

MINUTES OF NOVEMBER 30, 2004

COMMISSION CONFERENCE

COMMENCED: 9:45 a.m.

BROKE: 10:20 a.m.

RESUMED: 11:20 a.m.

ADJOURNED: 11:40 a.m.

COMMISSIONERS PARTICIPATING: Chairman Baez
Commissioner Deason
Commissioner Bradley
Commissioner Davidson

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

1 Approval of Minutes

October 19, 2004 Regular Commission Conference

November 2, 2004 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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Commission Conference
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ITEM NO. CASE

2**Consent Agenda

PAA A) Application for certificate to provide competitive local exchange telecommunications service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
041171-TX	GTC Communications, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
041199-TC	Florida ATM Management, Inc.
041000-TC	Serge Marcellus
041264-TC	Vionette Perry

PAA C) Request for two-year exemption from requirement of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE # & LOCATION</u>
041214-TC	Com-Tech Resources, Inc.	386-257-9706
	d/b/a Com-Tech Systems	386-252-9783
		Albertson's
		814 North Nova Road
		Daytona Beach, FL
		386-253-9830
		First Coast Energy #3091
		301 E. International
		Speedway
		Daytona Beach, FL

D) Docket No. 041263-GU - Application by Chesapeake Utilities Corporation ("Company") for authority to issue and sell during 2005 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, and to obtain authorization to exceed the limitation placed on short-term borrowings by Section 366.04, Florida Statutes, so as to issue short-term obligations in 2005 in an amount not to exceed \$40 million.

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Consent Agenda

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For monitoring purposes, this docket should remain open until April 28, 2006 to allow the Company time to file the required Consummation Report.

- E) Docket No. 041267-EI - Application by Progress Energy Florida, Inc. ("Company") for authority to issue, sell or otherwise incur during 2005 any combination of additional equity securities and debt securities and obligations, consisting of (i) up to \$1 billion outstanding at any time of short-term debt, including commercial paper, bank loans or loans from affiliates, which amount shall be in addition to and in excess of the amount the Company is authorized to issue pursuant to Section 366.04, Florida Statutes, which permits the Company to issue short-term securities aggregating to no more than five percent of the par value of the Company's other outstanding securities, and (ii) \$1 billion of any combination of equity securities and long-term debt securities and obligations.

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

For monitoring purposes, this docket should remain open until April 28, 2006 to allow the Company time to file the required Consummation Report.

- F) Docket No. 041273-GU - Application by Florida Public Utilities Company (Company) 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 surety in an incremental amount not to exceed \$40 million, excluding retained earnings during calendar year 2005. Included in this \$40 million amount is the Company's request for authority to issue up to \$21 million in short-term notes during calendar year 2005.

For monitoring purposes, this docket should remain open until April 28, 2006 to allow the Company time to file the required Consummation Report.

- G) Docket No. 041274-EI - Application by Gulf Power Company ("Company") for authority to: receive equity funds from and/or issue common equity securities to its parent company, Southern Company ("Southern"); issue and sell long-term debt and equity securities; and issue and sell short-term debt securities during 2005. The maximum amount of common equity contributions received from and common

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Consent Agenda

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equity issued to Southern, the maximum amount of equity securities issued and the maximum principal amount of long-term debt securities issued will total not more than \$350 million. The maximum principal amount of short-term debt at any one time will total not more than \$200 million.

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

For monitoring purposes, this docket should remain open until April 28, 2006 to allow the Company time to file the required Consummation Report.

RECOMMENDATION: The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of 041263-GU, 041267-EI, 041273-GU, and 041274-EI, which must remain open for monitoring purposes.

DECISION: The recommendation was approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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3**Docket No. 041252-WS - Proposed amendment of Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities.

Critical Date(s): None
Rule Status: Proposed

Commissioners Assigned: All Commissioners
Prehearing Officer: Davidson

Staff: GCL: Moore
CCA: Belcher
ECR: Hewitt, Slemkewicz

Issue 1: Should the Commission amend Rule 25-30.120, F.A.C., to conform to statutory changes that require large water and wastewater utilities to pay regulatory assessment fees semi-annually; and to codify the standards used to determine whether an extension of time to file a return is granted?

Recommendation: Yes.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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4Docket No. 041172-EI - Petition for declaratory statement regarding appropriate accounting treatment to be followed to record and recover prudently incurred storm damage costs that exceed Company's storm reserve balance, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: GCL: Bellak
ECR: Slemkewicz

Issue 1: Should the Commission issue the declaratory statement sought by Tampa Electric?

Recommendation: Yes. The Commission should issue the requested declaratory statement (as edited by staff for consistency with the Commission's orders issued in prior dockets).

Issue 2: Should this docket be closed?

Recommendation: Yes. The docket should be closed upon issuance of the order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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5**Docket No. 041144-TP - Complaint against KMC Telecom III LLC, KMC Telecom V, Inc., and KMC Data LLC for alleged failure to pay intrastate access charges pursuant to its interconnection agreement and Sprint's tariffs and for alleged violation of Section 364.16(3)(a), F.S., by Sprint-Florida, Incorporated.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Jaber

Staff: GCL: Rockette-Gray, Fordham
CMP: Pruitt

Issue 1: Should the Commission grant KMC's Motion to Dismiss?

Recommendation: No. Staff recommends that KMC's Motion to Dismiss be denied.

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation in Issue 1, this docket should remain open pending resolution of Sprint's complaint.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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6**PAADocket No. 041169-EI - Complaint Nos. 445185E, 446514E, 446515E, and 446516E filed by Mr. Jude Alceguiere against Florida Power & Light Company for high bills and other alleged violations of Commission rules and statutes. (Deferred from November 2, 2004 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Brown
ECR: Kummer
RCA: Hicks

Issue 1: What is the proper disposition of Mr. Alceguiere's complaints against Florida Power & Light?

