

**MINUTES OF OCTOBER 1, 2002**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:35 p.m.

**ADJOURNED:** 4:25 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  
              August 20, 2002 Regular Commission Conference  
              September 3, 2002 Regular Commission Conference  
              September 6, 2002 Special Commission Conference  
              September 9, 2002 Special Commission Conference

DECISION: The minutes were approved.

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

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ITEM NO. CASE

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2\*\* Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020682-TX	Communications Xchange, LLC
020910-TX	Double Link Communications, Inc.
020801-TX	Adventist Health System/Sunbelt, Inc. d/b/a Florida Hospital Medical Center
020884-TX	City of Quincy d/b/a netquincy d/b/a netquincy.com d/b/a www.netquincy.com
020963-TX	Network Operator Services, Inc.
020866-TX	Granite Telecommunications, LLC

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
020329-TI	NACS Communications, Inc. d/b/a Texcom U.S.A.
020681-TI	Communications Xchange, LLC
020908-TI	Intelecall Communications, Inc.
020886-TI	National Access Long Distance, Inc.
020865-TI	Granite Telecommunications, LLC
020871-TI	Premier Telecom, Inc.
020965-TI	TELEDIAS Communications, Inc.
020946-TI	All-Star Acquisition Corporation

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2**	Consent Agenda  (Continued from previous page)												
PAA	C) Applications for certificates to provide pay telephone service. <table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>020901-TC</td><td>Broman, Inc.</td></tr><tr><td>020906-TC</td><td>Digi Communications, Inc.</td></tr><tr><td>020931-TC</td><td>Chris OConnell</td></tr><tr><td>020763-TC</td><td>D'aroc Corporation, Inc. d/b/a Nova Family Campground</td></tr><tr><td>020958-TC</td><td>Craig A. Pfeffer</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020901-TC	Broman, Inc.	020906-TC	Digi Communications, Inc.	020931-TC	Chris OConnell	020763-TC	D'aroc Corporation, Inc. d/b/a Nova Family Campground	020958-TC	Craig A. Pfeffer
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020901-TC	Broman, Inc.												
020906-TC	Digi Communications, Inc.												
020931-TC	Chris OConnell												
020763-TC	D'aroc Corporation, Inc. d/b/a Nova Family Campground												
020958-TC	Craig A. Pfeffer												
PAA	D) Application for certificate to provide shared tenant services. <table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>020872-TS</td><td>LMG Enterprises, LLC</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020872-TS	LMG Enterprises, LLC								
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>												
020872-TS	LMG Enterprises, LLC												
PAA	E) DOCKET NO. 020900-TP - Request, due to Chapter 11 reorganization plan by U.S. Bankruptcy Court for District of Delaware, for approval of transfer of control of ITC^DeltaCom, Inc., parent company of Interstate FiberNet, Inc. (holder of IXC Certificate No. 4392) and ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom (holder of ALEC Certificate No. 4764 and IXC Certificate No. 2297), from current stockholders to a revised ownership structure including Appaloosa Investment Limited Partnership and Palomino Fund Ltd.												
PAA	F) DOCKET NO. 020890-TI - Request for approval of intracorporate reorganization due to debt restructuring whereby Counsel Springwell Communications LLC, which currently holds 68% indirect interest in WorldxChange Corp. (holder of IXC Cert. No. 7570), will acquire 100% indirect interest in WorldxChange Corp.												

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<u>ITEM NO.</u>	<u>CASE</u>
2**	Consent Agenda  (Continued from previous page)
PAA	G) DOCKET NO. 020845-TP - Request for approval of pro forma intracorporate restructuring whereby Florida Digital Network, Inc. (holder of ALEC Certificate No. 5715 and IXC Certificate No. 7048) will merge with M/C Venture Southern Lending Corp., both subsidiaries of M/C Venture Partners, with FDN as surviving entity.
PAA	H) DOCKET NO. 020873-TX - Request for cancellation of ALEC Certificate No. 7791 by Telseon Carrier Services, Inc., effective 8/8/02.

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

DECISION: The recommendation was approved.

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

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3\*\*

Docket No. 010774-TP - Petition of The Citizens of the State of Florida to initiate rulemaking which will require telephone companies to give customers reasonable notice before customers incur higher charges or change in services, and allow them to evaluate offers for service from competing alternative providers.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission  
Prehearing Officer: Deason

Staff: GCL: Cibula, Brown  
CAF: Durbin  
CMP: Moses  
ECR: Hewitt

ISSUE 1: Should the Commission propose the adoption of Rule 25-4.1105, Florida Administrative Code, entitled Notice to Customers Prior to Increase in Rates or Charges, and the amendment of Rules 25-24.490 and 25-24.845, Florida Administrative Code, both entitled Customer Relations; Rules Incorporated?

