

MINUTES OF
COMMISSION CONFERENCE, TUESDAY, MAY 15, 2001
COMMENCED: 9:30 a.m.
ADJOURNED: 7:30 p.m.

COMMISSIONERS PRESENT: Chairman Jacobs
Commissioner Deason
Commissioner Jaber
Commissioner Baez
Commissioner Palecki

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

1 Approval of Minutes
April 17, 2001 Regular Commission Conference

DECISION: The minutes were approved.

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

2** Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
010504-TC	Langley Corporate Investments, Inc.
010505-TC	Caribe Latino Trade, Inc.
010547-TC	Payphone Partners, Inc.

PAA B) Docket No. 010152-TX - Application for certificate to provide alternative local exchange telecommunications service by Global Connection, Inc of America.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
001431-TI	DLC Enterprises, Inc. d/b/a Direct Link Communications, Inc.

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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
010314-TI	Talk Visual Corporation
010354-TI	1-800-RECONEX, Inc.
010393-TI	AT&T Broadband Phone of Florida, LLC d/b/a AT&T Digital Phone

- PAA D) DOCKET NO. 010362-TI - Request for cancellation of IXC Certificate No. 7628 by iCall, Inc., effective 3/19/01. DOCKET NO. 010533-TI - Request for cancellation of IXC Certificate No. 3131 by Opus Correctional, Inc. d/b/a LocTel, effective 3/16/01.
- PAA E) DOCKET NO. 010266-TX - Request by Advantage Group Communications, L.L.C. for approval of corporate reorganization whereby Daytona Telephone Company (holder of ALEC Certificate No. 5736) will merge with Advantage Group of Florida Communications, L.L.C., (both subsidiaries of Advantage Group Communications), with Advantage Group of Florida Communications, L.L.C. as surviving entity, and approval of transfer and name change on ALEC Certificate No. 5736 from Daytona Telephone Company to Advantage Group of Florida Communications, L.L.C.
- PAA F) DOCKET NO. 010328-TP - Request for approval of consolidation of KMC Telecom Inc. (holder of ALEC Certificate No. 4733, IXC Certificate No. 4792, and AAV Certificate No. 4822), and KMC Telecom II, Inc. (holder of ALEC certificate No. 5617 and IXC Certificate No. 5616) into KMC Telecom III, Inc. (holder of ALEC Certificate No. 7093 and IXC Certificate No. 7092), whereby all customers and operations of KMC Telecom Inc. and KMC Telecom II, Inc., will be transferred to KMC Telecom III, Inc.; for cancellation of ALEC Certificates Nos. 4733 and 5617, cancellation of IXC Certificates Nos.

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<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda (Continued from previous page) 4792 and 5616; and for transfer and name change on AAV Certificate No. 4822 from KMC Telecom Inc. to KMC Telecom III, Inc.
PAA	G) DOCKET NO. 010477-TX - Request for approval of transfer of and name change on ALEC Certificate No. 4771 from TotalTel USA Communications, Inc. to its wholly owned subsidiary, Covista, Inc.
PAA	H) DOCKET NO. 010420-TI - Petition for approval of internal reorganization whereby GE Capital Communication Services Corporation d/b/a GE EXCHANGE and d/b/a GECCS and d/b/a GE Com (GECCS), holder of IXC Certificate No. 3194, will merge with GE Capital Telemanagement Services Corporation (GECTS), its wholly owned subsidiary, with GECTS as surviving entity, and for approval of transfer of and name change on Certificate 3194 from GECCS to GE Capital Telemanagement Services Corporation.
PAA	I) DOCKET NO. 010394-TX - Request for approval of reorganization whereby MediaOne Florida Telecommunications, Inc. d/b/a AT&T Broadband Florida Telecommunications and d/b/a AT&T Digital Phone (holder of ALEC Certificate No. 4404), wholly owned subsidiary of AT&T Corp., will merge with AT&T Broadband Phone of Florida, LLC d/b/a AT&T Digital Phone, newly created limited liability company and also wholly owned subsidiary of AT&T Corp.; and for transfer of and name change on Certificate No. 4404 from MediaOne to AT&T Broadband Phone.
PAA	J) Request for exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls.

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<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE NO. & LOCATION</u>
010508-TC	BellSouth Public Communications, Inc.	954-731-9750 954-731-9467 954-731-9468 Sabal Palm Plaza 5100 W. Commercial Bl. Tamarac

K) Request for approval of amendment to resale agreement.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CRITICAL DATE</u>
010438-TP	BellSouth Telecommunications, Inc.; Source One Communications, Inc.	07/10/01

L) Request for approval of amendment to existing interconnection and unbundling agreement.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CRITICAL DATE</u>
010406-TP	BellSouth Telecommunications, Inc.; Sprint Communications Company Limited Partnership	07/05/01

M) Request for approval of amendment to existing interim interconnection agreement.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CRITICAL DATE</u>
010418-TP	BellSouth Telecommunications, Inc.; Florida Digital Network, Inc.	07/05/01

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N) Requests for approval of amendments to existing interconnection, unbundling, resale, and collocation agreements.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CRITICAL DATE</u>
010398-TP	BellSouth Telecommunications, Inc.; SBC National, Inc. d/b/a SBC Telecom, Inc.	07/03/01
010399-TP	BellSouth Telecommunications, Inc.; Mpower Communications Corp.	07/03/01
010401-TP	BellSouth Telecommunications, Inc.; BroadBand Office Communications, Inc.	07/03/01
010407-TP	BellSouth Telecommunications, Inc.; US LEC of Florida Inc.	07/05/01
010434-TP	BellSouth Telecommunications, Inc.; Intetech, L.C.	07/10/01
010435-TP	BellSouth Telecommunications, Inc.; Fuzion Wireless Communications Inc.	07/10/01
010437-TP	BellSouth Telecommunications, Inc.; Premiere Network Services, Inc.	07/10/01

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

DECISION: The recommendation was approved with the exception of Docket No. 010328-TP, which was deferred to the June 26, 2001 Commission Conference.

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

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DOCKET NO. 991222-TP - Request for submission of proposals for relay service, beginning in June 2000, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

Critical Date(s): Budget approval is needed for FTRI's fiscal year, which begins July 1, 2001. Also need to allow time for LECs and ALECs to program any surcharge billing changes effective July 1, 2001.

Commissioners Assigned: Full Commission
Prehrg Officer DS

Staff: CMP: K. Craig, Audu, Moses
APP: Brown

ISSUE 1: Should the Commission approve an amendment to its relay contract with Sprint to add Caller ID as a feature of Florida's relay service?

RECOMMENDATION: Yes. The Commission should approve the addition of Caller ID as a feature of Florida's relay service and amend the Sprint contract accordingly.

ISSUE 2: Should the Commission pay Sprint for Caller ID for Florida relay service on a per session minute basis or in a one-time, lump-sum payment?

RECOMMENDATION: Staff recommends that the Commission, upon electing to add the Caller ID feature to the relay platform, pay Sprint in a one-time, lump-sum payment of \$500,000. This lump-sum payment would cover the provision of Caller ID through the end of the relay service contract with Sprint, currently June 1, 2003.

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3**

DOCKET NO. 991222-TP - Request for submission of proposals for relay service, beginning in June 2000, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

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ISSUE 3: Should Florida Telecommunications Relay, Inc.'s proposed budget for the fiscal year 2001-2002 be approved effective July 1, 2001, and the TASA surcharge raised to \$.12 per access line?

RECOMMENDATION: Yes. Florida Telecommunications Relay, Inc.'s proposed budget for fiscal year 2001-2002 should be approved as modified (see Attachment B of staff's May 7, 2001 memorandum) and the surcharge should be raised to \$.12 per access line.

Local exchange telephone companies and alternative local exchange companies should be ordered to assess a \$.12 surcharge beginning July 1, 2001.

As is the case today, the budget shall be grouped into five categories. FTRI may move amounts between these five categories not to exceed 10% of the category from which the funds are being moved; greater movement would require prior Commission authorization.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. This docket should not be closed.

DECISION: The recommendations were approved with a modification that Issue 3 will be issued as proposed agency action.

Commissioner Deason dissented on Issue 1.

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

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<u>ITEM NO.</u>	<u>CASE</u>
4**PAA	<p>DOCKET NO. 010634-TL - Elimination of certain reporting requirements for incumbent local exchange telecommunications companies.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: CMP: Bloom, Simmons LEG: Knight</p> <p><u>ISSUE 1</u>: Should the Commission eliminate the requirement for ILECs to file quarterly Contract Service Arrangement reports with the Commission? <u>RECOMMENDATION</u>: Yes. The Commission should eliminate the requirement for ILECs to file quarterly Contract Service Arrangement reports.</p> <p><u>DECISION</u>: The recommendation was deferred.</p> <p><u>ISSUE 2</u>: Should the Commission eliminate the requirement for the quarterly filing of Land-to-Mobile (LTM) activity reports created by Order No. PSC-95-1247-FOF-TL (taken from staff analysis)? <u>RECOMMENDATION</u>: Yes. The Commission should eliminate the requirement for incumbent LECs to file quarterly Land-to-Mobile activity reports.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 3</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.</p> <p><u>DECISION</u>: The recommendation was denied. The docket is to remain open.</p> <p>Commissioners participating: Jacobs, Deason, Jaber, Baez, Palecki</p>

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4**PAA

DOCKET NO. 010634-TL - Elimination of certain reporting requirements for incumbent local exchange telecommunications companies.

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5**

DOCKET NO. 010186-TP - Request by BellSouth Telecommunications, Inc. for approval of negotiated interim interconnection cross-connect agreement with ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMP: Fulwood
LEG: K. Pena, B. Keating

ISSUE 1: Should the Commission reconsider the vote at the March 13, 2001, Agenda Conference approving its interim interconnection cross-connect agreement between BellSouth Telecommunications, Inc. and ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom and close this docket?