Recommendation: The Commission should dismiss Mr. Alceguiere's complaints. FPL's charges to Mr. Alceguiere appear to be correct, and FPL has otherwise complied with applicable statutes and Commission rules.

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 within twenty-one 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: Baez, Deason, Bradley, Davidson

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CASE

7**PAADocket No. 040779-TP - Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. and Network Telephone Corporation by Z-Tel Communications, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: GCL: Rojas

CMP: Bates, Dowds

Issue 1: Should the Commission accept Z-Tel's Notice of Adoption?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed, and Z-Tel's adoption of the Network Interconnection Agreement should have an effective date of July 23, 2004, reflecting the date that the Notice of Adoption was filed with this Commission.

DECISION: This item was deferred.

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8**PAADocket No. 041321-TL - Basic rate changes and refund by ALLTEL Florida, Inc. to achieve compliance with Section 364.051, Price Regulation, Florida Statutes.

Critical Date(s): 12/1/04 (effective date of tariff)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: T. Williams

GCL: Susac

Issue 1: Should the Commission approve the refund procedure submitted by ALLTEL Florida, Inc. as bringing ALLTEL into compliance with Section 364.051, Florida Statutes?

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: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

9**PAADocket No. 040158-TX - Compliance investigation of EZ Talk Communications, L.L.C. for apparent violation of Rule 25-22.032, F.A.C., Consumer Complaints.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Buys
GCL: Susac
SCR: Lowery

Issue 1: Should the Commission vacate Order No. PSC-04-0393-PAA-TX, issued on April 13, 2004; grant EZ Talk Communications, L.L.C. cancellation of its Competitive Local Exchange Company (CLEC) Certificate No. 5530 with an effective date of November 30, 2004, due to bankruptcy; notify the Division of the Commission Clerk and Administrative Services that any unpaid RAFs, including statutory late payment charges, not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the company to immediately cease and desist providing competitive local exchange service in Florida?

Recommendation: Yes.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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10**PAADocket No. 041146-TX - Compliance investigation of TeleConex, Inc. d/b/a TeleConex for apparent violation of Rules 25-22.032(6)(b), F.A.C., Customer Complaints, and 25-24.835, F.A.C., Rules Incorporated.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Jaber

Staff: CMP: Curry
 GCL: Susac
 RCA: Hicks

Issue 1: Should the Commission impose a penalty upon TeleConex, Inc. d/b/a TeleConex in the amount of \$10,000 per apparent violation, for a total of \$410,000 for forty-one (41) apparent violations of Rule 25-22.032(6)(b), Florida Administrative Code, Customer Complaints?

Recommendation: Yes.

Issue 2: Should the Commission impose a penalty of \$500 upon TeleConex for its apparent violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated?

Recommendation: Yes.

Issue 3: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If TeleConex fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalties should be deemed assessed. If TeleConex fails to timely protest the Commission's Order and fails to pay the penalties within fourteen (14) calendar days after the issuance of the Consummating Order, the company shall be required to immediately cease and desist providing competitive local exchange

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Docket No. 041146-TX - Compliance investigation of TeleConex, Inc. d/b/a TeleConex for apparent violation of Rules 25-22.032(6)(b), F.A.C., Customer Complaints, and 25-24.835, F.A.C., Rules Incorporated.

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telecommunications service in the state of Florida and Certificate No. 5207 shall be cancelled. Should TeleConex respond to the Commission's Order, staff will at that time require the company to resolve the customer complaints as part of any settlement. This docket should be closed administratively upon either the receipt of the payment of the penalties or upon the cancellation of Competitive Local Exchange Certificate No. 5207.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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11**PAA Compliance investigations for apparent violation of Section 364.336, Florida Statutes.

Docket No. 040894-TI - Nationwide Communications of Michigan, Inc.
Docket No. 040896-TI - North American Communications Control, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Bradley

Staff: CMP: Isler
GCL: Teitzman

Issue 1: Should the Commission cancel Nationwide Communications of Michigan, Inc.'s and North American Communications Control, Inc.'s intrastate interexchange telecommunications company (IXC) respective tariffs, remove the companies from the register with an effective date of December 31, 2004, and require the companies to immediately cease and desist providing intrastate interexchange telecommunications service in Florida, for apparent violation of Section 364.336, Florida Statutes?

Recommendation: Yes.

Issue 2: Should these dockets be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If any company's tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida. If any company fails to pay the Regulatory Assessment Fees, including statutory late payment

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11**PAA

Compliance investigations for apparent violation of Section 364.336, Florida Statutes.

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charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. These dockets should be closed administratively upon cancellation of the company's tariff and removal of its name from the register.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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12**Compliance investigations for apparent violation of Section 364.336, Florida Statutes.

Docket No. 040966-TI - Azul Tel, Inc.

Docket No. 040978-TI - Advanced TelCom, Inc. d/b/a Advanced TelCom Group

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission accept the settlement offers proposed by Azul Tel, Inc. and Advanced TelCom, Inc. d/b/a Advanced TelCom Group to resolve the apparent violation of Section 364.336, Florida Statutes?

Recommendation: Yes.

Issue 2: Should these dockets be closed?

Recommendation: Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, these dockets should be closed as no other issues need to be addressed by the Commission.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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13**Docket No. 040985-TI - Compliance investigation of EO Telecom of Florida, LLC for
apparent violation of Section 364.336, F.S.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission accept the settlement offer proposed by EO Telecom of
Florida, LLC to resolve the apparent violation of Section 364.336, Florida Statutes?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that if the Commission approves staff's
recommendation in Issue 1, this docket should be closed as no other issues need to be
addressed by the Commission.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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14**PAACompliance investigations for apparent violation of Section 364.336, Florida Statutes.

