

**MINUTES OF NOVEMBER 5, 2002**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:30 a.m.

**ADJOURNED:** 1:30 p.m.

**COMMISSIONERS PARTICIPATING:** Chairman Jaber  
Commissioner Deason  
Commissioner Baez  
Commissioner Palecki  
Commissioner Bradley

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

- 
- 1                   Approval of Minutes  
                    September 30, 2002 Special Commission Conference  
                    October 1, 2002 Regular Commission Conference

DECISION: The minutes were approved.

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

Minutes of  
 Commission Conference  
 November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>										
2**	Consent Agenda										
PAA	A) Applications for certificates to provide alternative local exchange telecommunications service.										
	<table border="1"> <thead> <tr> <th style="text-align: left;"><u>DOCKET NO.</u></th> <th style="text-align: center;"><u>COMPANY NAME</u></th> </tr> </thead> <tbody> <tr> <td>020964-TX</td> <td>Tier 3 Communications, Inc. d/b/a Fort Myers Telephone and d/b/a Naples Telephone</td> </tr> <tr> <td>020991-TX</td> <td>IDT America, Corp. d/b/a IDT</td> </tr> <tr> <td>020974-TX</td> <td>F.J.M.R. Investments, Inc. d/b/a Sunshines Communications Network</td> </tr> </tbody> </table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020964-TX	Tier 3 Communications, Inc. d/b/a Fort Myers Telephone and d/b/a Naples Telephone	020991-TX	IDT America, Corp. d/b/a IDT	020974-TX	F.J.M.R. Investments, Inc. d/b/a Sunshines Communications Network		
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PAA	B) Applications for certificates to provide interexchange telecommunications service.										
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PAA	C) Application for certificate to provide shared tenant telecommunications service.										
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PAA	D) Applications for certificates to provide pay telephone service.										
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Minutes of  
 Commission Conference  
 November 5, 2002

ITEM NO. CASE

---

2\*\* Consent Agenda

(Continued from previous page)

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020997-TC	L & B Vending of the Suncoast, Inc.
021033-TC	Ocean Palms Beach Club, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
021031-TX	Dynergy Communications Clearinghouse, Inc.	10/9/02

PAA F) DOCKET NO. 020918-TP - Request for approval of stock purchase agreement between Herb J. Newton, Lisa Rogers and HJN Telecom, Inc. (holder of IXC Cert. No. 5693 and ALEC Cert. No. 6040) whereby HJN Telecom, Inc. will become wholly owned by Lisa Rogers; and request for name change from HJN Telcom, Inc. to Reliant Communications, Inc.

PAA G) DOCKET NO. 020949-TX - Request for transfer of and name change on ALEC Certificate No. 8092 from Susan R. Mulhall d/b/a Actel Wireless to Actel Wireless, Inc.

PAA H) DOCKET NO. 021057-TA - Application for approval of transfer of majority organizational control of Hayes Telecommunication Services, Inc. and for transfer of AAV Certificate No. 4032 to Hayes E-Government Resources, Inc.

I) Docket No. 021010-GU - Application by Florida Public Utilities Company (FPUC) for authority to issue and sell and/or exchange any combination of the long-term debt, short-term notes and equity securities and/or to assume liabilities or obligations as guarantor, endorser or

ITEM NO.

CASE

---

2\*\*

Consent Agenda

(Continued from previous page)

surety in an aggregate amount not to exceed \$130 million, during the calendar year 2003.

- J) Docket No. 021012-EI - Application of Tampa Electric Company for authority to issue and sell securities during the twelve months ending December 31, 2003. The Company seeks approval pursuant to Chapter 25-8, Florida Administrative Code, and Section 366.04, Florida Statutes, for authority to issue and sell long-term debt and equity securities, as well as short-term debt. The amount of all long-term debt and equity securities issued will not exceed \$400 million. The Company also proposes to issue short-term unsecured promissory notes to be sold in the commercial paper market. The maximum amount of short-term notes outstanding at any time will be \$400 million.
- K) Docket No. 021018-GU - Application by Chesapeake Utilities Corporation (Chesapeake) for authority to issue up to six million shares of Chesapeake common stock; up to one million shares of Chesapeake preferred stock; up to \$80 million in secured and/or unsecured debt; to enter into agreements for interest rate swap products during the calendar year 2003. In addition, the Company requests authorization to exceed more than five percent of the par value limitation placed on the total amount of short-term borrowings allowed by Section 366.04, Florida Statutes, so as to issue short-term obligations in an amount not to exceed \$4 million.

ITEM NO.

CASE

---

2\*\*

Consent Agenda

(Continued from previous page)

- L) Docket No. 021029-EI - Application by Florida Power Corporation for authority to issue, sell or otherwise incur during 2003 any combination of additional equity securities and long-term debt securities and obligations, consisting of up to \$400 million outstanding at any time of commercial paper backed by, or borrowings under, the Company's long-term credit agreements, and \$1.54 billion of any combination of equity securities and other long-term debt securities and obligations. In addition, the Company proposes to issue, sell and have outstanding at any given time during 2003 short-term unsecured securities and debt obligations, including commercial paper in an aggregate amount not in excess of \$470 million, which amount shall be in addition to and in excess of the authority conferred on the Company by Section 366.04, Florida Statutes, to issue short-term securities aggregating to more than five percent of the par value of the Company's other outstanding securities.

RECOMMENDATION: The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of Dockets Nos. 021010-GU, 021012-EI, 021018-GU, and 021029-EI, which must remain open for monitoring purposes.

DECISION: The recommendation was approved with the exception of Item 2K (Docket No. 021018-GU), which was deferred.

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

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
3	<p>Docket No. 000154-SU - Proposed Rule 25-30.432, F.A.C., Flows to be Used for Wastewater Treatment Plant Used and Useful Calculations.</p> <p>Critical Date(s): None</p> <p>Rule Status: Adoption</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: GCL: Moore, Jaeger ECR: Hewitt, Willis</p> <p><u>ISSUE 1</u>: Should the Commission adopt a change to proposed Rule 25-30.432, Florida Administrative Code, Wastewater Treatment Plant Used and Useful Calculations? <u>RECOMMENDATION</u>: Yes. The Commission should adopt Rule 25- 30.432, Florida Administrative Code, with a change to address comments submitted by the Joint Administrative Procedures Committee staff.</p> <p><u>ISSUE 2</u>: Should the rule be filed for adoption with the Secretary of State and the docket be closed? <u>RECOMMENDATION</u>: Yes. A Notice of Change should be published in the Florida Administrative Weekly and the rule filed with the Secretary of State.</p>

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
4**PAA	<p>Docket No. 020933-EU - Joint petition for approval of agreement concerning service to four customers in Clay County by Clay Electric Cooperative, Inc. and Florida Power &amp; Light Company.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: GCL: C. Keating ECR: D. Lee</p> <p><u>ISSUE 1</u>: Should the Commission approve the Joint Petition for Approval of Agreement? <u>RECOMMENDATION</u>: Yes. The Agreement is in the public interest and should be approved.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: 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.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

5\*\*

Docket No. 020837-TP - Request for arbitration concerning complaint against Sprint-Florida, Incorporated for alleged overbilling and failure to comply with interconnection agreement by Tallahassee Telephone Exchange, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: GCL: Fordham  
CMP: Fulwood

ISSUE 1: Should the Commission grant Sprint's Motion to Dismiss?

RECOMMENDATION: Yes. The Commission should grant Sprint's Motion to Dismiss.

ISSUE 2: Should this Docket be closed?

RECOMMENDATION: No. This docket should remain open to allow the petitioner to amend the Petition if the issues are not otherwise resolved. If the petitioner does not file an amended petition within 30 days of the issuance of the order resulting from this recommendation, this docket should be administratively closed.

