

MINUTES OF OCTOBER 7, 2003

COMMISSION CONFERENCE

COMMENCED: 9:30 a.m.

ADJOURNED: 11:10 a.m.

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

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

1**PAADocket No. 030526-EU - Joint petition of Tampa Electric Company, IMC Phosphates Company and Progress Energy Florida, Inc. for approval of provision of electric service by Progress Energy Florida, Inc. to certain facilities owned and operated by IMC Phosphates Company in Tampa Electric Company's Commission-approved service territory.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: GCL: Fleming

ECR: Breman

ISSUE 1: Should the Commission approve the joint petition of IMC, TECO, and Progress to allow Progress to serve the new IMC mobile facility?

RECOMMENDATION: Yes. The proposed agreement should become effective the date of the Commission's consummating order approving the agreement.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order. If a protest is filed by a person whose substantial interests are affected within 21 days of the Commission

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CASE

1**PAA

Docket No. 030526-EU - Joint petition of Tampa Electric Company, IMC Phosphates Company and Progress Energy Florida, Inc. for approval of provision of electric service by Progress Energy Florida, Inc. to certain facilities owned and operated by IMC Phosphates Company in Tampa Electric Company's Commission-approved service territory.

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Order approving this agreement, the agreement shall remain in effect pending resolution of the protest and the docket should remain open.

DECISION: The recommendations were approved.

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

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2**PAADocket No. 030808-GU - Petition for approval of amended and restated natural gas transportation service agreement between Indiantown Cogeneration, L.P. and Indiantown Gas Company.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

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

ISSUE 1: Should the Commission approve the Amended and Restated Natural Gas Transportation Service Agreement between Indiantown Cogeneration, L.P. and Indiantown Gas Company?

RECOMMENDATION: Yes. The Commission should approve the Amended and Restated Natural Gas Transportation Service Agreement between Indiantown Cogeneration, L.P. and Indiantown Gas Company, effective the date of the Commission vote in this matter.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Order, this Docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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3**PAADocket No. 030833-TS - Cancellation by Florida Public Service Commission of STS Certificate No. 2293 issued to St. Vincent's Medical Center, Inc., for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission impose a \$500 penalty or cancel St. Vincent's Medical Center, Inc.'s certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: The Commission should impose a \$500 penalty or cancel the company's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission. If the company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, the company's certificate should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing shared tenant service in Florida.

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3**PAA

Docket No. 030833-TS - Cancellation by Florida Public Service Commission of STS Certificate No. 2293 issued to St. Vincent's Medical Center, Inc., for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

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ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

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4**PAADocket No. 030763-TI - Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ133 issued to Communitel, Inc. for violation of Section 364.336, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: McKay

ISSUE 1: Should the Commission grant Communitel, Inc. a voluntary removal from the register of IXC Registration No. TJ133 and cancel its tariff?

RECOMMENDATION: The Commission should grant Communitel, Inc. a voluntary removal from the register of IXC Registration No. TJ133 and cancel its tariff with an effective date of August 28, 2003. If the tariff is cancelled and the company's 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 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 issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order.

DECISION: The recommendations were approved.

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

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5**PAA Cancellation of tariffs and removal from register by Florida Public Service Commission of IXC registrations for violation of Section 364.336, Florida Statutes.