Docket No. 040895-TI - Atlas Communications, Ltd.
Docket No. 040898-TI - Operator Communications, Inc. d/b/a Oncor Communications, Inc. d/b/a OCI
Docket No. 040900-TI - Tristar Communications Corp.
Docket No. 040909-TI - Annox, Inc.
Docket No. 040910-TI - Lionhart of Miami, Inc. d/b/a Astral Communications d/b/a L.O.M.
Docket No. 040912-TI - Maxcess, Inc.
Docket No. 040916-TI - Norstar Communications, Inc. d/b/a Business Savings Plan Inc.
Docket No. 040917-TI - Gadjraj And Sons, Import & Export, Inc. d/b/a Arctics d/b/a Kaizen
Docket No. 040919-TI - Globaltron Communications Corporation
Docket No. 040920-TI - USA Telephone Inc. d/b/a CHOICE ONE Telecom
Docket No. 040921-TI - MCG, LLC
Docket No. 040922-TI - NexGen Telecom, LLC
Docket No. 040923-TI - TelecomEZ Corp.
Docket No. 040924-TI - MYCO Telecommunications, Inc.
Docket No. 040925-TI - TELECUBA, INC.
Docket No. 040929-TI - Telegenius, Inc.
Docket No. 040930-TI - Power-Finder West Communications, LLC
Docket No. 040932-TI - Kiger Telephone & Telephony, LLC
Docket No. 040933-TI - Moving Bytes, Inc.
Docket No. 040934-TI - Choice Telco, LLC
Docket No. 040935-TI - Kernan Associates, Ltd. d/b/a St. Johns Technologies
Docket No. 040936-TI - Universal Broadband Communications, Inc. d/b/a Business Savings Plan
Docket No. 040937-TI - Cinco Telecom Corp. d/b/a Orbitel
Docket No. 040938-TI - Primo Communications Inc
Docket No. 040962-TI - Telesphere, Inc. d/b/a Telesphere Services, Inc.
Docket No. 040963-TI - Universal Phone Corporation
Docket No. 040964-TI - Innovative Communication Solutions, Inc.
Docket No. 040965-TI - Via One Technologies, Inc.
Docket No. 040967-TI - CM Tel (USA) LLC
Docket No. 040968-TI - Colorado Communications Network, Inc. d/b/a Hospitality Communications
Docket No. 040969-TI - Metro Teleconnect Companies, Inc.
Docket No. 040970-TI - Prepaid Network Corp.
Docket No. 040971-TI - Direct Telephone Company, Inc.
Docket No. 040980-TI - AccessLine LD Services, Inc.

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Compliance investigations for apparent violation of Section 364.336, Florida Statutes.

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Docket No. 040981-TI - IBGH Communications, LLC

Docket No. 040982-TI - MMG Holdings, Inc.

Docket No. 040983-TI - Alpha Telecom, LLC

Docket No. 040984-TI - Galway Telecommunications, LLC

Docket No. 040986-TI - Nigerian-American Investment Corporation d/b/a NAIC
Telecommunications

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Bradley (040895-TI, 040898-TI, 040900-TI, 040909-TI,
040910-TI, 040912-TI)

Staff: CMP: Isler

GCL: Rockette-Gray

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$500, or cancel the intrastate interexchange telecommunications company's (IXC) tariff and remove from the register each company identified in Attachment A of staff's November 18, 2004 memorandum, with an effective date of December 31, 2004, for an apparent first violation of Section 364.336, Florida Statutes?

Recommendation: Yes.

Issue 2: Should these dockets be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If any company fails to pay the penalty and cost of collection, together totaling \$500, and Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's tariff should be cancelled administratively, its name removed from the register, and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida

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14**PAA

Compliance investigations for apparent violation of Section 364.336, Florida Statutes.

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Department of Financial Services for further collection efforts. If any company's tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida. These dockets should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's tariff and removal from the register.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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15**PAADocket No. 041147-TX - Compliance investigation of Alternative Telecommunication Services, Inc. d/b/a Second Chance Phone for apparent violation of Rule 25-22.032(6)(b), F.A.C., Customer Complaints.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Jaber

Staff: CMP: Curry
 GCL: Rockette-Gray
 RCA: Hicks

Issue 1: Should the Commission impose a penalty upon Alternative Telecommunication Services, Inc. d/b/a Second Chance Phone in the amount of \$10,000 per apparent violation, for a total of \$120,000 for twelve apparent violations of Rule 25-22.032(6)(b), Florida Administrative Code, Customer Complaints?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If Second Chance Phone fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If Second Chance Phone fails to timely protest the Commission's Order and fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order, the company shall be required to immediately cease and desist providing competitive local exchange telecommunications service in the state of Florida and Certificate No. 5620 shall be cancelled. Should Second Chance Phone respond to the Commission's Order, staff will at that time require the company to resolve the customer complaints as part of any settlement. This docket should be closed administratively upon either the receipt of the payment of the penalty or upon the cancellation of Competitive Local Exchange Certificate No. 5620.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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16**PAA Compliance investigations for apparent violation of Section 364.336, Florida Statutes.

Docket No. 040897-TI - International Telecom, Ltd.
Docket No. 040899-TI - World Access Communications Corp.
Docket No. 040901-TI - Interactive Media Technologies, Inc. d/b/a GlobalTel
Docket No. 040902-TI - Vox Populi Telecommunications, Inc.
Docket No. 040903-TI - MicroSun Telecommunications, Inc.
Docket No. 040904-TI - Public Telephone Network, Inc.
Docket No. 040906-TI - The Free Network, L.L.C.
Docket No. 040907-TI - Direct One, LLC
Docket No. 040908-TI - InterCept Communications Technologies, Inc.
Docket No. 040911-TI - TelSouth Communications, Inc.
Docket No. 040913-TI - MultiPhone Latin America, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Bradley

Staff: CMP: Isler
GCL: Scott

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$1,000, or cancel the intrastate interexchange telecommunications company's (IXC) tariff and remove from the register each company identified in Attachment A of staff's November 18, 2004 memorandum, with an effective date of December 31, 2004, for an apparent second violation of Section 364.336, Florida Statutes?

