

MINUTES OF OCTOBER 21, 2003

COMMISSION CONFERENCE

COMMENCED: 9:35 a.m.

ADJOURNED: 1:40 p.m.

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

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

1Approval of Minutes

September 16, 2003 Regular Commission Conference

DECISION: The minutes were approved.

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

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ITEM NO. CASE

2**Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030861-TX	ALEC, Inc.
030925-TX	Sail Networks Inc.
030926-TX	Andre Trajean Fidel d/b/a Andrex Telecom
030896-TX	EveryCall Communications, Inc.

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030906-TC	Coast Communication & Multi- Service Corporation

PAA C) Application for certificate to provide shared tenant services.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
030880-TS	Jerome I. Davis

D) Docket No. 030942-GU - Application by Florida Division of Chesapeake Utilities Corporation for authority to issue and sell during 2004 up to six million shares of common stock, up to one million shares of preferred stock, up to \$80 million in secured and/or unsecured debt; to enter into agreements for interest rate swap products; and to obtain authorization to exceed the limitation placed on short-term borrowings by Section 366.04, Florida Statutes, so as to issue short-term obligations in 2004, in an amount not to exceed \$40 million.

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2**

Consent Agenda

(Continued from previous page)

RECOMMENDATION: The Commission should approve the action requested in the dockets referenced above and close these dockets, with the exception of Docket No. 030942-GU, which must remain open for monitoring purposes.

DECISION: The recommendation was approved.

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

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ITEM NO.

CASE

3**Docket No. 030697-WS - Proposed adoption of Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in Application for Limited Proceeding, and Rule 25-30.446, F.A.C., Notice of and Public Information for Application for Limited Proceeding Rate Increase. (Deferred from September 30, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission
Prehearing Officer: Davidson

Staff: GCL: Cibula, Gervasi
ECR: Merchant, Hewitt, Rendell

ISSUE 1: Should the Commission propose the adoption of Rule 25-30.445, Florida Administrative Code, entitled General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding, and Rule 25-30.446, Florida Administrative Code, entitled Notice of and Public Information for Application for Limited Proceeding Rate Increase?

RECOMMENDATION: Yes. The Commission should propose the adoption of Rules 25-30.445 and 25-30.446, Florida Administrative Code.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

4**PAADocket No. 030623-EI - Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Davidson

Staff: GCL: C. Keating
AUS: Mills, Ruehl
ECR: Floyd, Kummer, Matlock, Wheeler

ISSUE 1: What is the appropriate method for determining the meter error to be used in calculating refunds due to FPL customers who formerly used Type 1V thermal demand meters that over-registered demand outside of tolerance?

RECOMMENDATION: The single point percent error determined by testing the meter at 80% of full scale should be used in calculating any refund. If the kilowatt error divided by the full-scale kilowatt value is greater than four percent, the customer should receive a refund. The percent error obtained through testing the meter at 80% of full scale should be applied to the actual billing demands to determine the appropriate refund.

ISSUE 2: Should FPL be required to backbill customers who formerly used Type 1V thermal demand meters that under-registered billing demand outside of tolerance?

RECOMMENDATION: No. Single-account customers should not be backbilled for Type 1V meters that under-registered billing demand unless there is evidence of meter tampering or fraud. However, net billing (netting) should be applied for customers with multiple accounts. Multiple-account customers should not be backbilled for any net under-registration. Netting should not apply to multiple-account customers who requested refereed meter tests for specific meters before October 22, 2002.

ISSUE 3: What percent error should be used in calculating a refund for the specific meter identified in SUSI's January 24, 2003, complaint on behalf of one Target account?