RECOMMENDATION: Yes. The Commission should propose the adoption of staff's version of Rule 25-4.1105, Florida Administrative Code, and propose the amendment of Rules 25-24.490 and 25-24.845, Florida Administrative Code, as set forth in Attachment A of staff's September 19, 2002 memorandum.

ITEM NO.

CASE

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3\*\*

Docket No. 010774-TP - Petition of The Citizens of the State of Florida to initiate rulemaking which will require telephone companies to give customers reasonable notice before customers incur higher charges or change in services, and allow them to evaluate offers for service from competing alternative providers.

(Continued from previous page)

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

RECOMMENDATION: Yes. The docket should be closed if no requests for hearing or comments are filed.

DECISION: The recommendations were approved with the modifications to the proposed rule (Attachment A) listed below.

- Page 19, line 6, change the word "telecommunications" to "IXCs"
- Page 19, line 10, after the word "affected", insert "residential and single-line business"
- Page 20, line 6, delete the words "signed by the subscriber", and insert after the word "specifically" on line 7 "and conspicuously"

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

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4\*\*

Docket No. 020644-TP - Proposed amendment of Rules 25-4.036, F.A.C., Design and Construction of Plant; 25-24.515, F.A.C., Pay Telephone Service; and 25-24.585, Rules Incorporated.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission

Prehearing Officer: Palecki

Staff: GCL: Cibula

CMP: Kennedy, Lewis

ECR: Hewitt

ISSUE 1: Should the Commission propose the amendment of Rule 25-4.036, Florida Administrative Code, Design and Construction of Plant, to incorporate the most recent edition of the National Electrical Code and the National Electrical Safety Code; propose the amendment of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service, to incorporate the most recent edition of the American National Standards Institute's Accessible and Usable Buildings and Facilities Standards and incorporate the National Electrical Code and the National Electrical Safety Code; and propose the amendment of Rule 25-24.585, Florida Administrative Code, Rules Incorporated, to incorporate the National Electrical Code and the National Electrical Safety Code?

RECOMMENDATION: Yes. The Commission should propose the amendment of Rules 25-4.036, 25-24.515, and 25-24.585, Florida Administrative Code.

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

RECOMMENDATION: Yes. The docket should be closed if no requests for hearing or comments are filed.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
5	<p>Docket No. 020595-TL - Complaint of J. Christopher Robbins against BellSouth Telecommunications, Inc. for violation of Rule 25-4.073(1)(c), F.A.C., Answering Time.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: GCL: Dodson CMP: Buys, McDonald</p> <p><u>ISSUE 1</u>: Should the Commission grant BellSouth's Motion to Dismiss? <u>RECOMMENDATION</u>: Yes. The Commission should grant BellSouth's Motion to Dismiss. The Petitioner has failed to state a cause of action upon which relief can be granted.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: If the Commission approves staff's recommendation on Issue 1, this docket should be closed since no further action would be required. If the Commission denies staff's recommendation on Issue 1, this docket should remain open pending further proceedings.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>



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6\*\*

Docket No. 020898-EQ - Petition by Cargill Fertilizer, Inc. for permanent approval of self-service wheeling to, from, and between points within Tampa Electric Company's service area.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: GCL: Gervasi  
ECR: Haff, E. Draper

ISSUE 1: Should TECO's Motion for an Extension of Time in Which to Respond to the Motion to Continue Self-Service Wheeling be granted?

RECOMMENDATION: Yes. The Motion for an Extension of Time should be granted.

DECISION: The recommendation was approved.

ISSUE 2: Should Cargill's Motion to Strike Conclusions Not Supported in the Record be granted?

RECOMMENDATION: Cargill's Motion to Strike Conclusions Not Supported in the Record need not be ruled upon, since the Uniform Rules of Procedure do not authorize a movant to reply to a response to a motion. If the Commission were to choose to consider this filing a Motion, staff would recommend that the Motion to Strike should be denied.

DECISION: The recommendation was approved.

ISSUE 3: Should Cargill's Motion to Continue Self-Service Wheeling of Waste Heat Cogenerated Power During Resolution of Petition for Permanent Approval be granted?

RECOMMENDATION: No. The Motion to Continue Self-Service Wheeling should be denied.

DECISION: The recommendation was approved with modification. Based on submission of Cargill's corporate undertaking and proposal for guaranteeing cost effectiveness, staff's oral modification to approve Cargill's motion was approved.

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6\*\*

Docket No. 020898-EQ - Petition by Cargill Fertilizer, Inc. for permanent approval of self-service wheeling to, from, and between points within Tampa Electric Company's service area.

(Continued from previous page)

ISSUE 4: Should Cargill's Request for Expedited Treatment of its Petition for Permanent Approval of Self-Service Wheeling Program be granted?

RECOMMENDATION: Yes. Cargill's Request for Expedited Treatment should be granted and the Petition for Permanent Approval of Self-Service Wheeling Program should be scheduled directly for hearing, thereby eliminating the PAA process, in order to reach a final decision on the merits of the Petition as soon as practicable.