RECOMMENDATION: Yes. The Commission should ~~reconsider~~ **vacate** its vote and close this docket, since the approval of the arbitrated agreement in Docket No. 990750-TP rendered the interim agreement moot.

DECISION: The recommendation was approved with the noted modification.

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

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6**PAA

DOCKET NO. 001485-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 7160 issued to CAT Communications International, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMP: Isler
LEG: Banks

ISSUE 1: Should the Commission accept the settlement offer proposed by CAT Communications International, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: No. The Commission should not accept the company's settlement offer, which proposed to pay a \$100 contribution and future regulatory assessment fees on a timely basis. Instead, the Commission should impose a \$500 fine or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's Certificate No. 7160 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

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6**PAA

DOCKET NO. 001485-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 7160 issued to CAT Communications International, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the fine and fees or cancellation of the certificate.

DECISION: This item was deferred to a later Commission Conference.

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7**PAA

DOCKET NO. 010368-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 5641 issued to NorthPoint Communications, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMP: Isler
LEG: Elliott

ISSUE 1: Should the Commission grant NorthPoint Communications, Inc.'s request for cancellation of its Certificate No. 5641?

RECOMMENDATION: Yes. The Commission should grant the company a bankruptcy cancellation of its Certificate No. 5641 with an effective date of March 26, 2001. In addition, the Division of Administration will be notified that the past due RAFs should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write off the uncollectible amount should be requested.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed.

DECISION: The recommendations were approved.

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

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8**PAA

DOCKET NO. 010591-TI - Cancellation by Florida Public Service Commission of IXC Certificate No. 2497 issued to AmeriVision Communications, Inc. for violation of Order No. PSC-00-0827-PAA-TI.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: CMP: Kennedy
LEG: Helton

ISSUE 1: Should the Commission cancel IXC Certificate No. 2497 issued to AmeriVision Communications, Inc. for violation of Order No. PSC-00-0827-PAA-TI?

RECOMMENDATION: Yes. The Commission should cancel Interexchange Telecommunications Certificate No. 2497 issued to AmeriVision Communications, Inc. for violation of Order No. PSC-00-0827-PAA-TI.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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8A	DOCKET NO. 960786-TL - Consideration of BellSouth Telecommunications, Inc.'s entry into interLATA services pursuant to Section 271 of the Federal Telecommunications Act of 1996.
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Critical Date(s): 5/31/01 (direct testimony due)

Commissioners Assigned: Full Commission
Prehrng Officer DS

Staff: CMP: Simmons
ECR: Stallcup
LEG: B. Keating, Banks, Helton
RGO: Harvey, Vinson

(Oral argument not requested, but may be granted at Commissioners' discretion.)

ISSUE 1: Should the Commission grant FCCA/AT&T's and WorldCom's Motions for Reconsideration of Order No. PSC-01-1025-PCO-TL?

RECOMMENDATION: No. The motions fail to identify a mistake of fact or law in the Prehearing Officer's decision.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. Regardless of the Commission's decisions in Issue 1, this docket should remain open pending further proceedings regarding BellSouth's application of inter-LATA authority.

DECISION: The recommendations were approved.

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

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9**PAA

DOCKET NO. 000737-WS - Investigation of rates of Aloha Utilities, Inc. in Pasco County for possible overearnings for the Aloha Gardens water and wastewater systems and the Seven Springs water system. (Deferred from May 1, 2001 Commission Conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer PL

Staff: ECR: Fletcher, Merchant, Wetherington, Crouch
LEG: Jaeger

ISSUE 1: Should the utility be allowed to capitalize invoices previously expensed?

RECOMMENDATION: No. The capitalization of previously expensed invoices should be disallowed. Plant, accumulated depreciation, and depreciation expense as of December 31, 1999 for Aloha Gardens should be reduced as follows:

<u>System</u>	<u>Plant</u>	<u>Accumulated Depreciation</u>	<u>Depreciation Expense</u>
Water	\$3,669	\$1,064	\$122
Wastewater	\$1,567	\$917	\$87

ISSUE 2: Should an item expensed by the utility during the 1999 test year be capitalized to plant?

RECOMMENDATION: Yes. The utility erroneously expensed an item during the 1999 test year that should have been capitalized to plant. Aloha Gardens wastewater plant balance should be increased by \$3,816 and its O&M expenses should be reduced by \$3,816. In addition, accumulated depreciation and depreciation expense should be increased by \$106 for the Aloha Gardens wastewater system.

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ISSUE 3: Should adjustments be made to include costs associated with the utility's new office building?

RECOMMENDATION: Yes. Pro forma adjustments for the Aloha Gardens costs associated with the utility's new office building should be allowed. The following annualized adjustments should be made:

	<u>Water</u>	<u>Wastewater</u>
Plant	\$70,952	\$70,952
Land	\$5,876	\$5,876
Accumulated Depreciation	\$2,004	\$2,004
Depreciation Expense	\$2,172	\$2,172
Rent Expense	(\$2,622)	(\$2,622)
Maintenance & Insurance	\$757	\$757
Property Taxes	\$1,236	\$1,236

ISSUE 4: Should an adjustment be made to correct an error in the land balances of the utility's Aloha Gardens wastewater system and Seven Springs wastewater system?

RECOMMENDATION: Yes. The land balance for the Aloha Gardens wastewater system should be increased by \$3,030. In addition, the amortization expense for the Aloha Gardens wastewater system should be increased by \$1,515.

ISSUE 5: What are the used and useful percentages of the Aloha Gardens water and wastewater systems?

RECOMMENDATION: The entire Aloha Gardens water treatment, and the wastewater collection and water distribution systems should be considered 100% used and useful.

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ISSUE 6: Should an adjustment be made to accumulated depreciation associated with new computer equipment and system software?

RECOMMENDATION: Yes. The utility used an incorrect depreciation rate. As such, Aloha Gardens accumulated depreciation and depreciation expense should be increased for the December 31, 1999 test year as follows:

<u>System</u>	<u>Accumulated Depreciation</u>	<u>Depreciation Expense</u>
Water	\$484	\$968
Wastewater	\$217	\$433

ISSUE 7: What is the appropriate working capital allowance for the Aloha Gardens water and wastewater systems?

RECOMMENDATION: Consistent with the Commission-approved working capital in Docket No. 991643-SU, the appropriate working capital allowance is \$38,056 for Aloha Gardens water and \$90,263 for Aloha Gardens wastewater.

ISSUE 8: What is the appropriate rate base for the Aloha Gardens water and wastewater systems?

RECOMMENDATION: Consistent with other recommended adjustments, the appropriate rate bases for the Aloha Gardens water and wastewater systems are \$83,830 and \$539,102, respectively.

ISSUE 9: Should any adjustment be made to long-term debt to determine the overall cost of capital?

RECOMMENDATION: Yes. Long-term debt should be increased by \$3,995,580 to included the mortgage for the new building and the construction loan for the Seven Springs wastewater system. The appropriate long-term cost rate should be 10.17%.

ISSUE 10: What is the appropriate Return on Equity (ROE) to determine the overall cost of capital?

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RECOMMENDATION: The appropriate ROE is 9.93% with a range of reasonableness of 8.93% to 10.93%.

ISSUE 11: What is the appropriate overall cost of capital?

RECOMMENDATION: Consistent with other recommended adjustments, the appropriate weighted average cost of capital for the Aloha Gardens water and wastewater systems is 9.93%.

ISSUE 12: Should any adjustment be made to operating revenues?

RECOMMENDATION: Yes. Since the Commission approved a 1999 index and pass-through that became effective on January 18, 2000, it is appropriate to reflect the associated annualized revenues as pro forma adjustments. Operating revenues should be increased by \$6,828 for Aloha Gardens water and \$53,687 for Aloha Gardens wastewater.

ISSUE 13: What is the appropriate salary for Aloha's vice-president?

RECOMMENDATION: The vice-president's salary should be 20% of the president's salary. As a result, Salary & Wages - Officers, Employee Benefits, and Payroll Tax accounts for Aloha Gardens should be reduced as follows:

<u>System</u>	<u>Salary & Wages - Officers</u>	<u>Employee Benefits</u>	<u>Payroll Tax</u>
Water	\$6,292	\$2,551	\$537
Wastewater	\$6,292	\$2,671	\$497

ISSUE 14: Should any pro forma adjustment be made to Salaries and Wages - Employees?

RECOMMENDATION: Yes. Salaries and Wages - Employees should be increased to recognize the annualized salary of an employee hired during 1999. Salaries and Wages - Employees should be increased by \$2,372 for Aloha Gardens water and

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\$2,171 for Aloha Gardens wastewater. In addition, Pensions and Benefits should be increased by \$813 for Aloha Gardens water and \$745 for Aloha Gardens wastewater. Further, payroll taxes should be increased by \$181 for Aloha Gardens water and \$166 for Aloha Gardens wastewater.

ISSUE 15: Should any adjustments be made for purchased water and sewage treatment expenses?

RECOMMENDATION: Yes. Purchased water should be adjusted to correct a misclassification, to reflect the 10/1/00 pass-through increase, and to normalize an annual expense due to a faulty meter. Purchased water expense should be increased by \$76,387 for Aloha Gardens water, and sewage treatment expense should be increased by \$59,588 for Aloha Gardens wastewater. Staff recommends that the utility should be precluded from filing for a pass-through rate adjustment based on purchased water and sewage treatment rates that became effective on 10/1/00.

ISSUE 16: Should miscellaneous expenses for Aloha Gardens water and wastewater be increased?