<u>ITEM NO.</u>	<u>CASE</u>
4**PAA	<p>Docket No. 030623-EI - Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error.</p> <p>(Continued from previous page)</p> <p><u>RECOMMENDATION</u>: Staff recommends that 6.7 percent be used as the appropriate percent error to calculate a refund for this meter.</p> <p><u>ISSUE 4</u>: Over what time period should refunds be calculated for customers who formerly used Type 1V meters that over-registered demand outside of tolerance?</p> <p><u>RECOMMENDATION</u>: Refunds should be calculated over the 12-month period prior to removal of the Type 1V meter. This procedure should also be used to calculate the refund recommended for the meter discussed in Issue 3.</p> <p><u>ISSUE 5</u>: What interest rate should be used, if any, in calculating the refunds?</p> <p><u>RECOMMENDATION</u>: Interest should be assessed on the refunded amount and should be calculated in accordance with Rule 25-6.109, Florida Administrative Code.</p> <p><u>ISSUE 6</u>: Which rate schedule should be applied to calculate refunds for customers who formerly used Type 1V meters that over-registered demand outside of tolerance?</p> <p><u>RECOMMENDATION</u>: To calculate the refunds, the same rate schedule under which the accounts were originally billed through the defective meters should be applied.</p> <p><u>ISSUE 7</u>: Should this docket be closed?</p> <p><u>RECOMMENDATION</u>: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.</p>

DECISION: The recommendations were approved with modification to Issue 1 that the "Floyd" methodology, which is the calculated absolute percentage error based upon the average calculation for the lowest and highest demand during the refund period, be used.

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

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5**Docket No. 021051-EI - Complaint of The Links Homeowners Association, Inc. against Tampa Electric Company, request for investigation, and request for determination that The Links is not responsible for monies TECO claims are due and owing. (Deferred from April 15, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: GCL: Holley
ECR: Kummer

ISSUE 1: Should the Commission find that The Links is responsible for monies that TECO claims are due and owing?
RECOMMENDATION: Yes. The Commission should find that The Links is responsible for the amount of \$8,874.19 owed to TECO for lighting service provided to the community for the period of March 1999 through October 2001.

ISSUE 2: Should this docket be closed?
RECOMMENDATION: Yes. If the Commission approves staff's recommendation, this docket should be closed upon the issuance of a consummating order, provided that no substantially affected person files a protest within 21 days of the issuance of the Order.

DECISION: The recommendations were approved with the clarification that the order is to be issued as PAA.

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

ITEM NO.

CASE

6**PAA Docket No. 001503-TP - Cost recovery and allocation issues
for number pooling trials in Florida.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Baez

Staff: CMP: Ileri, Casey

GCL: Christensen

ISSUE 1: What is the Florida Public Commission's jurisdiction regarding cost recovery of state-mandated pooling trials?

RECOMMENDATION: Staff recommends that the Florida Public Service Commission has authority regarding cost recovery of state-mandated pooling trials granted pursuant to Section 251(e) of the Telecommunications Act of 1996, and Sections 364.01, and 364.16(4), Florida Statutes.

ISSUE 2: Does Sprint's cost recovery petition for state-mandated number pooling trials comply with the filing requirements established pursuant to FPSC Order No. PSC-02-0466-PAA-TP?

RECOMMENDATION: Yes. Staff recommends that Sprint's cost recovery petition for state-mandated number pooling trials complies with the filing requirements established pursuant to FPSC Order No. PSC-02-0466-PAA-TP.

ISSUE 3: Should Sprint be allowed to recover its requested carrier-specific costs of \$1,515,000 associated with implementing state-mandated pooling trials?

RECOMMENDATION: No. Staff recommends that Sprint should be allowed to recover carrier-specific costs of \$627,734 associated with implementing its state-mandated pooling trials.

ISSUE 4: If the FPSC approves cost recovery for Sprint for state-mandated number pooling trials, how should Sprint recover its carrier-specific costs associated with state-mandated number pooling trials?

RECOMMENDATION: If the FPSC approves cost recovery for Sprint for state-mandated number pooling trials, staff recommends that Sprint recover its costs through a one-time charge assessed on all of Sprint's Florida end-user lines in

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6**PAA

Docket No. 001503-TP - Cost recovery and allocation issues for number pooling trials in Florida.