DECISION: The recommendation was approved.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending a decision on the Petition for Permanent Approval of Self-Service Wheeling Program and Request for Expedited Treatment.

DECISION: The recommendation was approved.

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

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6A                   Docket No. 020262-EI - Petition to determine need for an electrical power plant in Martin County by Florida Power & Light Company.  
Docket No. 020263-EI - Petition to determine need for an electrical power plant in Manatee County by Florida Power & Light Company.

Critical Date(s):   Hearing begins October 2, 2002.

Commissioners Assigned:   Full Commission  
Prehearing Officer:        Deason

Staff:   GCL:   Brown  
          ECR:   Haff

ISSUE 1:   Should the Commission grant the Florida Action Coalition Team's Motion for Reconsideration to the Full Commission?

RECOMMENDATION:   No.   The Commission should deny the motion for reconsideration.   The Prehearing Officer's Order compelling discovery from FACT made no mistake of fact or law, and constituted a reasonable exercise of discretion and authority to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of the case.

ISSUE 2:   Should these dockets be closed?

RECOMMENDATION:   No.   The dockets should remain open.

DECISION:   The recommendations were approved.

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

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7\*\*PAA

Docket No. 020649-TP - Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., for purchase by Cypress Communications Operating Company, Inc. (holder of IXC Cert. No. 8177) of long distance customer base in shared tenant service locations in Tampa and Miami from Intermedia Communications, Inc. (holder of IXC Cert. No. 1565 and STS Cert. No. 4448), Access Network Services, Inc. (holder of STS Cert. 1669), and MCI WorldCom Communications, Inc. (holder of IXC Cert. No. 1528 and STS Cert. No. 3497); and request for transfer of STS Cert. No. 7449 from Cypress Communications, Inc. d/b/a Cypress Communications of South Florida, Inc. to Cypress Communications Operating Company, Inc.

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 long distance customers in shared tenant service locations in Tampa and Miami from Intermedia Communications, Inc., Access Network Services, Inc., and MCI WorldCom Communications, Inc. to Cypress Communications Operating Company, Inc.?

RECOMMENDATION: Yes.

ISSUE 2: Should the Commission approve the transfer of Shared Tenant Service Certificate No. 7449 from Cypress Communications, Inc. d/b/a Cypress Communications of South Florida, Inc. to Cypress Communications Operating Company, Inc.?

RECOMMENDATION: Yes.

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7\*\*PAA

Docket No. 020649-TP - Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., for purchase by Cypress Communications Operating Company, Inc. (holder of IXC Cert. No. 8177) of long distance customer base in shared tenant service locations in Tampa and Miami from Intermedia Communications, Inc. (holder of IXC Cert. No. 1565 and STS Cert. No. 4448), Access Network Services, Inc. (holder of STS Cert. 1669), and MCI WorldCom Communications, Inc. (holder of IXC Cert. No. 1528 and STS Cert. No. 3497); and request for transfer of STS Cert. No. 7449 from Cypress Communications, Inc. d/b/a Cypress Communications of South Florida, Inc. to Cypress Communications Operating Company, Inc.

(Continued from previous page)

ISSUE 3: 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

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8\*\*PAA

Docket No. 020891-TP - Petition for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., by MCI WorldCom Communications, Inc. for transfer of multi-service customers from Intermedia Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Pruitt  
GCL: Dodson

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 multi-service customers from Intermedia Communications, Inc. to MCI WorldCom Communications, 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

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9\*\*PAA

Docket No. 020319-TX - Application for certificate to provide alternative local exchange telecommunications service by Commodity Partners Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Pruitt  
GCL: Teitzman

ISSUE 1: Should the Commission grant Commodity Partners Inc. a certificate to provide alternative local exchange telecommunications service within the state of Florida as provided by Section 364.337, Florida Statutes?

RECOMMENDATION: No. Commodity Partners Inc. should not be granted an alternative local exchange telecommunications certificate to operate in Florida.

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

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10\*\*PAA

Docket No. 020645-TI - Compliance investigation of UKI Communications, Inc. for apparent violation of Rules 25-4.118, F.A.C., Local, Local Toll, and Toll Provider Selection; and 25-22.032(5)(a), F.A.C., Customer Complaints.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: M. Watts  
CAF: Lowery  
GCL: Elliott

ISSUE 1: Should the Commission impose a penalty on UKI Communications, Inc. of \$10,000 per apparent violation, for a total of \$1,620,000, for 162 apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection?