DECISION: The recommendations were approved.

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



Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
6**PAA	<p>Docket No. 020976-TL - Complaint of Phillip R. Brown against BellSouth Telecommunications, Inc. for billing dispute involving alleged improper installation and static on line.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: GCL: Dodson CAF: Smith CMP: M. Watts</p> <p><u>ISSUE 1</u>: Should the Commission deny Complaint No. 438467T, filed by Mr. Phillip R. Brown against BellSouth Telecommunications, Inc.? <u>RECOMMENDATION</u>: Yes. The Commission should deny Complaint No. 438467T filed by Mr. Phillip R. Brown.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: 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 issuance of a Consummating Order.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

7

Docket No. 020119-TP - Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs and for investigation of BellSouth's promotional pricing and marketing practices, by Florida Digital Network, Inc.  
Docket No. 020578-TP - Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs by Florida Competitive Carriers Association.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: GCL: Banks, Dodson  
CMP: Barrett

ISSUE 1: Should the Motion for Reconsideration filed by FCCA and Mpower be granted?

RECOMMENDATION: No. FCCA and Mpower have not identified a point of fact or law which was overlooked or which the prehearing officer failed to consider in rendering his decision. Therefore, the Motion for Reconsideration should be denied.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: No. These dockets should remain open pending further proceedings.

DECISION: This item was withdrawn.

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

8\*\*PAA

Docket No. 021023-WS - Joint application for approval of acquisition by Philadelphia Suburban Corporation of stock of Aquasource Utility, Inc., and resulting transfer of controlling interest of Arrendondo Utility Company, Inc., Crystal River Utilities, Inc., Jasmine Lakes Utilities Corporation, Lake Suzy Utilities, Inc., and Ocala Oaks Utilities, Inc.

Critical Date(s): 11/5/02 (30-day statutory deadline for ruling on emergency petition for waiver or variance.)

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: GCL: Harris  
ECR: Brady

ISSUE 1: Should AquaSource Utility, Inc.'s request for an emergency variance or waiver from Rules 25-30.030(4)(c), (5), (6), (7) and 25-30.037(3)(i), (j), and (k), Florida Administrative Code, be granted?

RECOMMENDATION: Yes. AquaSource Utility, Inc.'s request for an emergency variance or waiver from Rules 25-30.030(4)(c), (5), (6), (7) and 25-30.037(3)(i), (j), and (k), Florida Administrative Code, should be granted.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open for the processing of AquaSource's Joint Application for Approval of Acquisition. If the Commission accepts staff's recommendations on Issue 1, the docket should remain open to allow interested persons an opportunity to protest the Commission's Proposed Agency Action on that Issue.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

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9\*\*

Docket No. 981079-SU - Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.

Docket No. 020253-SU - Petition by the Citizens of the State of Florida to initiate show cause proceedings against Hudson Utilities, Inc. for failure to provide wastewater service in its expanded service area in Pasco County within a reasonable time.

Docket No. 020254-SU - Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.

Critical Date(s): 11/19/02 (8-month deadline for ruling on application for increase in service availability charges.)

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez (981079)  
Palecki (020253, 020254)

Staff: GCL: Gervasi  
ECR: Clapp, Redemann, Revell, Fletcher, Edwards,  
Merchant

ISSUE 1: Should OPC's Petition to Initiate Show Cause Proceedings Against Hudson for failure to provide wastewater service within its expanded service area within a reasonable time be granted?

RECOMMENDATION: No. OPC's Petition to Initiate Show Cause Proceedings against Hudson should be denied. Nevertheless, in Issue 2, staff recommends that Hudson be required to file proof of the transfer of territory by June 30, 2003. If Hudson fails to do so, staff will file a recommendation at that time concerning the initiation of a show cause or deletion proceeding.

ISSUE 2: Should Hudson's Proposed Settlement Agreement Regarding Its Application for Amendment of Certificate No. 104-S to Extend Service Territory in Pasco County be acknowledged?

RECOMMENDATION: Yes. The Proposed Settlement Agreement should be acknowledged as Hudson's response in compliance

ITEM NO.

CASE

---

9\*\*

Docket No. 981079-SU - Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.  
Docket No. 020253-SU - Petition by the Citizens of the State of Florida to initiate show cause proceedings against Hudson Utilities, Inc. for failure to provide wastewater service in its expanded service area in Pasco County within a reasonable time.  
Docket No. 020254-SU - Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.

(Continued from previous page)

with the requirement of Order No. PSC-02-1166-PCO-SU to either file proof of the transfer of territory or a proposed settlement agreement concerning the delay in completing the transfer, as well as its response to the requirement that Hudson file a schedule setting forth the timetable for completion of the interconnection and transfer of territory. Hudson has complied with the requirements of that Order to the extent possible at this time. Moreover, Hudson should be required to file, in Docket No. 981079-SU, proof of the transfer of territory from the County to Hudson by June 30, 2003.

ISSUE 3: Should OPC's Motion to Expedite be granted?

RECOMMENDATION: Because the Motion has been rendered moot by staff's inability to file this recommendation for an earlier agenda conference, the Motion need not be ruled upon.

PAA

ISSUE 4: Should Hudson's Application for Increase in Service Availability Charges and tariff filing to modify its system capacity charge be approved as filed?

RECOMMENDATION: Yes. Hudson's Application for Increase in Service Availability Charges and tariff filing to modify its system capacity charge should be approved as filed. Tariff Sheet Nos. 18.0, 23.0, 24.0, and 25.0 filed on March 19, 2002 should be approved. The Commission should approve a system capacity charge of \$2,400 per equivalent residential connection (ERC) and a system capacity charge of \$13.87 per gallon for non-residential connections. If there is no

ITEM NO.

CASE

---

9\*\*

Docket No. 981079-SU - Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.

Docket No. 020253-SU - Petition by the Citizens of the State of Florida to initiate show cause proceedings against Hudson Utilities, Inc. for failure to provide wastewater service in its expanded service area in Pasco County within a reasonable time.

Docket No. 020254-SU - Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.

(Continued from previous page)

timely protest to the Commission's proposed agency action (PAA) by a substantially affected person, the utility should file a proposed notice within twenty days of the issuance date of the Consummating Order. The service availability charges should become effective for connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(2), Florida Administrative Code, provided the appropriate notice has been given. The notice should be mailed or hand-delivered to all persons in the service area who have filed a written request for service within the past 12 calendar months or who have been provided a written estimate for service within the past 12 calendar months. The utility should provide proof of the date the notice was given within 10 days after the date of the notice. In addition, the utility should be required to complete construction to the Signal Cove area by June 30, 2003, and to submit, in Docket No. 020254-SU, quarterly progress reports due on December 31, 2002; March 31, 2003; and June 30, 2003. These reports should list total expenses to date, anticipated remaining expenses, and an estimated date to complete construction of Phase I.

ISSUE 5: Should Dockets Nos. 981079-SU, 020253-SU, and 020254-SU be closed?

RECOMMENDATION: Docket No. 981079-SU should remain open pending proof of the transfer of territory from the County to Hudson, after which time the docket should be closed administratively. Because no further action is necessary in

ITEM NO.

CASE

---

9\*\*

Docket No. 981079-SU - Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.  
Docket No. 020253-SU - Petition by the Citizens of the State of Florida to initiate show cause proceedings against Hudson Utilities, Inc. for failure to provide wastewater service in its expanded service area in Pasco County within a reasonable time.  
Docket No. 020254-SU - Application for increase in service availability charges for wastewater customers in Pasco County by Hudson Utilities, Inc.

