.

DECISION: On its own motion, the Commission reconsidered and subsequently reaffirmed its original vote approving the recommendations.

Commissioners participating: Jaber, Baez, Palecki

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<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	<p>Docket No. 990457-TL - Request for review of proposed numbering plan relief for the 954 area code.</p> <p>Critical Date(s): 4/1/02 (Mandatory 10-digit dialing in the 954 area code begins.)</p> <p>Commissioners Assigned: Deason, Baez Prehearing Officer: Deason</p> <p>Staff: CMP: Ileri, Bulecza-Banks, Casey GCL: L. Fordham</p> <p><u>ISSUE 1</u>: Should the Commission grant CSS's request to provide a 90-day extension of time for permissive 7 or 10-digit dialing for the 971, 926, 943, and 946 NXXs in the 954 area code? <u>RECOMMENDATION</u>: Yes. Staff recommends that the Commission grant CSS's request to provide a 90-day extension of time for permissive 7 or 10-digit dialing for the 971, 926, 943, and 946 NXXs in the 954 area code.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No. Staff recommends that this docket should remain open pending full implementation of the 754 area code overlay.</p> <p><u>DECISION</u>: The recommendations were approved with the addition of two NXX Codes - 523 and 527.</p> <p>Commissioners participating: Deason, Baez</p>