RECOMMENDATION: Yes. The Commission should impose a penalty on UKI Communications, Inc. of \$10,000 per apparent violation, for a total of \$1,620,000, for 162 apparent violations of Rule 25-4.118, Florida Administrative Code. 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 if payment of the penalty is not received within 14 calendar days after the issuance of the Consummating Order, then Certificate No. 7332 should be canceled administratively. If UKI's certificate is cancelled in accordance with the Commission's Order from this recommendation, UKI should be required to immediately cease and desist providing IXC telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

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



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10\*\*PAA

Docket No. 020645-TI - Compliance investigation of UKI Communications, Inc. for apparent violation of Rules 25-4.118, F.A.C., Local, Local Toll, and Toll Provider Selection; and 25-22.032(5)(a), F.A.C., Customer Complaints.

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receipt of the payment of the penalty, or upon cancellation of Certificate No. 7332 if the penalty is not paid within fourteen calendar days after issuance of the Consummating Order.

DECISION: This item was deferred.

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<u>ITEM NO.</u>	<u>CASE</u>
11**PAA	<p>Docket No. 020667-TI - Compliance investigation of AmericanFone, LLC for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Buys GCL: Knight</p> <p><u>ISSUE 1</u>: Should the Commission accept the settlement offer proposed by AmericanFone, LLC to resolve the apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?</p> <p><u>RECOMMENDATION</u>: Yes. The Commission should accept the settlement offer proposed by AmericanFone, LLC to contribute \$2,500 for each apparent rule violation, for a total of \$5,000, to the State General Revenue Fund to resolve the apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. If the Commission's Order is not protested, the contribution should be received by the Commission within fourteen calendar days from the issuance date of the Consummating Order and should identify the docket number and company name. The contribution should be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund. If the contribution is not received within fourteen calendar days after the issuance of the Consummating Order, Certificate No. 7422 should be cancelled. If Certificate No. 7422 is cancelled, the company should be required to immediately cease and desist providing interexchange telecommunications service in Florida.</p>

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<u>ITEM NO.</u>	<u>CASE</u>
11**PAA	Docket No. 020667-TI - Compliance investigation of AmericanFone, LLC for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. This docket should then be closed administratively upon either receipt of the company's monetary contribution or upon cancellation of Certificate No. 7422.

DECISION: The recommendations were approved.

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

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12\*\*PAA

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

Docket No. 020599-TX - Budget Comm  
Docket No. 020601-TX - Eureka Telecom, L.L.C.  
Docket No. 020602-TX - Evolution Networks South, Inc.  
Docket No. 020605-TX - Soapstone Telecom LLC  
Docket No. 020620-TX - Direct2Internet Corp.  
Docket No. 020623-TX - David A. McGuire d/b/a Simply Communications  
Docket No. 020625-TX - Lyxom, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: Elliott, Knight, Teitzman, Dodson

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A of staff's September 19, 2002 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A 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 the Commission's Order is not protested and the penalty and regulatory assessment fees, including statutory penalty and interest charges, are not received, the certificate numbers listed on Attachment A should be cancelled administratively and the collection of the past due fees should be referred

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12\*\*PAA

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

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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 alternative local exchange telecommunications service 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 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

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13\*\*PAA

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

Docket No. 020627-TX - Vitcom Corporation

Docket No. 020628-TX - North County Communications Corporation

Docket No. 020634-TX - NTERA, Inc.

Docket No. 020635-TX - Miketronics, Inc.

Docket No. 020636-TX - Universal Beepers Express, Inc. d/b/a Universal Wireless

Docket No. 020637-TX - US Telecom Services, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Dodson, Teitzman

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A of staff's September 19, 2002 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A 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 the Commission's Order is not protested and the penalty and regulatory assessment fees, including statutory penalty and interest charges, are not received, the certificate numbers listed on Attachment A should be cancelled administratively and the collection of the past due fees should be referred

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13\*\*PAA

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

(Continued from previous page)

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 alternative local exchange telecommunications service 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 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

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14\*\*PAA

Cancellation by Florida Public Service Commission of ALEC certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Rules Incorporated.

Docket No. 020600-TX - Ntegrity Telecontent Services Inc.

Docket No. 020603-TX - Sigma Networks Telecommunications, Inc.

Docket No. 020621-TX - Telicor Inc.

Docket No. 020624-TX - Broadband2Wireless US, Inc.

Docket No. 020626-TX - NxGen Networks, Inc.

Docket No. 020629-TX - Zephion Networks Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Elliott, Teitzman, Knight, Dodson

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A of staff's September 19, 2002 memorandum for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A 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 the Commission's Order is not protested and the penalty and regulatory assessment fees, including statutory penalty and interest charges, are not received, the certificate numbers listed on Attachment A should be cancelled administratively and the collection of the past due fees should be referred



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14\*\*PAA

Cancellation by Florida Public Service Commission of ALEC certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Rules Incorporated.

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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 alternative local exchange telecommunications service in Florida.