Recommendation: Yes.

Issue 2: Should these dockets be closed?

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

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16**PAA

Compliance investigations for apparent violation of Section 364.336, Florida Statutes.

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removed from the register, and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If any company's tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida. These dockets should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's tariff and removal from the register.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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17**Docket No. 041148-TP - Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TJ702 and CLEC Certificate No. 8198 issued to Litestream Technologies, LLC, effective 9/22/04.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Scott

Issue 1: Should the Commission grant Litestream Technologies, LLC cancellation of its IXC Registration No. TJ702 and tariff and CLEC Certificate No. 8198 with an effective date of September 22, 2004, due to bankruptcy; notify the Division of the Commission Clerk and Administrative Services that any unpaid Regulatory Assessment Fees, including statutory late payment charges, should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the company to immediately cease and desist providing intrastate interexchange telecommunications and competitive local exchange service in Florida?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no protest is filed and upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

Minutes of
Commission Conference
November 30, 2004

ITEM NO.

CASE

18**Docket No. 041183-TI - Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TI189 issued to Lightyear Communications, Inc., effective March 31, 2004.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Scott

Issue 1: Should the Commission grant Lightyear Communications, Inc. cancellation of its tariff and removal from the register with an effective date of March 31, 2004, due to bankruptcy; notify the Division of the Commission Clerk and Administrative Services that any unpaid Regulatory Assessment Fees, including statutory late payment charges, should not be sent to the Florida Department of Financial Services and request permission to write off the uncollectible amounts; and require the company to immediately cease and desist providing interexchange telecommunications service in Florida?

Recommendation: Yes.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no protest is filed and upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

19**PAADocket No. 041205-TX - Compliance investigation of DSL Internet Corporation d/b/a DSLi for apparent violation of Rules 25-4.082, F.A.C., Number Portability, Rule 25-4.083, F.A.C., Preferred Carrier Freeze, and 25-118, F.A.C., Local, Local Toll, or Toll Provider Selection.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Davidson

Staff: CMP: Buys
GCL: Scott

Issue 1: Should the Commission order DSL Internet Corporation d/b/a DSLi to immediately remove all Preferred Carrier Freezes placed on its customers' accounts for which the company does not possess valid authorizations pursuant to Rule 25-4.083, Florida Administrative Code, Preferred Carrier Freeze, and facilitate porting of subscribers' telephone numbers upon request from acquiring companies pursuant to Rule 25-4.082, Florida Administrative Code, Number Portability?

Recommendation: Yes.

Issue 2: Should the Commission require DSL Internet Corporation d/b/a DSLi to inform customers obtained from US Telecom via letter within 10 days of the Commission's Consummating Order that the customers have an option to switch to another local provider of their choice and that they are under no obligation to continue to receive service from DSLi?

Recommendation: Yes.

Issue 3: Should this docket be closed?

Recommendation: Yes. The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If no person files a protest, this docket should be closed administratively upon issuance of the Consummating Order. Any action by the Commission in this docket should not preempt, preclude, or resolve any matters under review by any other Florida Agencies or Departments.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

20**PAADocket No. 040270-GU - Application for rate increase by Sebring Gas System, Inc.

Critical Date(s): 11/30/04 (5-month effective date - PAA rate case)

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: Kaproth, Baxter, Brinkley, Draper, Gardner, Hewitt, Kenny, Lester,
Romig, Wheeler, Winters

GCL: Jaeger

Issue 1: Is Sebring's projected test period for the 12 months ending December 31, 2005 appropriate?

Recommendation: Yes. With the adjustments recommended by staff in the following issues, the 2005 test year is appropriate.

Issue 2: Are Sebring's forecasts of customer growth and terms by rate class appropriate?

Recommendation: No. The projected number of residential bills and terms by rate class as contained in the Minimum Filing Requirements (MFR) Schedule G-2, Page 8 of 31, for the 2005 test year should be adjusted to reflect staff's disallowance of the Company's proposed Customer Residential Load Retention Program discussed in Issue 13.

Issue 3: Is the quality of service provided by Sebring adequate?

Recommendation: Yes. Sebring's quality of service is adequate.

Issue 4: Is Sebring's requested Total Plant-in-Service of \$2,202,495 appropriate?

Recommendation: No. Total Plant-in-Service should be decreased by \$13,166 to \$2,189,329 to reflect the effects of two prior period adjustments and the reclassification of an expense item to plant.

Issue 5: Is Sebring's requested Accumulated Depreciation of \$1,070,838 appropriate?

Recommendation: No. Accumulated Depreciation should be reduced by \$5,262 to \$1,065,576 to reflect the effects of two prior period adjustments and the reclassification of an expense item to plant.

Issue 6: Is Sebring's requested Working Capital Allowance of \$17,122 appropriate?

Recommendation: No. Working Capital should be reduced by \$23,853 to (\$6,731).

Issue 7: Is Sebring's requested Rate Base of \$1,132,523 appropriate?

Recommendation: No. The recommended adjusted Rate Base is \$1,100,766.

Issue 8: What is the appropriate capital structure?

Recommendation: Regarding investor capital, the appropriate capital structure is 54.97% common equity and 45.03% debt. In addition, staff recommends that the Commission cap Sebring's equity ratio at 60% as a percent of investor capital.

ITEM NO.

CASE

20**PAA

Docket No. 040270-GU - Application for rate increase by Sebring Gas System, Inc.

(Continued from previous page)

Issue 9: What is the appropriate cost rate for common equity?

Recommendation: The appropriate cost rate for common equity is 11.50%, with a range of plus or minus 100 basis points.

Issue 10: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates?

Recommendation: The appropriate weighted average cost of capital is 8.64%.

Issue 11: Are Sebring's estimated revenues from sales of gas by rate class at present rates for the December 2005 projected test year appropriate?

Recommendation: No. The appropriate revenues from sales of gas should be \$279,213, a reduction of \$1,526.