(Continued from previous page)

Docket No. 020253-SU, that docket should be closed. With respect to Docket No. 020254-SU, if no timely protest is received to the Commission's proposed agency action on Issue 4, a Consummating Order should be issued and that docket should remain open pending receipt of the quarterly status reports recommended in Issue 4. If the appropriate quarterly status reports are filed, upon the transfer of territory from the County to Hudson, Docket No. 020254-SU should be closed administratively. If a protest is received to the Commission's proposed agency action on Issue 4, Docket No. 020254-SU should remain open pending final disposition and the tariff should remain in effect, held subject to refund, pending resolution of the protest.

DECISION: The recommendations were approved. The order is to reflect that failure to meet the 6/30/03 deadline shall result in immediate initiation of show cause proceedings.

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

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

10\*\*PAA

Docket No. 020824-EI - Petition for waiver of requirement of Rule 25-6.015(3), F.A.C., that records be preserved in accordance with April 1, 1994 version of applicable Federal Energy Regulatory Commission regulations, Title 18, Subchapter C, Part 125, Code of Federal Regulations, entitled "Preservation of Records of Public Utilities and Licensees," by Florida Power & Light Company. (Deferred from October 15, 2002 conference; revised recommendation filed.)

Critical Date(s): 11/5/02 (Petition for rule waiver - the Commission must vote by this date.)

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: AUS: Vandiver  
ECR: Slemkewicz  
GCL: Vining

ISSUE 1: Should the utility's request for waiver of Rule 25-6.015(3) and Rule 25-6.015(3)(a), Florida Administrative Code, be granted?

RECOMMENDATION: The Commission should grant in part and deny in part the utility's request for a waiver. The Commission should grant a waiver of Rule 25-6.015(3)(a), Florida Administrative Code, as it relates to the storage media utilized to preserve records. The requested waiver will serve the purpose of the underlying statutes, and Florida Power & Light Company (FPL) will experience substantial hardship if its request is denied. The utility should also be required to petition for a new rule waiver if it changes the vendor or method used to copy its source documents. However, the Commission should deny the requested waiver of Rule 25-6.015(3), Florida Administrative Code, as it relates to the retention periods for records; because the requested waiver will not serve the purpose of the underlying statutes.



Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
10**PAA	Docket No. 020824-EI - Petition for waiver of requirement of Rule 25-6.015(3), F.A.C., that records be preserved in accordance with April 1, 1994 version of applicable Federal Energy Regulatory Commission regulations, Title 18, Subchapter C, Part 125, Code of Federal Regulations, entitled "Preservation of Records of Public Utilities and Licensees," by Florida Power & Light Company. (Deferred from October 15, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 2: 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: The recommendations were approved.

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

ITEM NO.

CASE

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11\*\*PAA

Docket No. 020646-TX - Compliance investigation of CAT Communications International, Inc. for apparent violation of Rule 25-4.110(16), F.A.C., Customer Billing for Local Exchange Telecommunications Companies. (Deferred from October 15, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: M. Watts  
GCL: Elliott

ISSUE 1: Should the Commission order CAT Communications International, Inc. (CCI) to remove local service freezes, at no cost to its customers, on all active customers' lines for apparent violation of Rule 25-4.110(16), Florida Administrative Code, and order CAT Communications International, Inc. to notify all active customers in writing that local service freezes have been removed and that, upon request, a local service freeze is available at no cost to the customer?

RECOMMENDATION: Yes. Staff recommends that the Commission should order CAT Communications International, Inc. to do the following to remedy its apparent violation of Rule 25-4.110(16), Florida Administrative Code:

1. Identify by telephone number all customer lines which have a local service freeze assigned;
2. Submit local service requests (LSRs) to the appropriate underlying local exchange company to remove all local service freezes at no cost to its customers; and
3. Notify all active customers in writing that a local service freeze is available at no cost to the customer. The letter should clearly state that the option for a local service freeze is exclusively the right of the customer.

If the Proposed Agency Action Order is not protested within 21 calendar days of issuance, the Commission's order will become final upon issuance of the Consummating Order.

ITEM NO.

CASE

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11\*\*PAA

Docket No. 020646-TX - Compliance investigation of CAT Communications International, Inc. for apparent violation of Rule 25-4.110(16), F.A.C., Customer Billing for Local Exchange Telecommunications Companies. (Deferred from October 15, 2002 conference; revised recommendation filed.)

(Continued from previous page)

The company should be required to submit a written report to the Commission no later than 30 calendar days after the issuance of the Consummating Order. The company's written report should contain the following:

- a. A list of the telephone numbers on which the company had placed a local service freeze;
- b. A list of the purchase order numbers, by telephone number, for which the company submitted an LSR to the underlying local exchange companies to remove the local service freezes;
- c. A copy of the notification sent to CCI's customers in accordance with 3. above;
- d. A copy of the company's current letter of authorization; and
- e. A statement that CCI does not require a local service freeze as a condition of service.

If the Proposed Agency Action Order is not protested within 21 calendar days of issuance, and if the company fails to comply with the terms of the Proposed Agency Action Order, then ALEC Certificate No. 7160 should be canceled for apparent failure to comply with Rule 25-4.110(16), Florida Administrative Code, and with the Commission's decision from this recommendation, and the company should be required to immediately cease and desist providing ALEC telecommunications services in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the Commission's proposed agency action files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Proposed Agency Action Order will become final upon issuance of a Consummating Order. If the Commission's Order is not

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

11\*\*PAA

Docket No. 020646-TX - Compliance investigation of CAT Communications International, Inc. for apparent violation of Rule 25-4.110(16), F.A.C., Customer Billing for Local Exchange Telecommunications Companies. (Deferred from October 15, 2002 conference; revised recommendation filed.)

(Continued from previous page)

protested, CCI will have 30 calendar days after issuance of the Consummating Order to submit a written report to the Commission demonstrating that it has complied with the provisions of the Commission's Order. If staff determines that CCI has complied with the provisions of the Commission's Order, then this docket should be closed administratively. If CCI fails to demonstrate that it has complied with the provisions of the Commission's Order, then ALEC Certificate No. 7160 should be canceled, the company should be required to immediately cease and desist providing ALEC telecommunications services in Florida, and this docket should be closed administratively.

DECISION: The recommendations were approved with modification to Issue 1 that the company is to send a letter to all customers who were signed up prior to 8/1/02, with responses required only from those customers affirmatively electing to retain the freeze. Customer responses will be due within 30 days from the date on the notification letter. The letter, which is to be reviewed and approved by staff prior to mailing, is to contain a date certain for customer responses and must be mailed within ten days of this decision.

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

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

12\*\*PAA

Docket No. 021015-TI - Compliance investigation of Globalinx Corporation for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Buys  
GCL: Knight

ISSUE 1: Should the Commission impose a \$25,000 penalty on Globalinx Corporation for apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

RECOMMENDATION: Yes. The Commission should impose a \$25,000 penalty on Globalinx Corporation for apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the payment of the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of the penalty should be referred to the Office of the Comptroller. Further, if Globalinx Corporation fails to timely protest the Commission's Order, and fails to obtain an IXC Certificate of Public Convenience and Necessity, the company should be required to immediately cease and desist providing interexchange telecommunications services in Florida upon issuance of the Consummating Order until the company obtains an IXC Certificate of Public Convenience and Necessity.

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

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
12**PAA	Docket No. 021015-TI - Compliance investigation of Globalinx Corporation for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required.