ISSUE 2: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A of staff's September 19, 2002 memorandum for apparent violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A if the information required by Rule 25-24.835, Florida Administrative Code, Rules Incorporated, and penalty 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 the Commission's Order is not protested and the penalty and required information are not received, the certificate numbers listed on Attachment A should be cancelled administratively. 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 alternative local exchange telecommunications service in Florida.

ISSUE 3: 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

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14\*\*PAA

Cancellation by Florida Public Service Commission of ALEC certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Rules Incorporated.

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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 receipt of the penalties, fees, and required 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

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15\*\*

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

Docket No. 020632-TX - New Connects, Inc.

Docket No. 020633-TX - Globcom, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Knight, Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by each company listed on Attachment A of staff's September 19, 2002 memorandum to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept each company's settlement proposal, including a voluntary payment of \$100, which was submitted with each company's settlement proposal, to resolve the issues in these dockets. 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.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, these dockets should be closed.

DECISION: The recommendations were approved.

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

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16\*\*PAA

Docket No. 020604-TX - Bankruptcy cancellation by Florida Public Service Commission of ALEC Certificate No. 7681 issued to Sphera Optical Networks N.A., Inc. d/b/a Sphera Networks effective 8/6/02.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: Dodson

ISSUE 1: Should the Commission grant Sphera Optical Networks N.A., Inc. d/b/a Sphera Networks' request for cancellation of its ALEC Certificate No. 7681 due to bankruptcy?

RECOMMENDATION: Yes. The Commission should grant the company a bankruptcy cancellation of its ALEC Certificate No. 7681 with an effective date of August 6, 2002. In addition, the Division of the Commission Clerk & Administrative Services will be notified that the 2001 and 2002 RAFs, including statutory penalty and interest charges for the year 2001, 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 certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing alternative local exchange telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
17**	<p>Docket No. 020001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: ECR: Bohrmann GCL: C. Keating</p> <p><u>ISSUE 1</u>: Should the Commission acknowledge Gulf Power Company's projected 2002 under-recovery of fuel and purchased power costs? <u>RECOMMENDATION</u>: Yes. The Commission should consider Gulf Power's projected 2002 under-recovery of fuel and purchased power costs at the November 2002 evidentiary hearing in this docket.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No.</p>

DECISION: The recommendations were approved.

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

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18\*\*PAA

Docket No. 020943-EI - Petition for approval of Agreement for Purpose of Ensuring Compliance with Ozone Ambient Air Quality Standards between Gulf Power Company and Florida Department of Environmental Protection pursuant to Section 366.8255(1)(d)7, F.S., for purposes of cost recovery of related expenditures and expenses through environmental cost recovery clause.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Deason

Staff: ECR: Breman, D. Lee, P. Lee, Gardner  
GCL: Stern

ISSUE 1: Should the Commission approve Gulf's implementation of the Agreement as a new activity for cost recovery through the ECRC?

RECOMMENDATION: Yes. In addition, Gulf should submit a Plant Crist depreciation and dismantlement study within 90 days of the issuance of a Consummating Order in this docket to reflect the changes in planning for the embedded investments.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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19\*\*PAA

Docket No. 020726-EI - Petition for approval of new environmental program for cost recovery through environmental cost recovery clause by Tampa Electric Company.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Palecki

Staff: ECR: Breman, D. Lee  
GCL: Stern

ISSUE 1: Should the Commission approve TECO's proposed Polk NOx Program as a new project for cost recovery through the ECRC?

RECOMMENDATION: Yes.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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20\*\*PAA

Docket No. 020897-EG - Petition for extension of Conservation Research and Development Program by Florida Power & Light Company.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: ECR: Colson  
GCL: Holley

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

RECOMMENDATION: Yes. The CRD Program extension should be approved. The cap of \$1,500,000 will remain. FPL has spent approximately \$500,000 to date for the CRD Program.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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



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21\*\*

Docket No. 010156-WU - Application for increase in service availability charges for water customers in the Seven Springs service area in Pasco County by Aloha Utilities, Inc.

Critical Date(s): 10/1/02 (8-month effective date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

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

ISSUE 1: Should the Seven Springs water system temporary plant capacity charge be made final?

RECOMMENDATION: Yes. The temporary plant capacity charge of \$1,000 per ERC is reasonable and should be approved. For all non-residential customers, the recommended plant capacity charge should be \$3.333 per gallon. These recommended charges should be based on 300 gallons per day (gpd) per ERC. If there is no timely protest to the Commission's Order by a substantially affected person, the utility should file the appropriate revised tariff sheets and a proposed notice within twenty days of the date of the Order consummating the Order. The revised tariff sheets should be approved administratively upon staff's verification that the tariffs are consistent with the Commission's decision and the utility's proposed notice is adequate. If the revised tariff sheets are approved, the service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(2), Florida Administrative Code, provided that appropriate notice has been made. 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. If there is a protest of the Commission's Order, the utility should continue collection of the \$1,000 charge subject to refund and

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21\*\*

Docket No. 010156-WU - Application for increase in service availability charges for water customers in the Seven Springs service area in Pasco County by Aloha Utilities, Inc.