Docket No. 030756-TI - Alternate Communications Technology, Inc.
Docket No. 030757-TI - Eastern Telecommunications Incorporated d/b/a ETI-Telecommunications, Inc.
Docket No. 030761-TI - United States Telecommunications, Inc. d/b/a Tel Com Plus
Docket No. 030770-TI - Maxxis Communications, Inc.
Docket No. 030774-TI - Telemanagement Services, Inc.
Docket No. 030775-TI - Paramount International Telecommunications, Inc. d/b/a R Network
Docket No. 030791-TI - Call Sciences, Inc.
Docket No. 030792-TI - DLC Enterprises, Inc. d/b/a Direct Link Communications, Inc.
Docket No. 030793-TI - TalkingNets Holdings, LLC
Docket No. 030798-TI - Telis Communications Group, Inc.
Docket No. 030799-TI - VOIP Communications, Inc.
Docket No. 030800-TI - ICT Worldwide, Inc.
Docket No. 030801-TI - Centrix Telecom, LLC d/ba CTLLC d/ba CTINC and d/b/a T2TECINC
Docket No. 030802-TI - LightDial, Corp.
Docket No. 030804-TI - MYCOMP INS AGENCY CORP.
Docket No. 030805-TI - Wholesale Carrier Services, Inc.
Docket No. 030819-TI - CeriStar, Inc.
Docket No. 030820-TI - M/C Southern Communications, Inc.
Docket No. 030822-TI - Silverleaf Communications Inc.
Docket No. 030823-TI - con-next Site Solutions, Inc.
Docket No. 030824-TI - Voice Connections, Inc.
Docket No. 030825-TI - THC Merger Corp. d/b/a THC Internet Solutions
Docket No. 030826-TI - ePHONE Telecom, Inc.
Docket No. 030827-TI - All-Star Acquisition Corporation
Docket No. 030831-TI - Stel International, Inc.
Docket No. 030832-TI - Talk and Pay, Inc.
Docket No. 030758-TI - World-Link, Inc.
Docket No. 030764-TI - Single Billing Services, Inc. d/b/a Asian American Association
Docket No. 030785-TI - Communications Billing, Inc.
Docket No. 030787-TI - Natel, L.L.C.

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5**PAA

Cancellation of tariffs and removal from register by Florida Public Service Commission of IXC registrations for violation of Section 364.336, Florida Statutes.

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Docket No. 030794-TI - Summit Telco, L.L.C.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: McKay, Rojas

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective tariff and remove the company from the register, as listed on Attachment A of staff's September 25, 2003 memorandum, for apparent violation of Section 364.336, Florida Statutes?

RECOMMENDATION: The Commission should impose a \$500 penalty or cancel each company's respective tariff and remove the company from the register, as listed on Attachment A of staff's memorandum, for apparent violation of Section 364.336, Florida Statutes, 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. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's tariff should be cancelled and the company removed from the register administratively, as listed on Attachment A, and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment A, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist

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Cancellation of tariffs and removal from register by Florida Public Service Commission of IXC registrations for violation of Section 364.336, Florida Statutes.

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providing intrastate interexchange service in Florida. If any of the companies listed on Attachment A have their respective tariff cancelled and name removed from the register, and subsequently decide to reapply for registration as an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding penalties and RAF, including statutory penalty and interest charges.

ISSUE 2: Should the Commission impose a \$1,000 penalty or cancel each company's respective tariff and remove the company from the register, as listed on Attachment B of staff's September 25, 2003 memorandum, for apparent violation of Section 364.336, Florida Statutes?

RECOMMENDATION: The Commission should impose a \$1,000 penalty or cancel each company's respective tariff and remove the company from the register, as listed on Attachment B of staff's memorandum, for apparent violation of Section 364.336, Florida Statutes, 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. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's tariff should be cancelled and the company removed from the register administratively, as listed on Attachment B, and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment B, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange service in Florida. If any of the companies

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5**PAA

Cancellation of tariffs and removal from register by Florida Public Service Commission of IXC registrations for violation of Section 364.336, Florida Statutes.

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listed on Attachment B have their respective tariff cancelled and name removed from the register, and subsequently decide to reapply for registration as an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding penalties and RAF, including statutory penalty and interest charges.

ISSUE 3: Should these dockets be closed?

RECOMMENDATION: The Orders issued from these recommendations will become final upon issuance of Consummating Orders, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Orders. The dockets should then be closed upon receipt of the penalty and fees or cancellation of each company's tariff and removal from the register of IXC registration. 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, Bradley, Davidson

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CASE

6**PAA Cancellation of tariffs and removal from register by Florida Public Service Commission of IXC registrations for violation of Sections 364.336 and 364.02, Florida Statutes.

