

MINUTES OF NOVEMBER 3, 2003

COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.

ADJOURNED: 4:25 p.m.

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

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

1Approval of Minutes

September 30, 2003 Regular Commission Conference

October 7, 2003 Regular Commission Conference

DECISION: The minutes were approved.

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

Minutes of
Commission Conference
November 3, 2003

ITEM NO. CASE

2**Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030941-TX	Computer Network Technology Corporation
030924-TX	The Phone Connecton, Inc.
030883-TX	Synergy Networks, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
030915-TX	TeleCents Communications, Inc.	4/14/03

PAA C) Application for certificate to provide alternative access vendor service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030907-TA	Fort Pierce Utilities Authority d/b/a GigaBand Communications

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030946-TC	WLAJ Inc.

ITEM NO.

CASE

2**

Consent Agenda

(Continued from previous page)

- E) Docket No. 030944-EI - Application by Tampa Electric Company (Tampa Electric or the company) for authority to issue and sell securities during the twelve months ending December 31, 2004. The Company seeks approval pursuant to Chapter 25-8, Florida Administrative Code, and Section 366.04, Florida Statutes, for authority to issue, sell, and/or exchange equity securities and to issue, sell, exchange and/or assume long-term or short-term debt securities and/or to assume liabilities or obligations as guarantor, endorser or surety during the period covered by the application. Any exercise of the requested authority shall be for the benefit of Tampa Electric. At no time will the company borrow funds, incur debt or assume liabilities or obligations as guarantor, endorser, or surety that are not for the benefit of Tampa Electric.
- F) Docket No. 030905-GU - Application by Florida Public Utilities Company (FPUC or the company) for authority to issue and sell and/or exchange any combination of the long-term debt, short-term debt notes and equity securities and/or to assume liabilities or obligations as guarantor, endorser or surety in an incremental amount not to exceed \$30 million, excluding retained earnings, during the calendar year 2004.

RECOMMENDATION: The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of Dockets Nos. 030944-EI and 030905-GU, which must remain open for monitoring purposes.

DECISION: The recommendation was approved.

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

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

3Docket No. 030575-PU - Proposed amendment to Rule 25-22.032,
F.A.C., Customer Complaints.

Critical Date(s): None

Rule Status: Adoption

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: GCL: Cibula, Gervasi

CAF: Tudor, DeMello

ECR: Hewitt

ISSUE 1: Should the Commission adopt changes to the proposed amendment of Rule 25-22.032, Florida Administrative Code, entitled Customer Complaints, to address JAPC's comments?

RECOMMENDATION: Yes. The Commission should adopt proposed Rule 25-22.032 with changes, as set forth in Attachment A of staff's October 22, 2003 memorandum.

ISSUE 2: Should the rule be filed for adoption with the Secretary of State and the docket closed?

RECOMMENDATION: Yes. A Notice of Change should be published in the Florida Administrative Weekly. After the notice is published, the rule may be filed for adoption with the Secretary of State and the docket may then be closed.

DECISION: There was no vote on this item. Staff was directed to run Commissioner Davidson's suggested changes by JAPC for consideration prior to bringing the docket back to agenda.

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
-----------------	-------------

4**Docket No. 030975-EI - Proposed amendment of Rule 25-6.0437,
F.A.C., Cost of Service Load Research.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: GCL: Moore

ECR: Wheeler, Hewitt

ISSUE 1: Should the Commission amend Rule 25-6.0437,
Florida Administrative Code, Cost of Service Load Research?

RECOMMENDATION: Yes.

ISSUE 2: If no requests for hearing or comments are filed,
should the rule as proposed be filed for adoption with the
Secretary of State and the docket closed?

RECOMMENDATION: Yes.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4A**Docket No. 030867-TL - Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.
Docket No. 030868-TL - Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.
Docket No. 030869-TL - Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Bradley

Staff: GCL: B. Keating, Christensen, Fordham, Banks
CMP: Simmons
EXT: VonFossen
MMS: Bethea

ISSUE 1: Should the Commission grant AARP's Motion to Dismiss Verizon's Petition, Sprint's Petition, and BellSouth's Petition in Dockets Nos. 030867-TL, 030868-TL, and 030869-TL, respectively?

RECOMMENDATION: No. Staff does not believe that AARP has identified a fatal flaw in the Petitions. The Petitions still state a cause of action upon which relief can be granted, and the IXCs' participation is not "necessary or proper to a complete determination of the cause." Therefore, staff recommends that the Motion be denied.

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

4A**

Docket No. 030867-TL - Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

Docket No. 030868-TL - Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

Docket No. 030869-TL - Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

(Continued from previous page)

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: No. These dockets should remain open regardless of whether the Commission approves or denies staff's recommendation on Issue 1.

DECISION: The recommendations were approved. Chairman Jaber dissented on Issue 1.

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

ITEM NO.

CASE

5**PAADocket No. 030961-TI - Flow-through of LEC switched access reductions by IXC's, pursuant to Section 364.163(2), Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: GCL: Fordham, Banks
CMP: Wright, Simmons, Bulecza-Banks
MMS: Bethea

ISSUE 1: Which IXC's should be required to file tariffs to flow through BellSouth's, Verizon's and Sprint-Florida's switched access reductions, if approved, and what should be included in these tariff filings?

RECOMMENDATION: IXC's that paid \$1 million or more in intrastate switched access charges in 2002 should include in their tariff filing: 1) a calculation of the dollar benefit associated with the LEC's intrastate switched access rate reductions; 2) separate demonstrations that residential and business long distance rates have been reduced and the estimated annualized revenue effect, residential and business, including a description of how those estimates were made; and 3) a demonstration that all reductions have been flowed through.