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continue escrowing the difference between \$163.80 and \$1,000.

ISSUE 2: Should the Commission release the funds escrowed which were secured pursuant to Orders Nos. PSC-00-1285-FOF-WS and PSC-02-0593-FOF-WU?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1 and there is no protest, the Commission should release all escrowed service availability funds for the Seven Springs water system, and the escrow account should be closed.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on the previous issues and no timely protests on those issues are received upon expiration of the protest period, the Order on the service availability charges will become final upon the issuance of a Consummating Order. Once staff has verified that the utility's revised tariff sheets are consistent with the Commission's decision and that the appropriate notice has been made, this docket should be closed administratively. If a timely protest is filed, staff recommends the following: 1) the docket should remain open pending the resolution of the protest; 2) the utility should continue to escrow the difference between the previous plant capacity charge of \$163.80 per ERC and the temporary charge of \$1,000 per ERC; and 3) the utility should continue to provide a report by the 20th day of each month indicating the monthly and total amount of service availability charges collected subject to refund as of the end of the preceding month, pursuant to Rule 25-30.360(6), Florida Administrative Code.

DECISION: The recommendations were approved.

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

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22\*\*PAA

Docket No. 011189-WS - Investigation into the authorized return on equity of Alafaya Utilities, Inc. in Seminole County; Lake Groves Utilities, Inc. in Lake County; Miles Grant Water and Sewer Company in Martin County; and Utilities, Inc. of Longwood in Seminole County. (Deferred from February 5, 2002 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Jones, Merchant  
GCL: Holley

ISSUE 1: Should the Commission, on its own motion, conduct a limited proceeding in order to update the authorized return on equity for Alafaya, Lake Groves, Miles Grant and Longwood?

RECOMMENDATION: Yes. Each utility's authorized ROE should be updated in order to establish a more appropriate return on a going-forward basis.

ISSUE 2: What is the appropriate ROE for Alafaya, Lake Groves, Miles Grant, and Longwood?

RECOMMENDATION: The appropriate ROE for each utility should be 10.94%, with a range of 9.94% to 11.94%, based on the current 2002 leverage formula. This recommended ROE should be effective as of the date the Commission's proposed agency action (PAA) order is final and should be applied to any future proceedings of each utility, including, but not limited to, price index rate adjustments, interim rates, and overearnings.

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22\*\*PAA

Docket No. 011189-WS - Investigation into the authorized return on equity of Alafaya Utilities, Inc. in Seminole County; Lake Groves Utilities, Inc. in Lake County; Miles Grant Water and Sewer Company in Martin County; and Utilities, Inc. of Longwood in Seminole County. (Deferred from February 5, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose interests are substantially affected by the proposed action files a protest within the 21-day protest period, the PAA order will become final upon the issuance of a consummating order, upon which the docket should be closed.

DECISION: The recommendations were denied. On the Commission's own motion, this docket is closed.

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

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<u>ITEM NO.</u>	<u>CASE</u>
23**PAA	<p>Docket No. 011451-WS - Investigation of water and wastewater rates for possible overearnings by Plantation Bay Utility Co. in Volusia County.</p> <p>Critical Date(s): 10/8/02 (Statutory deadline for price-index and pass-through.)</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: ECR: Moniz, Davis GCL: Harris</p> <p><u>ISSUE 1</u>: Should the Commission approve a year-end rate base for this utility for the test year rate base ended December 31, 2000 and December 31, 2001? <u>RECOMMENDATION</u>: Yes. The Commission should approve the use of a year-end rate base, for this utility, for the test year ended December 31, 2000, for the purpose of calculating rate base. However, an average test year rate base should be used for the test year ended December 31, 2001.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 2</u>: What portions of Plantation Bay are used and useful? <u>RECOMMENDATION</u>: The water treatment plant is 62% used and useful, the wastewater treatment plant is 29.4% used and useful, and the water distribution system and wastewater collection systems are 100% used and useful.</p> <p><u>DECISION</u>: The recommendation was approved.</p> <p><u>ISSUE 3</u>: Did Plantation Bay earn above the range of its authorized return for the test year ended December 31, 2000? <u>RECOMMENDATION</u>: Yes. Plantation Bay's revenues exceeded the range of its recommended rate of return of 11.12%, by \$36,531 for water and by \$14,911 for wastewater for the test year ended December 31, 2000.</p> <p><u>DECISION</u>: The recommendation was approved.</p>

<u>ITEM NO.</u>	<u>CASE</u>
23**PAA	Docket No. 011451-WS - Investigation of water and wastewater rates for possible overearnings by Plantation Bay Utility Co. in Volusia County.