Docket No. 030759-TI - Zenex Long Distance, Inc.
Docket No. 030768-TI - IG2, Inc.
Docket No. 030769-TI - U.S. Operators, Inc.
Docket No. 030773-TI - PDS, Inc. d/b/a Phone Debit Systems, Inc.
Docket No. 030777-TI - SATCOM Communication Corporation d/b/a SATCOM Communication
Docket No. 030788-TI - Far East Gateway, Inc.
Docket No. 030797-TI - CityCom Telecommunications, Inc.
Docket No. 030803-TI - Global Business Solutions and Services, Inc.
Docket No. 030762-TI - Omniplex Communications Group, LLC
Docket No. 030771-TI - Comtel Network LLC

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Dodson, Christensen

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each statute violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment A of staff's September 25, 2003 memorandum, for apparent violation of Sections 364.336 and 364.02, Florida Statutes?

RECOMMENDATION: The Commission should impose a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment A of staff's memorandum, for apparent violation of Sections 364.336 and 364.02, Florida Statutes, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the reporting requirements, are not received by the Commission within fourteen (14) calendar days after the

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6**PAA

Cancellation of tariffs and removal from register by Florida Public Service Commission of IXC registrations for violation of Sections 364.336 and 364.02, Florida Statutes.

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issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and reporting requirements are not received, that company's tariff should be cancelled and the company removed from the register administratively, as listed on Attachment A, and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment A, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange service in Florida. If any of the companies listed on Attachment A have their respective tariff cancelled and name removed from the register, and subsequently decide to reapply for registration as an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding penalties and RAF, including statutory penalty and interest charges.

ISSUE 2: Should the Commission impose a total penalty of \$1,500 (\$1,000 for RAFs violation and \$500 for reporting requirements violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment B of staff's September 25, 2003 memorandum, for apparent violation of Sections 364.336 and 364.02, Florida Statutes?

RECOMMENDATION: The Commission should impose a total penalty of \$1,500 (\$1,000 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment B of staff's memorandum, for apparent violation of Sections 364.336 and 364.02,

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6**PAA

Cancellation of tariffs and removal from register by Florida Public Service Commission of IXC registrations for violation of Sections 364.336 and 364.02, Florida Statutes.

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Florida Statutes, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the reporting requirements, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,500 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and reporting requirements are not received, that company's tariff should be cancelled and the company removed from the register administratively, as listed on Attachment B, and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment B, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange service in Florida. If any of the companies listed on Attachment B have their respective tariff cancelled and name removed from the register, and subsequently decide to reapply for registration as an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding penalties and RAF, including statutory penalty and interest charges.

ISSUE 3: Should these dockets be closed?

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

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upon receipt of the penalty and fees or cancellation of each company's tariff and removal from the register of IXC registration. 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, Bradley, Davidson

ITEM NO.

CASE

7**PAADocket No. 030711-EI - Petition of Progress Energy Florida, Inc. for approval of new environmental programs for cost recovery through environmental cost recovery clause.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Davidson

Staff: ECR: Breman, Brinkley, Draper
GCL: Stern, Vining

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

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

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

RECOMMENDATION: Yes. The ASTSC project is required to comply with Rule 62-762.510, Florida Administrative Code, as modified on July 13, 1998. The rule change requires PEF to increase compliance activities. PEF should be allowed to recover prudently incurred costs for compliance with this rule, which are incremental to base rates through the ECRC. The specific amount recoverable will be determined at the November hearings in Docket 030007-EI.

ISSUE 3: Should this docket be closed?

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

DECISION: This item was deferred.

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

Critical Date(s): 10/24/03 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

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

ISSUE 1: Should the Commission suspend proposed tariff revisions which were filed by Progress Energy Florida, Inc. (Progress) as part of the company's petition for approval of its new Standard Offer Contract?

