

MINUTES OF SEPTEMBER 3, 2002

COMMISSION CONFERENCE

COMMENCED: 9:30 a.m.

ADJOURNED: 11:00 a.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 6, 2002 Regular Commission Conference

DECISION: The minutes were approved.

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

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>												
2**	Consent Agenda												
PAA	A) Applications for certificates to provide interexchange telecommunications service.												
	<table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th></tr></thead><tbody><tr><td>020428-TI</td><td>Seamen's Church Institute of Florida Inc.</td></tr><tr><td>020854-TI</td><td>Budget Phone, Inc.</td></tr><tr><td>020851-TI</td><td>Superior Technologies, Inc. d/b/a Superior Spectrum, Inc. and d/b/a Spectrum LD</td></tr><tr><td>020651-TI</td><td>Horizon Telecom, Inc.</td></tr><tr><td>020550-TI</td><td>Econodial, LLC</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020428-TI	Seamen's Church Institute of Florida Inc.	020854-TI	Budget Phone, Inc.	020851-TI	Superior Technologies, Inc. d/b/a Superior Spectrum, Inc. and d/b/a Spectrum LD	020651-TI	Horizon Telecom, Inc.	020550-TI	Econodial, LLC
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>												
020428-TI	Seamen's Church Institute of Florida Inc.												
020854-TI	Budget Phone, Inc.												
020851-TI	Superior Technologies, Inc. d/b/a Superior Spectrum, Inc. and d/b/a Spectrum LD												
020651-TI	Horizon Telecom, Inc.												
020550-TI	Econodial, LLC												
PAA	B) 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>020861-TC</td><td>Roberta Rich d/b/a Street Phones Co</td></tr><tr><td>020874-TC</td><td>Thomas E. Cantrell</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	020861-TC	Roberta Rich d/b/a Street Phones Co	020874-TC	Thomas E. Cantrell						
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>												
020861-TC	Roberta Rich d/b/a Street Phones Co												
020874-TC	Thomas E. Cantrell												
PAA	C) DOCKET NO. 020454-TX - Request for approval of transfer of ALEC Certificate No. 7794 from C.B. Telecomm, Inc. to Bar-Lyn Enterprises Inc d/b/a Swiftphone.												

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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

3**

Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: GCL: C. Keating, McLean
AUS: Mills
CAF: Raspberry

ISSUE 1: Should the Commission grant FPL's motion to dismiss the petitioners' request for hearing on Order No. PSC-02-0788-PAA-EI?

RECOMMENDATION: Yes. The Commission should grant FPL's motion to dismiss, with prejudice, the petitioners' request for hearing on the portion of Order No. PSC-02-0788-PAA-EI issued as final agency action. The Commission should grant FPL's motion to dismiss, without prejudice, the petitioners' request for hearing on the portion of Order No. PSC-02-0788-PAA-EI issued as proposed agency action.

ISSUE 2: Should the Commission grant the petitioners' request to have their petition for hearing referred to the Division of Administrative Hearings ("DOAH") for an administrative hearing?

RECOMMENDATION: No. The Commission cannot refer to DOAH the petitioners' request for hearing on Part III of Order No. PSC-02-0788-PAA-EI because that portion of the Order was issued as final agency action upon which a hearing cannot be granted. It is within the Commission's discretion to refer to DOAH the petitioners' request for hearing on Part II of the Order, but such a decision would be premature at this time.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to allow the petitioners to amend their request for hearing

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

3**

Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

(Continued from previous page)

consistent with staff's recommendation in Issue 1. If the petitioners do not file an amended petition within 20 days of the issuance of the order resulting from this recommendation, this docket should be administratively closed.

DECISION: This item was deferred.