(Continued from previous page)

ISSUE 4: Did Plantation Bay earn above the range of its authorized rate of return for the average test year ended December 31, 2001?

RECOMMENDATION: Yes. Plantation Bay's water earnings for the average test year ended December 31, 2001, exceeded its authorized rate of return of 11.09%, by \$16,139 (or 6.67%). However, its wastewater earnings fell below the range of the range of its authorized rate of return by \$8,693.

DECISION: The recommendation was approved.

ISSUE 5: Did Plantation Bay earn above the range of its authorized return for the interim collection test period?

RECOMMENDATION: No. Plantation Bay earnings for the interim test period were below its authorized rate of return for both water and wastewater.

DECISION: The recommendation was approved.

ISSUE 6: Should the utility be ordered to refund its price index and pass-through rate adjustments that were implemented January 1, 2000?

RECOMMENDATION: Yes. The utility should be required to make refunds in the amount of ~~\$32,618~~ \$23,925 for water and ~~\$9,018~~ \$7,746 for wastewater for the test years ended December 31, 2000 and December 31, 2001. These refunds should be made with interest as required by Rule 25-30.360(4), Florida Administrative Code, within 90 days of the effective date of the Consummating Order. The utility should be required to submit the proper refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The refund should be made to customers of record as of the date of the Consummating Order pursuant to Rule 25-30.360(3), Florida Administrative Code.

<u>ITEM NO.</u>	<u>CASE</u>
23**PAA	Docket No. 011451-WS - Investigation of water and wastewater rates for possible overearnings by Plantation Bay Utility Co. in Volusia County.

(Continued from previous page)

DECISION: The recommendation was approved with corrections made by staff at the conference.

ISSUE 7: Should Plantation Bay be ordered to refund revenues collected during the interim collection period and should water and wastewater rates be reduced?

RECOMMENDATION: No. The utility earned below the range of its authorized return on equity during the interim collection period. Therefore, the utility should not be required to refund water or wastewater revenues collected under interim rates, and rates should not be reduced. The utility's security bond should also be released.

DECISION: The recommendation was approved.

ISSUE 8: Should the utility's service availability policy be changed to disallow the acceptance of contributed property and to discontinue service availability charges?

RECOMMENDATION: Yes. Plantation Bay's service availability policy should be changed to disallow the acceptance of contributed property as well as to discontinue its service availability charges. However, the meter installation charges as reflected in the utility's water tariff should be continued. If approved, the utility should be required to file revised tariff sheets, which are consistent with the Commission's vote, within thirty days of the issuance date of the Consummating Order. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If the revised tariff sheets are filed and approved, the discontinued service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code.

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<u>ITEM NO.</u>	<u>CASE</u>
23**PAA	Docket No. 011451-WS - Investigation of water and wastewater rates for possible overearnings by Plantation Bay Utility Co. in Volusia County.

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DECISION: The recommendation was approved with the modification that the company will continue collecting service availability charges.

ISSUE 9: 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 the consummating order. However, the docket should remain open for staff to verify that the utility has completed the required refunds and the utility has filed revised tariff sheets and staff has administratively approved them. Once these actions are complete, the docket may be closed administratively.

DECISION: The recommendation was approved.

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



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24\*\*

Docket No. 020831-WS - Rescission by Nassau County of Resolution No. 2001-128, which rescinded Florida Public Service Commission jurisdiction over investor-owned water and wastewater systems in Nassau County.

Docket No. 011344-WS - Resolution No. 2001-128 by Nassau County, in accordance with Section 367.171, F.S., rescinding Florida Public Service Commission jurisdiction over investor-owned water and wastewater systems in Nassau County.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley (020831)  
Administrative (011344)

Staff: ECR: Rieger  
GCL: Gervasi

ISSUE 1: Should the Commission acknowledge Nassau County Resolution No. 2002-130, which returns Commission jurisdiction over investor-owned water and wastewater utilities in Nassau County effective July 15, 2002?

RECOMMENDATION: Yes. The Commission should acknowledge Resolution No. 2002-130, which returns jurisdiction to the Commission over investor-owned water and wastewater utilities in Nassau County effective July 15, 2002.

ISSUE 2: Should the Commission grant Florida Public Utilities Company's request for reactivation of Certificate No. 001-W, authorizing it to provide water service in Nassau County?

RECOMMENDATION: Yes. Florida Public Utilities Company's request for reactivation of Certificate No. 001-W should be granted, and FPUC should be authorized to provide water service in Nassau County in its previously approved service territory at its previously approved rates and charges. Because the certificate was never returned, no grandfather application is necessary. Within 90 days of the issuance date of the order arising from this recommendation, FPUC should be required to file revised tariff sheets reflecting a territory description of its previously approved service area using township, range and section references, pursuant

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24\*\*

Docket No. 020831-WS - Rescission by Nassau County of Resolution No. 2001-128, which rescinded Florida Public Service Commission jurisdiction over investor-owned water and wastewater systems in Nassau County.  
Docket No. 011344-WS - Resolution No. 2001-128 by Nassau County, in accordance with Section 367.171, F.S., rescinding Florida Public Service Commission jurisdiction over investor-owned water and wastewater systems in Nassau County.