(Continued from previous page)

docket should then be closed administratively upon either receipt of the payment of the penalty, or upon referral of the penalty to the Office of the Comptroller for collection if the penalty is not paid within fourteen calendar days after issuance of the Consummating Order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

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13\*\*PAA

Docket No. 020724-TI - Investigation and determination of appropriate method for refunding overcharges assessed on intrastate calls made using one plus service provided by Optical Telephone Corporation. (Deferred from October 15, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Fondo  
ECR: D. Draper  
GCL: Knight, Dodson

ISSUE 1: Should the Commission accept Optical Telephone Corporation's offer of refund and refund calculation of \$132,227.06 plus interest of \$2,387.76, for a total of \$134,614.82, for overcharges to customers on intrastate calls made using one plus service from August 31, 2001 through June 3, 2002?

RECOMMENDATION: Yes. The Commission should accept Optical's proposal to refund to the affected customers \$132,227.06, plus interest of \$2,387.76, for a total of \$134,614.82, for overcharges made on intrastate calls made using Optical's one plus service from August 31, 2001, through June 3, 2002. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by April 4, 2003, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 365.285(1), Florida Statutes. Optical shall submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by April 4, 2003. If Optical fails to pay in accordance with its refund offer, Certificate No. 7898 should be canceled administratively. If Optical's certificate is canceled in accordance with the Commission's Order, Optical should be required to immediately cease and desist providing interexchange telecommunications services in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose interests are substantially affected by the proposed action files a

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
13**PAA	Docket No. 020724-TI - Investigation and determination of appropriate method for refunding overcharges assessed on intrastate calls made using one plus service provided by Optical Telephone Corporation. (Deferred from October 15, 2002 conference; revised recommendation filed.)

(Continued from previous page)

protest of the Commission's decision in Issue 1 within the 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, April 4, 2003. 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, Palecki, Bradley



Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
14**PAA	Docket No. 020980-TX - Application for certificate to provide alternative local exchange telecommunications service by Trans National Communications International, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Pruitt  
GCL: Dodson

ISSUE 1: Should the Commission grant Trans National Communications International, Inc. a certificate to provide alternative local exchange telecommunications service within the State of Florida as provided by Section 364.337(1), Florida Statutes?

RECOMMENDATION: Yes. Trans National Communications International, Inc. should be granted Florida Public Service Commission Certificate No. 8244.

ISSUE 2: 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: The recommendations were approved.

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

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	<p>Docket No. 020128-TI - Application for certificate to provide interexchange telecommunications service by Buyers United International, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Pruitt GCL: Dodson</p> <p><u>ISSUE 1</u>: Should the Commission grant Buyers United International, Inc. a certificate to provide interexchange telecommunications service within the State of Florida as provided by Section 364.337(3), Florida Statutes? <u>RECOMMENDATION</u>: Yes. Buyers United International, Inc. should be granted Florida Public Service Commission Certificate No. 8231.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

ITEM NO.

CASE

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16\*\*PAA

Docket No. 021052-TI - Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., for transfer of portion of long distance customer base and accounts receivable from Lightyear Communications, Inc. (holder of IXC Certificate No. 3500) and Lightyear Telecommunications LLC (holder of IXC Certificate No. 3960) to A.R.C. Networks, Inc. d/b/a InfoHighway (holder of IXC Certificate No. 4702).

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Pruitt  
GCL: Knight

ISSUE 1: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of certain long distance customers from Lightyear Communications, Inc. and Lightyear Telecommunications LLC to A.R.C. Networks, Inc. d/b/a InfoHighway?

RECOMMENDATION: Yes.

ISSUE 2: 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: The recommendations were approved.

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

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

17\*\*PAA

Docket No. 020998-TI - Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to transfer by Cable & Wireless USA, Inc. (holder of IXC Certificate No. 1522) of all of its interexchange customer base to Primus Telecommunications, Inc. (holder of IXC Certificate No. 4020).

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Pruitt  
GCL: Teitzman

ISSUE 1: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of the interexchange telecommunications service customers from Cable & Wireless USA, Inc. to Primus Telecommunications, Inc.?

RECOMMENDATION: Yes.

ISSUE 2: 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: The recommendations were approved.

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

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
18**PAA	Bankruptcy cancellation by Florida Public Service Commission of IXC and ALEC certificates.

Docket No. 020881-TP - Adelphia Business Solutions Investment East, LLC and Adelphia Business Solutions Investment East, LLC

Docket No. 020893-TP - Telscape USA, Inc. and PointeCom, Incorporated d/b/a Telscape Communications

Docket No. 020894-TP - NET-tel Corporation and NET-tel Corporation

Docket No. 020895-TP - ConnectSouth Communications of Florida, Inc. and ConnectSouth Communications of Florida, Inc.

Docket No. 020962-TP - Advanced TelCom of Delaware Inc. and Advanced TelCom of Delaware Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Teitzman, Dodson

ISSUE 1: Should the Commission grant the companies listed on Attachment A of staff's October 24, 2002 memorandum a cancellation of their respective certificates due to bankruptcy?

RECOMMENDATION: Yes. The Commission should grant each company listed on Attachment A a bankruptcy cancellation of their respective certificates with an effective date as listed on Attachment A. In addition, the Division of the Commission Clerk and Administrative Services will be notified that the unpaid Regulatory Assessment Fees, including statutory penalty and interest charges, should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write off the uncollectible amount should be requested. If the certificates for each company as listed on Attachment A are cancelled in accordance with the Commission's Order from this recommendation, the respective companies should be required to immediately cease and desist providing interexchange

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
18**PAA	Bankruptcy cancellation by Florida Public Service Commission of IXC and ALEC certificates.

(Continued from previous page)

carrier and alternative local exchange telecommunications services in Florida.

ISSUE 2: Should these dockets 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 dockets should then be closed upon cancellation of the certificates. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

19\*\*PAA

Docket No. 020952-TI - Bankruptcy cancellation by Florida Public Service Commission of IXC Certificate No. 5702 issued to Logix Communications Corporation, effective 9/30/02.  
Docket No. 020967-TI - Bankruptcy cancellation by Florida Public Service Commission of IXC Certificate No. 4809 issued to Global Telephone Corporation d/b/a Global Telephone International, Inc., effective September 6, 2002.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: Elliott, Teitzman

ISSUE 1: Should the Commission grant the companies listed on Attachment A of staff's October 24, 2002 memorandum a cancellation of their respective certificates due to bankruptcy?

RECOMMENDATION: Yes. The Commission should grant each company listed on Attachment A a bankruptcy cancellation of their respective certificates with an effective date as listed on Attachment A. In addition, the Division of the Commission Clerk and Administrative Services will be notified that the unpaid Regulatory Assessment Fees, including statutory penalty and interest charges, should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write off the uncollectible amount should be requested. If the certificates for each company as listed on Attachment A are cancelled in accordance with the Commission's Order from this recommendation, the respective companies should be required to immediately cease and desist providing interexchange carrier telecommunications services in Florida.

ISSUE 2: Should these dockets 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 dockets should then be closed upon cancellation of the

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
19**PAA	Docket No. 020952-TI - Bankruptcy cancellation by Florida Public Service Commission of IXC Certificate No. 5702 issued to Logix Communications Corporation, effective 9/30/02. Docket No. 020967-TI - Bankruptcy cancellation by Florida Public Service Commission of IXC Certificate No. 4809 issued to Global Telephone Corporation d/b/a Global Telephone International, Inc., effective September 6, 2002.

