

MINUTES OF NOVEMBER 1, 2005

COMMISSION CONFERENCE

COMMENCED: 1:35 p.m.

ADJOURNED: 2:25 p.m.

COMMISSIONERS PARTICIPATING: Chairman Baez
Commissioner Deason
Commissioner Bradley
Commissioner Edgar
Commissioner Arriaga

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

1Approval of Minutes

October 4, 2005 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar

ITEM NO. **CASE**

2Consent Agenda**

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
050593-TX	Aero Communications, LLC
050596-TX	RedSquare Corporation d/b/a RedSquare Communication Corporation

PAA B) Application for certificate to provide pay telephone service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
050659-TC	Joltran Communications Corp.

PAA C) Request for cancellation of a competitive local exchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
050608-TX	NTERA, Inc.	8/1/2005

D) Docket No. 050700-EI - Florida Power & Light Company ("FPL" or "Company") seeks authority to issue and sell and/or exchange any combination of the long-term debt and equity securities and/or to assume liabilities or obligations as guarantor, endorser, or surety in an aggregate amount not to exceed \$4.5 billion during calendar year 2006. In addition, FPL seeks permission to issue and sell short-term securities during calendar years 2006 and 2007 in an amount or amounts such that the aggregate principal amount of short-term securities outstanding at the time of and including any such sale shall not exceed \$2 billion.

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Consent Agenda

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In connection with this application, FPL confirms that the capital raised pursuant to this application will be used in connection with the activities of FPL and not the unregulated activities of its affiliates.

For monitoring purposes, this docket should remain open until April 27, 2007 to allow the Company time to file the required Consummation Report.

Recommendation: The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of Docket No. 050700-EI which must remain open for monitoring purposes.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

3Docket No. 050681-TP - Proposed amendment of Rules 25-24.511, 25-24.512, 25-24.567, 25-24.569, 25-24.720, 25-24.730, 25-24.810, and 25-24.815, F.A.C., Application for Certificate; or Application for Approval of Assignment, or Transfer of Certificate.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Moore
CMP: Kennedy
ECR: Hewitt

Issue 1: Should the Commission amend Rules 25-24.511, 25-24.512, 25-24.567, 25-24.569, 25-24.720, 25-24.730, 25-24.810, and 25-24.815, Florida Administrative Code, to increase the fees charged for an application for a certificate or an application for approval of a sale, assignment, or transfer of certificate, and to revise the application forms to eliminate unnecessary information?

Recommendation: Yes.

Issue 2: Should the docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

4PAA**Docket No. **041338-TP** - Joint petition by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom d/b/a Grapevine; Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch; DIECA Communications, Inc. d/b/a Covad Communications Company; Florida Digital Network, Inc.; LecStar Telecom, Inc.; MCI Communications, Inc.; and Network Telephone Corporation (“Joint CLECs”) for generic proceeding to set rates, terms, and conditions for hot cuts and batch hot cuts for UNE-P to UNE-L conversions and for retail to UNE-L conversions in BellSouth Telecommunications, Inc. service area.
Docket No. 040301-TP - Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: GCL: Banks, Susac
CMP: Vinson, Dowds

Issue 1: Should the Commission grant the Joint Motion Seeking Approval of Stipulation?
Recommendation: Yes. Staff recommends that the Commission grant the Joint Motion, thereby approving the Stipulation set forth in Attachment A of staff's October 20, 2005 memorandum.

Issue 2: Should these dockets be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, the order will become final upon the issuance of a consummating order. However, these dockets should remain open pending resolution of the unresolved issues in this case. If the parties fail to resolve the issues that remain, staff will bring this matter back before the Commission for resolution.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

5Docket No. 050581-TP - Complaint of KMC Telecom III LLC and KMC Telecom V, Inc. against Sprint-Florida, Incorporated and Sprint Communications Company Limited Partnership for alleged failure to pay intrastate access charges pursuant to interconnection agreement and Sprint's tariffs, and for alleged violation of Section 364.16(3)(a), F.S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: GCL: Fordham, Scott
CMP: Pruitt

Issue 1: Should the Commission grant Sprint-FL's Motion to Dismiss Count IV, Violation of Confidential Settlement and Release Agreement, of KMC's Complaint?

Recommendation: Yes. Staff recommends that Sprint-FL's Motion to Dismiss Count IV of KMC's Complaint be granted. Count IV seeks relief for alleged violation of the Confidential Settlement and Release Agreement (Settlement Agreement), over which this Commission lacks subject matter jurisdiction.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending resolution of the remainder of the issues contained therein.