(Continued from previous page)

service as of June 30, 2003 excluding Lifeline access lines. Equivalency factors regarding end-user lines should be the same as those used for local number portability cost recovery. Sprint should submit its final calculation of the end-user line charge to staff at least 30 days prior to putting any assessment on customer bills. Staff should be allowed to approve the calculation of the final assessment administratively; however, any material difference between the estimated one-time charge and the final assessment should be brought before the FPSC for approval.

ISSUE 5: If the Commission approves cost recovery for state-mandated pooling trials for Sprint, what type of notice should be given to customers, and what should the charge be called?

RECOMMENDATION: Staff recommends that if the Commission approves cost recovery for state-mandated pooling trials for Sprint, Sprint should work with staff on its bill-insert notice to ensure that the language would be adequate for customers' understanding and fit on the bill so no additional costs would be incurred. Staff recommends that this notice should be finalized 30 days prior to actual bill-insert notices. Staff also recommends that the end-user charge be stated as "One-Time Area Code Conservation Charge." Sprint should also provide a toll-free telephone number for customers who have questions concerning this charge, and have service representatives available who can respond to questions regarding Florida number pooling.

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6**PAA	Docket No. 001503-TP - Cost recovery and allocation issues for number pooling trials in Florida. (Continued from previous page) <u>ISSUE 6</u> : Should this docket be closed? <u>RECOMMENDATION</u> : No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this order will become final upon issuance of a consummating order. Staff recommends that this docket should remain open pending review of cost recovery petitions from other carriers.

DECISION: The recommendations were approved with the noted modification to Issue 4.

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

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7**PAADocket No. 030910-TI - Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to purchase of customer base and related book of business of Interactive Services US, Inc. (holder of IXC Registration No. TJ712), by ConnectAmerica, Inc. (holder of IXC Registration No. TJ012).

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Williams
GCL: Susac

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 long distance customers from Interactive Services US, Inc. to ConnectAmerica, 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, Bradley, Davidson

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8**PAADocket No. 030750-TI - Joint request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C. due to acquisition of assets, including, but not limited to, subscriber base of Ciera Network Systems, Inc. (holder of IXC Registration No. TJ275) by New Access Communications LLC (holder of IXC Registration No. TJ511).

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Williams
GCL: Fordham

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 long distance customers from Ciera Network Systems, Inc. to New Access Communications LLC?

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, Bradley, Davidson

ITEM NO.

CASE

9**PAADocket No. 030250-WU - Application for staff-assisted rate case in Pasco County, by Floralino Properties, Inc.

Critical Date(s): 8/12/04 (15-month effective date)

Commissioners Assigned: Full Commission

Prehearing Officer: Davidson

Staff: ECR: Fitch, Davis, Hudson, Lingo

GCL: Fleming

ISSUE 1: Is the quality of service provided by Floralino Properties, Inc. considered satisfactory?

RECOMMENDATION: The determination for quality of service provided by Floralino Properties, Inc., should be considered "not satisfactory" until the utility replaces three of its hydro-pneumatic tanks, and installs signs at each plant with emergency phone numbers. The utility should be required to complete these items within twelve months from the date of the Consummating Order.

ISSUE 2: What portions of Floralino Properties, Inc. are used and useful?

RECOMMENDATION: The water treatment plant at Floralino Properties, Inc., should be considered 100% used and useful. The water distribution system should be 100% used and useful.

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

RECOMMENDATION: The appropriate average test year rate base for the utility is \$147,591.

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

RECOMMENDATION: The appropriate rate of return on equity is 11.96% with a range of 10.96% - 12.96%. The appropriate overall rate of return for the utility is 6.64%.

ISSUE 5: What is the appropriate test year revenue?

RECOMMENDATION: The appropriate test year revenue for this utility is \$136,075.

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

RECOMMENDATION: The appropriate amount for operating expense for this utility is \$149,833.

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9**PAA

Docket No. 030250-WU - Application for staff-assisted rate case in Pasco County, by Floralino Properties, Inc.

(Continued from previous page)

ISSUE 7: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement is \$159,633.

ISSUE 8: Is a continuation of the utility's current bi-monthly billing appropriate?