RECOMMENDATION: Yes. The Commission should suspend the tariff revisions proposed by Progress in the Standard Offer Contract.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. The docket should remain open pending a final decision on the petition.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

9Docket No. 030569-GU - Application for rate increase by City
Gas Company of Florida.

Critical Date(s): 10/14/03 (60-day suspension date)
1/15/04 (5-month effective date)

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: ECR: Brinkley, Kaproth, Kenny, Lester, Romig,
Springer, Wheeler, Winters
CMP: Makin
GCL: Jaeger

ISSUE 3: Should the request for a permanent increase in
rates and charges be suspended for City?

RECOMMENDATION: Yes. Staff recommends that the requested
permanent increase in rates and charges of \$10,489,305 be
suspended for City.

ISSUE 4: Is City's proposed interim test year rate base of
\$120,131,684 appropriate?

RECOMMENDATION: No. The appropriate interim test year rate
base for City is \$120,124,181.

ISSUE 3: Is City's proposed interim test year net operating
income of \$6,500,114 appropriate?

RECOMMENDATION: No. The appropriate interim test year net
operating income for City is \$6,964,744.

ISSUE 6: Are City's proposed interim return on equity of
10.50% and overall rate of return of 7.21% appropriate?

RECOMMENDATION: No. The appropriate interim return on
equity is 10.50% and the appropriate overall rate of return
is 7.30%.

ISSUE 5: Is City's proposed interim revenue expansion
factor of 1.6420 appropriate?

RECOMMENDATION: No. City's proposed interim revenue
expansion factor should be 1.6307.

ISSUE 6: Should City's requested interim revenue increase
of \$3,548,987 be granted?

RECOMMENDATION: No. After making the above adjustments,
the interim revenue increase for City should be \$2,942,306.

ISSUE 7: How should the interim revenue increase for City
be distributed among the rate classes?

ITEM NO.

CASE

9 Docket No. 030569-GU - Application for rate increase by
City Gas Company of Florida.

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RECOMMENDATION: Any interim revenue increase authorized should be applied evenly across the board to all rate classes based on their base rate revenues, as required by Rule 25-7.040, Florida Administrative Code, and should be collected on a cents-per-therm basis. The interim rates should be made effective for all meter readings made on or after thirty days from the date of the vote and decision herein.

ISSUE 8: What is the appropriate security to guarantee the amount subject to refund?

RECOMMENDATION: A corporate undertaking in the amount of \$1,968,449 guaranteed by City is appropriate. Interim rate increases are subject to refund with interest, pending a final order in the permanent rate relief request.

ISSUE 9: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to process the revenue increase request of the Company.

DECISION: The recommendations were approved.

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

<u>ITEM NO.</u>	<u>CASE</u>
10**Docket No.	030340-WU - Application for transfer of facilities of Community Water Co-Op, Inc., an exempt utility in Marion County, to Sunshine Utilities of Central Florida, Inc. (holder of Certificate No. 363-W); and for amendment of Certificate No. 363-W to add territory.
	Critical Date(s): None
	Commissioners Assigned: Full Commission Prehearing Officer: Bradley
	Staff: ECR: Clapp, Kaproth, Redemann GCL: Crosby, Helton
	<u>ISSUE 1</u> : Should the transfer of water facilities from Community Water Co-op, Inc. to Sunshine Utilities of Central Florida, Inc., and amendment of Sunshine's service territory be approved?
	<u>RECOMMENDATION</u> : Yes. The transfer of the Community water facilities to Sunshine is in the public interest and should be approved. The effective date of the transfer should be November 1, 2002. Certificate No. 363-W should be amended to include the territory described in Attachment A of staff's September 25, 2003 memorandum. Also, Sunshine should provide copies of the recorded 99-year lease, the recorded assignment of the 99-year lease, and the recorded warranty deed within 30 days of the Commission's Order approving of the transfer.
PAA	<u>ISSUE 2</u> : What is the rate base for Community's water facilities at the time of the transfer?
	<u>RECOMMENDATION</u> : The rate base for the Community water facilities is zero as of November 1, 2002.
PAA	<u>ISSUE 3</u> : Should an acquisition adjustment be approved?
	<u>RECOMMENDATION</u> : No. An acquisition adjustment should not be approved.
	<u>ISSUE 4</u> : What rates and charges should be approved for Community?
	<u>RECOMMENDATION</u> : The existing monthly service rate and service availability charge for customers in Ponderosa Estates should be continued. The tariff sheets reflecting these rates should be effective for services rendered or connections made on or after the stamped approval date.