IXC's that paid less than \$1 million in intrastate switched access charges in 2002, should include with their tariff filing, a letter certifying that they paid less than \$1 million in intrastate switched access charges in 2002, and that they have complied with each of the flow-through requirements as specified in Section 364.163(2), Florida Statutes.

Any IXC whose intrastate switched access expense reduction is \$100 or less per month is not obligated to flow through its reduction, but should attest to such, through a letter filed with the Commission.

The revenue reductions should be implemented and remain in effect as described in the body of staff's recommendation dated October 22, 2003.

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
5**PAA	Docket No. 030961-TI - Flow-through of LEC switched access reductions by IXCs, pursuant to Section 364.163(2), Florida Statutes. (Continued from previous page) <u>ISSUE 2</u> : When should the IXCs' tariffs be filed? <u>RECOMMENDATION</u> : The IXCs should be required to file their tariffs in order for them to become effective concurrently with the LECs' tariff filings. <u>ISSUE 3</u> : Should this docket be closed? <u>RECOMMENDATION</u> : No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should remain open to address any IXC tariff filings necessary to ensure compliance with Section 364.163(2), Florida Statutes.

DECISION: Staff's recommendation was denied. The docket will be consolidated with Dockets 030867-TL, 030868-TL, and 030869-TL, and testimony due dates established which will allow the December hearing dates to be kept.

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

ITEM NO.

CASE

6Docket No. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.
Docket No. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: CMP: T. Brown, J. Brown, Muskovac, Vickery
GCL: Teitzman, B. Keating, Rojas

ISSUE 1A: When should an ALEC be required to remit payment for nonrecurring charges for collocation space?

RECOMMENDATION: The nonrecurring application fees should be billed within 30 days of the date when the ILEC provides an application response. Nonrecurring charges associated with processing the firm order for collocation preparation should be billed within 30 days of ILEC confirmation of the CLEC's firm order. All other nonrecurring charges should be billed within 30 days after the product or service is provided. An ILEC should permit a CLEC to subcontract the construction of its collocation space with contractors approved by the ILEC and the ILEC should not unreasonably withhold approval.

DECISION: The recommendation was approved with the modification discussed at the conference, recognizing that issue was addressed by the FCC.

ISSUE 3: Should an ALEC (hereafter CLEC) have the option to transfer accepted collocation space to another CLEC? If so, what are the responsibilities of the ILEC and CLECs?

RECOMMENDATION: Yes. A CLEC should be allowed to transfer collocation space to another CLEC under the following conditions: (1) the central office is not at or near space

ITEM NO.

CASE

- 6 Docket No. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.
Docket No. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

(Continued from previous page)

exhaustion; (2) the transfer of space should be contingent upon the ILEC's approval, who will not unreasonably withhold permission; (3) there are no unpaid, undisputed collocation balances between the ILEC and the transferring CLEC; and (4) the transfer of the collocation space is in conjunction with the CLEC's sale of all, or substantially all, of the in-place collocation equipment to the acquiring CLEC.

The responsibilities of the transferring CLEC should include: (1) submitting a letter of authorization to the ILEC for the transfer; (2) entering into a transfer agreement with the ILEC and acquiring CLEC; and (3) returning all access devices to the ILEC. The responsibilities of the acquiring CLEC shall include: (1) submitting an application to the ILEC for transfer of the collocation arrangement; (2) satisfying all ~~legal~~ requirements of its interconnection agreement with the ILEC; (3) submitting a letter to the ILEC for the assumption of services; and (4) entering into a transfer agreement with the ILEC and transferring CLEC. It is the responsibility of the ILEC to ensure that the above responsibilities are completely satisfied and the transfer of space is done as quickly as possible.

DECISION: The recommendation was approved with the noted modifications, and with the addition of language concerning bankruptcy, and language indicating disputed bills will be governed by existing interconnection agreements.

ITEM NO.

CASE

6

Docket No. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.
Docket No. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

(Continued from previous page)

ISSUE 4: Should the ILEC be required to provide copper entrance facilities within the context of a collocation inside the central office?

RECOMMENDATION: An ILEC should be required to allow entrance facilities for a CLEC's copper cable only in those rare instances where the CLEC demonstrates a necessity and that entrance capacity is not at or near exhaustion in the particular central office associated with the collocation.

DECISION: The recommendation was approved.

ISSUE 5: Should an ILEC be required to offer, at a minimum, power in standardized increments? If so, what should the standardized power increments be?

RECOMMENDATION: Yes. Depending on the technical feasibility, commercial availability, and safety limitations, DC power should be provided in 5-amp increments from 5 amps up to 100 amps. Given industry standard fuse sizing, DC power of 70 amps or greater may be provisioned directly from the ILEC main power board.

DECISION: The recommendation was approved.

ITEM NO.

CASE

6

Docket No. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

Docket No. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

(Continued from previous page)

ISSUE 6A: Should an ILEC's per ampere (amp) rate for the provisioning of DC power to an ALEC's collocation space apply to amps used or fused capacity?

ISSUE 6B: If power is charged on a per-amp-used basis or on a fused capacity basis, how should the charge be calculated and applied?

RECOMMENDATION: An ILEC's per ampere (amp) rate for DC power provided to a CLEC's collocation space should be based on amps used, not fused. Charges for DC power should be calculated and applied based on the amount of power that the CLEC requests it be allowed to draw at a given time. An ILEC should also allow a CLEC, at the CLEC's option, to order a power feed that is capable of delivering a higher DC power level but to fuse this power feed so as to allow a power level less than the feed's maximum to be drawn by the CLEC; the CLEC must specify the power level it wishes to be able to draw.

DECISION: The recommendation was approved.

ISSUE 6C: When should an ILEC be allowed to begin billing an ALEC for power?