(Continued from previous page)

certificates. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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



Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
20**PAA	Cancellation by Florida Public Service Commission of PATS certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.
	Docket No. 020767-TC - Charles Borg
	Docket No. 020768-TC - Pay Phone Systems
	Docket No. 020769-TC - B & D Product Services, Inc. d/b/a Quality Marketing Group
	Docket No. 020771-TC - Thomas G. Bialozynski d/b/a Country Quick Stop
	Docket No. 020772-TC - Brooks L. Webb & Tom Marshall d/b/a 5 Sons International
	Docket No. 020773-TC - Infinitel, Inc.
	Docket No. 020780-TC - Steven C. Sorenson
	Docket No. 020782-TC - Export Experts & Imports, Inc.
	Docket No. 020784-TC - Citizens Payphone Company
	Docket No. 020785-TC - 20/20 Communications
	Docket No. 020790-TC - Hitsu, Inc.
	Docket No. 020791-TC - Tariq El-Yaman
	Docket No. 020792-TC - Parcom Communications, Inc. d/b/a Par Com Communications
	Docket No. 020794-TC - Willie B. Young Jr.
	Docket No. 020795-TC - Premium Communication Services, Inc.
	Docket No. 020800-TC - Dallas & Charlene Merritt d/b/a A & O Communications
	Docket No. 020806-TC - TranStar Communications, Inc.
	Docket No. 020807-TC - Phonexpert, Inc.
	Docket No. 020809-TC - Michael S Sims d/b/a SunDial
	Docket No. 020810-TC - Van J. Compoli and Robert Berg d/b/a SouthEast Tel-Tech
	Docket No. 020812-TC - Roger Hester d/b/a Catch 84 Communications
	Docket No. 020813-TC - Michael Brandenberger
	Docket No. 020816-TC - Dixon, Inc. d/b/a Dixon Telecom
	Docket No. 020818-TC - Herve Salnave
	Docket No. 020819-TC - Joseph D Cain d/b/a J & C Communications
	Docket No. 020821-TC - TFT Foundation, Inc.
	Docket No. 020915-TC - Julie L. Stanfield and Frank K. Hunt d/b/a S & H Communications
	Docket No. 020917-TC - Boulevard Hotel, Inc.
	Docket No. 020956-TC - PayStar Communications, Inc.

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
20**PAA	Cancellation by Florida Public Service Commission of PATS certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

Docket No. 020764-TC - Phone Plus, Inc.  
Docket No. 020770-TC - Tel Call Communication Inc.  
Docket No. 020777-TC - Laurstar Telecommunications, Inc.  
Docket No. 020778-TC - I P P S of Orlando, Inc.  
Docket No. 020779-TC - John McDermott  
Docket No. 020783-TC - Colonial Systems, Inc.  
Docket No. 020793-TC - Victory Financial Group, Inc.  
Docket No. 020796-TC - Cybertex Computer, Inc. d/b/a CTX Payphone Company  
Docket No. 020776-TC - Nationwide Communications of Michigan, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: Dodson, Teitzman, Elliott, Fordham, Banks, Christensen, Knight

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A of staff's October 24, 2002 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the

ITEM NO.

CASE

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20\*\*PAA

Cancellation by Florida Public Service Commission of PATS certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should the Commission impose a \$1,000 penalty or cancel each company's respective certificate as listed on Attachment B of staff's October 24, 2002 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should impose a \$1,000 penalty or cancel each company's respective certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If a company does not protest the Commission's

ITEM NO.

CASE

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20\*\*PAA

Cancellation by Florida Public Service Commission of PATS certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment B, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment B, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 3: Should the Commission cancel Nationwide Communications of Michigan, Inc.'s Certificate No. 3950 as listed on Attachment C of staff's October 24, 2002 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should cancel Nationwide Communications of Michigan, Inc.'s Certificate No. 3950 as listed on Attachment C for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code. 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 Office of the Comptroller for further collection efforts. If the Commission's Order is not protested, the company's Certificate No. 3950 as listed on Attachment C should be cancelled administratively. If Nationwide Communications of Michigan, Inc.'s certificate as listed on Attachment C is cancelled in accordance with the Commission's Order from this recommendation, Nationwide Communications of Michigan, Inc. should be required to immediately cease and desist providing pay telephone service in Florida.

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
20**PAA	Cancellation by Florida Public Service Commission of PATS certificates for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

ISSUE 4: Should these dockets be closed?

RECOMMENDATION: The Orders issued from these recommendations will become final upon issuance of Consummating Orders, 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 Orders. The dockets should then be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

21\*\*PAA

Cancellation by Florida Public Service Commission of PATS certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies and 25-24.520, F.A.C., Reporting Requirements.

Docket No. 020781-TC - Pay-Tel Services Inc.

Docket No. 020789-TC - Burney Communications Group, Inc.

Docket No. 020797-TC - Advance Payphones U.S.A., Inc.

Docket No. 020811-TC - Michael R. Spence d/b/a Constellation Telecom

Docket No. 020814-TC - Fel-Tel Communication, Inc.

Docket No. 020815-TC - Sandra K. Strohl

Docket No. 020817-TC - James Fairhurst

Docket No. 020916-TC - Coastal Phone Services, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Dodson, Elliott, Christensen

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel each company's respective certificate as listed on Attachment A of staff's October 24, 2002 memorandum for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code, and 25-24.520, Florida Administrative Code, Reporting Requirements?

RECOMMENDATION: Yes. The Commission should impose a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida

ITEM NO.

CASE

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21\*\*PAA

Cancellation by Florida Public Service Commission of PATS certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies and 25-24.520, F.A.C., Reporting Requirements.

(Continued from previous page)

Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Orders issued from these recommendations will become final upon issuance of Consummating Orders, 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

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
21**PAA	Cancellation by Florida Public Service Commission of PATS certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies and 25-24.520, F.A.C., Reporting Requirements.

(Continued from previous page)

Agency Action Orders. The dockets should then be closed upon receipt of the penalty, fees, and updated information or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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



Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

22\*\*

Docket No. 020588-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 7478 issued to DV2, Inc. for violation of Rule 25-4.161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: Dodson

ISSUE 1: Should the Commission accept the settlement offer proposed by DV2, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code, Rules Incorporated?

RECOMMENDATION: Yes. 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 Office of the Comptroller 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. 7478 should be canceled administratively. If DV2, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, DV2, Inc. should be required to immediately cease and desist providing alternative local exchange services in Florida.

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
22**	Docket No. 020588-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 7478 issued to DV2, Inc. for violation of Rule 25-4.161, 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, Palecki, Bradley

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
23**	<p>Docket No. 020277-GU - Petition of Florida Division of Chesapeake Utilities Corporation for authority to convert all remaining sales customers to transportation service and to exit merchant function. (Deferred from August 20, 2002 conference; revised recommendation filed.)</p> <p>Critical Date(s): 6/20/02 (60-day suspension date - company waives the 60-day suspension date)</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Deason</p> <p>Staff: CMP: Makin, Bulecza-Banks GCL: Stern</p> <p><u>ISSUE 1</u>: Should the Commission approve the Florida Division of Chesapeake Utilities Corporation's petition for authority to convert all remaining sales customers to transportation service and to exit the merchant function? <u>RECOMMENDATION</u>: Yes. The Commission should approve Chesapeake's petition, effective November 5, 2002, the date of the Commission vote in this matter.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If no protest is filed within 21 days of the issuance of the Order by a person whose substantial interests are affected, the docket should be closed upon the issuance of a Consummating Order. If a valid protest is filed, the tariff should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest.</p> <p><u>DECISION</u>: The recommendations were approved with modification to Issue 1 that the scope of implementation is changed to an experimental/transitional pilot program, with a report due within 90 days following the end of the first year. All revenues and costs of implementing Phase I will be accounted for above the line. Phases II and III were not addressed at this time.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

ITEM NO.

CASE

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24\*\*

Docket No. 020471-GU - Petition for authority to convert all remaining sales customers to transportation service and to terminate merchant function by Indiantown Gas Company.