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10**

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

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ISSUE 5: Should this docket be closed?

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

DECISION: This item was deferred.

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CASE

11Docket No. 020129-TP - Joint petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications objecting to and requesting suspension of proposed CCS7 Access Arrangement tariff filed by BellSouth Telecommunications, Inc. (Issues deferred from February 18, 2003 conference.)

Critical Date(s): None

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

Staff: CMP: Gilchrist, Simmons
GCL: Teitzman, Christensen

ISSUE 8: What is the impact, if any, of BellSouth's CCS7 Access Arrangement Tariff on subscribers? Does such impact, if any, affect whether BellSouth's CCS7 Access Arrangement Tariff should remain in effect?

RECOMMENDATION: Staff recommends that the evidence supports a finding that BellSouth's CCS7 Access Arrangement Tariff would unnecessarily and unreasonably increase costs for competitive carriers that provision their own SS7 networks by requiring that they invest in a system simply to reciprocal bill BellSouth. Staff notes that the Commission determined that CLECs are precluded from providing access in BellSouth's territory for themselves or any other entity where interconnection trunks are employed with BellSouth. Therefore, carriers are practically forced to interconnect with BellSouth's SS7 network. Further, by imposing unnecessary costs and, in effect, unduly discriminating against carriers that provide their own SS7 networks, staff believes that the tariff violates Sections 364.01(4) and 364.10(1), Florida Statutes. Staff believes these impacts should be considered in determining whether BellSouth's tariff should remain in effect.

ISSUE 10: Should BellSouth's CCS7 Access Arrangement Tariff remain in effect? If not, what action(s) should the Florida Public Service Commission take?

RECOMMENDATION: Staff recommends that the evidence supports a finding that BellSouth's CCS7 Access Arrangement tariff should be canceled. BellSouth should be ordered to refund,

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11	Docket No. 020129-TP - Joint petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC^DeltaCom Communications objecting to and requesting suspension of proposed CCS7 Access Arrangement tariff filed by BellSouth Telecommunications, Inc. (Issues deferred from February 18, 2003 conference.)

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on a customer-specific basis, any net increase resulting from applying the present tariff as compared to a revenue-neutral tariff, in which the CCS7 rates would be adjusted and the application of those rates would be limited to carriers that do not have their own SS7 networks. BellSouth should be required to submit a refund plan within 30 days of the Final Order from this recommendation for staff review.

ISSUE 11: If the tariff is to be withdrawn, what alternatives, if any, are available to BellSouth to establish a charge for non-local CCS7 access service pursuant to Florida law?

RECOMMENDATION: Given the limited nature of the record, staff believes there is insufficient support for a Commission decision. However, if the parties to this docket wish to explore alternatives, staff believes an informal staff workshop could be held for this purpose.

ISSUE 12: Should the docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 10, then the docket should remain open to address the refunds. BellSouth should be required to submit a refund plan within 30 days of the Final Order from this recommendation for staff review. If BellSouth satisfactorily completes the refunds in accordance with its plan, this docket should be closed administratively. However, if the Commission denies staff's recommendation on Issue 10, then the docket should be closed upon expiration of the appeals period.

DECISION: This item was deferred.