RECOMMENDATION: Billing for power should begin at the same time as the recurring charges as stipulated in Issue 1B.

DECISION: The recommendation was approved.

ITEM NO.

CASE

6

Docket No. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.
Docket No. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

(Continued from previous page)

ISSUE 7: Should an ALEC have the option of an AC power feed to its collocation space?

RECOMMENDATION: Yes. The CLEC should have the option of obtaining AC power for its collocation arrangement. This includes AC convenience outlets for test equipment, AC powering of collocation equipment, and AC power feeds for converting AC to DC as long as they are in accordance with the National Electric Code and the appropriate local all applicable electric codes and building codes.

DECISION: The recommendation was approved with the noted modification.

ISSUE 8: What are the responsibilities of the ILEC, if any, when an ALEC requests collocation space at a remote terminal where space is not available or space is nearing exhaustion?

RECOMMENDATION: Generally, CLEC requests for collocation space at an ILEC remote terminal in Florida should be treated in the same fashion as central office collocation requests.

DECISION: The recommendation was approved.

ISSUE 11: Should these dockets be closed?

RECOMMENDATION: No. These dockets should remain open to address the pricing issues associated with this proceeding.

DECISION: The recommendation was approved.

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

ITEM NO.

CASE

7**PAADocket No. 030909-TI - Investigation and determination of appropriate method for refunding overcharges assessed on intrastate calls made using calling card services provided by Easton Telecom Services, L.L.C.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Curry, Howell
ECR: Maurey
GCL: Teitzman

ISSUE 1: Should the Commission accept Easton Telecom Services, L.L.C.'s proposal to submit a lump sum payment of \$190.35, plus interest of \$3.61, for a total of \$193.96, to the General Revenue Fund for overcharging end-users on intrastate calls made using calling card services provided by Easton Telecom Services, L.L.C. from July 5, 2002 to October 4, 2002?

RECOMMENDATION: Yes. The Commission should accept Easton Telecom Services, L.L.C.'s proposal to submit a lump sum payment of \$190.35, plus interest of \$3.61, for a total of \$193.96, to the General Revenue fund for overcharging end-users on intrastate calls made using calling card services provided by Easton Telecom Services, L.L.C. The payment should be received by the Commission within fourteen calendar days after the issuance of the Consummating Order and should identify the docket number and the company's name. The Commission should forward the contribution to the Division of Financial Services for deposit into the General Revenue Fund. If Easton Telecom Services, L.L.C. fails to pay in accordance with its proposal, the company's tariff should be canceled and Registration Number TJ623 should be removed from the register. If Easton Telecom, L.L.C.'s tariff is canceled and Registration Number TJ623 is removed from the register, then the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida.

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

7**PAA

Docket No. 030909-TI - Investigation and determination of appropriate method for refunding overcharges assessed on intrastate calls made using calling card services provided by Easton Telecom Services, L.L.C.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. This docket should remain open pending the receipt of the \$193.96 payment. Upon receipt of the payment it should be forwarded to the Division of Financial Services for deposit in the General Revenue Fund, and this docket should be closed administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

8**PAADocket No. 030872-TI - Investigation and determination of appropriate method for refunding overcharges assessed on intrastate calls made using one plus and calling card services provided by Florida Digital Network, Inc. d/b/a FDN Communications.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Buys, Howell, Lewis
ECR: Maurey
GCL: Susac

ISSUE 1: Should the Commission accept Florida Digital Network, Inc.'s proposal to refund and refund calculation of \$14,872.42, plus interest of \$404.92, totaling \$15,277.34, for overcharges on intrastate calls made using one plus service and calling card service from May 1, 2001, through February 28, 2003?

RECOMMENDATION: Yes. The Commission should accept Florida Digital Network Inc.'s proposal to refund and refund calculation of \$14,872.42, plus interest of \$404.92, totaling \$15,277.34, for overcharges on intrastate calls made using one plus service and calling card service from May 1, 2001, through February 28, 2003. All refunds should be completed within sixty (60) days of the issuance date of the Consummating Order. Any unrefunded amounts and a final report should be remitted to the Commission within 180 days of the issuance date of the Consummating Order. If FDN fails to comply with its refund proposal, the company's tariff should be cancelled and Registration Number TJ246 should be removed from the register. If FDN's tariff is cancelled and Registration Number TJ246 is removed from the register, FDN should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose interests are substantially affected by the proposed action files a protest of the Commission's decision in Issue 1 within the

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

8**PAA

Docket No. 030872-TI - Investigation and determination of appropriate method for refunding overcharges assessed on intrastate calls made using one plus and calling card services provided by Florida Digital Network, Inc. d/b/a FDN Communications.

(Continued from previous page)

21-day protest period, the Commission's Order will become final upon issuance of the Consummating Order. This docket should, however, remain open pending the completion of the refund and receipt of the final report on the refund. After completion of the refund and receipt of the final refund report, this docket should be closed administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9**PAADocket No. 030947-TI - Compliance investigation of Digitec for apparent violation of Sections 364.02(13) and 364.04, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Watts
GCL: Rojas

ISSUE 1: Should the Commission impose a \$25,000 penalty upon Digitec for its apparent violation of Sections 364.02(13) and 364.04, Florida Statutes?

RECOMMENDATION: Yes. The Commission should impose a \$25,000 penalty upon Digitec for its apparent violations of Sections 364.02(13) and 364.04, Florida Statutes. If Digitec 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. Further, if the company fails to timely file a protest and fails to do any of the following:

1. file a tariff;
2. provide the Commission with current contact information; or
3. pay the penalty,

the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida upon issuance of the Consummating Order until the company pays the penalty, files a tariff and provides the Commission with current contact information.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of the 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. If the Commission's Order is not protested and the payment of the penalty is not received by the Commission within fourteen calendar days after the issuance of the Consummating Order,

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
9**PAA	Docket No. 030947-TI - Compliance investigation of Digitec for apparent violation of Sections 364.02(13) and 364.04, Florida Statutes.