RECOMMENDATION: No. The utility's billing should be changed to monthly billing. Monthly customer billing should be implemented consistent with Rule 25-30.335, Florida Administrative Code.

ISSUE 9: Is a continuation of the utility's current rate structure for its water system appropriate in this case, and, if not, what is the appropriate rate structure?

RECOMMENDATION: No. A continuation of the utility's current rate structure for its water system is not appropriate in this case. A conservation adjustment of 10% should be implemented. In addition, the rate structure should be changed to a two-tier inclining-block rate structure with recommended usage blocks of 0-10,000 gallons (10 kgal) and over 10 kgal. The recommended usage block rate factor for the second block is 1.25.

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

RECOMMENDATION: No. A repression adjustment is not appropriate in this case. However, in order to monitor the effects of both the change in rate structure and the recommended revenue increase, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenue billed. These reports should be provided, by customer class and meter size, on a quarterly basis for a period of two years, beginning with the first billing period after the increased rates go into effect.

ISSUE 11: What are the appropriate monthly rates for service?

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9**PAA

Docket No. 030250-WU - Application for staff-assisted rate case in Pasco County, by Floralino Properties, Inc.

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RECOMMENDATION: The appropriate monthly rates should be designed to produce revenues of \$158,150, excluding miscellaneous service charge revenues. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until staff has approved the proposed customer notice, and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

ISSUE 12: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The water rates should be reduced as shown on Schedule 4 of staff's October 9, 2003 memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

ISSUE 13: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

ITEM NO.

CASE

9**PAA

Docket No. 030250-WU - Application for staff-assisted rate case in Pasco County, by Floralino Properties, Inc.

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RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility shall be subject to the refund provisions discussed in the analysis portion of staff's October 9, 2003 memorandum. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

ISSUE 14: Should the utility be required to show cause, in writing within 21 days, why it should not be fined up to \$5,000 per day for its apparent violation of Rule 25-30.115, Florida Administrative Code, for its failure to maintain its books and records in conformance with the NARUC Uniform System of Accounts (USOA)?

RECOMMENDATION: No. A show cause proceeding should not be initiated. However, the utility should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA and submit a statement from its accountant by March 31, 2004, along with its 2003 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order.

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9**PAA

Docket No. 030250-WU - Application for staff-assisted rate case in Pasco County, by Floralino Properties, Inc.

(Continued from previous page)

ISSUE 15: Should the docket be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for twelve months after the Consummating Order to allow staff time to verify the utility has completed the pro forma hydro-tank replacements. Upon verification of the above by staff, the docket may be administratively closed.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

10**Docket No. 030602-SU - Application for approval of pass-through service availability charge for bulk wastewater service from City of Sanford, in Seminole County, by Utilities, Inc. of Florida.

Critical Date(s): 10/28/03 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: ECR: Boutwell, Merchant
GCL: Brown

ISSUE 1: Should the Commission approve UIF's revised tariff sheet that reflects a new installation and a revised wastewater service charge for new customers of the Ravenna Park/Lincoln Heights wastewater system?

RECOMMENDATION: Yes. The revised tariff should be approved as filed. The revised wastewater service charge of \$2,125 and a new actual cost installation charge should be approved for new customers of the Ravenna Park/Lincoln Heights wastewater system. The revised tariff should be implemented on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(2), Florida Administrative Code, provided that no timely protest is filed, and 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. In the event that a timely protest is filed, the tariff should remain in effect and the applicable charges should be held subject to refund pending resolution of the protest.

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<u>ITEM NO.</u>	<u>CASE</u>
10**	Docket No. 030602-SU - Application for approval of pass-through service availability charge for bulk wastewater service from City of Sanford, in Seminole County, by Utilities, Inc. of Florida.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. Upon staff's verification that the notice is appropriate, if there are no timely objections to the proposed tariff, the docket should be closed.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

11**Docket No. 030541-WU - Application for acknowledgment of transfer of Clay County and Bradford County land and facilities to Clay County Utility Authority, and for cancellation of Certificate Nos. 554-W and 003-W, by Florida Water Services Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

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

ISSUE 1: Should the transfer of Florida Water Services Corporation's Bradford and Clay County water facilities to Clay County Utility Authority be approved?