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
4**	<p>Docket No. 020223-WU - Notice of abandonment of water services in Alachua County by Santa Fe Hills Water System.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: GCL: Holley ECR: Peacock</p> <p><u>ISSUE 1</u>: Should Santa Fe be ordered to show cause, in writing, within 21 days, why it should not be fined for failure to file its annual reports for the years 1993 through 2001 in apparent violation of Rule 25-30.110(3), Florida Administrative Code?</p> <p><u>RECOMMENDATION</u>: No. Show cause proceedings should not be initiated at this time. Staff further recommends that the penalties set forth in Rule 25-30.110(7), Florida Administrative Code, should not be assessed, as the information contained in the delinquent reports is no longer needed for the ongoing regulation of the utility. In addition, Santa Fe should not be required to file the annual reports for the years 1993 through 2001.</p> <p><u>ISSUE 2</u>: Should this docket be closed?</p> <p><u>RECOMMENDATION</u>: Yes. Because no further action is necessary, this docket should be closed.</p>

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
5	<p>Docket No. 020611-TP - Complaint of BellSouth Telecommunications, Inc. regarding Supra Telecommunications and Information Systems, Inc.'s inappropriate use of Local Exchange Navigation Service (LENS).</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: CMP: Ileri, Broussard, Bulecza-Banks, Casey, Kelly, Moses, Vinson GCL: B. Keating</p> <p><u>ISSUE 1</u>: Should the Commission grant Supra's Motion to Dismiss BellSouth's Complaint? <u>RECOMMENDATION</u>: No. Staff recommends that the Motion be denied, but that this matter be set for hearing.</p> <p><u>ISSUE 2</u>: Should this Docket be closed? <u>RECOMMENDATION</u>: No. If the Commission approves staff's recommendation in Issue 1, this Docket should be set for hearing.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
6**PAA	<p>Docket No. 020665-TI - Compliance investigation of Telecore Communications Corp. for apparent violation of Rule 25-24.910, 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: Fordham</p> <p><u>ISSUE 1</u>: Should the Commission impose a \$25,000 penalty on Telecore Communications Corp. for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?</p> <p><u>RECOMMENDATION</u>: Yes. The Commission should impose a \$25,000 penalty on Telecore Communications Corp. for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the payment of the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of the penalty should be referred to the Office of the Comptroller. Further, if Telecore Communications Corp. fails to timely protest the Commission's Order, and fails to obtain an IXC Certificate of Public Convenience and Necessity, the company should be required to immediately cease and desist providing prepaid calling services in Florida upon issuance of the Consummating Order until the company obtains an IXC Certificate of Public Convenience and Necessity.</p>

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

6**PAA

Docket No. 020665-TI - Compliance investigation of Telecore Communications Corp. for apparent violation of Rule 25-24.910, 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 the Commission impose a \$10,000 penalty on Telecore Communications Corp. for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should impose a \$10,000 penalty on Telecore Communications Corp. for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the payment of the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of the penalty should be referred to the Office of the Comptroller.

ISSUE 3: 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 payment of the penalties, or upon referral of the penalties to the Office of the Comptroller for collection if the penalties are not paid within fourteen calendar days after issuance of the Consummating Order.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

7**PAA

Docket No. 020664-TI - Compliance investigation of Bigredwire 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.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Buys
GCL: Banks

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

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

ISSUE 2: Should the Commission impose a \$10,000 penalty on Bigredwire for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should impose a \$10,000 penalty on Bigredwire for apparent violation of Rule 25-

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

7**PAA

Docket No. 020664-TI - Compliance investigation of Bigredwire 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)

4.043, Florida Administrative Code, Response to Commission Staff Inquiries. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the payment of the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of the penalty should be referred to the Office of the Comptroller.

ISSUE 3: 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 payment of the penalties, or upon referral of the penalties to the Office of the Comptroller for collection if the penalties are not paid within fourteen calendar days after issuance of the Consummating Order.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

8**PAA

Docket No. 020569-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 5480 issued to Axsys, Inc. d/b/a Axsys, Inc./Tel Ptns. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Teitzman

ISSUE 1: Should the Commission impose a \$1,000 penalty or cancel Axsys, Inc. d/b/a Axsys, Inc./Tel Ptns.' certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$1,000 penalty or cancel the company's certificate 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 company's Certificate No. 5480 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If Axsys, Inc. d/b/a Axsys, Inc./Tel Ptns.' certificate is cancelled in accordance with the Commission's Order from this recommendation, Axsys, Inc. d/b/a Axsys, Inc./Tel Ptns. should be required to immediately cease and desist providing alternative local exchange services in Florida.