RECOMMENDATION: Yes. To correct an erroneous allocation, miscellaneous expenses for Aloha Gardens water and wastewater systems should be increased each by \$2,174.

ISSUE 17: Should any adjustment be made to Contractual Services - Accounting?

RECOMMENDATION: Yes. To amortize a non-recurring expense, Contractual Services - Accounting expense should be reduced by \$1,251 each for Aloha Gardens water and wastewater.

ISSUE 18: Should any other pro forma O&M expense adjustments be made for the utility's Aloha Gardens water and wastewater systems?

RECOMMENDATION: Yes. It is reasonable and appropriate to recognize inflation for 2000 and pro forma billing costs. As such, O&M expenses should be increased by \$7,159 for Aloha Gardens water and by \$6,790 for Aloha Gardens

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wastewater.

ISSUE 19: What is the appropriate amount of rate case expense related to this current earnings investigation of the Aloha Gardens water and wastewater systems?

RECOMMENDATION: Rate case expense of \$5,966 and \$5,445 should be allowed for the Aloha Gardens water and wastewater systems, respectively. To reflect the 4-year amortization, the O&M expenses of Aloha Gardens water and wastewater should be increased by \$1,491 and \$1,361, respectively.

ISSUE 20: What is the test year operating income before any increase or decrease for the utility's Aloha Gardens water and wastewater systems?

RECOMMENDATION: Based on recommended adjustments discussed in previous issues, the appropriate test year operating income before any increase or decrease is \$25,794 for Aloha Gardens water and \$93,831 for Aloha Gardens.

ISSUE 21: What is the appropriate revenue requirement for the Aloha Gardens water and wastewater systems?

RECOMMENDATION: The following revenue requirements for Aloha Gardens should be approved:

<u>System</u>	<u>Total</u>	<u>\$ Increase</u>	<u>%Increase</u>
Water	\$494,535	(\$29,325)	(5.60)%
Wastewater	\$995,348	(\$67,624)	(6.36)%

ISSUE 22: In determining whether any refunds are appropriate, how should the refund be calculated, and what is the amount of the refund, if any?

RECOMMENDATION: The final revenue requirement should be adjusted for items not representative of the period interim rates were in effect. The adjusted final revenue requirement should then be compared with the interim revenue requirement to determine whether a refund is necessary. Based on the analysis of Aloha Gardens in staff's May 3,

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2001 memorandum, the utility should refund 1.41% for water and 5.53% for wastewater from January 18, 2000 until June 28, 2000. Further, refunds of ~~9.16%~~ 5.70% and ~~6.60%~~ 6.42% for water and wastewater, respectively, should be required from June 29, 2000 until the effective date of the new final rates. Pursuant to Rule 25-30.360(3), Florida Administrative Code, the refunds should be made to the customers of record as of the date the PAA Order is final and made on the basis of usage. The refunds should be made with interest in accordance with Rule 25-30.360(4), Florida Administrative Code. The utility should provide refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds as CIAC in accordance with Rule 25-30.360(8), Florida Administrative Code.

ISSUE 23: Are the present rates for the utility's Aloha Gardens water and wastewater systems appropriate on a going-forward basis?

RECOMMENDATION: No. The rates for Aloha Gardens water and wastewater should be decreased by 5.70% and 6.42%, respectively. The utility should file revised tariff sheets and a proposed customer notice reflecting the appropriate rates and the reason for the reduction within 20 days of the date that the Order is final. 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. The rates should not be implemented until proper 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.

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ITEM NO.

CASE

9**PAA

DOCKET NO. 000737-WS - Investigation of rates of Aloha Utilities, Inc. in Pasco County for possible overearnings for the Aloha Gardens water and wastewater systems and the Seven Springs water system. (Deferred from May 1, 2001 Commission Conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 24: Should the amount of revenues secured for the Aloha Gardens water and wastewater and the Seven Springs water system be adjusted?

RECOMMENDATION: Yes. The appropriate amount of security for Aloha Gardens water and wastewater is \$109,739. The appropriate amount to secure for the Seven Springs water system is \$68,388. Since the total security for these three systems is \$178,127, staff recommends that \$53,923 of the \$232,050 previously approved corporate undertaking should be released. Upon staff's verification that the refunds for the Aloha Gardens water and wastewater systems have been completed, \$109,739 of the corporate undertaking should be released.

ISSUE 25: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending the completion of the Commission's investigation of the earnings for the Seven Springs water system.

DECISION: The recommendations were approved with the noted modification to Issue No. 22.

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

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<u>ITEM NO.</u>	<u>CASE</u>
10**	<p>DOCKET NO. 010518-WS - Notice of intent to increase water and wastewater rates in Pasco County, based upon application of provisions of Section 367.081(4)(a) & (b), F.S., by Aloha Utilities, Inc.</p> <p>Critical Date(s): 5/20/01 (Date for implementation of pass-through and price index rate increase.)</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: ECR: Moniz LEG: Jaeger</p>
PAA	<p><u>ISSUE 1</u>: Should the Commission order Aloha Utilities, Inc., to refrain from increasing its rates pursuant to the price index provisions of Sections 367.081(4)(a), Florida Statutes?</p> <p><u>RECOMMENDATION</u>: The Commission should order Aloha Utilities, Inc., to refrain from increasing its rates pursuant to the price index provisions of Section 367.081(4)(a), Florida Statutes.</p>
PAA	<p><u>ISSUE 2</u>: Should the Commission order Aloha Utilities, Inc., to refrain from increasing its rates for its Aloha Gardens division pursuant to the pass-through provisions of Section 367.081(4)(b), Florida Statutes?</p> <p><u>RECOMMENDATION</u>: If the Commission approves staff's recommendation in Docket No. 000737-WS, the pass-through increase for both the bulk water and wastewater increases from the County will already be included in the rates for the Aloha Gardens division of Aloha Utilities, Inc. Therefore, Aloha Utilities, Inc., should not be allowed to implement the pass-through increases for its Aloha Gardens division.</p>

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CASE

10**

DOCKET NO. 010518-WS - Notice of intent to increase water and wastewater rates in Pasco County, based upon application of provisions of Section 367.081(4)(a) & (b), F.S., by Aloha Utilities, Inc.

(Continued from previous page)

ISSUE 3: Should the Commission order Aloha Utilities, Inc., to refrain from increasing its rates for its Seven Springs division pursuant to the pass-through provisions of Section 367.081(4)(b), Florida Statutes?

RECOMMENDATION: No. At this point in time, staff is making no recommendations in the overearnings docket concerning the Seven Springs division of Aloha Utilities, Inc. Therefore, Aloha Utilities, Inc., should be allowed to proceed with implementation of the pass-through increases for the Seven Springs division, provided it has submitted the appropriate notice to customers, the appropriate revised tariff sheets, and has notified each customer of the increase authorized and the reasons for the increase and has otherwise complied with the requirements of Rule 25-30.425, Florida Administrative Code.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Order, the decision will become final and effective upon the issuance of a Consummating Order, and the docket should be closed.

DECISION: The recommendations were approved with the modification that the Seven Springs 1999 price indexing is deferred pending completion of the Commission's investigation of the earnings of this system. Issue 4 was denied. The docket is to remain open consistent with the decision in Issue 1.

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

ITEM NO.

CASE

11**PAA

DOCKET NO. 001382-WS - Application for staff-assisted rate case in Lake County by Pennbrooke Utilities, Inc.

Critical Date(s): 2/3/02 (15-month effective date)

Commissioners Assigned: Full Commission
Prehrg Officer JC

Staff: ECR: Walker, Fitch, Lingo, T. Davis, Sickel
LEG: Cibula

(All issues proposed agency action except Issue 16.)

ISSUE 1: Should the Commission approve a projected year end rate base for the utility?

RECOMMENDATION: Yes. The Commission should approve a projected year end rate base for the utility to allow it an opportunity to earn a fair return on the utility's investment and to better match rate base with customer growth on a going forward basis. A projected year end test year ending September 30, 2001, should be approved.

ISSUE 2: Is the quality of service provided by Pennbrooke Utilities, Inc. satisfactory?

RECOMMENDATION: Yes. The quality of service provided by Pennbrooke Utilities, Inc. should be considered satisfactory.

ISSUE 3: Does Pennbrooke Utilities, Inc., have an excessive unaccounted for water problem?

RECOMMENDATION: No. Pennbrooke's unaccounted for water is estimated to be approximately 31,075 gpd, which is less than 10% of the water pumped.

ISSUE 4: What portions of the utility's water treatment plant, water distribution, wastewater treatment system, and wastewater collection system are used and useful?

RECOMMENDATION: The water treatment plant should be considered 85.65% used and useful; all other systems should be considered 100% used and useful.

ISSUE 5: What is the appropriate projected year end rate base for this utility?

RECOMMENDATION: The appropriate projected year end rate base for the utility is \$396,269 for water and \$790,364 for wastewater. The utility should be required to complete all pro forma additions, as discussed in the analysis portion of

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CASE

11**PAA

DOCKET NO. 001382-WS - Application for staff-assisted rate case in Lake County by Pennbrooke Utilities, Inc.

(Continued from previous page)

staff's May 3, 2001 memorandum, within ~~nine~~ twelve months of the effective date of the Commission Order.

ISSUE 6: 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 for this utility is 9.94% with a range of 8.94% - 10.94%. The appropriate overall rate of return for this utility is 9.00%.

ISSUE 7: What are the appropriate projected test year revenues?

RECOMMENDATION: The appropriate projected test year revenues for the utility are \$263,470 for water and \$138,428 for wastewater services.

ISSUE 8: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expenses for this utility is \$188,136 for water and \$180,489 for wastewater.