DECISION: Issue 1 was approved as orally modified by Staff to delete the period after "granted" and add "to the extent" in the staff recommendation. Issue 2 was approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

6**PAADocket No. 050499-WS - Application for authority to transfer majority organizational control of Utilities, Inc. from Nuon Global Solutions USA, B.V. to Hydro Star, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: GCL: Brown
ECR: Johnson, Rieger

Issue 1: Should the Commission grant Utilities, Inc.'s petition for waiver of Rules 25-30.037(3)(i), (j) and (k), and 25-30.030(4)(c), (5), (6) and (7), Florida Administrative Code?

Recommendation: Yes. The Commission should grant Utilities, Inc.'s petition for waiver of Rules 25-30.037(3)(i), (j) and (k), and 25-30.030(4)(c), (5), (6) and (7), Florida Administrative Code.

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open pending the Commission's decision on the substantive aspects of the application.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

7**PAADocket No. **050607-TP** - Application for transfer of CLEC Certificate No. 4434 from EPICUS, Inc. d/b/a EPICUS to Epicus Communications Group, Inc.; for acknowledgment of cancellation of IXC Registration No. TI550 held by EPICUS, Inc. d/b/a EPICUS, to be effective on or before December 31, 2005; for acknowledgment of registration of Epicus Communications Group, Inc. as an intrastate interexchange telecommunications company, to be effective on or before December 31, 2005; and for waiver of carrier selection requirements of Rule 25-4.118, F.A.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Curry
GCL: Scott

Issue 1: Should the Commission approve the transfer of CLEC Certificate No. 4434 from Epicus, Inc. d/b/a Epicus to Epicus Communications Group, Inc.?

Recommendation: Yes. The Commission should approve the transfer of CLEC Certificate No. 4434 from Epicus, Inc. d/b/a Epicus to Epicus Communications Group, Inc.

Issue 2: Should the Commission acknowledge Epicus, Inc. d/b/a Epicus' request to remove Registration No. TI550 from the register effective on or before December 31, 2005?

Recommendation: Yes. The Commission should acknowledge Epicus, Inc. d/b/a Epicus' request to remove Registration No. TI550 from the register.

Issue 3: Should the Commission acknowledge the registration of Epicus Communications Group, Inc. as an intrastate interexchange company, effective on or before December 31, 2005?

Recommendation: Yes. The Commission should acknowledge the registration of Epicus Communications Group, Inc. as an intrastate interexchange company.

Issue 4: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of customers from Epicus, Inc. d/b/a Epicus to Epicus Communications Group, Inc.?

Recommendation: Yes. The Commission should approve the waiver of the carrier selection requirement of Rule 25-4.118, Florida Administration Code, in the transfer of customers from Epicus, Inc. d/b/a Epicus to Epicus Communications Group, Inc.

Issue 5: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with

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Docket No. 050607-TP - Application for transfer of CLEC Certificate No. 4434 from EPICUS, Inc. d/b/a EPICUS to Epicus Communications Group, Inc.; for acknowledgment of cancellation of IXC Registration No. TI550 held by EPICUS, Inc. d/b/a EPICUS, to be effective on or before December 31, 2005; for acknowledgment of registration of Epicus Communications Group, Inc. as an intrastate interexchange telecommunications company, to be effective on or before December 31, 2005; and for waiver of carrier selection requirements of Rule 25-4.118, F.A.C.

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specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. If the Commission's Orders are not protested this docket should remain open pending the receipt of payment of the 2005 regulatory assessment fees by Epicus, Inc. d/b/a Epicus for both its CLEC and IXC operations. If Epicus, Inc. d/b/a Epicus fails to pay its 2005 regulatory assessment fees, then this docket should remain open pending further action.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

8**PAA Docket No. 050612-TX - Request for cancellation of CLEC Certificate No. 7037 by Phone-Link, Inc., effective June 1, 2005.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

Issue 1: Should the Commission deny Phone-Link, Inc. a voluntary cancellation of its competitive local exchange company (CLEC) Certificate No. 7037 and cancel the certificate on the Commission's own motion with an effective date of June 1, 2005?

Recommendation: Yes. The company should be denied a voluntary cancellation.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If the company fails to pay the Regulatory Assessment Fees within fourteen (14) calendar days after the issuance of the Consummating Order, the company's certificate should be cancelled administratively and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees or upon cancellation of the company's certificate.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

9**PAA Docket No. 050682-TX - Compliance investigation of Saluda Networks Incorporated for apparent violation of Rule 25-22.032(6)(b), F.A.C., Customer Complaints.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Curry
GCL: Teitzman
RCA: Marshall

Issue 1: Should the Commission impose a penalty upon Saluda Networks Incorporated in the amount of \$10,000 per apparent violation, for a total of \$40,000 for four apparent violations of Rule 25-22.032(6)(b), Florida Administrative Code, Customer Complaints?