(Continued from previous page)

the collection of the penalty should be referred to the Department of Financial Services. This docket should be closed administratively upon either receipt of the payment of the penalty or upon the referral of the penalty to the Department of Financial Services.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

10**PAADocket No. 030631-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 7823 issued to Global Telecom Systems, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission grant Global Telecom Systems, Inc. a voluntary cancellation of CLEC Certificate No. 7823?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its CLEC certificate with an effective date of September 4, 2003. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Global Telecom Systems, Inc. should be required to immediately cease and desist providing competitive local exchange service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed upon cancellation of the certificate as no other issues need to be addressed by the Commission.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

11**Docket No. 030625-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 7438 issued to Backbone 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
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission accept the settlement offer proposed by Backbone Communications Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, which implements Section 364.336, Florida Statutes?

RECOMMENDATION: The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 7438 should be canceled administratively. If Backbone Communications Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, Backbone Communications Inc. should be required to immediately cease and desist providing competitive local exchange telecommunications service in Florida.

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
11**	Docket No. 030625-TX - Cancellation by Florida Public Service Commission of CLEC Certificate No. 7438 issued to Backbone Communications Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Continued from previous page) <u>ISSUE 2</u> : Should this docket be closed? <u>RECOMMENDATION</u> : If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

12**PAADocket No. 030632-TX - Bankruptcy cancellation by Florida
Public Service Commission of CLEC Certificate No. 7880
issued to W.G.I. Communications, Inc. d/b/a Boomerang
Communications, Inc., effective 9/15/03.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission grant W.G.I. Communications,
Inc. d/b/a Boomerang Communications, Inc. cancellation of
its CLEC Certificate No. 7880 due to bankruptcy?

RECOMMENDATION: The Commission should grant the company a
bankruptcy cancellation of its CLEC Certificate No. 7880
with an effective date of September 15, 2003. In addition,
the Division of the Commission Clerk and Administrative
Services will be notified that the 2002 and 2003 RAFs,
including penalty and interest charges for the year 2002,
should not be sent to the Florida Department of Financial
Services for collection, but that permission for the
Commission to write off the uncollectible amount should be
requested. If the company's CLEC certificate is cancelled
in accordance with the Commission's Order from this
recommendation, W.G.I. Communications, Inc. d/b/a Boomerang
Communications, Inc. should be required to immediately cease
and desist providing competitive local exchange
telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

13**Docket No. 030614-TA - Cancellation by Florida Public Service Commission of AAV Certificate No. 4025 issued to Winstar Communications, LLC for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission accept the settlement offer proposed by Winstar Communications, LLC to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, which implements Section 364.336, Florida Statutes?

RECOMMENDATION: The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 4025 should be canceled administratively. If Winstar Communications, LLC's certificate is cancelled in accordance with the Commission's Order from this recommendation, Winstar Communications, LLC should be required to immediately cease and desist providing alternative access vendor service in Florida.

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
13**	Docket No. 030614-TA - Cancellation by Florida Public Service Commission of AAV Certificate No. 4025 issued to Winstar Communications, LLC for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14**PAADocket No. 030686-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 2358 issued to Telaleasing Enterprises, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Christensen

ISSUE 1: Should the Commission cancel Telaleasing Enterprises, Inc.'s PATS Certificate No. 2358 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies? RECOMMENDATION: The Commission should cancel Telaleasing Enterprises, Inc.'s PATS Certificate No. 2358 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. If the past due fee, including statutory penalty and interest charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Florida Department of Financial Services for further collection efforts. If the Commission's Order is not protested, the company's PATS Certificate No. 2358 should be cancelled administratively. If Telaleasing Enterprises, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, Telaleasing Enterprises, Inc. should be required to immediately cease and desist providing pay telephone service in Florida.

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
14**PAA	Docket No. 030686-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 2358 issued to Telaleasing Enterprises, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

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

DECISION: This item was deferred.

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

14A**Docket No. 030001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: ECR: Floyd, Windham
GCL: C. Keating, Rodan

ISSUE 1: Should the Commission defer consideration of issues concerning Tampa Electric Company's coal transportation arrangements to a proceeding subsequent to the Commission's November 12-14, 2003, hearing in this docket?

RECOMMENDATION: Yes. Additional time to review these issues would allow staff and the parties the opportunity to more fully evaluate the market rate analysis that Tampa Electric Company has offered to serve as the basis for the cost of waterborne coal transportation services to be charged to customers over the next five years. However, staff believes the Commission could decide these issues based on the record that would be established by the prefiled testimony and exhibits of Tampa Electric Company's and staff's witnesses in this docket and through cross-examination of those witnesses at hearing.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This is an ongoing docket that should remain open.

DECISION: The recommendations were approved with the modification that the Commission will defer consideration of these issues to a separate proceeding, to be set as soon as possible by the prehearing officer.

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

ITEM NO.

CASE

15**PAADocket No. 030711-EI - Petition of Progress Energy Florida, Inc. for approval of new environmental programs for cost recovery through environmental cost recovery clause. (Deferred from October 7, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Davidson

Staff: ECR: Breman
GCL: Stern, Vining

ISSUE 1: Should the Commission approve Progress Energy Florida, Inc.'s (PEF) petition for the Pipeline Integrity Management ("PIM") project as a new activity for cost recovery through the ECRC?

RECOMMENDATION: Yes. The PIM program is required to comply with Regulation 49 CFR Part 195, as amended on February 15, 2002. The resultant environmental compliance costs are incremental to PEF's base rates because the requirements of 49 CFR Part 195 did not affect PEF prior to the company's 2002 rate case (Docket No. 000824-EI).