ISSUE 9: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement is \$263,470 for water and \$211,952 for wastewater.

ISSUE 10: What is the appropriate disposition of the overearnings associated with the water system?

RECOMMENDATION: The utility should be required to spend \$25,000 of the overearnings to implement a water conservation program. The utility should, at a minimum, spend the recommended amount for each of the first two years of its conservation program, and be required to file quarterly reports with the Commission on its program covering the same two-year period. These reports should list the conservation measures that were implemented during the period and the amounts expended. Staff should confer with the SJRWMD in reviewing the reports in order to evaluate the effectiveness of the program and ensure that the program and amounts spent are consistent with the Commission order. As discussed in Issue 9, the remainder of the water system overearnings should be used to offset the

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11**PAA

DOCKET NO. 001382-WS - Application for staff-assisted rate case in Lake County by Pennbrooke Utilities, Inc.

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wastewater system revenue requirement increase.

ISSUE 11: What are the appropriate rate structures for this utility's water and wastewater systems?

RECOMMENDATION: The appropriate rate structures for this utility are an inclining-block rate structure for the water system and a continuation of the traditional base facility and uniform gallonage charge rate structure for the wastewater system. For the water system, the recommended usage blocks are 0-10,000 gallons (10 kgal) and over 10 kgal, with usage block rate factors of 1.0 and 1.25, respectively. A 50% conservation adjustment should also be implemented.

ISSUE 12: Is an adjustment to reflect repression or the anticipated effects of the conservation program appropriate in this case, and, if so, what is the appropriate adjustment?

RECOMMENDATION: Based on the analysis portion of staff's memorandum, neither a repression nor a conservation program adjustment is appropriate in this case. In order to monitor the effects of the conservation programs and rate structure changes on consumption, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenue billed. These reports should be provided, by customer class and meter size, on a quarterly basis for a period of two years, beginning with the first billing period after the initial conservation program monies are expended. The utility should be ordered to file a rate restructuring case with the Commission no earlier than one year but no later than two years after the implementation of staff's recommended conservation program, at which time the water system rate structure issue should be revisited.

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11**PAA

DOCKET NO. 001382-WS - Application for staff-assisted rate case in Lake County by Pennbrooke Utilities, Inc.

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

RECOMMENDATION: The recommended rates should be designed to produce revenue of \$263,470 for the water system and \$211,952 for the wastewater system, excluding miscellaneous service charges. 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 are the appropriate customer deposits for this utility?

RECOMMENDATION: The appropriate customer deposits should be the recommended charges as specified in the analysis portion of staff's memorandum. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the customer deposits should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 15: What are the appropriate miscellaneous charges for this utility?

RECOMMENDATION: The appropriate miscellaneous service charges are those charges recommended in the analysis portion of staff's memorandum. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the miscellaneous service charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no

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11**PAA

DOCKET NO. 001382-WS - Application for staff-assisted rate case in Lake County by Pennbrooke Utilities, Inc.

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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 shall be subject to the refund provisions discussed in the analysis portion of staff's memorandum. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

ISSUE 17: Should this docket be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional ~~nine~~ twelve months from the effective date of the Order to allow staff to verify completion of meter installations and collection system repairs as described in Issue No. 5. Once staff has verified that this work has been completed, the docket should be closed administratively.

DECISION: The recommendations were approved with the noted modifications to Issues 5 and 17.

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

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11**PAA

DOCKET NO. 001382-WS - Application for staff-assisted rate
case in Lake County by Pennbrooke Utilities, Inc.

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<u>ITEM NO.</u>	<u>CASE</u>
12**PAA	DOCKET NO. 010006-WS - Water and wastewater industry annual reestablishment of authorized range of return on common equity of water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

Critical Date(s): A final decision is required by the end of 2001.

Commissioners Assigned: Full Commission
Prehrg Officer PL

Staff: ECR: Devlin, Lester, D. Draper, Kyle, Merchant
LEG: Jaeger

ISSUE 1: What is the appropriate range of returns on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), Florida Statutes?

PRIMARY RECOMMENDATION: Staff recommends that the Commission base the leverage formula methodology on an 11.5% return on equity (ROE). The Commission approved this ROE for Chesapeake Utilities Corporation by Order No. PSC-00-2263-FOF-GU, issued November 28, 2000, and for City Gas Company by Order No. PSC-01-0316-PAA-GU, which became final on March 5, 2001. This is a change from the existing methodology. Staff recommends the following leverage formula:

$$\text{Return on Common Equity} = 8.41\% + 1.567/\text{Equity Ratio}$$

Where the Equity Ratio = Common Equity / (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 9.98% @ 100% equity to 12.33% @ 40% equity

DECISION: The recommendation was denied.

<u>ITEM NO.</u>	<u>CASE</u>
12**PAA	DOCKET NO. 010006-WS - Water and wastewater industry annual reestablishment of authorized range of return on common equity of water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

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ALTERNATIVE RECOMMENDATION: Staff recommends that the Commission continue with the existing leverage formula methodology, updated with current financial data. This alternative includes one minor correction and one minor modification to the methodology, which is discussed in the alternative portion of staff's May 3, 2001 memorandum. Alternative staff recommends the following leverage formula:

$$\text{Return on Common Equity} = 8.41\% + 0.731/\text{Equity Ratio}$$

Where the Equity Ratio = Common Equity / (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 9.14% @ 100% equity to 10.24% @ 40% equity

DECISION: The recommendation was approved.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor the movement in capital costs and to readdress the reasonableness of the leverage formula as conditions warrant.

DECISION: The recommendation was approved.

Commissioner Jaber dissented.

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

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<u>ITEM NO.</u>	<u>CASE</u>
13**	DOCKET NO. 010444-WU - Request for approval of tariff filing by Venture Associates Utilities Corp. in Marion County.

Critical Date(s): 6/11/01 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: ECR: B. Davis, Merchant
LEG: Brubaker

ISSUE 1: Should Venture's proposed tariff to reflect the current City of Ocala impact fee be approved?

RECOMMENDATION: Yes. The Third Revised Tariff Sheet No. 38.0, filed on April 2, 2001, should be approved as filed. Within 20 days of the Commission's decision at agenda, the utility shall provide notice of the Commission's decision to all persons in the service area who are affected by the revised charges. The notice should be approved by Commission staff prior to distribution. The utility should provide proof that the appropriate customers or developers have received notice within ten days of the date of the notice. The tariff should become effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, Florida Administrative Code.

ISSUE 2: Should the docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved and there is no timely protest to the Commission's Order by a substantially affected person, the revised tariff sheets should become effective on or after the stamped approval date. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with the increase in the service availability charges held subject to refund pending resolution of the protest, and the docket should remain open. 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: Jacobs, Deason, Jaber, Baez, Palecki

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13**

DOCKET NO. 010444-WU - Request for approval of tariff
filing by Venture Associates Utilities Corp. in Marion
County.

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<u>ITEM NO.</u>	<u>CASE</u>
14**	<p>DOCKET NO. 010397-EI - Petition for approval of revised lighting tariffs by Tampa Electric Company.</p> <p>Critical Date(s): 6/4/01 (60-day suspension date)</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: ECR: E. Draper LEG: Isaac</p> <p><u>ISSUE 1</u>: Should the Commission approve TECO's proposed changes to its Street Lighting Service (SL-2), General Outdoor Lighting Service (OL-1), and Premium Outdoor Lighting Service (OL-3) rate schedules? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: What is the appropriate effective date for the revised tariffs? <u>RECOMMENDATION</u>: The appropriate effective date for the revised tariffs is May 15, 2001.</p> <p><u>ISSUE 3</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes, if no protest is filed within 21 days of the issuance of the order.</p>

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
15**	<p>DOCKET NO. 010372-SU - Request for approval of new class of service, Residential Reclaimed Water Service, in Pasco County by Aloha Utilities, Inc.</p> <p>Critical Date(s): 5/28/01 (60-day suspension date)</p> <p>Commissioners Assigned: Full Commission Prehrg Officer JB</p> <p>Staff: ECR: Fitch, Merta, Rendell LEG: Jaeger</p> <p><u>ISSUE 1</u>: Should Aloha's proposed tariff sheet to establish a new class of service, Residential Reuse Water Service, be suspended?</p> <p><u>RECOMMENDATION</u>: Yes. Aloha's proposed tariff sheet to establish a new class of service, Residential Reuse Water Service, should be suspended pending further investigation by staff. This docket should remain open to process the utility's request for a new class of service.</p> <p><u>DECISION</u>: This item was withdrawn.</p>

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ITEM NO.

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16**

DOCKET NO. 010423-EI - Petition by Tampa Electric Company for approval of modification to Pilot Green Energy Rate Rider (GE rate rider) and Program.

Critical Date(s): 6/8/01 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: ECR: Springer
LEG: Walker
SER: Colson

ISSUE 1: Should the Commission approve Tampa Electric Company's (TECO) petition for approval of a modification to its Pilot Green Energy Rate Rider and Program?

RECOMMENDATION: Yes.

ISSUE 2: What is the appropriate effective date for the proposed tariff revisions?

RECOMMENDATION: If the Commission approves the Recommendation in Issue 1, the proposed tariff sheets should become effective on May 15, 2001.