Critical Date(s): 7/24/02 (60-day suspension date - company waives the 60-day suspension date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: CMP: Makin, Bulecza-Banks  
GCL: Brubaker

ISSUE 1: Should the Commission approve Indiantown Gas Company's petition for authority to convert all remaining sales customers to transportation service and to exit the merchant function?

RECOMMENDATION: Yes. The Commission should approve Indiantown's petition for authority to convert all remaining sales customers to transportation service and to exit the merchant function, effective November 5, 2002.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If a protest is filed within 21 days of the Commission Order approving this tariff by a person whose substantial interests are affected, the tariff should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved with modification to Issue 1 that the scope of implementation is changed to an experimental/transitional pilot program, with a report due within 90 days following the end of the first year. All revenues and costs of implementing Phase I will be accounted for above the line. Phases II and III were not addressed at this time.

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

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

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25\*\*PAA

Docket No. 020470-GU - Request for limited proceeding by Indiantown Gas Company for approval of Natural Gas Tariff, Original Volume No. 2, implementing restructured rates.

Critical Date(s): 5-month statutory deadline waived by company

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: ECR: Wheeler, E. Draper, Springer, D. Draper,  
Slemkewicz  
GCL: Brubaker

ISSUE 1: What are the appropriate restructured rates and rate classes for Indiantown?

RECOMMENDATION: The appropriate restructured rates and rate classes are shown in Attachment 2 of staff's October 24, 2002 memorandum. The proposed rates and rate classes should be approved only if the Commission approves Indiantown's request to transfer all of its customers to transportation-only service in Docket No. 020471-GU.

ISSUE 2: What is the appropriate effective date for Indiantown's restructured rates?

RECOMMENDATION: The restructured rates should become effective for meter readings on or after December 5, 2002.

ISSUE 3: Should the Commission grant Indiantown Gas Company's request to establish an authorized return on equity of 11.50%?

RECOMMENDATION: Yes. For all regulatory purposes, the Commission should grant Indiantown Gas Company's request for an authorized return on equity (ROE) of 11.50% with a range of plus or minus 100 basis points. In addition, the Commission should limit the Company's ratio of common equity as a percentage of investor sources of capital to 60%.

ISSUE 4: Should Indiantown Gas Company be required to refund the overcollection of regulatory assessment fees for the period January 1, 1999, through July 31, 2002?

RECOMMENDATION: Yes. Indiantown should be required to refund the overcollection of regulatory assessment fees. The amounts to be refunded, including interest through September 30, 2002, are \$2,010.63 to Caulkins Indiantown

ITEM NO.

CASE

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25\*\*PAA

Docket No. 020470-GU - Request for limited proceeding by Indiantown Gas Company for approval of Natural Gas Tariff, Original Volume No. 2, implementing restructured rates.

(Continued from previous page)

Citrus, \$5,650.76 to Indiantown Cogeneration, and \$1,133.36 to Indiantown's residential and commercial customers. The refund amounts due to Caulkins Indiantown Citrus and Indiantown Cogeneration should be refunded directly to those customers. For the residential and commercial customers, the amount should be refunded as a per therm credit on the customer's bill determined by dividing the amount of the refund by the estimated therm sales for the billing period during which the refund will be credited to the customers' bills. Interest should continue to accrue through the end of the month preceding the month during which the refund is made.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: Yes. If a protest is filed within 21 days of the Commission Order approving this tariff by a person whose substantial interests are affected, the tariff should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no 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, Palecki, Bradley

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
26**PAA	<p>Docket No. 020920-EI - Petition for waiver of certain requirements of Rule 25-6.0437, F.A.C., and for approval of 2002 Load Research Sampling Plan by Florida Power &amp; Light Company.</p> <p>Critical Date(s): 11/24/02 (Statutory deadline)</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Deason</p> <p>Staff: ECR: Wheeler GCL: Echternacht</p> <p><u>ISSUE 1</u>: Should the Commission grant Florida Power &amp; Light Company's request for waiver of certain requirements of Rule 25-6.0437, Florida Administrative Code, that are applicable to the General Service Non-Demand rate class? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: Should the Commission approve FPL's petition for a continued waiver of the two-year sample replacement cycle for all rate classes required by Rule 25-6.0437, Florida Administrative Code? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 3</u>: Should the Commission approve FPL's proposed load research sampling plan? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 4</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order.</p>

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

27\*\*PAA

Docket No. 020944-EU - Petition for waiver of or variance from individual metering requirements of Rule 25-6.049(5), F.A.C., by 18001 Collins Avenue Condominium Association, Inc.

Critical Date(s): 11/28/02 (Statutory deadline)

Commissioners Assigned: Full Commission  
Prehearing Officer: Deason

Staff: ECR: Wheeler, Baxter  
GCL: Echternacht

ISSUE 1: Should the Commission grant 18001 Collins Avenue Condominium Association, Inc.'s (CCA) request for waiver of the requirements of Rule 25-6.049(5)(a), Florida Administrative Code?

RECOMMENDATION: Yes. Staff recommends that the requested rule waiver be granted, provided that: (1) CCA allocates the cost of electricity to the individual condominium unit owners using a reasonable apportionment method, as required by Rule 25-6.049(6)(a), Florida Administrative Code; and (2) the waiver is effective only so long as the condominium is operated and licensed as a transient occupancy facility. At such time the condominium is no longer so operated and licensed, CCA must immediately inform the utility, at which time the utility will install an individual meter on each occupancy unit.

ISSUE 2: 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, Palecki, Bradley



Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

28\*\*

Docket No. 020961-EI - Petition for modification and extension of experimental Real Time Pricing Rate, Rate Schedule RTP-GX, by Florida Power & Light Company.

Critical Date(s): 11/5/02 (60-day suspension date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: E. Draper, Wheeler  
GCL: Vining

ISSUE 1: Should the Commission approve FPL's petition to (1) extend the RTP rate through December 31, 2003, (2) close the RTP rate to new customers as of December 31, 2002, and (3) withdraw the RTP rate after December 31, 2003, and transfer any existing RTP customers to their otherwise applicable rate?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective on November 5, 2002. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

29\*\*PAA

Docket No. 020725-EQ - Petition of Tampa Electric Company for approval of new standard offer contract for qualifying cogeneration and small power production facilities, and for waiver requirement in Rule 25-17.0832(4)(e)7, F.A.C., that standard offer contracts have a ten-year term.

Critical Date(s): 11/5/02 (rule waiver request deadline)  
3/17/03 (8-month effective date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Haff, Munroe, Springer  
GCL: Jaeger

ISSUE 1: Should Tampa Electric Company's (TECO) Petition for a Waiver from the ten-year minimum contract term required by Rule 25-17.0832(4)(e)7., Florida Administrative Code, be granted?

RECOMMENDATION: Yes. TECO has demonstrated that the purpose of the underlying statute will be met, and that it and its ratepayers will suffer substantial hardship if the variance is not granted.

ISSUE 2: Should TECO's petition for approval of a new Standard Offer Contract, based upon a combustion turbine unit with an in-service date of May 1, 2005, be approved?

RECOMMENDATION: Yes. TECO's new Standard Offer Contract complies with Rule 25-17.0832, Florida Administrative Code.

ISSUE 3: On what date should TECO's proposed Standard Offer Contract become effective?