RECOMMENDATION: Yes. The transfer of FWSC's Bradford and Clay County facilities to CCUA should be approved, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes, effective May 7, 2003. Regulatory assessment fees should be submitted within 20 days after the issuance of the Order approving the transfer. Certificate Nos. 554-W and 003-W should be cancelled administratively at the conclusion of all pending dockets concerning the Bradford and Clay County facilities.

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

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

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11**	Docket No. 030541-WU - Application for acknowledgment of transfer of Clay County and Bradford County land and facilities to Clay County Utility Authority, and for cancellation of Certificate Nos. 554-W and 003-W, by Florida Water Services Corporation.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of any pending dockets concerning the Bradford and Clay County facilities, and until Certificate Nos. 554-W and 003-W are cancelled administratively.

DECISION: The recommendations were approved.

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

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12**Docket No. 030542-WS - Application for acknowledgement of transfer of Nassau County land and facilities to Nassau County and for cancellation of Certificate Nos. 171-W and 122-S, by Florida Water Services Corporation.
Docket No. 990817-WS - Application by Florida Water Services Corporation for amendment of Certificates Nos. 171-W and 122-S to add territory in Nassau County.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: ECR: Clapp, Kaproth, Redemann, Willis
GCL: Jaeger, Christensen, Gervasi

ISSUE 1: Should the Request for Oral Argument by the American Beach Property Owners' Association, Inc. (ABPOA), be granted?

RECOMMENDATION: Yes. The Request for Oral Argument should be granted if the Commission finds that oral argument will aid it in comprehending and evaluating the issues before it. If granted, oral argument should be limited to five minutes for each party to address reconsideration of the order denying ABPOA intervention.

ISSUE 2: Should the American Beach Property Owners' Association, Inc.'s Motion for Reconsideration of the Prehearing Officer's Order No. PSC-03-0948-PCO-WS be granted?

RECOMMENDATION: No. The Motion for Reconsideration should be denied.

ISSUE 3: Should the Commission acknowledge Florida Water Services Corporation's withdrawal of its amendment application?

RECOMMENDATION: Yes. The Commission should acknowledge Florida Water Services Corporation's withdrawal of its amendment application in Docket No. 990817-WS.

ISSUE 4: Should the transfer of Florida Water Services Corporation's Nassau County water and wastewater facilities to the County of Nassau be approved?

RECOMMENDATION: Yes. The transfer to Nassau County should be approved, as a matter of right, pursuant to Section

<u>ITEM NO.</u>	<u>CASE</u>
12**	Docket No. 030542-WS - Application for acknowledgement of transfer of Nassau County land and facilities to Nassau County and for cancellation of Certificate Nos. 171-W and 122-S, by Florida Water Services Corporation. Docket No. 990817-WS - Application by Florida Water Services Corporation for amendment of Certificates Nos. 171-W and 122-S to add territory in Nassau County.

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367.071(4)(a), Florida Statutes, effective March 31, 2003. Regulatory Assessment Fees (RAFs) for January 1 through March 31, 2003 should be submitted within 20 days after the issuance of the order approving the transfer. Certificate Nos. 171-W and 122-S should be cancelled administratively at the conclusion of all pending cases for the Nassau County facilities.

ISSUE 5: Should the Commission open a docket to examine whether FWSC's sale of its Nassau County facilities involves a gain that should be shared with FWSC's remaining customers?

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

ISSUE 6: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of any pending dockets concerning the Nassau County facilities, and until Certificate Nos. 171-W and 122-S are cancelled administratively.

DECISION: This item was deferred.

ITEM NO.