Recommendation: Yes. The Commission should impose a \$40,000 penalty upon Saluda Network Incorporated for the apparent violations of Rule 25-22.032(6)(b), Florida Administrative Code, Customer Complaints.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If Saluda fails to timely file a protest and request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If Saluda fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order, the company's Certificate No. 8376 should be cancelled. If Saluda's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively upon either receipt of the payment of the penalty or upon the cancellation of the company's certificate.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

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CASE

10**PAACompliance investigations for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 050610-TX - Electronic Technical Services (E.T.S.)
Docket No. 050614-TX - Premiere Network Services, Inc.
Docket No. 050615-TX - Telefyne Incorporated
Docket No. 050619-TX - Global Dialtone, Inc. d/b/a Atlantic Phone
Docket No. 050620-TX - CariLink International, Inc.
Docket No. 050621-TX - VGM International, Inc.
Docket No. 050622-TX - Florida Phone Service, Inc.
Docket No. 050623-TX - THC Merger Corp. d/b/a THC Internet Solutions
Docket No. 050624-TX - 1 Com, Inc. d/b/a 1 Com South, Inc.
Docket No. 050625-TX - TELECUBA, INC.
Docket No. 050626-TX - Vox2 Voice, L.C.
Docket No. 050627-TX - Metro Teleconnect Companies, Inc.
Docket No. 050628-TX - Smart Network Solutions Communications Corp
Docket No. 050629-TX - Best Value Telecom, Inc.
Docket No. 050633-TX - Local Telecom Systems, Inc.
Docket No. 050634-TX - BW Consulting, L.L.C.
Docket No. 050635-TX - Telepacket, Inc
Docket No. 050636-TX - Skyway Communications Holding Corp.
Docket No. 050637-TX - Ringsouth Telecom, Corp
Docket No. 050638-TX - US Telecom Group, Inc. d/b/a US Telecom
Docket No. 050639-TX - IQC, LLC
Docket No. 050640-TX - Access One Communications, Inc.
Docket No. 050696-TX - Coastal Telephone Connections, Inc. d/b/a Coastal Connections

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Scott

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$500, or cancel the Competitive Local Exchange Carrier (CLEC) certificate for each company identified in Attachment A of staff's October 20, 2005 memorandum, with an effective date of December 31, 2005, for apparent violation of Rule 25-4.0161, Florida

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Compliance investigations for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

Recommendation: Yes. The companies listed in Attachment A of staff's October 20, 2005 memorandum should be penalized \$500 or have their certificates cancelled for nonpayment of the 2004 Regulatory Assessment Fee.

Issue 2: Should these dockets be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If any company fails to pay the penalty and cost of collection, together totaling \$500, and Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's certificate should be cancelled administratively and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If any company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange service in Florida. These dockets should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's certificate.

DECISION: The recommendations were approved. Docket No. 050610 was deferred.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

11**PAACompliance investigations for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 050613-TX - Airface Communications Inc.

Docket No. 050616-TX - DV2, Inc.

Docket No. 050617-TX - Direct2Internet Corp.

Docket No. 050618-TX - Globcom, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Rojas

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$1,000, or cancel the Competitive Local Exchange Carrier (CLEC) certificate for each company identified in Attachment A of staff's October 20, 2005 memorandum, with an effective date of December 31, 2005, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

Recommendation: Yes. The companies listed in Attachment A of staff's memorandum should be penalized \$1,000 or have their certificates cancelled for nonpayment of the 2004 Regulatory Assessment Fee.

Issue 2: Should these dockets be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If any company fails to pay the penalty and cost of collection, together totaling \$1,000, and Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's certificate should be cancelled administratively and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If any company's certificate is cancelled in accordance with the

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11**PAA

Compliance investigations for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange service in Florida. These dockets should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's certificate.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

12**PAADocket No. 050611-TX - Compliance investigation of Florida City-Link Communications, Inc., CLEC Certificate No. 5260, for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Fordham

Issue 1: Should the Commission cancel Florida City-Link Communications, Inc.'s competitive local exchange telecommunications company (CLEC) Certificate No. 5260 with an effective date of December 31, 2005, and require the company to immediately cease and desist providing competitive local exchange telecommunications service in Florida, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

Recommendation: Yes. The company's CLEC certificate should be cancelled for nonpayment of the 2004 Regulatory Assessment Fee.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida. If the company fails to pay the Regulatory Assessment Fee, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the collection of the past due Regulatory Assessment Fee, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. This docket should be closed administratively upon cancellation of the company's certificate.

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Docket No. 050611-TX - Compliance investigation of Florida City-Link Communications, Inc., CLEC Certificate No. 5260, for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

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DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

13****Docket No. 050003-GU** - Purchased gas adjustment (PGA) true-up.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: CMP: Bulecza-Banks, Beard

GCL: Fleming, Brown

Issue 1: Should the Commission grant the petition of City Gas for an increase in its Purchased Gas Adjustment (PGA) cap from \$0.94952 per therm to \$1.64027 per therm?