Issue 12: Are Sebring's Total Operating Revenues of \$288,074 appropriate?

Recommendation: No. The appropriate amount of Total Operating Revenues is \$286,548.

Issue 13: Should an adjustment be made to Account 879, Customer Service Expense?

Recommendation: Yes. Account 879, Customer Service Expense, should be reduced by \$10,000 for the 2005 projected test year.

Issue 14: Should Account 921, Office Supplies and Expenses, be reduced for the 2005 projected test year to remove lobbying expenses?

Recommendation: Yes. Account 921, Office Supplies and Expenses, should be reduced by \$527 for the 2005 projected test year.

Issue 15: Should an adjustment be made to Account 921, Office Supplies and Expenses, to remove the 2005 projected cost of four Nextel telephone/radios?

Recommendation: Yes. Account 921, Office Supplies and Expenses, should be reduced by \$2,000 to remove the 2005 projected cost of the Nextel telephone/radios.

Issue 16: Should an adjustment be made to Account 923, Outside Services Employed?

Recommendation: Yes. Account 923, Outside Services Employed, should be reduced by \$13,187 for the 2005 projected test year.

Issue 17: Should an adjustment be made to Account 928, Regulatory Commission Expense?

Recommendation: Yes. Account 928, Regulatory Commission Expense, should be reduced by \$12,815 for the 2005 projected test year.

Issue 18: Should an adjustment be made to the projected 2005 O&M Expenses to remove the payroll taxes?

Recommendation: Yes. Projected 2005 O&M Expenses should be reduced by \$12,738 to remove the payroll taxes.

Issue 19: Is Sebring's O&M Expense of \$321,779 appropriate?

Recommendation: No. Sebring's O&M Expense should be reduced by \$51,267 to \$270,512.

ITEM NO.

CASE

20**PAA

Docket No. 040270-GU - Application for rate increase by Sebring Gas System, Inc.

(Continued from previous page)

Issue 20: Is Sebring's Depreciation and Amortization Expense of \$64,755 appropriate?

Recommendation: No. The appropriate level of Depreciation and Amortization Expense for the projected test year is \$64,318, to reflect staff's analysis in Issues 4, 5, and 15.

Issue 21: Is Sebring's Taxes Other Than Income of \$7,117 appropriate?

Recommendation: No. The appropriate amount of Taxes Other Than Income is \$19,058, an increase of \$11,941.

Issue 22: Is Sebring's Income Tax Expense of (\$41,158) appropriate?

Recommendation: No. The appropriate amount of income tax expense is \$0.

Issue 23: Are Sebring's Total Operating Expenses of \$352,493 appropriate?

Recommendation: No. Total Operating Expenses should be increased by \$1,395 to \$353,888 for the 2005 projected test year.

Issue 24: Is Sebring's Net Operating Income of (\$64,419) appropriate?

Recommendation: No. Sebring's Net Operating Income of \$(64,419) should be decreased by \$2,921 to (\$67,340) for the projected 2005 test year.

Issue 25: What is the appropriate test year revenue expansion factor and the appropriate net operating income multiplier?

Recommendation: The appropriate revenue expansion factor is 99.50000% and the appropriate net operating income multiplier is 1.0050.

Issue 26: Is Sebring's requested annual operating revenue increase of \$234,641 appropriate?

Recommendation: No. The appropriate annual operating revenue increase for the projected 2005 test year is \$163,262.

Issue 27: What is the appropriate cost of service methodology to use to allocate costs to the rate classes?

Recommendation: The appropriate methodology is contained in Attachment 6 of staff's November 18, 2004 memorandum.

Issue 28: If the Commission grants a revenue increase to Sebring, how should the increase be allocated to the rate classes?

Recommendation: Staff's recommended allocation of the revenue increase to the rate classes is contained in Attachment 6, page 16 of 16, of staff's memorandum.

ITEM NO.

CASE

20**PAA

Docket No. 040270-GU - Application for rate increase by Sebring Gas System, Inc.

(Continued from previous page)

Issue 29: What are the appropriate Customer Charges?

Recommendation: Staff's recommended customer charges are as follows:

<u>Rate Class</u>	<u>Staff Recommended Customer Charge</u>
Transportation Service 1 (TS-1)	\$9.00
Transportation Service 2 (TS-2)	\$12.00
Transportation Service 3 (TS-3)	\$35.00
Transportation Service 4 (TS-4)	\$150.00
Transportation Service 5 (TS-5)	\$500.00

Issue 30: What are the appropriate per therm Transportation Charges?

Recommendation: Staff's recommended per therm Transportation Charges are contained in Attachment 7, page 1, of their November 18, 2004 memorandum.

Issue 31: Is Sebring's proposed new Third Party Supplier (TPS) rate schedule and associated charge appropriate?

Recommendation: Yes.

Issue 32: Is Sebring's proposal to replace its existing Residential, General Service and General Service Large Volume rate classes with five new volumetric rate classes appropriate?

Recommendation: Yes.

Issue 33: Is Sebring's proposal to lower the annual therm eligibility threshold from 100,000 to 50,000 therms for its Alternate Fuel, Interruptible, Special Contract and Individual Transportation Service Customers appropriate?

Recommendation: Yes.

Issue 34: What is the appropriate effective date for Sebring's revised rates and charges?

Recommendation: The revised rates and charges should become effective for meter readings on or after 30 days following the date of the Commission vote approving the rates and charges.

Issue 35: Should any portion of the \$97,211 interim increase granted by Order No. PSC-04-0860-PCO-GU, issued September 2, 2004, be refunded to the customers?

Recommendation: No portion of the \$97,211 interim increase should be refunded.

Issue 36: Should Sebring be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records that will be required as a result of the Commission's findings in this rate case?

ITEM NO.

CASE

20**PAA

Docket No. 040270-GU - Application for rate increase by Sebring Gas System, Inc.