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to Rule 25-30.035(9), Florida Administrative Code. Upon verification that the tariff sheets comply with the order arising from this recommendation, an administrative order should be issued reflecting the revised territory description and closing Docket No. 020831-WS. FPUC should also be responsible for paying regulatory assessment fees to the Commission beginning July 15, 2002, the effective date of the transfer of jurisdiction to the Commission, in accordance with Rule 25-30.120, Florida Administrative Code. ISSUE 3: Should Dockets Nos. 011344-WS and 020831-WS be closed?

RECOMMENDATION: Because no further action is necessary in Docket No. 011344-WS, that docket should be closed. Docket No. 020831-WU should remain open to allow FPUC time to revise its tariff to reflect a territory description of its service area using township, range and section references, as recommended in Issue 2. Upon verification that the tariff sheets comply with the order arising from this recommendation, an administrative order should be issued reflecting the revised territory description and Docket No. 020831-WS should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

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25                   Docket No. 010098-TP - Petition by Florida Digital Network, Inc. for arbitration of certain terms and conditions of proposed interconnection and resale agreement with BellSouth Telecommunications, Inc. under the Telecommunications Act of 1996. (Deferred from August 20, 2002 conference; revised recommendation filed.)

Critical Date(s):   None

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

Staff:   CMP:   Dowds  
          GCL:   Banks  
          MMS:   Bethea, Ollila

ISSUE 1:   Should the Motion for Clarification or Reconsideration filed by Florida Digital Network, Inc. be granted?

RECOMMENDATION:   No. FDN has not identified a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision. Therefore, the Motion for Clarification or Reconsideration should be denied.

ISSUE 2:   Should the Motion for Reconsideration or in the Alternative, Clarification filed by BellSouth Telecommunications, Inc. be granted?

RECOMMENDATION:   BellSouth has not identified a point of fact or law which was overlooked or which the Commission failed to consider in rendering its decision. Therefore, the motion for reconsideration should be denied.

          However, staff believes that the Commission envisioned that BellSouth's migration of its FastAccess Internet Service to an FDN customer would be seamless so that an FDN customer's service would not be altered. Consequently, staff recommends that the Commission clarify that BellSouth's migration of its FastAccess Internet Service to an FDN customer should be a seamless transition for a customer changing to FDN's voice service.

ISSUE 3:   Should the Motion to Strike filed by BellSouth Telecommunications, Inc. be granted?

RECOMMENDATION:   No. The Motion to Strike should be denied.

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25

Docket No. 010098-TP - Petition by Florida Digital Network, Inc. for arbitration of certain terms and conditions of proposed interconnection and resale agreement with BellSouth Telecommunications, Inc. under the Telecommunications Act of 1996. (Deferred from August 20, 2002 conference; revised recommendation filed.)

(Continued from previous page)

ISSUE 4: Should the cross-motion for reconsideration filed by Florida Digital Network Inc. be granted?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 3, then the cross-motion should be denied. However, if the Commission denies staff on Issue 3, this issue is rendered moot.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendation in Issues 1, 2, and 4, the parties should be required to file their final interconnection agreement within 30 days after the issuance of the Order from this recommendation, conforming with Order No. PSC-02-0765-FOF-TP, in accordance with Order No. PSC-02-0884-PCO-TP, Order Granting Extension of Time to File Interconnection Agreement. Thereafter, this Docket should remain open pending approval by the Commission of the filed agreement.

DECISION: The recommendations were approved with clarification to Issue 2 as discussed at the conference.

Commissioners participating: Jaber, Deason, Palecki

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CASE

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26\*\*

Docket No. 990054-WU - Application for amendment of Certificate No. 106-W to add and delete territory in Lake County by Florida Water Services Corporation.

Critical Date(s): None

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

Staff: ECR: Redemann  
GCL: Cibula, Crosby

ISSUE 1: Should FWSC be ordered to show cause, in writing, within 21 days, why it should not be fined for serving outside its certificated territory without prior Commission approval in apparent violation of Section 367.045(2), Florida Statutes?

RECOMMENDATION: No. A show cause proceeding should not be initiated.

ISSUE 2: Should Florida Water's amended application for amendment of Water Certificate No. 106-W be granted?

RECOMMENDATION: Yes. Florida Water's amended application to expand and delete territory should be granted. The territory amendment is described in Attachment A of staff's September 19, 2002 memorandum. Attachment B is the resulting complete territory description for Silver Lakes and Western Shores. Florida Water should charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

ISSUE 3: Should this docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Bradley