Recommendation: Yes. The Commission should approve the Company's proposed PGA cap of \$1.64027 per therm effective for all meter readings taken on or after November 1, 2005, the date of the Commission's vote in this matter. The new cap should remain in effect through December 31, 2005. Staff also recommends that the Company should include a statement on the customers' bills that explains the change in the PGA cap because of increasing natural gas prices resulting from weak natural gas supply production and the effects of Hurricane Katrina.

Issue 2: Should this docket be closed?

Recommendation: No. The Purchased Gas Adjustment True-up docket is ongoing and should remain open.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

ITEM NO.

CASE

14**PAA Docket No. 000694-WU - Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Edgar

Staff: ECR: Kyle, Edwards, Lingo, Slemkewicz, Willis
GCL: Vining

Issue 1: What is the appropriate final revenue requirement for this limited proceeding?

Recommendation: The appropriate final revenue requirement for this limited proceeding is \$1,368,807.

Issue 2: What true-up mechanism, if any, should be approved to adjust for differences between revenues collected and recoverable expenses incurred from the inception of this limited proceeding through the test year?

Recommendation: WMSI's final rates should be decreased by 10.0 percent during the first twelve months that final rates approved in this proceeding are in effect in order to return to ratepayers revenues collected during Phase 1 and Phase 2 of this proceeding in excess of the actual incremental costs incurred by the utility.

Issue 3: What are the appropriate test year billing determinants before repression?

Recommendation: The appropriate test year billing determinants before repression are 24,441 equivalent residential connections (ERCs) and 176,017,000 gallons (176,017 kgals).

Issue 4: What is the appropriate rate structure for this utility?

Recommendation: The appropriate rate structure for this utility is a three-tier inclining-block rate structure. The appropriate usage blocks should be set for monthly usage of: 1) 0 - 8 kgals; 2) 8.001 - 15 kgals; and 3) for usage in excess of 15 kgals. The appropriate rate factors are 1.0, 1.25 and 1.5, respectively, while the appropriate base facility charge cost recovery percentage should be set at 40%.

Issue 5: Is a repression adjustment appropriate in this case, and, if so, what is the appropriate adjustment to make for this utility?

Recommendation: Yes. A repression adjustment is appropriate. Residential consumption should be reduced by 2.5%, resulting in a consumption reduction of approximately 3,813.9 kgals. The resulting total water consumption for rate setting is 172,202.8 kgals, which represents a 2.2% reduction in overall consumption. In order to monitor the effects of both the changes in revenue and rate structure, the utility should continue filing the monthly reports that were ordered in Order No. PSC-00-2227-PAA-WS. These reports should be continued for a period of two years, beginning the first billing period after the approved rates go into effect. To the extent the

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CASE

14**PAA

Docket No. 000694-WU - Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

(Continued from previous page)

utility makes adjustments to consumption in any month during the reporting period, the utility should be ordered to file a revised monthly report for that month within 30 days after all adjustments to that month have been closed.

Issue 6: What are the appropriate rates for this utility?

Recommendation: The appropriate water monthly rates are shown on Schedule No. 1 of staff's October 20, 2005 memorandum. Excluding miscellaneous service revenues, the recommended water rates are designed to produce revenues of \$1,368,807. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date the notice was given no less than 10 days after the date of the notice.

Issue 7: What is the appropriate amount by which water rates should be reduced four years after the established effective date to reflect the removal of amortized rate case expense, as required by Section 367.0816, Florida Statutes?

Recommendation: The water rates should be reduced as shown on Schedule No. 1 of staff's memorandum to remove \$17,986 in rate case expense amortization, grossed up for regulatory assessment fees. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction.

Issue 8: 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, this docket should be closed upon the issuance of a consummating order.

DECISION: Issues 1, 2, 3, 5, 6, 7 and 8 were approved. Issue 4 was approved with two modifications: (1), that the inclining block rate structure be designed with a target of 50% fixed cost recovery and (2) to the extent that change has any effect on the repression adjustment, that adjustment will be made as well.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

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14**PAA

Docket No. 000694-WU - Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

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ITEM NO.

CASE

15****Docket No. 050588-WU** - Petition by County-Wide Utility Co., Inc. for establishment of approved allowance-for-funds-used-during-construction (AFUDC) rate in Marion County.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Joyce, Rendell
GCL: Jaeger

Issue 1: What is the appropriate AFUDC rate for County-Wide Utility Co., Inc.?

Recommendation: The appropriate AFUDC rate for County-Wide is 8.26%. The discounted monthly rate should be 0.663572%.