ISSUE 2: Should the Commission approve Progress Energy Florida, Inc.'s petition for the Aboveground Storage Tank Secondary Containment ("ASTSC") project as a new activity for cost recovery through the ECRC?

RECOMMENDATION: Yes. PEF should be allowed to recover the costs incurred for the installation of or upgrades to secondary containment for field-erected aboveground storage tank systems as required by the 1998 amendments incorporated into Rule 62-761.510 (Table AST, Keynotes W and U), Florida Administrative Code.

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	Docket No. 030711-EI - Petition of Progress Energy Florida, Inc. for approval of new environmental programs for cost recovery through environmental cost recovery clause. (Deferred from October 7, 2003 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 3: 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: This item was withdrawn.

ITEM NO.

CASE

16**Docket No. 030752-EI - Petition for approval of green power pricing research project as part of Demand Side Management Plan by Florida Power & Light Company.

Critical Date(s): 60-day suspension date waived by FPL

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Harlow, Brinkley, Draper, Sickel
GCL: Holley

ISSUE 1: Should Florida Power and Light Company's petition for approval of a Green Power Pricing Research Project be approved?

RECOMMENDATION: Yes. The use of Tradeable Renewable Energy Credits in FPL's proposed voluntary research project provides a mechanism for interested customers to encourage renewable development. FPL should be authorized to: 1) incorporate the project into its demand-side management plan; 2) report all revenues and expenses through its ECCR clause; 3) recover reasonable and prudent project administrative costs up to \$1.5 million if total expenses exceed total revenues; and, 4) defer excess revenues as a regulatory liability and reinvest these revenues in the project, after the general body of ratepayers has been compensated with interest for any initial costs. FPL should be required to provide semi-annual progress reports to the Commission.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective on November 3, 2003. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: This item was deferred.

ITEM NO.

CASE

17**PAADocket No. 030866-EQ - Petition for approval of standard offer contract based on 2007 combined cycle avoided unit and accompanying Rate Schedule COG-2, and for waiver of Rule 25-17.0832(4)(e)5, F.A.C., by Progress Energy Florida, Inc.

Critical Date(s): 11/25/03 (90-day deadline on rule waiver request)
4/27/04 (8-month effective date)

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: ECR: Sickel, Baxter, Haff
GCL: Vining

ISSUE 1: Should the Commission grant Progress Energy Florida's petition for a waiver of the requirement in Rule 25-17.0832(4)(e)5, Florida Administrative Code, that the open solicitation period for a utility's standard offer contract must terminate prior to its issuance of a notice of Request for Proposal (RFP) based on the standard offer contract's avoided unit?

RECOMMENDATION: Yes. Progress has demonstrated that the purpose of the underlying statute will be met, and that strict adherence to the closure provision of the standard offer contract would create a substantial hardship for Progress and its customers.

ISSUE 2: Should Progress Energy Florida's petition for approval of a new Standard Offer Contract, based upon a combined cycle unit with a scheduled in-service date of December 2007, be approved?

RECOMMENDATION: Yes. The Standard Offer Contract submitted by Progress complies with Rule 25-17.0832, Florida Administrative Code.

ISSUE 3: On what date should the Standard Offer Contract proposed by Progress become effective?

RECOMMENDATION: Progress's proposed standard offer contract should become effective upon the issuance of a consummating order if there is no timely protest filed.

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
17**PAA	Docket No. 030866-EQ - Petition for approval of standard offer contract based on 2007 combined cycle avoided unit and accompanying Rate Schedule COG-2, and for waiver of Rule 25-17.0832(4)(e)5, F.A.C., by Progress Energy Florida, Inc.

(Continued from previous page)

ISSUE 4: Should this docket be closed?

RECOMMENDATION: 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.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

18**PAADocket No. 030949-EG - Petition for extension of Conservation Research and Development Program by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Munroe
GCL: Holley

ISSUE 1: Should the Commission approve Florida Power and Light Company's (FPL) petition to extend its Conservation Research and Development (CRD) Program?

RECOMMENDATION: Yes. FPL has spent approximately \$750,000 to date for the CRD Program.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no substantially affected person timely files a protest to the Commission's proposed agency action, this docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

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

Critical Date(s): 12/16/03 (5-month effective date)

Commissioners Assigned: Full Commission

Prehearing Officer: Deason

Staff: ECR: Fletcher, Maurey, Merchant

GCL: Vining

ISSUE 1: Should the security to guarantee the approved
interim rates be increased, and if so, what is the
appropriate guarantee amount?

RECOMMENDATION: Yes. Continuing the corporate undertaking
is acceptable contingent upon receipt of the written
guarantee of the parent company, Utilities, Inc. (UI), and
written confirmation of UI's continued attestation that it
does not have any outstanding guarantees on behalf of UI-
owned utilities in other states. This includes staff's
recommended total amount subject to refund in this docket of
\$46,637, which is an increase of \$15,580 from the previous
security balance. UI should be required to file a corporate
undertaking on behalf of its subsidiaries to guarantee any
potential refunds of revenues collected under interim
conditions. UI's total guarantee should be a cumulative
amount of \$581,960. Pursuant to Rule 25-30.360(6), Florida
Administrative Code, the utility should continue to provide
a report by the 20th of each month indicating the monthly
and total revenue collected subject to refund. Should a
refund be required, the refund should be with interest and
undertaken in accordance with Rule 25-30.360, Florida
Administrative Code.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. The docket should remain open pending
the Commission's final action on the utility's requested
rate increase.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

20**PAADocket No. 021228-WS - Application for staff-assisted rate case in Brevard County by Service Management Systems, Inc. (Deferred from August 5, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Bradley

Staff: ECR: Sargent, Fitch, Davis, Lingo
GCL: Jaeger

ISSUE 3: Is the quality of service provided by Service Management Systems, Inc. considered satisfactory?