(Continued from previous page)

Recommendation: Yes. To ensure that the utility adjusts its books in accordance with the Commission's decision, Sebring should provide proof, within 90 days of the consummating order finalizing this docket, that the adjustments for all the applicable FERC USOA primary accounts have been made to its annual report, rate of return reports, and its books and records.

Issue 37: 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: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

21**Docket No. 030942-GU - Application by Florida Division of Chesapeake Utilities Corporation for authorization to issue common stock, preferred stock and secured and/or unsecured debt, and to enter into agreements for interest rate swap products, and to exceed limitation placed on short-term borrowings in 2004.

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Administrative

Staff: ECR: Lester
GCL: Fleming

Issue 1: Should the Commission grant Chesapeake Utilities Corporation's application to modify Order No. PSC-03-1216-FOF-GU, issued October 27, 2003, in order to increase by 750,000 the number of shares of common stock authorized and reserved for issuance under its amended Dividend Reinvestment and Direct Stock Purchase Plan during the twelve months ended December 31, 2004?

Recommendation: Yes. The Commission should allow the modification to Order No. PSC-03-1216-FOF-GU, in order to allow Chesapeake to increase by 750,000 the number of shares of common stock it is authorized to issue.

Issue 2: Should this docket be closed?

Recommendation: No. For monitoring purposes, this docket should remain open until April 15, 2005, to allow the Company to file the required Consummation Report.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

22**PAADocket No. 040816-EI - Petition for authority to use deferral accounting for creation of a regulatory asset in recognition of minimum pension liability established in accordance with Financial Accounting Standards (FAS) 87, by Progress Energy Florida, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Romig, Lester

GCL: Vining

Issue 1: Should the Commission authorize Progress Energy Florida, Inc. to use deferral accounting and to create a regulatory asset as an offset to the Company's minimum pension liability?

Recommendation: Yes. The Commission should authorize Progress Energy to use deferral accounting and to create a regulatory asset as an offset to its minimum pension liability. Further, the Commission should find that the approval to record the regulatory asset for accounting purposes does not limit the Commission's ability to review the amounts for reasonableness in future rate proceedings.

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: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

23**Docket No. 041143-EI - Petition for approval of depreciation rate changes for Big Bend Combustion Turbine Nos. 2 and 3, and Polk Units 2 and 3, by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Jaber

Staff: ECR: Gardner, Colson, Haff, Kenny, Lester

GCL: Brown

Issue 1: Should the Commission permit Tampa Electric Company to implement its proposed depreciation rates, provision for dismantlement, and account subcategorization on a preliminary basis for Big Bend Combustion Turbine Units 2 and 3, and Polk Units 2 and 3?

Recommendation: Yes. The additional \$4.1 million of plant investment to refurbish Big Bend Combustion Turbines 2 and 3 will extend the useful life of these units approximately 10 years. Therefore, the depreciation rates, recovery schedules, and provision for dismantlement should be adjusted to reflect the units' current life expectancy. In addition, property records are now complete for Polk Units 2 and 3 to allow plant account specific depreciation rates, per Rule 25-6.04361(5)(c), Florida Administrative Code. The effect of this proposal would decrease expenses as shown on Attachments B and C of staff's November 18, 2004 memorandum by an estimated \$748,000 for 2004. The resulting expenses should be trued up when final action, expected to occur in January 2005, is taken by the Commission in this docket.

Issue 2: What should be the implementation date for the new depreciation rates, recovery schedule, provision for dismantlement accruals, and account sub categorization?

Recommendation: Staff recommends preliminary approval of Tampa Electric's proposed implementation date of January 1, 2004.

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open, pending staff review, analysis, and final Commission action on the revised depreciation rates, recovery schedule, dismantlement provision, and account subcategorization.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

24**PAADocket No. 040300-SU - Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities.

Critical Date(s): 9/2/05 (15-month SARC effective date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: Biggins, Hudson, Massoudi

GCL: Jaeger

Issue 1: Is the quality of wastewater service provided by Tymber Creek Utilities, Inc., considered satisfactory?

Recommendation: Yes. The quality of service provided by Tymber Creek should be considered satisfactory. Although the utility currently is not in full compliance status for wastewater, the Department of Environmental Protection's (DEP's) inspector believes that the utility's owner is cooperating and currently bringing the plant into compliance status. The utility should complete any and all improvements to the system that are necessary to satisfy the standards set by the DEP within nine months of the Consummating Order. Also, it is recommended that a local emergency phone number be updated and be posted at the plant and at each lift station. The emergency phone number should be posted at all locations no later than 90 days from the date of the Consummating Order for this rate case.

Issue 2: What portions of Tymber Creek Utilities, Inc.'s wastewater system are used and useful?

Recommendation: The utility's wastewater treatment plant should be considered 61% used and useful. The wastewater collection system should be considered 92.30% used and useful.

Issue 3: What is the appropriate test year rate base for the utility?

Recommendation: The appropriate average test year rate base for Tymber Creek is \$159,097 for wastewater. The utility should complete the pro forma plant items within nine months from the date of the consummating order.

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

Recommendation: The appropriate return on equity is 9.25% with a range of 8.25% - 10.25%. The appropriate overall rate of return is 8.78%.

Issue 5: What are the appropriate test year revenues?

Recommendation: The appropriate test year revenues for this utility are \$147,094 for wastewater.

Issue 6: What is the appropriate amount of operating expenses?

ITEM NO.

CASE

24**PAA

Docket No. 040300-SU - Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities.

(Continued from previous page)

Recommendation: The appropriate amount of operating expenses for this utility is \$166,187 for wastewater.

Issue 7: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$180,155 for wastewater.

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

Recommendation: The recommended rates should be designed to produce revenues of \$173,454. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

Issue 9: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

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

Issue 10: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

Recommendation: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed in the analysis portion of staff's November 18, 2004 memorandum. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the

ITEM NO.

CASE

24**PAA

Docket No. 040300-SU - Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities.