Issue 2: Should County-Wide's requested effective date of January 1, 2005, for establishment of its AFUDC rate be approved?

Recommendation: No. The approved rate should be applicable for eligible construction projects beginning July 1, 2005.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no timely protest from a substantially affected person on the Commission-approved AFUDC rate is received upon the expiration of the protest period, the PAA Order on the AFUDC rate will become final upon issuance of a Consummating Order, and the docket should be closed.

DECISION: The recommendations were approved with the oral correction that the recommendation should have been filed as a proposed agency action recommendation with a resulting PAA order.

Commissioners participating: Baez, Deason, Bradley, Edgar, Arriaga

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16 **Docket No. 040156-TP** - Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.

Critical Date(s): None

Commissioners Assigned: Bradley, Edgar

Prehearing Officer: Edgar

Staff: CMP: P. Lee, Barrett, Hallenstein, K. Kennedy, King, Marsh, Moss, Vickery

GCL: Fordham, Banks

Issue 2: What rates, terms, and conditions regarding implementing changes in unbundling obligations or changes of law should be included in the amendment to the parties' interconnection agreements?

Recommendation: The amendment to the parties' interconnection agreements should include rates, terms, and conditions relating to the changes in unbundling obligations resulting from the TRO and the TRRO. Neither the TRO nor TRRO ordered changes to change-of-law provisions in existing interconnection agreements. Therefore, no new change-of-law provisions need to be included in the amendment to the parties' ICAs.

Issue 3: What obligations under federal law, if any, with respect to unbundled access to local circuit switching, including mass market and enterprise switching (including four-line carve-out switching), and tandem switching, should be included in the amendment to the parties' interconnection agreements?

Recommendation: Staff recommends that the amendment indicate that Verizon has no §251(c)(3) obligation under federal law to provide unbundled local circuit switching, including mass market and enterprise switching, and tandem switching to CLECs. However, the amendment should include Verizon's obligations to provide unbundled access to the embedded base of local circuit switching arrangements at the transitional rates established in the TRRO through the 12-month transition period, beginning March 11, 2005. The amendment should also indicate that (1) CLECs are entitled to receive the TRRO transitional rates for the full transition period, as this will provide for the orderly and smooth transition of the embedded base of local circuit switching arrangements to alternative arrangements as intended by the FCC in the TRRO; (2) transitional rates for local circuit switching end March 10, 2006; (3) CLECs, not Verizon, are to submit the conversion orders, and conversions are required by March 10, 2006; (4) CLEC unbundled access during the 12-month transition period is limited to the customer switching arrangements existing at March 11, 2005; (5) CLECs are prohibited from accessing on an unbundled basis anything requiring a new UNE-P arrangement; and (6) CLECs have continued unbundled access to shared transport, signaling, and call-related

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databases for embedded local circuit switching arrangements during the transition period. Transition procedures, such as CLECs having continued use of Verizon's systems to submit repair and maintenance orders for their embedded base of customers and specific conversion procedures, can and should be addressed through business-to-business negotiations and need not be spelled out in the amendment.

Additionally, the amendment should define the following terms in the exact manner in which they are defined in the TRO or TRRO:

- Local circuit switching
- Enterprise switching
- Mass market switching
- Tandem switching
- Signaling
- Call-related databases

Issue 4: What obligations under federal law, if any, with respect to unbundled access to DS1 loops, unbundled DS3 loops, and unbundled dark fiber loops should be included in the amendment to the parties' interconnection agreements?

Recommendation: Since Verizon has not claimed non-impairment in any wire center for DS1 and DS3 loops, Verizon is obligated to continue to provide such loops until the non-impairment requirements of the TRRO are met. Because Verizon has only a limited obligation to provide dark fiber loops during the transition period, Verizon should not be required to list the wire centers where such loops are currently available in the agreement. CLECs are not entitled to a transition period for any DS1 or DS3 loops after March 10, 2006, or for dark fiber loops after September 10, 2006, as set forth in the TRRO. The amendment should define business lines, and fiber-based collocators, consistent with Issue 5, as those terms are defined by the FCC.

Issue 5: What obligations under federal law, if any, with respect to unbundled access to dedicated transport, including dark fiber transport, should be included in the amendment to the parties' interconnection agreements?

Recommendation: The amendment should address Verizon's obligations to continue providing dedicated transport, including dark fiber transport, under the limited circumstances outlined in the FCC's rules. The amendment need not list Verizon's wire center designations. The amendment should also include the FCC's definition of "business lines" and "fiber-based collocators."

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Issue 6: Under what conditions, if any, is Verizon permitted to re-price existing arrangements which are no longer subject to unbundling under federal law?