RECOMMENDATION: The quality of service provided by Service Management Systems, Inc. should be considered unsatisfactory until the utility completes all upgrades necessary to lift the moratorium imposed by Brevard County Fire Rescue. The utility should open a line of communication with customers by providing a one-time notice to customers, along with the notice of rate changes resulting from this rate case, informing them of the upgrades to the utility's fire-flow system and a schedule for remaining upgrades that will allow full compliance with the Brevard County Fire Rescue. The utility should be granted 180 days from the Consummating Order to meet the National Fire Protection Association (NFPA) requirements and provide the notice to its customers.

ISSUE 2: What portions of Service Management Systems, Inc. are used and useful?

RECOMMENDATION: The Service Management Systems, Inc. water treatment plant is considered to be 29.7%, the water distribution system is considered 62.6%, the wastewater treatment plant is considered to be 55.9%, and the wastewater collection system is considered 65.4% used and useful. The nonpotable water plant is considered 53.5% except for the high service pumps required by Brevard County which are considered 100% used and useful. The nonpotable water distribution system is considered 100% used and useful.

ISSUE 3: What is the appropriate average test year rate base for this utility?

ITEM NO.

CASE

20**PAA

Docket No. 021228-WS - Application for staff-assisted rate case in Brevard County by Service Management Systems, Inc. (Deferred from August 5, 2003 conference; revised recommendation filed.)

(Continued from previous page)

RECOMMENDATION: The appropriate average test year rate base for this utility is \$456,731 for water and \$142,224 for wastewater. The utility should be required to complete the pro forma high service pump installation and common area irrigation meters installation within 180 days from the date of the Consummating Order. The utility should also be required to continue to maintain separate records associated with the nonpotable system.

ISSUE 4: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity is 9.94% with a range of 8.94% - 10.94%. The appropriate overall rate of return for the utility is 8.94%.

ISSUE 5: What are the appropriate test year revenues?

RECOMMENDATION: The appropriate test year revenues for this utility are \$195,470 for water and \$95,937 for wastewater.

ISSUE 6: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense for this utility is \$185,613 for water and \$93,464 for wastewater.

ISSUE 7: What are the appropriate revenue requirements?

RECOMMENDATION: The appropriate revenue requirements for water and wastewater are \$226,445 and \$106,179, respectively.

ISSUE 8: What are the appropriate amounts of common water system revenue requirement line items (cost of service) allocable to the potable and nonpotable water systems, respectively?

RECOMMENDATION: The appropriate amount of common water system cost of service elements allocable to the potable system is \$48,659, and the corresponding amount allocable to the nonpotable system is \$19,209.

ITEM NO.

CASE

20**PAA

Docket No. 021228-WS - Application for staff-assisted rate case in Brevard County by Service Management Systems, Inc. (Deferred from August 5, 2003 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 9: Is a continuation of the utility's current base facility charge (BFC)/gallonge charge rate structure appropriate for this utility?

RECOMMENDATION: Yes. A continuation of the utility's current BFC/gallonge charge rate structure is appropriate for this utility. A conservation adjustment of 29.82% should be made such that the final BFC remains at the current rate of \$16.88, with the entire water system revenue requirement increase allocated to the gallonge charge.

ISSUE 10: Is an adjustment to reflect repression of consumption due to the price changes appropriate in this case, and if so, what is the appropriate repression adjustment?

RECOMMENDATION: No. A repression adjustment is not appropriate in this case.

ISSUE 11: What is the appropriate rate structure and rate for nonpotable water service?

RECOMMENDATION: The appropriate rate structure for nonpotable water service is a continuation of the gallonge-charge only rate structure, and the appropriate rate is \$0.69 per one thousand gallons (kgal).

ISSUE 12: What are the appropriate rates for each system?

RECOMMENDATION: The rates should be designed to produce revenue of \$226,445 for water and \$106,179 for wastewater excluding miscellaneous service charges, as shown in the analysis portion of staff's October 22, 2003 memorandum. 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 staff has approved the proposed customer notice, the notice has been received by the customers, and staff has verified that the tariffs are consistent with the Commission's decision. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

ITEM NO.

CASE

20**PAA

Docket No. 021228-WS - Application for staff-assisted rate case in Brevard County by Service Management Systems, Inc. (Deferred from August 5, 2003 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 13: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The water and wastewater rates should be reduced as shown on Schedule 4 of staff's October 22, 2003 memorandum, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

ISSUE 14: What are the appropriate customer deposits for this utility?

RECOMMENDATION: The appropriate customer deposits should be as specified in the analysis portion of staff's October 22, 2003 memorandum. The utility should file revised tariff sheets and proposed notice, which are consistent with the Commission's vote. 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 and provided customers have been noticed.

ISSUE 15: Should the utility's service availability charges be revised?

RECOMMENDATION: Yes. The utility's existing system capacity charge should be discontinued and the utility's service

ITEM NO.

CASE

20**PAA

Docket No. 021228-WS - Application for staff-assisted rate case in Brevard County by Service Management Systems, Inc. (Deferred from August 5, 2003 conference; revised recommendation filed.)

(Continued from previous page)

availability charges should be revised to reflect a plant capacity charge of \$780 for water and a main extension charge of \$500 for water and \$635 for wastewater. The utility should file revised tariff sheets and proposed notice which are consistent with the Commission's vote. The service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets if no protest is filed and provided that customers have been noticed.

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 the appropriate security as described in the analysis portion of staff's October 22, 2003 memorandum. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed in staff's analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility should file reports with the Division of Commission Clerk and Administrative Services no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund.