(Continued from previous page)

preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 11: Should this docket be closed?

Recommendation: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional nine months from the date of the Consummating Order to allow staff to verify completion of pro forma plant items described in Issue No. 3. Once staff has verified that this work has been completed, the docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

25**Docket No. 041176-WU - Application for approval of new class of service for private fire protection water service in Seven Springs system in Pasco County, by Aloha Utilities, Inc.

Critical Date(s): 11/30/04 (60-day suspension date)

Commissioners Assigned: All Commissioners

Prehearing Officer: Administrative

Staff: ECR: Revell, Merchant

GCL: Gervasi

Issue 1: Should Aloha's request to establish a private fire protection water tariff for its Seven Springs service area be approved?

Recommendation: Yes. The utility's proposed tariff should be approved as filed. The utility should file a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided that the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the new class of service in the Seven Springs service area to all current general service customers and to all persons who have filed a written request for general service, or who have been provided a written estimate for general service within the 12 calendar months prior to October 1, 2004. The utility should provide proof that the customers have received notice within 10 days after the date that the notice was sent. Further, pursuant to Rule 25-30.330(5), Florida Administrative Code, staff recommends that upon request of any customer Aloha should provide a copy or explanation of the utility's rates applicable to the customer's classification for service and to assist the customer in obtaining the rate which is most advantageous for the customer's service requirements.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order and staff's verification of the utility's compliance with the noticing requirements. If a protest is filed within 21 days of the issuance of the Commission's Order, the tariff should remain in effect with all revenues held subject to refund pending resolution of the protest.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

26**Docket No. 041040-WU - Application for certificate to operate water utility in Baker and Union Counties by B & C Water Resources, L.L.C.

Critical Date(s): 1/10/05 (Statutory deadline for ruling on original certificate pursuant to Section 367.031, Florida Statutes.)

Commissioners Assigned: All Commissioners
Prehearing Officer: Deason

Staff: ECR: Brady, Redemann
GCL: Gervasi

Issue 1: Should the application by B & C Water Resources, L.L.C. for a water certificate be granted?

Recommendation: Yes. B & C Water Resources, L.L.C. should be granted Certificate No. 626-W to serve the territory described in Attachment A of staff's November 18, 2004 memorandum. The effective date should be the date of the Commission vote. B & C should be required to file an executed and recorded lease agreement within 30 days of the date of the Commission's order granting the certificate.

PAA

Issue 2: What are the appropriate initial water rates and return on investment for this utility?

Recommendation: The utility's proposed potable water rates and miscellaneous service charges described in the analysis portion of staff's November 18, 2004 memorandum should be approved. B & C should charge the approved rates and charges until authorized to change them by this Commission in a subsequent proceeding. Within 30 days from the date of the Commission's vote in this docket, the utility should be required to file a proposed notice for staff review of its approved rates and charges that will be given to each hunt camp in its service territory prior to billing monthly water service. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. A return on equity of 11.40% plus or minus 100 basis points should be approved.

PAA

Issue 3: What are the appropriate service availability charges for the utility?

Recommendation: The utility's proposed service availability policy and charges set forth within the analysis portion of staff's November 18, 2004 memorandum should be approved 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.

ITEM NO.

CASE

26**

Docket No. 041040-WU - Application for certificate to operate water utility in Baker and Union Counties by B & C Water Resources, L.L.C.

(Continued from previous page)

Issue 4: Should this docket be closed?

Recommendation: No. If no timely protest is received to the proposed agency action issues on initial rates and service availability charges, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of an executed and recorded lease agreement and proposed customer notice. Upon receipt of such documents, the docket should be administratively closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

27**Docket No. 031087-WU - Application for certificate to provide water service in Polk County by The Colinas Group, Inc., receivers for Lazy S Utility Company.

Critical Date(s): 11/30/04 (Statutory deadline for ruling on original certificate pursuant to Section 367.031, Florida Statutes.)

Commissioners Assigned: All Commissioners
Prehearing Officer: Bradley

Staff: ECR: Johnson, Kaproth, Redemann
GCL: Gervasi

Issue 1: Should the Commission acknowledge The Colinas Group, Inc. as receiver for Lazy S Utility Company?

Recommendation: Yes. The Commission should acknowledge The Colinas Group, Inc. as receiver for Lazy S Utility Company.

Issue 2: Should The Colinas Group Inc.'s application for a water certificate be granted?

Recommendation: Yes. The Colinas Group, Inc. should be granted water Certificate No. 624-W to serve the territory described in Attachment A of staff's November 18, 2004 memorandum effective February 7, 2003.

Issue 3: Should The Colinas Group, Inc. continue to charge the rates and charges authorized by the circuit court?

Recommendation: Yes. The Colinas Group, Inc., as receiver for Lazy S Utility, should continue to charge the monthly service rates and miscellaneous charges authorized by the circuit court until otherwise authorized by the Commission. The tariff reflecting the approved rates and charges should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

Issue 4: What are the appropriate service availability charges for The Colinas Group, Inc.?

Recommendation: The meter installation and connection charges set forth within the analysis portion of staff's November 18, 2004 memorandum are appropriate and should be approved 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.

Issue 5: Should The Colinas Group, Inc.'s payment plan of \$200 per month for unpaid 2003 RAFs and associated penalties and interest be accepted?

Recommendation: Yes. Staff recommends approval of the proposed payment plan. The first \$200 payment should be remitted by December 20, 2004. Monthly payments of \$200 should be received by the 20th of every month through June 2005 and one final payment of \$120 should be received by July 20, 2005.

ITEM NO.

CASE

27**

Docket No. 031087-WU - Application for certificate to provide water service in Polk County by The Colinas Group, Inc., receivers for Lazy S Utility Company.

(Continued from previous page)

Issue 6: Should this docket be closed?