Recommendation: During the transition periods prescribed by the FCC, Verizon should be permitted to re-price existing arrangements in accordance with the TRO and the TRRO, for those elements that it is no longer obligated to provide. After the transition periods have ended, Verizon may re-price arrangements as proposed in Verizon's amendment, when CLECs have not ordered alternative arrangements.

Issue 7: Should Verizon be permitted to provide notice of discontinuance in advance of the effective date of removal of unbundling requirements?

Recommendation: Yes.

Issue 8: Should Verizon be permitted to assess non-recurring charges for the disconnection of a UNE arrangement or the reconnection of service under an alternative arrangement? If so, what charges apply?

Recommendation: Verizon should be permitted to assess non-recurring charges. Except as agreed to by the parties, Verizon may:

- apply the appropriate non-recurring charges for disconnecting UNE arrangements as set forth in Appendix B-1 of the Verizon UNE Order;
- negotiate the appropriate non-recurring charges, if any, for the reconnection of service under a commercially negotiated alternative arrangement, since such charges may not be subject to the Commission's oversight.

Issue 9: What terms should be included in the Amendments' Definition Section and how should those terms be defined?

Recommendation: The Amendment's Definition Section should contain all of the terms and definitions proposed by Verizon and staff, as shown in Tables 9-1 and 9-3 of staff's September 22, 2005 memorandum.

Issue 10: Should Verizon be required to follow the change of law and/or dispute resolution provisions in existing interconnection agreements if it seeks to discontinue the provisioning of UNEs?

Recommendation: Staff recommends that in order for Verizon to discontinue the provisioning of UNEs, including those UNEs de-listed by either the TRO or TRRO, it should be required to follow any change-of-law and/or dispute resolution provisions in existing interconnection agreements. Both the TRO and TRRO specifically direct that the mandated transition periods are to be used to implement any change-of-law provisions contained in interconnection agreements via the process established in 47

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USC §252, and neither the TRO nor TRRO nullify existing change-of-law provisions. However, consistent with the No-New-Adds Order, staff believes Verizon should not be required to follow any change-of-law and/or dispute resolution provisions in existing interconnection agreements with respect to new adds of local UNE switching.

Issue 11: How should any rate increases and new charges established by the FCC in its final unbundling rules or elsewhere be implemented?

Recommendation: Rate increases and new charges established by the FCC in its final unbundling rules or elsewhere should be implemented in accordance with the TRRO, as detailed in Issue 3 through 5.

Issue 12: Should the interconnection agreements be amended to address changes arising from the TRO with respect to commingling of UNEs with wholesale services, EELs, and other combinations? If so, how?

Recommendation: Yes. The TRO changed Verizon's commingling obligations, and therefore staff recommends the interconnection agreements be amended to reflect those changes. The amendment should include the requirement to allow the CLEC to commingle UNEs and UNE combinations with all wholesale services, including switched access, special access and resale services.

Issue 13: Should the interconnection agreements be amended to address changes arising from the TRO with respect to conversion of wholesale services to UNEs/UNE combinations? If so, how?

Recommendation: Yes. The interconnection agreements should be amended to reflect that conversions of wholesale services to UNEs/UNE combinations are permissible under the TRO, as of the effective date of the amendment.

Issue 14: Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:

- a) Line splitting;

Recommendation: No. The ICAs should not be amended with respect to line splitting, since line splitting obligations remain as they were prior to the TRO and TRRO.

Issue 14: Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:

- b) Newly built FTTP loops;

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Recommendation: Yes. Staff recommends that the ICAs be amended to place the terms with respect to newly built FTTP loops in a separate section and to reflect that in no event is Verizon obligated to offer unbundled access to FTTP loops (or any segment or functionality thereof) which terminate at an end user's customer premises that previously has not been served by any Verizon loop facility.

Issue 14: Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:

- c) Overbuilt FTTP loops;

Recommendation: Yes. The ICAs should be amended to address changes arising from the TRO with respect to overbuilt FTTP loops. In particular, the ICAs should incorporate the provisions specifically outlined in 47 CFR 51.319(a)(3)(ii) and 51.319(a)(3)(iii).

Issue 14: Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:

- d) Access to hybrid loops for the provision of broadband services;

Recommendation: Yes. The ICAs should be amended to reflect that, where DS1 or DS3 impairment has been found to exist, Verizon will provide access to DS1 or DS3 hybrid loops for the provision of broadband services, on an unbundled basis, over existing non-packetized time division multiplexing (TDM) features, functions and capabilities, where available. The TRRO impairment criteria apply equally to hybrid loops.