ISSUE 3: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

<u>ITEM NO.</u>	<u>CASE</u>
17	DOCKET NO. 000824-EI - Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer BZ

Staff: ECR: Slemkewicz, Maurey, Kummer, P. Lee
LEG: Elias, Hart
PAI: Trapp
SER: Jenkins

ISSUE 1: Should the Commission order Florida Power Corporation (FPC) to place money subject to refund?
RECOMMENDATION: Yes. Pursuant to §366.071, Florida Statutes, the Commission should order FPC to place \$97,970,532 of annual revenue subject to refund, including interest, under a corporate undertaking pending final disposition in this proceeding. The effective date of this action is March 13, 2001. An additional amount of \$15,924,217 should be held subject to refund effective July 1, 2001. The total amount to be held subject to refund is \$113,894,749. Consistent with §366.071(2)(b), Florida Statutes, FPC is authorized to continue to collect its previously authorized rates, subject to the appropriate corporate undertaking.

** ISSUE 2: Should the Commission order Florida Power Corporation to file Minimum Filing Requirements?
RECOMMENDATION: Yes. The Commission should order FPC to file Minimum Filing Requirements (MFRs) by September 14, 2001, based on a projected calendar year 2002 test year.

** ISSUE 3: Should this docket be closed?
RECOMMENDATION: No. This docket should not be closed.

DECISION: The recommendations were approved.

Staff was directed to conduct an Issue Identification Conference as soon as possible.

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

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DOCKET NO. 000824-EI - Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.

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ITEM NO.

CASE

18 DOCKET NO. 001148-EI - Review of Florida Power & Light Company's proposed merger with Entergy Corporation, the formation of a Florida transmission company ("Florida transco"), and their effect on FPL's retail rates.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer BZ

Staff: ECR: Slemkewicz, P. Lee, Kummer, Maurey
LEG: Elias
PAI: Trapp
SER: Jenkins

** ISSUE 1: Should the Commission order Florida Power & Light Company to file Minimum Filing Requirements?

RECOMMENDATION: Yes. The Commission should order FPL to file Minimum Filing Requirements (MFRs) by August 15, 2001, based on a projected calendar year 2002 test year.

ISSUE 2: Should the Commission order Florida Power & Light Company to place money subject to refund?

RECOMMENDATION: No. The Commission should recognize the terms of the stipulation regarding the mechanism for addressing excessive earnings during the three-year period covered by the stipulation.

** ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should not be closed.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
19	<p>DOCKET NO. 990689-EI - Complaint by David E. Roomes against Florida Power & Light Company regarding power outages at his residence.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer BZ</p> <p>Staff: LEG: Walker CAF: Stokes SER: Ruehl</p> <p><u>ISSUE 1</u>: Should Mr. Roomes' complaint be dismissed? <u>RECOMMENDATION</u>: Yes. Based on Mr. Roomes' failure to pursue this matter at DOAH, his complaint should be dismissed.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. There are no further matters that the Commission may consider in this docket.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jacobs, Deason, Jaber, Baez, Palecki</p>

<u>ITEM NO.</u>	<u>CASE</u>
20**	<p>DOCKET NO. 001219-WU - Request for approval of revisions to water tariff in Lee County by MHC-DeAnza Financing Limited Partnership d/b/a Buccaneer Water Service.</p> <p>Critical Date(s): None (60-day suspension date waived)</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: LEG: Brubaker RGO: Johnson</p>
PAA	<p><u>ISSUE 1</u>: Should the Commission grant the Petition for Variance from Rule 25-30.320(2), Florida Administrative Code, filed by MHC-DeAnza Financing Limited Partnership d/b/a Buccaneer Water Service?</p> <p><u>RECOMMENDATION</u>: Yes, the Commission should grant Buccaneer's Petition to Approve Service Tariff and for Variance from Rule 25-30.320(2), Florida Administrative Code, because the petition meets the requirements of Section 120.542, Florida Statutes.</p> <p><u>ISSUE 2</u>: Should the Commission approve Buccaneer's proposed tariff revision implementing water disconnection in lieu of wastewater disconnection for failure to pay wastewater bills?</p> <p><u>RECOMMENDATION</u>: Yes. If the Commission approves staff's recommendation in Issue 1, the proposed tariff revision, filed on August 11, 2001, should be approved as filed. Pursuant to Rule 25-30.475(2), Florida Administrative Code, the revised tariff sheets should become effective for service rendered or connections made on or after the stamped approval date on the tariff sheets provided customers have received notice. The tariff sheets should be approved upon staff's verification that the proposed customer notice is adequate. The utility should provide proof that the customers have received notice within ten days of the date of the notice. In no event should the revised tariff provisions be effective for service rendered prior to the stamped approval date.</p>

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<u>ITEM NO.</u>	<u>CASE</u>
20	DOCKET NO. 001219-WU - Request for approval of revisions to water tariff in Lee County by MHC-DeAnza Financing Limited Partnership d/b/a Buccaneer Water Service.

(Continued from previous page)

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed upon the issuance of a Consummating Order if no person whose interests are substantially affected by the proposed action files a protest within the 21-day protest period.

DECISION: The recommendations were approved.

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

<u>ITEM NO.</u>	<u>CASE</u>
21**	DOCKET NO. 010180-TC - Initiation of show cause proceedings against ETS Payphones of Florida, Inc. for apparent violation of Rule 25-24.515, F.A.C., Pay Telephone Service.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: LEG: Elliott
CMP: Buys

ISSUE 1: Should the Commission accept the settlement offer proposed by ETS Payphones of Florida, Inc. to resolve the apparent violations of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service?

RECOMMENDATION: Yes. The Commission should accept the company's settlement offer to contribute \$200 per violation, totaling \$800, to the State of Florida General Revenue Fund to resolve the apparent violations of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service. The contribution should be received by the Commission within ten business days from the issuance date of the Commission 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 State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If ETS fails to pay in accordance with the terms of the settlement offer, Certificate No. 4238 should be canceled and this docket should be closed. ETS has waived the right to object to cancellation of its certificate.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If staff's recommendation is approved, this docket should remain open pending remittance of ETS's \$800 voluntary contribution. After receipt of the \$800 voluntary contribution, this docket may be closed administratively. If the company fails to pay the settlement contribution, this docket may be closed upon cancellation of ETS's certificate.

DECISION: The recommendations were approved.

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21**

DOCKET NO. 010180-TC - Initiation of show cause proceedings
against ETS Payphones of Florida, Inc. For apparent
violation of Rule 25-24.515, F.A.C., Pay Telephone Service.

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

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CASE

22**

DOCKET NO. 010179-TC - Initiation of show cause proceedings against MK Communications, Inc. for apparent violation of Rule 25-24.515, F.A.C., Pay Telephone Service.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: LEG: Elliott
CMP: Buys

ISSUE 1: Should the Commission accept the settlement offer proposed by MK Communications, Inc. to resolve the apparent violations of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service?

RECOMMENDATION: Yes. The Commission should accept the company's settlement offer to contribute \$100 to the State of Florida General Revenue Fund to resolve the apparent violations of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service. The contribution should be received by the Commission within ten business days from the issuance date of the Commission 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 State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If MK Communications fails to pay in accordance with the terms of the settlement offer, Certificate No. 7440 should be canceled. MK Communications has waived the right to object to the cancellation of its certificate.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If staff's recommendation is approved, this docket should remain open pending remittance of MK Communications' \$100 contribution. After receipt of the \$100 contribution, this docket may be closed administratively. If the company fails to make the contribution, this docket may be closed upon cancellation of the company's certificate.

DECISION: The recommendations were approved.

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<u>ITEM NO.</u>	<u>CASE</u>
22**	DOCKET NO. 010179-TC - Initiation of show cause proceedings against MK Communications, Inc. For apparent violation of Rule 25-24.515, F.A.C., Pay Telephone Service.

(Continued from previous page)

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

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<u>ITEM NO.</u>	<u>CASE</u>
23**	DOCKET NO. 010128-TX - Initiation of show cause proceedings against City of Ocala for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: LEG: Fordham
CMP: Craig

ISSUE 1: Should the Commission accept the settlement offer proposed by City of Ocala (Ocala) to resolve the apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

RECOMMENDATION: Yes. Staff recommends that the Commission accept Ocala's settlement proposal of a \$3,500 voluntary contribution and assurance that it will implement measures to ensure future compliance. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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CASE

24**

DOCKET NO. 010203-TP - Request for approval of inhouse corporation reorganization whereby ALEC Certificate No. 7611 and AAV Certificate No. 7612 will be transferred and name changed from Enron Broadband Services, Inc. to Enron Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: RGO: Williams
LEG: Pena, B. Keating

ISSUE 1: Should the Commission clarify Order No. PSC-01-0680-PAA-TP, as consummated by Order No. PSC-01-0937-CO-TP, to indicate the accurate corporate structure?

RECOMMENDATION: Yes. The Commission should clarify Order No. PSC-01-0680-PAA-TP, as consummated by Order No. PSC-01-0937-CO-TP, to indicate the accurate corporate structure.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, no further action will remain for the Commission to take. Therefore, this Docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

25**PAA

DOCKET NO. 001447-GU - Request for rate increase by St. Joe Natural Gas Company, Inc.

Critical Date(s): 5/15/01 (5-month statutory deadline)

Commissioners Assigned: JC DS JB
Prehrg Officer JC

Staff: ECR: L. Romig, Brinkley, D. Draper, P. Lee, Lester,
C. Romig, Springer, Stallcup, Wheeler, Gardner
CMP: Makin
LEG: Hart
SER: Mills

ISSUE 1: Is St. Joe's quality of service adequate?

RECOMMENDATION: Yes. St. Joe's quality of service is satisfactory.

ISSUE 2: Is the company's test year request for permanent rate relief based on a historical test period ending December 31, 1999 and a projected test period ending December 31, 2001 appropriate?

RECOMMENDATION: Yes. With the adjustments recommended by staff in the following issues, the 1999 and 2001 test years are appropriate.

ISSUE 3: Are the customer and therm forecasts by rate class appropriate?