RECOMMENDATION: TECO'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 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
29**PAA	Docket No. 020725-EQ - Petition of Tampa Electric Company for approval of new standard offer contract for qualifying cogeneration and small power production facilities, and for waiver requirement in Rule 25-17.0832(4)(e)7, F.A.C., that standard offer contracts have a ten-year term.  (Continued from previous page)  <u>ISSUE 4</u> : Should this docket be closed? <u>RECOMMENDATION</u> : 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.  <u>DECISION</u> : The recommendations were approved.  Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
30**	<p>Docket No. 020883-EC - Petition for approval of new electric rate schedules by Glades Electric Cooperative, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: ECR: E. Draper GCL: Jaeger</p> <p><u>ISSUE 1</u>: Should the Commission approve Glades' proposed Curtailable Aquaculture Service and Curtailable Mining Service? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: Should the Commission approve Glades' proposed Pump Rate Schedules? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 3</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If no person whose substantial interests are affected by the Commission's order in this docket files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. If a protest is timely filed, the tariff should remain in effect, pending resolution of the protest.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

---

31\*\*

Docket No. 020993-EI - Petition for approval of Local Government Underground Cost Recovery tariff by Florida Power Corporation.

Critical Date(s): 11/17/02 (60-day suspension date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: E. Draper, Slemkewicz, Breman  
GCL: Jaeger

ISSUE 1: Should the Commission approve FPC's proposed Local Governmental Underground Cost Recovery tariff?

RECOMMENDATION: Yes. FPC's proposed Local Governmental Underground Cost Recovery tariff should be approved. In addition, if FPC provides the financing, the amount of the loan and the related interest income should be excluded for ratemaking and surveillance purposes. For capital structure and rate base reconciliation purposes, the loan amount should be removed from investor sources of capital.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective on November 5, 2002. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

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32\*\*PAA

Docket No. 011621-WU - Petition for limited proceeding to implement an increase in water rates in Highlands County, by Placid Lakes Utilities, Inc. (Deferred from August 6, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Jaber

Staff: ECR: Merchant, P. Lee, Joyce  
GCL: Brubaker

ISSUE 1: Should Placid Lakes' request for a limited proceeding increase be approved?

RECOMMENDATION: Yes. However, several adjustments to the utility's filing are necessary, as detailed in the analysis portion of staff's October 24, 2002 memorandum.

ISSUE 2: What is the appropriate cost of capital for this limited proceeding and should any provision for income tax expense be allowed?

RECOMMENDATION: Consistent with the utility's last rate case, the appropriate weighted average cost of capital should be 10.50%. Since the utility has negative equity and does not incur income tax expense, no income tax provision should be included in the utility's revenue requirement calculation.

ISSUE 3: What is the appropriate amount of rate case expense for this limited proceeding?

RECOMMENDATION: The appropriate amount of rate case expense for this docket is \$44,400. This expense is to be recovered over four years for an annual expense of \$11,100. This results in a decrease to the utility's filing of \$1,400 in annual amortization.

ISSUE 4: What is the appropriate revenue increase for this limited proceeding?

RECOMMENDATION: The appropriate revenue increase should be \$54,537 or an increase of 11.88%.

ISSUE 5: What are the appropriate water rates for this limited proceeding?

RECOMMENDATION: The recommended rates should be designed to allow the utility the opportunity to generate additional

ITEM NO.

CASE

---

32\*\*PAA

Docket No. 011621-WU - Petition for limited proceeding to implement an increase in water rates in Highlands County, by Placid Lakes Utilities, Inc. (Deferred from August 6, 2002 conference; revised recommendation filed.)

(Continued from previous page)

annual operating revenues of \$54,537, which represents a rate increase of 11.88%, as reflected on Schedule 2 of staff's October 24, 2002 memorandum. The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates approved by the Commission, pursuant to Rule 25-22.0407(10), F.A.C. 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), F.A.C., provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

ISSUE 6: What is the appropriate amount by which 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 2 of staff's October 24, 2002 memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction not later than one month prior to the actual date of the required rate reduction.

ISSUE 7: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, this docket should be closed upon the issuance of a consummating order, and staff's verification that the

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
32**PAA	Docket No. 011621-WU - Petition for limited proceeding to implement an increase in water rates in Highlands County, by Placid Lakes Utilities, Inc. (Deferred from August 6, 2002 conference; revised recommendation filed.)

(Continued from previous page)

revised tariff sheets and customer notice have been filed by the utility and approved by staff.

DECISION: The recommendations were approved.

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



Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
33**	Docket No. 971504-WU - Investigation of water rates of A. P. Utilities, Inc. in Marion County for possible overearnings.  Critical Date(s): None  Commissioners Assigned: Deason, Baez, Palecki Prehearing Officer: Deason  Staff: ECR: Kaproth GCL: Harris  <u>ISSUE 1</u> : Should the Commission approve closure of the Regulatory Assessment Fees escrow account? <u>RECOMMENDATION</u> : Yes. The Commission should approve closure of the Regulatory Assessment Fees escrow account opened pursuant to Order No. PSC-99-1459-PAA-WU. <u>ISSUE 2</u> : Should this docket be closed? <u>RECOMMENDATION</u> : Yes. No further action is necessary and this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Palecki

ITEM NO.

CASE

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34

Docket No. 020413-SU - Initiation of show cause proceedings against Aloha Utilities, Inc. in Pasco County for failure to charge approved service availability charges, in violation of Order No. PSC-01-0326-FOF-SU and Section 367.091, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Deason, Palecki, Bradley  
Prehearing Officer: Deason

Staff: GCL: Gervasi  
ECR: Fletcher, Merchant, Willis

ISSUE 1: Should Aloha's Requests for Oral Argument on its Motion for Clarification, Motion for Reconsideration, and Response to Show Cause Order be granted?

RECOMMENDATION: No. The Requests for Oral Argument should be denied. As such, it is unnecessary for the parties to participate on Issues 2 and 4. Adam Smith's Motion to Strike Aloha's Request for Oral Argument should be considered as a Response but need not be ruled upon. Moreover, because no request for oral argument was filed regarding Aloha's Motion for Emergency Relief, oral argument should not be permitted on Issue 3. Nor should oral argument be permitted on this issue, as there is no right to oral argument on a request for oral argument. In sum, it is unnecessary for the parties to participate on this staff recommendation at the agenda conference.

ISSUE 2: Should Aloha's Amended Motion for Clarification and Motion for Reconsideration of Order No. PSC-02-1250-SC-SU be granted?

RECOMMENDATION: No. Aloha's Amended Motion for Clarification and Motion for Reconsideration should be denied. Moreover, Adam Smith's Motion to Strike Aloha's Motions for Clarification should be considered as a Response to Aloha's Amended Motion but need not be ruled upon.

ISSUE 3: Should Aloha's Motion for Emergency Relief be granted?

RECOMMENDATION: Yes. The Motion for Emergency Relief should be granted. Aloha should be required to establish an escrow agreement with an independent financial institution,

ITEM NO.

CASE

---

34

Docket No. 020413-SU - Initiation of show cause proceedings against Aloha Utilities, Inc. in Pasco County for failure to charge approved service availability charges, in violation of Order No. PSC-01-0326-FOF-SU and Section 367.091, Florida Statutes.

(Continued from previous page)

under the terms set forth in the analysis portion of staff's October 24, 2002 memorandum. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. Aloha should not attempt to disconnect any existing customer from service as a result of any developer's failure to pay any backbilled amount subject to refund pending resolution of the protests.

ISSUE 4: Should the relief requested by Aloha's Response to Show Cause Order No. PSC-02-1250-SC-SU be granted?

RECOMMENDATION: No. The relief requested in Aloha's Response to Show Cause Order No. PSC-02-1250-SC-SU, including the alternative relief that the fine be lowered to \$2,500, should be denied and the \$10,000 fine should be deemed assessed with no further action required by the Commission. Aloha should be required to remit the full amount of the fine within 90 days from the issuance date of the Order arising from this recommendation.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending final resolution of the protests filed to the PAA portions of Order No. PSC-02-1250-SC-SU.