CASE

13**Docket No. 030920-WS - Joint application for acknowledgment of sale of portion of land and facilities of Florida Water Services Corporation in Volusia County to City of Deltona, and for amendment of Certificate Nos. 238-W and 182-S.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

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

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

RECOMMENDATION: Yes. The transfer of FWSC's Deltona facilities in Volusia County to The City of Deltona should be approved as a matter of right pursuant to Section 367.071(4)(a), Florida Statutes. Certificate Nos. 238-W and 182-S should be amended to reflect the deleted territory described in Attachment A of staff's October 9, 2003 memorandum, effective upon the closing date of the sale. FWSC should provide proof of transfer to the City of Deltona within 30 days of closing for purposes of establishing an effective date. Regulatory Assessment Fees (RAFs) should be submitted within 60 days of closing on the transfer.

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

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

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13**	Docket No. 030920-WS - Joint application for acknowledgment of sale of portion of land and facilities of Florida Water Services Corporation in Volusia County to City of Deltona, and for amendment of Certificate Nos. 238-W and 182-S.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of any pending dockets concerning the Deltona facilities, and until Certificate Nos. 238-W and 182-S are amended administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

14**Docket No. 030921-WS - Joint application for acknowledgment of sale of land and facilities in Osceola County to Osceola County by Florida Water Services Corporation, and for cancellation of Certificates Nos. 66-W and 289-S.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

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

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

RECOMMENDATION: Yes. The transfer of FWSC's Osceola County facilities to Osceola County or its duly authorized assignee, TOHO, should be approved, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. FWSC should provide the Commission with proof of transfer to the Buyer within 30 days of closing for purposes of establishing an effective closing date. Regulatory assessment fees should be submitted within 60 days from the closing date. Certificate Nos. 66-W and 289-S should be cancelled administratively at the conclusion of all pending dockets concerning the Osceola County facilities.

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

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

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<u>ITEM NO.</u>	<u>CASE</u>
14**	Docket No. 030921-WS - Joint application for acknowledgment of sale of land and facilities in Osceola County to Osceola County by Florida Water Services Corporation, and for cancellation of Certificates Nos. 66-W and 289-S.

(Continued from previous page)

ISSUE 3: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of any pending dockets concerning the Osceola County facilities, and until Certificate Nos. 66-W and 289-S are cancelled administratively.

DECISION: The recommendations were approved.

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

ITEM NO.

CASE

15**Docket No. 030932-WS - Joint application for acknowledgment of sale of land and facilities of Florida Water Services Corporation in Lee County to Florida Governmental Utility Authority, and for cancellation of Certificate Nos. 306-W and 255-S.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

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

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

RECOMMENDATION: Yes. The transfer of FWSC's Lehigh system located in Lee County to the FGUA should be approved, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. Certificate Nos. 306-W and 255-S should be amended to reflect the deleted territory described in Attachment A of staff's October 9, 2003 memorandum, effective upon the closing date of the sale. FWSC should provide the Commission with proof of transfer to the FGUA within 30 days of closing for purposes of establishing an effective closing date. Regulatory assessment fees should be submitted within 60 days from the closing date.

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

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

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<u>ITEM NO.</u>	<u>CASE</u>
15**	Docket No. 030932-WS - Joint application for acknowledgment of sale of land and facilities of Florida Water Services Corporation in Lee County to Florida Governmental Utility Authority, and for cancellation of Certificate Nos. 306-W and 255-S.

(Continued from previous page)

ISSUE 3: Should this docket be closed?

RECOMMENDATION: This docket should remain open until the conclusion of any pending dockets concerning the Lehigh facilities, and until Certificate Nos. 306-W and 255-S are amended to reflect the deleted territory described in Attachment A of staff's October 9, 2003 memorandum.

DECISION: The recommendations were approved. Commissioners Bradley and Davidson dissented.

Additionally, on the Commission's own motion, all transfer applications to governmental authorities are to be brought to agenda.

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

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<u>ITEM NO.</u>	<u>CASE</u>
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16**Docket No. 030482-TP - Emergency complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc. for allegedly filing false usage data numbers with Commission in Docket No. 990649A-TP.