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
20**PAA	Docket No. 021228-WS - Application for staff-assisted rate case in Brevard County by Service Management Systems, Inc. (Deferred from August 5, 2003 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 17: Should the 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 180 days after the Consummating Order to allow staff time to verify the utility has completed the pro forma fire service pump replacement and common area irrigation meter installations. Upon verification of the above by staff, the docket should be administratively closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

21**Docket No. 020928-WU - Application for amendment of Certificate No. 347-W to extend territory and application to increase service availability charges for Summer Brooke service area in Marion County by Marion Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: ECR: Rieger, Johnson
GCL: Brubaker

ISSUE 1: Should Marion Utilities, Inc.'s application for amendment of Certificate No. 347-W be granted?

RECOMMENDATION: Yes. Marion's application for amendment to expand its territory as described in Attachment A of staff's October 22, 2003 memorandum, is in the public interest and should be granted. The utility should charge the customers in the territory added herein the monthly service rates contained in its current tariff until authorized to change by the Commission. The appropriate service availability policy and charges are discussed in Issue 2.

PAA

ISSUE 2: Should the tariff filing to modify the service availability charges for the Summer Brooke development be approved as filed by Marion Utilities, Inc.?

RECOMMENDATION: No. Original Tariff Sheet No. 42.0 filed on August 29, 2002 should be denied. The utility should be authorized to collect a distribution line charge of \$846 per ERC, a transmission main charge of \$222 per ERC, and a plant capacity charge of \$161 per ERC from future customers in the Summer Brooke development. Additional connections to the transmission main outside the Summer Brooke development should also be required to pay a transmission main charge of \$222 per ERC. In addition, staff recommends the utility's proposed meter installation and backflow preventor fees be approved. The utility should file a revised tariff within thirty days of the effective date of the Order. The tariffs should become effective, upon staff's verification that they are consistent with the Commission's decision, for connections made on or after the stamped approval date of the tariff sheets pursuant to Rule 25-30.475(2), Florida

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

21**

Docket No. 020928-WU - Application for amendment of Certificate No. 347-W to extend territory and application to increase service availability charges for Summer Brooke service area in Marion County by Marion Utilities, Inc.

(Continued from previous page)

Administrative Code. In the event a timely protest is filed, the tariff should remain in effect and the charges collected held subject to refund pending resolution of the protest.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending expiration of the protest period. If a timely protest is not filed, a Consummating Order should be issued and the docket closed.

DECISION: The recommendations were approved.

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

<u>ITEM NO.</u>	<u>CASE</u>
22**Docket No.	030340-WU - Application for transfer of facilities of Community Water Co-Op, Inc., an exempt utility in Marion County, to Sunshine Utilities of Central Florida, Inc. (holder of Certificate No. 363-W); and for amendment of Certificate No. 363-W to add territory. (Deferred from October 7, 2003 conference; revised recommendation filed.)
	Critical Date(s): None
	Commissioners Assigned: Full Commission Prehearing Officer: Bradley
	Staff: ECR: Clapp, Redemann, Kaproth GCL: Brown
	<u>ISSUE 1</u> : Should the transfer of water facilities from Community Water Co-op, Inc. to Sunshine Utilities of Central Florida, Inc., and amendment of Sunshine's service territory be approved? <u>RECOMMENDATION</u> : Yes. The transfer of the Community water facilities to Sunshine is in the public interest and should be approved. The effective date of the transfer should be November 1, 2002. Certificate No. 363-W should be amended to include the territory described in Attachment A of staff's October 22, 2003 memorandum. Also, Sunshine should provide copies of the recorded 99-year lease, the recorded assignment of the 99-year lease, and the recorded warranty deed within 30 days of the Commission's Order approving of the transfer.
PAA	<u>ISSUE 2</u> : What is the rate base for Community's water facilities at the time of the transfer? <u>RECOMMENDATION</u> : The rate base for the Community water facilities is zero as of November 1, 2002.
PAA	<u>ISSUE 3</u> : Should an acquisition adjustment be approved? <u>RECOMMENDATION</u> : No. An acquisition adjustment should not be approved.
	<u>ISSUE 4</u> : What rates and charges should be approved for Community? <u>RECOMMENDATION</u> : The existing monthly service rate and service availability charge for customers in Ponderosa Estates should be continued. The tariff sheets reflecting these rates should be effective for services rendered or

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

22**

Docket No. 030340-WU - Application for transfer of facilities of Community Water Co-Op, Inc., an exempt utility in Marion County, to Sunshine Utilities of Central Florida, Inc. (holder of Certificate No. 363-W); and for amendment of Certificate No. 363-W to add territory. (Deferred from October 7, 2003 conference; revised recommendation filed.)

(Continued from previous page)

connections made on or after the stamped approval date.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: Yes. If no timely protest is received to the proposed agency action issues, upon the expiration of the protest period a Consummating Order should be issued and the docket closed.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
-----------------	-------------

23**Docket No. 030748-SU - Application for approval of new class of service for bulk wastewater service in Lee County by Forest Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Biggins
GCL: Rodan, Brown

ISSUE 1: Should the Commission acknowledge Forest's voluntary withdrawal of its application for approval of new class of service for bulk wastewater service?

RECOMMENDATION: Yes. Forest's voluntary withdrawal divests the Commission of jurisdiction over this matter. The only further action the Commission can take is to acknowledge the withdrawal and close the docket. Since Forest has withdrawn the application, Lee County's Motion to Dismiss is moot.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
24**Docket No.	030950-WU - Request for approval to add "set rate" late fee of \$2.00 to water tariff in Marion County by Sunshine Utilities of Central Florida, Inc.