Issue 14: Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:

- e) Access to hybrid loops for the provision of narrowband services;

Recommendation: Yes. The ICAs should be amended to reflect that when a requesting telecommunications carrier seeks access to a hybrid loop for the provision of narrowband services, Verizon may either:

(A) Provide nondiscriminatory access, on an unbundled basis, to a voice-grade (DS0 capacity) transmission path from the central office to the customer's premises over the hybrid loop, using existing non-packetized time division multiplexing technology; or

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(B) Provide nondiscriminatory access, on an unbundled basis, to a spare homerun copper loop serving an end user's premises.

Issue 14: Should the interconnection agreements (ICAs) be amended to address changes, if any, arising from the TRO with respect to:

- f) Retirement of copper loops;

Recommendation: No. Staff recommends that the ICAs not be amended with respect to the retirement of copper loops.

Issue 14: Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:

- g) Line conditioning;

Recommendation: Yes. Staff recommends that the ICAs be amended to reflect Verizon's obligation to perform line conditioning to ensure xDSL delivery at least equal in quality to that which Verizon provides to itself. However, staff also recommends that the line conditioning rates included in the existing ICAs need not be amended.

Issue 14: Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:

- h) Packet switching;

Recommendation: No. The current ICAs reflect that Verizon is not obligated to unbundle packet switching, which is consistent with the TRO and TRRO. Therefore, staff recommends that the ICAs should not be amended.

Issue 14: Should the interconnection agreements (ICAs) be amended to address changes, if any, arising from the TRO with respect to:

- i) Network Interface Devices (NIDs);

Recommendation: No. The FCC's TRO did not change the unbundling requirements for NIDs. Therefore, staff recommends that the ICAs should not be amended.

Issue 14: Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:

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j) Line Sharing?

Recommendation: Yes. The ICAs should be amended to reflect that line sharing is a discontinued facility, which will be transitioned in accordance with the FCC's transition plan delineated in 47 CFR 51.319(a)(1)(i), including all subsections.

Issue 15: What should be the effective date of the amendment to the parties' agreements?

Recommendation: The effective date of the amendment to the parties' agreements should be the date the Commission issues its final order approving the signed amendment. If the Commission does not act to approve or reject an agreement arrived at through arbitration within 30 days after submission by the parties, the agreement is deemed approved pursuant to Section 252 (e)(4) of the Act.

Issue 16: How should CLEC requests to provide narrowband services through unbundled access to a loop where the end user is served via Integrated Digital Loop Carrier (IDLC) be implemented?

Recommendation: A CLEC's request for unbundled access for narrowband service where the end-user is served via Integrated Digital Loop Carrier (IDLC) should be implemented either through spare copper facilities or through the availability of Universal Digital Loop Carrier (UDLC) systems. Where neither option is available, Verizon must present to the CLEC a technically feasible method of unbundled access that is not solely restricted to new construction of copper facilities and UDLC systems.

Issue 17: Should Verizon be subject to standard provisioning intervals or performance measurements and potential remedy payments, if any, in the underlying agreement or elsewhere, in connection with its provision of

- a. Unbundled loops in response to CLEC requests for access to IDLC-served hybrid loops;
- b. Commingled arrangements;
- c. Conversion of access circuits to UNEs;
- d. Loops or Transport (including Dark Fiber Transport and Loops) for which Routine Network modification is required;

Recommendation: No. This docket is not the appropriate forum for resolution of this issue. The application of performance measurements for new activities required in the

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TRO could be addressed according to the provision of Verizon's Performance Measurement Plan adopted by the Commission in Docket No. 000121C-TP. Furthermore, this is not a change necessitated by the TRO itself.

Issue 18: How should sub-loop access be provided under the TRO?

Recommendation: Verizon should provide, to a requesting telecommunications carrier, access to subloops for multiunit premises wiring at any portion of the loop that it is technically feasible to access in the ILEC's outside plant at or near a multiunit premises. This includes inside wire, which is defined in this proceeding as all loop plant owned or controlled by the ILEC at a multiunit customer premises between the minimum point of entry and the point of demarcation at the customer's premises.

Issue 19: Where Verizon collocates local circuit switching equipment (as defined by the FCC's rules) in a CLEC facility/premises, should the transmission path between that equipment and the Verizon serving wire center be treated as an unbundled transport? If so, what revisions to the amendment are needed?

Recommendation: Verizon does not reverse collocate local switching equipment in any CLEC facility/premises in Florida. Therefore, reverse collocation need not be addressed in the amendment.

Issue 20: Are interconnection trunks between a Verizon wire center and a CLEC wire center interconnection facilities under section § 251(c)(2) that must be provided at TELRIC?

Recommendation: No. The FCC's rules regarding interconnection facilities and an ILEC's obligations under §251(c)(2) did not change. As such, there is no need to address this issue in this proceeding.

Issue 21: What obligations under federal law, if any, with respect to EELs should be included in the amendment to the parties' interconnection agreements?