Critical Date(s): None

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

Staff: CMP: Marsh
GCL: B. Keating, Christensen

ISSUE 1: Should the Commission grant BellSouth Telecommunications, Inc.'s Motion to Dismiss?

RECOMMENDATION: Staff recommends that the Motion to Dismiss be granted.

ISSUE 2: Should BellSouth's Motion for Sanctions be granted?

RECOMMENDATION: No. Sanctions are not justified in that the pleading does not appear to be frivolous as contemplated by Section 120.569(2)(e), Florida Statutes.

ISSUE 3: Should Supra's Request for Expedited Relief be granted?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, Supra's request for expedited treatment of its complaint is rendered moot. If, however, the Commission rejects staff's recommendation in Issue 1, staff recommends that the request for expedited relief be denied.

ISSUE 4: Should this Docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this Docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Bradley

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17**PAADocket No. 030828-WS - Complaint Nos. 512346W and 533120W
contesting high water and wastewater bills for December 2002
and April 2003, respectively, filed by Mr. Harold Shriver
against Terra Mar Village Utilities, Inc., in Volusia
County. (Deferred from September 16, 2003 conference;
revised recommendation filed.)

Critical Date(s): None

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

Staff: GCL: Jaeger
CAF: Smith

ISSUE 1: What is the proper disposition of Complaints Nos.
512346W and 533120W, filed by Mr. Harold Shriver against
Terra Mar Village Utilities, Inc.?

RECOMMENDATION: The Commission should deny both complaints
filed by Mr. Shriver. The meter appears to have started at
zero and has been shown to be accurate, and the rates
charged appear to be correct. Moreover, there was evidence
that Mr. Shriver was having problems with his piping, his
commode, and his washing machine, which might account for
excessive usage.

ISSUE 2: Should the docket be closed?

RECOMMENDATION: If no person whose substantial interests
are affected by the proposed agency action files a protest
within twenty-one days of the issuance of the order, a
consummating order should be issued, and the docket closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Bradley

ITEM NO.

CASE

18Docket No. 011666-TP - Petition by Global NAPS, Inc. for arbitration pursuant to 47 U.S.C. 252(b) of interconnection rates, terms and conditions with Verizon Florida Inc.

Critical Date(s): None

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

Staff: GCL: Fordham
CMP: Marsh

ISSUE 1: Should the Commission issue an order granting Verizon's Motion and directing that GNAPS sign, without modification or comment, the conforming Interconnection Agreement prepared pursuant to the arbitration proceedings in this Docket?

RECOMMENDATION: Yes. The Commission should issue an order granting Verizon's Motion and directing that GNAPS sign, without modification or comment, the conforming Interconnection Agreement prepared pursuant to the arbitration proceedings in this Docket. If the parties do not file a conforming signed and unmodified agreement within 10 calendar days of the effective date of the order flowing from this recommendation, staff recommends the existing agreement under which the parties have continued to operate be deemed terminated, and declared null and void after the close of business on the 11th day following the effective date of the aforesaid order.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending the submission of a properly executed conforming Agreement. Thereafter, it is recommended that staff review the Agreement and, if in compliance, administratively approve the Agreement and close the Docket.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Davidson

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19**Docket No. 030296-TP - Petition for arbitration of unresolved issues resulting from negotiations with Sprint-Florida, Incorporated for interconnection agreement, by AT&T Communications of the Southern States, LLC d/b/a AT&T and TCG South Florida.

Critical Date(s): None

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

Staff: GCL: Dodson
CMP: Marsh, Barrett, J-E. Brown

ISSUE 1: Should the Commission acknowledge AT&T's Notice of Voluntary Dismissal of its Petition and close this docket?

RECOMMENDATION: Yes. The Commission should acknowledge AT&T's Notice of Voluntary Dismissal of its Petition and close this docket. In addition, the Commission should find that the voluntary dismissal renders any and all outstanding motions moot, and all confidential materials filed in this Docket should be returned to the filing party.

ISSUE 2: Should this Docket be closed?

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

DECISION: The recommendations were approved.

Commissioners participating: Deason, Bradley, Davidson