Critical Date(s): 11/28/03 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Biggins, Rendell
GCL: Rodan

ISSUE 1: Should Sunshine's proposed tariff to implement a \$2 late payment charge be approved?

RECOMMENDATION: Yes. Fifth Revised Tariff Sheet No. 20.0 filed on September 29, 2003 should be approved as filed. The tariff sheet should be implemented on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.457(2), Florida Administrative Code, provided the customers have received notice.

ISSUE 2: Should the docket be closed?

RECOMMENDATION: If Issue 1 is approved, the tariff should become effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with all late payment 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: Jaber, Deason, Baez, Bradley, Davidson

<u>ITEM NO.</u>	<u>CASE</u>
25**Docket No.	030931-WS - Joint application for acknowledgment of sale of land and facilities of Florida Water Services Corporation in Charlotte County to Florida Governmental Utility Authority, and for cancellation of Certificate Nos. 570-W and 496-S.
	Critical Date(s): None
	Commissioners Assigned: Full Commission Prehearing Officer: Administrative
	Staff: ECR: Clapp, Kaproth, Willis GCL: Holley
	<u>ISSUE 1</u> : Should the transfer of a portion of Florida Water Services Corporation's Charlotte and Lee County water and wastewater facilities to FGUA be approved? <u>RECOMMENDATION</u> : Yes. The transfer of the DC/BS systems to the FGUA should be approved, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. Certificate Nos. 306-W, 570-W, 255-S, and 496-S should be cancelled administratively at the conclusion of any pending dockets concerning the Charlotte and Lee County facilities. FWSC should provide the Commission with proof of transfer to the FGUA within 30 days of closing for purposes of establishing an effective date. Regulatory assessment fees (RAFs) should be submitted within 60 days of closing on the transfer.
	<u>ISSUE 2</u> : Should the Commission open a docket to examine whether FWSC's sale of the DC/BS systems to FGUA involves a gain that should be shared with FWSC's remaining customers? <u>RECOMMENDATION</u> : Yes. The Commission should open a docket to examine whether FWSC's sale of the DC/BS systems involves a gain that should be shared with FWSC's remaining customers.
	<u>ISSUE 3</u> : Should this docket be closed? <u>RECOMMENDATION</u> : This docket should remain open until the conclusion of any pending dockets concerning the DC/BS systems, and until Certificate Nos. 306-W, 570-W, 255-S, and 496-S are cancelled administratively.
	<u>DECISION</u> : This item was deferred.

ITEM NO.

CASE

26**Docket No. 030966-WS - Application for acknowledgment of transfer of land and facilities of Florida Water Services Corporation in Marion and Sumter Counties to Marion County, and for cancellation of Certificate Nos. 373-W and 322-S.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: ECR: Clapp, Kaproth, Willis

GCL: Holley

ISSUE 1: Should the transfer of Florida Water Services Corporation's MS systems to the County of Marion be approved?

RECOMMENDATION: Yes. The transfer to Marion County should be approved, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes, effective September 13, 2003. Regulatory Assessment Fees (RAFs) for January 1 through September 13, 2003, should be submitted within 20 days after the issuance of the order approving the transfer. Certificate Nos. 373-W and 322-S should be cancelled administratively at the conclusion of any pending cases for the MS systems.

ISSUE 2: Should the Commission open a docket to examine whether FWSC's sale of its MS systems involves a gain that should be shared with FWSC's remaining customers?

RECOMMENDATION: Yes. The Commission should open a docket to examine whether FWSC's sale of its MS systems involves a gain that should be shared with FWSC's remaining customers.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of any pending dockets concerning the MS systems, and until Certificate Nos. 373-W and 322-S are cancelled administratively.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 3, 2003

ITEM NO.

CASE

27**Docket No. 030967-WS - Application for acknowledgment of transfer of land and facilities of Florida Water Services Corporation to Martin County, and for cancellation of Certificate Nos. 368-W and 319-S in Martin County.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Clapp, Kaproth, Willis
GCL: Holley

ISSUE 1: Should the transfer of Florida Water Services Corporation's Martin County water and wastewater facilities to the County of Martin be approved?

RECOMMENDATION: Yes. The transfer to Martin County should be approved, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes, effective July 10, 2003. Regulatory Assessment Fees (RAFs) for January 1 through July 10, 2003, should be submitted within 20 days after the issuance of the order approving the transfer. Certificate Nos. 368-W and 319-S should be cancelled administratively at the conclusion of any pending cases for the Martin County facilities.

ISSUE 2: Should the Commission open a docket to examine whether FWSC's sale of its Martin County facilities involves a gain that should be shared with FWSC's remaining customers?

RECOMMENDATION: Yes. The Commission should open a docket to examine whether FWSC's sale of its Martin County facilities involves a gain that should be shared with FWSC's remaining customers.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of any pending dockets concerning the Martin County facilities, and until Certificate Nos. 368-W and 319-S are cancelled administratively.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
November 3, 2003

<u>ITEM NO.</u>	<u>CASE</u>
-----------------	-------------

28**Docket No. 030457-TP - Complaint of NewSouth Communications Corp. for enforcement of interconnection agreement with Sprint-Florida, Incorporated, and request for relief.

Critical Date(s): None

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

Staff: GCL: Banks
CMP: Marsh

ISSUE 1: Should the Commission acknowledge NewSouth's Notice of Voluntary Dismissal of its Petition?

RECOMMENDATION: Yes. The Commission should acknowledge NewSouth's Notice of Voluntary Dismissal of its Petition. In addition, all confidential materials filed in this Docket should be returned to the filing party.

ISSUE 2: Should this Docket be closed?

RECOMMENDATION: Yes. There is nothing further in this Docket for this Commission to consider, and the Docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Davidson