RECOMMENDATION: Yes. The customer and therm forecasts by rate class submitted by the company are appropriate.

ISSUE 4: Should an adjustment be made to Plant, Accumulated Depreciation, and Depreciation Expense for equipment no longer in service?

RECOMMENDATION: Yes. Plant, Depreciation Expense, and Accumulated Depreciation should be reduced by a total of \$1,628, \$22, and \$785, respectively.

ISSUE 5: Should an adjustment be made to plant, depreciation expense, and accumulated depreciation for the replacement of anodes to maintain the existing cathodic protection system?

RECOMMENDATION: Yes. Plant, depreciation expense, and accumulated depreciation should be reduced \$8,740, \$280, and \$187, respectively, to reflect the replacement of anodes during the historic base year +1 that should have been

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CASE

25**PAA

DOCKET NO. 001447-GU - Request for rate increase by St. Joe Natural Gas Company, Inc.

(Continued from previous page)

expensed rather than capitalized.

ISSUE 6: What adjustments should be made to the test year accumulated depreciation to reflect the impact of budgeted retirements?

RECOMMENDATION: The test year accumulated depreciation should be decreased \$54,666 to reflect the impact of retirements budgeted for the historic test year +1 and the projected test year.

ISSUE 7: Should a recovery schedule be approved for the net unrecovered investment resulting from the retirement of the Industrial Measuring and Regulating Equipment associated with the FCPC?

RECOMMENDATION: Yes. Staff recommends a 5-year recovery schedule for the net unrecovered investment of \$20,309 associated with the retirement of Industrial Measuring and Regulating Equipment (Account 385) resulting from the closing of the FCPC. The recovery schedule should begin January 1, 2001 and be completed December 31, 2005. The recovery schedule will increase the projected test year depreciation expense by \$4,062 with a decrease to the accumulated depreciation of \$18,278.

ISSUE 8: Should an adjustment be made to plant, depreciation expense, and accumulated depreciation to correct the budgeted retirements for the projected test year?

RECOMMENDATION: Yes. Staff recommends that plant, depreciation expense, and accumulated depreciation for Account 391.03, Data Processing Equipment, be reduced by \$5,749, \$782, and \$271, respectively, to correct the retirements for the projected test year.

ISSUE 9: What is the appropriate amount of Construction Work in Progress (CWIP) for the projected test year?

RECOMMENDATION: The appropriate amount of CWIP for the projected test year is \$18,328.

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<u>ITEM NO.</u>	<u>CASE</u>
25**PAA	DOCKET NO. 001447-GU - Request for rate increase by St. Joe Natural Gas Company, Inc. (Continued from previous page) <u>ISSUE 10</u> : Should an adjustment be made to reduce retained earnings/common equity, plant in service, accumulated depreciation and depreciation expense for previously capitalized allowance for funds used during construction (AFUDC) not authorized by the Commission? <u>RECOMMENDATION</u> : Yes. Retained earnings/common equity, plant in service, accumulated depreciation, and depreciation expense should be reduced \$63,807, \$90,553, \$26,746, and \$2,898, respectively. <u>ISSUE 11</u> : What is the appropriate projected test year Total Plant? <u>RECOMMENDATION</u> : The appropriate amount of Total Plant for the projected test year is \$6,109,023. <u>ISSUE 12</u> : What is the appropriate projected test year Depreciation Reserve? <u>RECOMMENDATION</u> : The appropriate projected test year Depreciation Reserve is \$2,301,528. <u>ISSUE 13</u> : What is the appropriate projected test year Working Capital Allowance? <u>RECOMMENDATION</u> : The appropriate projected test year Working Capital is \$254,392. <u>ISSUE 14</u> : What is the appropriate projected test year Rate Base? <u>RECOMMENDATION</u> : The appropriate projected test year Rate Base is \$4,080,215. <u>ISSUE 15</u> : What is the appropriate return on common equity for the projected test year? <u>RECOMMENDATION</u> : The appropriate cost rate for common equity for the projected test year is 11.5%, with a range of plus or minus 100 basis points. <u>ISSUE 16</u> : What is the appropriate cost of short-term debt for the projected test year? <u>RECOMMENDATION</u> : The appropriate cost rate for the short-term debt included in the projected test year should be the April 1, 2001 prime rate of 8.00%.

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CASE

25**PAA

DOCKET NO. 001447-GU - Request for rate increase by St. Joe Natural Gas Company, Inc.

(Continued from previous page)

ISSUE 17: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?

RECOMMENDATION: The appropriate amount of accumulated deferred taxes to include in the capital structure is \$37,187, prior to addressing the tax effect of the amortization of the FCPC deferred credit discussed in Issue 35. Recognizing the amortization results in \$3,321 of related credit accumulated deferred taxes, thereby increasing the credit deferred taxes to \$40,508.

ISSUE 18: Has FAS 109 been appropriately reflected in the capital structure, such that it is revenue neutral?

RECOMMENDATION: It appears as if SFAS 109 has not been implemented. As such, there is no revenue effect of its implementation. Also, the method of calculating deferred taxes is not consistent with proper application of SFAS 109. St. Joe should be required to implement SFAS 109, if it has not done so, and to state its tax accounts consistent with the proper application of SFAS 109, retroactive to January 1, 2001. The adjustments and appropriate treatment should be reported in its Earnings Surveillance Reports (ESR) following implementation of rates in this proceeding.

ISSUE 19: Should debit tax balances associated with the temporary timing differences arising from unrecovered purchased gas costs and conservation cost recovery be removed and, if so, have they been appropriately removed?

RECOMMENDATION: No adjustment is necessary.

ISSUE 20: What is the appropriate capital structure for the projected test year ending December 31, 2001?

RECOMMENDATION: The appropriate capital structure for the projected test year ending December 31, 2001, should not exceed 60% common equity as a percentage of capital.

ISSUE 21: What is the appropriate weighted average cost of capital for the projected test year?

RECOMMENDATION: The appropriate weighted average cost of capital for the projected test year should be 6.23%. This is a calculation based upon the decisions in preceding issues.

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25**PAA

DOCKET NO. 001447-GU - Request for rate increase by St. Joe Natural Gas Company, Inc.

(Continued from previous page)

ISSUE 22: Has the company properly removed PGA revenues, expenses and taxes other from the projected test year?

RECOMMENDATION: No. Projected test year revenues should be increased \$29,059.

ISSUE 23: Has the company properly removed conservation revenues, expenses and taxes other from the projected test year?

RECOMMENDATION: Yes. The company excluded conservation revenues and expenses from the projected test year.

ISSUE 24: Should an adjustment be made to increase revenues for the amount of interest earned on cash in working capital?

RECOMMENDATION: Yes. An adjustment should be made to increase interest earned on cash in working capital by \$9,835.

ISSUE 25: What is the appropriate amount of projected test year total Operating Revenues?

RECOMMENDATION: The appropriate level of projected test year total Operating Revenues is \$1,115,858.

ISSUE 26: Should Account 874 Mains & Services be reduced for projected expenses associated with gas line locations?

RECOMMENDATION: Yes. Account 874, Mains & Services should be reduced \$20,800, which would allow one-half of the company's requested amount of \$41,600.

ISSUE 27: What is the appropriate amount of rate case expense and what is the appropriate amortization period?

RECOMMENDATION: The appropriate amount of rate case expense is \$84,551, amortized over four years. This increases test year rate case expense by \$21,138.

ISSUE 28: Should Account 921 Office Expenses be reduced \$3,513 in the projected test year for an error made in projecting expenses for janitorial services?

RECOMMENDATION: Yes. Account 921 Office Expenses should be reduced \$3,513 in the projected test year for an error made in projecting janitorial services.

ISSUE 29: Should an adjustment be made to Account 926, Employee Pensions and Benefits?

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25**PAA

DOCKET NO. 001447-GU - Request for rate increase by St. Joe Natural Gas Company, Inc.

(Continued from previous page)

RECOMMENDATION: No adjustment to the company's Pension Expense is necessary.

ISSUE 30: Should an adjustment be made for lobbying?

RECOMMENDATION: Yes. Expenses should be reduced \$203 to disallow 15% of the Florida Natural Gas Association dues which represents the portion of dues associated with lobbying activities.

ISSUE 31: Are the trend rates used to calculate projected O&M expenses appropriate?

RECOMMENDATION: Yes. The trend rates used by the company are appropriate.

ISSUE 32: Has the company used the appropriate trend basis for each O&M account?

RECOMMENDATION: No. St. Joe has not used the appropriate trend basis for each account. The result is a recommended net increase of \$58 to O&M expenses.

ISSUE 33: Should the projected test year expense be adjusted for the effect of changing the trend factors?

RECOMMENDATION: No. Projected test year O&M expenses should not be adjusted for changes to the trend factors.

ISSUE 34: What is the appropriate amount of projected test year O&M Expense?

RECOMMENDATION: The appropriate amount of projected test year O&M expense is \$797,958.

ISSUE 35: How should the prepaid gas Deferred Credit related to Florida Coast Paper Company be treated and how should the prepaid revenue related to Gulf Correctional Institute be treated?