Recommendation: Yes. Because no further action is necessary at this time, this docket should be closed. If CGI does not make a payment in accordance with the payment schedule addressed in Issue 4, staff will return to the Commission for enforcement of the payment plan.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

28**Docket No. 040577-WU - Application for transfer of facilities in Osceola County to Tohopekaliga Water Authority and for cancellation of Certificate No. 595-W, by Morningside Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Davidson

Staff: ECR: Clapp, Romig

GCL: Brubaker

Issue 1: Should the transfer of the Morningside water facilities to TOHO and the cancellation of Certificate No. 595-W be approved?

Recommendation: Yes. The transfer of Morningside's water facilities to TOHO should be approved, as a matter of right, pursuant to section 367.071(4)(a), Florida Statutes, and Certificate No. 595-W should be cancelled effective July 29, 2004.

Issue 2: Should this docket be closed?

Recommendation: Yes. No further action need be taken and the docket may be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

29**Docket No. 040702-WU - Application for transfer of water facilities to Broward County, and cancellation of Certificate No. 82-W, by Broadview Park Water Company.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Davidson

Staff: ECR: Johnson, Kaproth

GCL: C. Keating

Issue 1: Should the transfer of Broadview Park Water Company facilities to Broward County be approved?

Recommendation: Yes. The transfer of the Broadview Park Water Company facilities to Broward County should be approved as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. Certificate No. 82-W should be cancelled effective June 22, 2004.

Issue 2: Should this docket be closed?

Recommendation: Yes. Because no further action is necessary, this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

30**Docket No. 040988-WU - Application for transfer of water facilities to Marion County, and cancellation of Certificate No. 485-W, by Quail Meadow Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: ECR: Johnson, Kaproth
GCL: McAuliffe, Helton

Issue 1: Should the transfer of Quail Meadow Utilities, Inc.'s water facilities to Marion County be approved?

Recommendation: Yes. The transfer of Quail Meadow Utilities, Inc.'s water facilities to Marion County should be approved, as a matter of right pursuant to Section 367.071(4)(a), Florida Statutes. Certificate No. 485-W should be cancelled effective September 1, 2004.

Issue 2: Should this docket be closed?

Recommendation: Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of a final order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

31**Docket No. 040534-SU - Application for amendment of Certificate No. 492-S to delete territory in Franklin County by SGI Utility, LLC.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Jaber

Staff: ECR: Johnson, Redemann

GCL: Gervasi

Issue 1: Should the Commission approve SGI Utility, LLC's amendment application to delete its entire service territory and cancel Certificate No. 492-S?

Recommendation: Yes. The Commission should approve SGI Utility, LLC's application to delete its entire service territory and cancel Certificate No. 492-S effective on the date of the Commission vote.

Issue 2: Should the docket be closed?

Recommendation: Yes. Because no further action is necessary, the docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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CASE

32**Docket No. 040818-SU - Application for amendment of Certificate No. 247-S to delete territory in Lee County by North Fort Myers Utility, Inc.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Bradley

Staff: ECR: Rieger
GCL: Fleming

Issue 1: Should the Commission approve NFMU's application to amend Certificate No. 247-S?

Recommendation: Yes. The Commission should approve NFMU's application to amend Certificate No. 247-S to delete a portion of the utility's territory as reflected in Attachment A of staff's November 18, 2004 memorandum.

Issue 2: Should this docket be closed?

Recommendation: Yes. If staff's recommendation in Issue 1 is approved, this docket should be closed upon the issuance of a final order.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

ITEM NO.

CASE

33**Docket No. 020945-SU - Application for transfer of Certificate No. 473-S in Highlands County from Creola, Inc. to Francis I Utility, L.L.C.

Critical Date(s): None

Commissioners Assigned: All Commissioners

Prehearing Officer: Deason

Staff: ECR: Clapp, Rieger, Romig

GCL: Vining

Issue 1: Should the transfer of facilities and Certificate No. 473-S from Creola to Francis I be approved?

Recommendation: Yes. The transfer of facilities and Certificate No. 473-S from Creola to Francis I Utility, L.L.C., is in the public interest and should be approved effective the date of the Commission's vote. Francis I should be responsible for all RAFs and annual reports for 2004 and the future. The territory being transferred is described in Attachment A of staff's November 18, 2004 memorandum.

PAA

Issue 2: What is the rate base of Creola at the time of transfer?

Recommendation: The rate base is \$62,328 for the wastewater system as of August 11, 2003. The utility should be required to provide proof within 60 days of the date of the order that it has set up its books and records using the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) and that adjustments to plant balances have been made to reflect the balances as of August 11, 2003, established pursuant to this order.

PAA

Issue 3: Should an acquisition adjustment be approved?

Recommendation: No. An acquisition adjustment should not be included in the calculation of rate base for transfer purposes.

Issue 4: Should the rates and charges approved for this utility be continued?

Recommendation: Yes. The rates and charges approved for Creola should be continued until authorized to change by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

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CASE

33**

Docket No. 020945-SU - Application for transfer of Certificate No. 473-S in Highlands County from Creola, Inc. to Francis I Utility, L.L.C.

(Continued from previous page)

Issue 5: Should this docket be closed?

Recommendation: No. If no timely protest is received to the proposed agency action issues, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of the statement from the utility's accountant indicating that the utility's books have been adjusted to reflect the Commission-approved rate base adjustments and balances. Upon receipt of the statement, the docket should be administratively closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Deason, Bradley, Davidson

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CASE

34**Docket No. 992015-WU - Application for limited proceeding to recover costs of water system improvements in Marion County by Sunshine Utilities of Central Florida, Inc.

Critical Date(s): None

Commissioners Assigned: Baez, Deason, Bradley

Prehearing Officer: Baez

Staff: GCL: Jaeger

ECR: Merchant, Daniel, Fletcher, Redemann

Issue 1: Should this docket be closed?

Recommendation: Yes. Because the utility has now advised the Commission that it will not proceed with the project for construction of a centralized water treatment plant, this docket should be closed.

DECISION: This item was deferred.