- a) What information should a CLEC be required to provide to Verizon as certification to satisfy the service eligibility criteria (47 C.F.R. Sec. 51.318) of the TRO Order to (1) convert existing circuits/services to EELs or (2) order new EELs?

Recommendation: Staff believes that the TRO does not require a CLEC to provide detailed, verifiable information showing compliance with the service eligibility criteria prior to the circuit being provisioned. Staff recommends that the CLEC be required to submit a letter, either manually or electronically, identifying and certifying that all currently provisioned circuits conform to the TRO service eligibility criteria, within 60

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days of the effective date of the order from this recommendation. For each conversion request, staff recommends that the CLEC be required to submit a letter, either manually or electronically, identifying and certifying that each and every circuit conforms to the TRO service eligibility criteria. For each new order, staff recommends that the CLEC be required to submit a letter, either manually or electronically, identifying and certifying that each and every circuit will conform to the TRO service eligibility criteria.

Issue 21: What obligations under federal law, if any, with respect to EELs should be included in the amendment to the parties' interconnection agreements?

b) Conversion of existing circuits/services to EELs:

- (1) Should Verizon be prohibited from physically disconnecting, separating or physically altering the existing circuits/services to an EEL unless the CLEC requests such facilities alteration?

Recommendation: Staff recommends that neither Verizon nor the CLECs should be forbidden from physically disconnecting, separating or altering the existing circuit/service to an EEL during a conversion. However, to the extent technically possible, all conversions should be as seamless as possible to avoid adversely affecting the service quality perceived by the requesting telecommunications carrier's end-user customer.

Issue 21: What obligations under federal law, if any, with respect to EELs should be included in the amendment to the parties' interconnection agreements?

b) Conversion of existing circuits/services to EELs:

- (2) In the absence of a CLEC request for conversion of existing access circuits/services to UNE loops and transport combinations, what types of charges, if any, can Verizon impose?

Recommendation: Verizon is presently precluded from assessing any charges for performing the conversions that are the subject of this issue.

Issue 21: What obligations under federal law, if any, with respect to EELs should be included in the amendment to the parties' interconnection agreements?

c) What are Verizon's rights to obtain audits of CLEC compliance with the

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service eligibility criteria in 47 C.F.R. 51.318?

Recommendation: Staff recommends that the language strictly correspond with the TRO with respect to materiality. A third-party, independent auditor obtained and paid for by Verizon must conduct the audit in accordance with the American Institute of Certified Public Accountants (AICPA) standards, which will typically include sampling. If the auditor finds the CLEC has materially complied with the service eligibility criteria, Verizon must reimburse the CLEC for the costs that the CLEC incurred in complying with the audit. If the auditor finds the CLEC failed to materially comply with the service eligibility criteria, the CLEC must reimburse Verizon for the cost of the audit. Verizon should provide written notice to the CLEC 30 days prior to the date that it seeks to commence the audit. Verizon need not identify the specific circuits that are to be audited or provide additional detailed documentation. If Verizon or a CLEC has concern with any portion of the audit, it may dispute the audit under the dispute resolution procedures contained in the interconnection agreement.

Issue 22: How should the Amendment reflect an obligation that Verizon perform routine network modifications necessary to permit access to loops, dedicated transport, or dark fiber transport facilities where Verizon is required to provide unbundled access to those facilities under 47 U.S.C. § 251(c)(3) and 47 CFR part 51?

Recommendation: Staff recommends that the ICAs be amended to reflect Verizon's obligation to perform routine network modifications (RNMs) on a nondiscriminatory basis. RNMs are those activities that Verizon regularly undertakes for its own customers, excluding the installation of a new loop.

Issue 23: Should the parties retain their pre-Amendment rights arising under the Agreement, tariffs, and SGATS?

Recommendation: Yes. The TRO, USTA II, FCC's Interim Order, and TRRO did not require changes in the parties' pre-amendment rights arising under their agreements, tariffs, and SGATs, except to the extent delineated earlier in this recommendation. Accordingly, those pre-amendment rights should be retained. Future changes should not be subject to automatic or unilateral interpretation and change by either party.

Issue 24: Should the Amendment set forth a process to address the potential effect on the CLECs' customers' services when a UNE is discontinued?

Recommendation: No. Except to the extent that TRO or TRRO provisions are included in certain areas of the agreement, no specific provision should be made to address the potential effect on a CLEC's customers' services.

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Issue 25: How should the Amendment implement the FCC's service eligibility criteria for combinations and commingled facilities and services that may be required under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51?

Recommendation: See Issue 21.

Issue 26: Should this docket be closed?

Recommendation: No. The parties should be required to submit signed agreements that comply 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 agreements in accordance with Section 252 of the Telecommunications Act of 1996.

DECISION: The recommendations were approved.

Commissioners participating: Bradley, Edgar