RECOMMENDATION: The \$1,578,595 prepaid gas Deferred Credit related to Florida Coast Paper Company should be amortized over 31 years which is the remaining life of the line used to serve the St. Joe Forest Products Company (SJFP). The amortization would result in increasing revenues \$50,922 and increasing Accumulated Deferred Income Taxes in the Capital Structure by \$3,321. Amortization should begin June 15, 2001. The prepaid revenue related to Gulf Correctional Institute should remain as revenue in Year 2000. However,

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25**PAA	DOCKET NO. 001447-GU - Request for rate increase by St. Joe Natural Gas Company, Inc. (Continued from previous page) the tax effect of this transfer should be reflected in Year 2001 by decreasing Common Equity by \$11,208 and increasing Accrued Taxes - Income by \$11,208. <u>ISSUE 36</u> : What is the appropriate amount of projected test year Depreciation and amortization Expense? <u>RECOMMENDATION</u> : The appropriate amount of projected test year Depreciation and Amortization Expense is \$243,387. <u>ISSUE 37</u> : Should the company separately state Gross Receipts Tax on its bills and, if so, what is the revenue impact? <u>RECOMMENDATION</u> : Yes. St. Joe should separately state its Gross Receipts Tax on its bills. Revenues should be decreased by \$27,054. <u>ISSUE 38</u> : What is the appropriate amount of Taxes Other Than Income Taxes? <u>RECOMMENDATION</u> : The appropriate amount of Taxes Other Than Income Taxes is \$89,665. <u>ISSUE 39</u> : What is the appropriate Income Tax Expense, including current, deferred, and interest reconciliation? <u>RECOMMENDATION</u> : The appropriate income tax expense, including current, deferred, and interest reconciliation is \$(38,169), a net increase of \$21,179. <u>ISSUE 40</u> : What is the appropriate level of Total Operating Expenses for the projected test year? <u>RECOMMENDATION</u> : The appropriate level of total operating expenses for the projected test year is \$1,092,841. <u>ISSUE 41</u> : What is the appropriate amount of projected test year Net Operating Income? <u>RECOMMENDATION</u> : The appropriate amount of projected test year Net Operating Income is \$23,017. <u>ISSUE 42</u> : What is the appropriate treatment of the refund of the 1994-1995 overearnings? <u>RECOMMENDATION</u> : The company should refund \$215,152 over 60 months as required by Order No. PSC-96-1188-FOF-GU in Docket No. 960930-GU, issued September 23, 1996. <u>ISSUE 43</u> : What are the appropriate projected test year Revenue Expansion Factor and Net Operating Income Multiplier

<u>ITEM NO.</u>	<u>CASE</u>
25**PAA	DOCKET NO. 001447-GU - Request for rate increase by St. Joe Natural Gas Company, Inc. (Continued from previous page) to be used in calculating the revenue deficiency including the appropriate elements and rates? <u>RECOMMENDATION</u> : The appropriate Revenue Expansion Factor is 63.2806% and the appropriate Net Operating Income Multiplier is 1.5803. <u>ISSUE 44</u> : What is the appropriate projected test year revenue deficiency? <u>RECOMMENDATION</u> : The appropriate projected test year revenue deficiency is \$365,334. <u>ISSUE 45</u> : Should any portion of the \$355,984 interim increase granted by Order No. PSC-01-0465-PCO-GU, issued on February 26, 2001, be refunded to the customers? <u>RECOMMENDATION</u> : No portion of the \$355,984 interim revenue increase should be refunded. <u>ISSUE 46</u> : Should St. Joe be required to submit, within 60 days after the date of the final order in this docket, a description of all entries or adjustments to its future annual reports, rate of return reports, published financial statements, and books and records that will be required as a result of the Commission's findings in this rate case? <u>RECOMMENDATION</u> : Yes. The utility should be required to fully describe the entries and adjustments that will be either recorded or used in preparing reports submitted to the Commission. <u>ISSUE 47</u> : What are the appropriate billing determinants to be used in the projected test year? <u>RECOMMENDATION</u> : The appropriate billing determinants to be used in the projected test year are shown on Attachment 6 of staff's memorandum dated May 3, 2001. <u>ISSUE 48</u> : What is the appropriate cost of service methodology to be used in allocating costs to the various rate classes? <u>RECOMMENDATION</u> : The appropriate methodology is staff's cost of service methodology adjusted for changes made to rate base, operation and maintenance expense net operating income and projected test year base rate revenues. <u>ISSUE 49</u> : If any revenue increase is granted, what are the

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25**PAA	DOCKET NO. 001447-GU - Request for rate increase by St. Joe Natural Gas Company, Inc.

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appropriate rates for St. Joe, resulting from the allocation of the increase among the customer classes?

RECOMMENDATION: Staff's recommended rates are shown on Attachment 7, page 1, of staff's memorandum dated May 3, 2001.

ISSUE 50: What is the appropriate effective date for any new rates and charges approved by the Commission?

RECOMMENDATION: All new rates and charges should become effective for meter readings on or after 30 days from the date of the vote approving the rates and charges.

ISSUE 51: Are St. Joe's proposed Miscellaneous Charges appropriate?

RECOMMENDATION: Yes.

ISSUE 52: Are St. Joe's proposed new Commercial and Large Commercial Service rate classes appropriate?

RECOMMENDATION: Yes.

ISSUE 53: Is St. Joe's proposed new Firm Transportation Service rate class appropriate?

RECOMMENDATION: Yes.

ISSUE 54: Should this docket be closed?

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

DECISION: The recommendations were approved with modifications to the following issues:

- 7: The recommendation was denied;
- 31: The recommendation was modified by reducing the salary increases to 2%;
- 42: The recommendation was modified by making cost of capital zero and reducing amortization by one year.

Commissioners participating: Jacobs, Deason, Jaber

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26**

DOCKET NO. 990455-TL - Request for review of proposed numbering plan relief for the 305/786 area code - Dade County and Monroe County/Keys Region.
DOCKET NO. 990456-TL - Request for review of proposed numbering plan relief for the 561 area code.
DOCKET NO. 990457-TL - Request for review of proposed numbering plan relief for the 954 area code.
DOCKET NO. 990517-TL - Request for review of proposed numbering plan relief for the 904 area code.

Critical Date(s): None

Commissioners Assigned: JC DS BZ
Prehrg Officer DS

Staff: CMP: Casey, Bulecza-Banks
LEG: Fordham

ISSUE 1: Should Emmanuel Arvanitas' Motion for Reconsideration of Order Approving Offer of Settlement be granted?

RECOMMENDATION: No. Emmanuel Arvanitas' Motion for Reconsideration of Order Approving Offer of Settlement should not be granted.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: No. Staff recommends that these dockets remain open to address implementation dates for the 305/786, 561, and 954 NPAs, and issue a final Order concerning the Osteen area balloting results.

DECISION: The recommendations were approved.

Commissioners participating: Jacobs, Deason, Baez

ITEM NO.

CASE

27

DOCKET NO. 000731-TP - Petition by AT&T Communications Communications of the Southern States, Inc. d/b/a AT&T Communications for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc. pursuant to 47 U.S.C. Section 252.

Critical Date(s): None

Commissioners Assigned: JC BZ PL
Prehrg Officer BZ

Staff: LEG: Fordham, Fudge
CMP: Barrett, Fulwood, Watts, Bloom, Audu, Hinton
RGO: Vinson, Broussard, Duffey, Fisher

ISSUE A: Should AT&T's Motion to Supplement Hearing Record be granted?

RECOMMENDATION: Yes. AT&T's Motion to Supplement Hearing Record should be granted.

ISSUE B: Should AT&T's Motion to Clarify Position and Supplement Post-Hearing Brief be granted?

RECOMMENDATION: Yes. AT&T's Motion to Clarify Position and Supplement Post-Hearing Brief should be granted.

ISSUE 4: What does "currently combines" mean as that phrase is used in 47 C.F.R. §51.315(b)?

RECOMMENDATION: The phrase "currently combines" pursuant to FCC Rule 51.315(b) is limited to combinations of unbundled network elements that are, in fact, already combined and physically connected in BellSouth's network to serve a specific customer or location at the time a requesting carrier places an order. In other words, there is no physical work that BellSouth must complete in order to effect the combination that the requesting telecommunications carrier requests.

ISSUE 5: Should BellSouth be permitted to charge AT&T a "glue charge" when BellSouth combines network elements?

RECOMMENDATION: Yes. BellSouth should be compensated for the work it does to physically combine unbundled network elements that an ALEC requests when those elements are not "currently combined" within BellSouth's network.

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ISSUE 6: Under what rates, terms, and conditions may AT&T purchase network elements or combinations to replace services currently purchased from BellSouth tariffs?

RECOMMENDATION: AT&T should be required to satisfy any and all contractual obligations with BellSouth, including termination liability considerations, prior to purchasing network elements or combinations to replace services currently purchased from BellSouth tariffs.

ISSUE 7: How should AT&T and BellSouth interconnect their networks in order to originate and complete calls to end-users?

RECOMMENDATION: The evidence and testimony in the record of this proceeding, when weighed against the opinions, rules, and orders of the FCC, dictate that for purposes of this arbitration, AT&T be permitted to designate a single interconnection point (POI) per LATA for the mutual exchange of traffic, with both parties assuming financial responsibility for bringing their traffic to the AT&T-designated interconnection point.

ISSUE 8: What terms and conditions, and what separate rates if any, should apply for AT&T to gain access to and use BellSouth facilities to serve multi-unit installations?

RECOMMENDATION: In order for AT&T to gain access to and use BellSouth facilities to serve multi-unit installations, AT&T should request from BellSouth that an "ALEC-access terminal" be established for it to accommodate the necessary connections. Additionally, staff recommends that BellSouth provision the "ALEC-access terminal" to AT&T within ten calendar days, or in a mutually agreed upon alternative timeframe. BellSouth should not permit other ALECs to access the "ALEC-access terminal" installed by it for AT&T, without AT&T's approval. Consistent with its testimony,

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BellSouth should be required to unbundle its INC and NTW, and relinquish the first NTW pair to AT&T, unless BellSouth is using the first pair to provision service. The appropriate rates for all of the subloop elements are the rates proposed by BellSouth in witness Ruscilli's Attachment JAR-1 of Exhibit 17.