DECISION: This item was deferred.

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
35**	<p>Docket No. 020611-TP - Complaint of BellSouth Telecommunications, Inc. regarding Supra Telecommunications and Information Systems, Inc.'s inappropriate use of Local Exchange Navigation Service (LENS).</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Baez, Palecki, Bradley Prehearing Officer: Palecki</p> <p>Staff: CMP: Ileri, Broussard, Bulecza-Banks, Casey, Kelly, Moses, Vinson GCL: B. Keating</p> <p><u>ISSUE 1</u>: Should the Commission acknowledge BellSouth's withdrawal of its Complaint against Supra and close this Docket?</p> <p><u>RECOMMENDATION</u>: Yes. The Commission should acknowledge BellSouth's withdrawal of its Complaint against Supra, find that the Voluntary Dismissal renders any and all outstanding motions moot, and close this Docket.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p>Commissioners participating: Baez, Palecki, Bradley</p>

ITEM NO.

CASE

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36 Docket No. 010795-TP - Petition by Sprint Communications Company Limited Partnership for arbitration with Verizon Florida Inc. pursuant to Section 251/252 of the Telecommunications Act of 1996.

Critical Date(s): None

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

Staff: CMP: Fulwood, Barrett  
GCL: Teitzman, Banks, B. Keating

LEGAL ISSUE A: What is the Commission's jurisdiction in this matter?

RECOMMENDATION: Staff believes that the Commission has jurisdiction pursuant to Chapter 364, Florida Statutes, and Section 252 of the Federal Telecommunications Act of 1996 (Act) to arbitrate interconnection agreements, and may implement the processes and procedures necessary to do so in accordance with Section 120.80 (13)(d), Florida Statutes. Section 252 of the Act states that a State Commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions required. This section requires this Commission to conclude the resolution of any unresolved issues not later than nine months after the date on which the ILEC received the request under this section. In this case, however, the parties have explicitly waived the nine-month requirement set forth in the Act.

Further, Section 252(e) of the Act reserves the state's authority to impose additional conditions and terms in an arbitration not inconsistent with the Act and its interpretation by the FCC and the courts.

ISSUE 1: In the new Sprint/Verizon interconnection agreement:

- (A) For the purposes of reciprocal compensation, how should local traffic be defined?
- (B) What language should be included to properly reflect the FCC's recent ISP Remand Order?

ITEM NO.

CASE

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36

Docket No. 010795-TP - Petition by Sprint Communications Company Limited Partnership for arbitration with Verizon Florida Inc. pursuant to Section 251/252 of the Telecommunications Act of 1996.

(Continued from previous page)

RECOMMENDATION: For the purposes of reciprocal compensation, the jurisdiction of calls dialed via 00- or 7/10D should be defined based upon the end points of a call. Thus, calls dialed in this manner, which originate and terminate in the same local calling area, should be defined as local traffic.

ISSUE 2: For the purposes of the new Sprint/Verizon interconnection agreement:

- (A) Should Sprint be permitted to utilize multi-jurisdictional interconnection trunks?
- (B) Should reciprocal compensation apply to calls from one Verizon customer to another Verizon customer, that originate and terminate on Verizon's network within the same local calling area, utilizing Sprint's "00-" dial around feature?

RECOMMENDATION: (A) Until such time that Sprint demonstrates to Verizon or this Commission that its billing system can separate multi-jurisdictional traffic transported on the same facility, staff recommends that Sprint should not be allowed to utilize multi-jurisdictional trunks. Staff trusts that Sprint will work cooperatively with Verizon and the Ordering and Billing Forum on its billing system; (B) Staff recommends that when Sprint demonstrates to Verizon or this Commission that its billing system can separate multi-jurisdictional traffic transported on the same facility, Sprint's proposal for compensation should apply to "00-" calls that originate and terminate on Verizon's network within the same local calling area.

ISSUE 3: For the purposes of the new Sprint/Verizon interconnection agreement, should Verizon be required to provide custom calling/vertical features, on a stand-alone basis, to Sprint at wholesale discount rates?

ITEM NO.

CASE

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36

Docket No. 010795-TP - Petition by Sprint Communications Company Limited Partnership for arbitration with Verizon Florida Inc. pursuant to Section 251/252 of the Telecommunications Act of 1996.

(Continued from previous page)

RECOMMENDATION: Yes. Verizon should be required to provide custom calling/vertical features, on a stand-alone basis, to Sprint. The provision of these services should be at Verizon's current wholesale discount rate for all resold services, 13.04%. The current wholesale discount rate should apply until such time as Verizon may choose to calculate, and this Commission approves, an avoided cost calculation that specifically addresses stand-alone custom calling features.

ISSUE 12: Should changes made to Verizon's Commission-approved collocation tariffs, made subsequent to the filing of the new Sprint/Verizon interconnection agreement, supercede the terms set forth at the filing of this agreement?

RECOMMENDATION: Yes. Staff recommends that changes made to Verizon's Commission-approved collocation tariffs, made subsequent to the filing of the new Sprint/Verizon interconnection agreement, should supercede the terms set forth at the filing of this agreement. Staff recommends that this be accomplished by including specific reference to the Verizon collocation tariffs in the parties' interconnection agreement. However, staff believes that Sprint shall retain the right, when it deems appropriate, to contest any future Verizon collocation tariff revisions by filing a petition with the Commission.

ISSUE 15: For the purposes of the new interconnection agreement, should Sprint be required to permit Verizon to collocate equipment in Sprint's central offices?

RECOMMENDATION: Staff recommends that Sprint should not be required to allow Verizon to collocate its equipment in Sprint central offices when Sprint is not the incumbent local exchange carrier. However, staff believes that the parties should negotiate, since Verizon proposes a reasonable means to reduce the amount of transport involved in interconnection.

Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
36	Docket No. 010795-TP - Petition by Sprint Communications Company Limited Partnership for arbitration with Verizon Florida Inc. pursuant to Section 251/252 of the Telecommunications Act of 1996.  (Continued from previous page)  <u>ISSUE 17</u> : Should this docket be closed? <u>RECOMMENDATION</u> : No. The parties should be required to submit a signed agreement that complies with the Commission's decisions in this docket for approval within 30 days of issuance of the Commission's Order. This docket should remain open pending Commission approval of the final arbitrated agreement in accordance with Section 252 of the Telecommunications Act of 1996.

DECISION: The recommendation for Legal Issue A was approved. Issues 1, 2, 3, 12, 15, and 17 were deferred to the November 19, 2002, Commission Conference.

Commissioners participating: Baez, Palecki, Bradley



Minutes of  
Commission Conference  
November 5, 2002

<u>ITEM NO.</u>	<u>CASE</u>
37	Docket No. 021062-TL - Petition for determination as to whether sufficient justification exists to implement Emergency Service Continuity Plan tariff and, if so, for emergency waiver of Rule 25-4.118, F.A.C., by BellSouth Telecommunications, Inc.  Critical Date(s): None  Commissioners Assigned: Baez, Palecki, Bradley Prehearing Officer: Palecki  Staff: GCL: B. Keating, Knight CMP: Simmons

DECISION: This item was deferred.

Minutes of  
Commission Conference  
November 5, 2002

ITEM NO.

CASE

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38\*\*

Docket No. 021062-TL - Petition for determination as to whether sufficient justification exists to implement Emergency Service Continuity Plan tariff and, if so, for emergency waiver of Rule 25-4.118, F.A.C., by BellSouth Telecommunications, Inc.

Critical Date(s): 11/5/02 (Prehearing Officer's order.)

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

Staff: CMP: Pruitt, Simmons  
GCL: B. Keating, Knight

DECISION: This item was deferred.