ISSUE 11: Should BellSouth be allowed to aggregate lines provided to multiple locations of a single customer to restrict AT&T's ability to purchase local circuit switching at UNE rates to serve any of the lines of that customer?

RECOMMENDATION: Yes. BellSouth should be allowed to aggregate lines provided to multiple locations of a single customer, within the same MSA, to restrict AT&T's ability to purchase local circuit switching at UNE rates to serve any of the lines of that customer.

ISSUE 12: Should AT&T be permitted to charge tandem rate elements when its switch serves a geographic area comparable to that served by BellSouth's tandem switch?

RECOMMENDATION: Staff recommends that AT&T, based upon the record in this proceeding, is not entitled to the tandem rate for purposes of reciprocal compensation. Although the evidence in the record may indicate that geographic coverage alone may determine eligibility for the tandem rate, AT&T has failed to show that it meets this criterion. Therefore, staff believes any policy decision regarding the functionality/geography test is better left to the generic docket presently addressing this issue.

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ISSUE 19: When AT&T and BellSouth have adjoining facilities in a building outside BellSouth's central office, should AT&T be able to purchase cross connect facilities to connect to BellSouth or other ALEC networks without having to collocate in BellSouth's portion of the building?

RECOMMENDATION: Yes. AT&T should be able to purchase cross connect facilities to connect to BellSouth without having to collocate in BellSouth's portion of the building, but only in the six "condominium arrangement" buildings in Florida. In all other circumstances, AT&T should be required to establish collocation arrangements in order to connect to BellSouth or other ALEC networks.

ISSUE 20: Is conducting a statewide investigation of criminal history records for each AT&T employee or agent being considered to work on a BellSouth premises a security measure that BellSouth may impose on AT&T?

RECOMMENDATION: No. The Commission should deny BellSouth's proposal but should require AT&T to conduct criminal background checks on AT&T's employees and agents who have been with the company for less than two years, who will work on BellSouth's premises.

ISSUE 23: Has BellSouth provided sufficient customized routing in accordance with State and Federal law to allow it to avoid providing Operator Services/Directory Assistance ("OS/DA") as a UNE?

RECOMMENDATION: Yes. Subject to the conditions recommended in Issue 25, BellSouth provides sufficient customized routing in accordance with State and Federal law to allow it to avoid providing OS/DA as a UNE.

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DOCKET NO. 000731-TP - Petition by AT&T COMMUNICATIONS Communications of the Southern States, Inc. D/b/a AT&T COMMUNICATIONS for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252.

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ISSUE 25: What procedure should be established for AT&T to obtain loop-port combinations (UNE-P) using both Infrastructure and Customer Specific Provisioning?

RECOMMENDATION: The Commission should allow AT&T to establish a geographic footprint area at either the regional, state or LATA levels. Also, the Commission should find that AT&T is entitled to one or more customized routing options within a chosen geographic footprint. Staff further recommends that BellSouth should be required to either accept AT&T's local service requests (LSRs) with an indicator denoting a specific routing option when AT&T has more than one routing option within a footprint area, or BellSouth should provide AT&T with access to its line class codes assignment module (LCCAM) through website posting. This website should be updated as new line class codes (LCCs) are added to the database.

ISSUE 27: Should the Commission or a third party commercial arbitrator resolve disputes under the Interconnection Agreement?

RECOMMENDATION: The Commission should resolve disputes under the Interconnection Agreement.

ISSUE 30: Should the Change Control Process (CCP) be sufficiently comprehensive to ensure that there are processes to handle, at a minimum the following situations:

- a) introduction of new electronic interfaces?
- b) retirement of existing interfaces?
- c) exceptions to the process?
- d) documentation, including training?
- e) defect correction?
- f) emergency changes (defect correction)?
- g) an eight step cycle, repeated monthly?
- h) a firm schedule for notifications associated with changes initiated by BellSouth?
- I) a process for dispute resolution, including

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DOCKET NO. 000731-TP - Petition by AT&T COMMUNICATIONS Communications of the Southern States, Inc. D/b/a AT&T COMMUNICATIONS for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252.

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- referral to state utility commissions or courts?
j) a process for the escalation of changes in process?

RECOMMENDATION: Staff's Recommendations are set forth in the following sub-parts:

- a)-d) Settled.
e) Yes. The CCP should be sufficiently comprehensive to ensure that there are processes to handle defect corrections. Defect correction should be handled expeditiously. Staff recommends that BellSouth response intervals Medium impact defects be shortened from those set forth in Version 2.1 of the CCP manual. (See detailed discussion text in staff's May 3, 2001 memorandum concerning recommended intervals.)
f) Settled.
g) Yes. The CCP should be sufficiently comprehensive to ensure that there are processes to handle a monthly eight step cycle. The current eight-step cycle is adequate. However, staff recommends shortening the time periods within Steps 3 and 7 of the cycle. (See detailed discussion text in staff's memorandum concerning recommended intervals.) Staff believes the frequency of current quarterly prioritizations of Change Requests is adequate.

ITEM NO.

CASE

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DOCKET NO. 000731-TP - Petition by AT&T COMMUNICATIONS Communications of the Southern States, Inc. D/b/a AT&T COMMUNICATIONS for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252.

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- h) Yes. The CCP should be sufficiently comprehensive to ensure that there are processes for a firm schedule of notifications associated with changes initiated by BellSouth. BellSouth should follow a firm schedule of notifications associated with changes initiated by BellSouth and others. Moreover, BellSouth should be required to adhere to the CCP manual in its entirety. The parties now agree on procedure for introduction of new interfaces. With settlement of sub-issue (a) above, the disagreements within sub-issue (h) will be mitigated.
- i) Yes. The CCP should be sufficiently comprehensive to ensure that there are processes for a process for dispute resolution, including referral to state utility commissions or courts. An adequate dispute resolution process exists under Section 8 of the CCP manual.
- j) Settled.

ISSUE 31: What should be the resolution of the following OSS issues currently pending in the change control process but not yet provided?

- (a) Parsed customer service records for pre-ordering?
- (b) Ability to submit orders electronically for all services and elements?
- (c) Electronic processing after electronic ordering, without subsequent manual processing by BellSouth personnel?

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RECOMMENDATION: Staff's recommendation is set forth in the following subparts:

- (a) Staff recommends: (1) The issue of providing parsed CSRs continue to be addressed and resolved in the Change Control Process (CCP); (2) BellSouth should be required to provide parsed pre-ordering information at the same level required for an LSR by December 31, 2001; and (3) BellSouth should be required to provide field delimiters and associated rules for parsing CSRs.
- (b) Staff recommends the issue of submitting orders electronically for all services and elements should continue to be addressed and resolved through the CCP.
- (c) Staff recommends the issue of providing electronic processing after electronic ordering, without subsequent manual processing by BellSouth personnel, should continue to be addressed and resolved in the CCP.

ISSUE 32: Should BellSouth provide AT&T with the ability to access, via EBI/ECTA, the full functionality available to BellSouth from TAFI and WFA?

RECOMMENDATION: If AT&T desires to integrate full TAFI functionality into ECTA on a non-industry standard basis, staff recommends that AT&T present a formal BonaFide Request to BellSouth and pay for the added functionality desired. Staff further recommends that BellSouth be required to expedite AT&T's request and implement the requested additional functionality within 12 months from the date of AT&T's request.

Staff additionally recommends the Commission order BellSouth to integrate future TAFI and industry standard M&R functionality into ECTA as industry standards allow, and

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make this improved functionality available to ALECs within one year from the date the standards become publicly available.

ISSUE 33: Should AT&T be allowed to share the spectrum on a local loop for voice and data when AT&T purchases a loop/port combination and, if so, under what rates, terms, and conditions?

RECOMMENDATION: Yes. Staff recommends that BellSouth should be required to allow AT&T access to the spectrums on a local loop for voice and data when AT&T purchases a loop/port combination, alternatively referred to as "line splitting." In order to facilitate "line splitting," BellSouth should be obligated to provide an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and unbundled circuit switching combined with shared transport at TELRIC rates. However, BellSouth should not be required to provide the splitter. Staff also recommends that BellSouth should be obligated to coordinate with AT&T the following procedures associated with the transfer of service: disconnection of the unbundled network element-platform, connection of the loop to AT&T's or the sharing data provider's collocation space, connection of the switch port to AT&T's or the sharing data provider's collocation space, and associating the switch port with shared transport. Staff notes that BellSouth should only be required to maintain one customer of record per loop; thus, BellSouth should only be obligated to accept loop transactions from one ALEC per loop.

ISSUE 34: What are the appropriate rates and charges for unbundled network elements and combinations of network elements?

RECOMMENDATION: The appropriate rates and charges for unbundled network elements and combinations of network elements were deferred to Docket No. 990649-TP with the

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exception of line sharing. The appropriate rates for line sharing, for the purposes of this arbitration proceeding, are those proposed by BellSouth.

ISSUE 35: Should this docket be closed?

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

DECISION: This item was deferred to a later Commission Conference.

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DOCKET NO. 990256-WU - Application for transfer of facilities of Gem Estates Utilities, Inc. in Pasco County to Gem Estates Mobile Home Village Association, Inc., and cancellation of Certificate No. 563-W.

Critical Date(s): None

Commissioners Assigned: DS BZ PL
Prehrg Officer DS

Staff: RGO: Brady
LEG: Crosby, Gervasi

ISSUE 1: Should the transfer of water facilities from Gem Estates Utilities, Inc., to Gem Estates Mobile Home Village Association, Inc., be approved and Certificate No. 563-W be canceled?

RECOMMENDATION: Yes. The transfer should be approved and Certificate No. 563-W should be canceled.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. No further action is necessary and the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Palecki