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

8**PAA

Docket No. 020569-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 5480 issued to Axsys, Inc. d/b/a Axsys, Inc./Tel Ptns. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(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. The docket should then be closed upon receipt of the penalty and fees or cancellation of the certificate.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

9**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. 020571-TX - 2nd Century Communications, Inc.
Docket No. 020572-TX - Netcon Telcom, Inc.
Docket No. 020573-TX - KingTel, Inc.
Docket No. 020574-TX - BlueStar Networks, Inc.
Docket No. 020585-TX - Gulf Coast Communications, Inc.
Docket No. 020591-TX - Metro FiberLink, Inc.
Docket No. 020592-TX - PatriotCom Inc.
Docket No. 020596-TX - IPVoice Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Dodson, Elliott, Fordham, Christensen

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A of staff's August 22, 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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

9**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 services in Florida.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The dockets should then be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

10**PAA

Docket No. 020570-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 5792 issued to IG2, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Rules Incorporated.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Dodson

ISSUE 1: Should the Commission impose a \$1,000 penalty or cancel IG2, Inc.'s ALEC Certificate No. 5792 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies? RECOMMENDATION: Yes. The Commission should impose a \$1,000 penalty or cancel the company's certificate 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 company's Certificate No. 5792 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, IG2, Inc. should be required to immediately cease and desist providing alternative local exchange services in Florida.

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

10**PAA

Docket No. 020570-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 5792 issued to IG2, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Rules Incorporated.

(Continued from previous page)

ISSUE 2: Should the Commission impose a \$500 penalty or cancel IG2, Inc.'s ALEC Certificate No. 5792 for apparent violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel IG2, Inc.'s certificate 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, IG2, Inc.'s ALEC Certificate No. 5792 should be cancelled administratively. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, IG2, Inc. should be required to immediately cease and desist providing alternative local exchange services in Florida.

ISSUE 3: 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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

10**PAA

Docket No. 020570-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 5792 issued to IG2, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Rules Incorporated.

(Continued from previous page)

the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the penalty and fees and updated reporting requirements, or cancellation of the certificate.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

11**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. 020575-TX - PARCOM Communications, Inc.
Docket No. 020576-TX - Fuzion Wireless Communications Inc.
Docket No. 020577-TX - CCCFL, Inc. d/b/a Connect!
Docket No. 020586-TX - TelNet.com, Inc.
Docket No. 020590-TX - URJET Backbone Network, Inc.
Docket No. 020593-TX - Global Telelink Services, Inc.
Docket No. 020597-TX - Biz-Tel Corporation
Docket No. 020598-TX - ReFlex Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Elliott, Teitzman, Fordham, Christensen, Fudge

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A of staff's August 22, 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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

11**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.

(Continued from previous page)

and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing alternative local exchange services in Florida.

ISSUE 2: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A 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 services 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 the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
11**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.

(Continued from previous page)

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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

12**

Docket No. 020587-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 7451 issued to AMAFLA Telecom, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies and 25-24.835, F.A.C., Rules Incorporated.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Dodson

ISSUE 1: Should the Commission accept the settlement offer proposed by AMAFLA Telecom, Inc. to resolve the apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and 25-24.835, Florida Administrative Code, Rules Incorporated?
RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 7451 should be cancelled administratively. If AMAFLA Telecom, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, AMAFLA Telecom, Inc. should be required to immediately cease and desist providing alternative local exchange services in Florida.

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

12**

Docket No. 020587-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 7451 issued to AMAFLA Telecom, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies and 25-24.835, F.A.C., Rules Incorporated.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$200 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

13**PAA

Docket No. 020589-TP - Bankruptcy cancellation by Florida Public Service Commission of IXC Certificate No. 7491 and ALEC Certificate No. 7490 issued to Telergy Network Services, Inc., effective 7/22/02.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
GCL: Elliott

ISSUE 1: Should the Commission grant Telergy Network Services, Inc.'s request for cancellation of its IXC Certificate No. 7491 and its ALEC Certificate No. 7490 due to bankruptcy?

RECOMMENDATION: Yes. The Commission should grant the company a bankruptcy cancellation of its IXC Certificate No. 7491 and its ALEC Certificate No. 7490 with an effective date of July 22, 2002. In addition, the Division of the Commission Clerk and Administrative Services will be notified that the 2001 and 2002 RAFs, including statutory penalty and interest charges for the year 2001 for each certificate, 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 interexchange telecommunications and alternative local exchange services 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,

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
13**PAA	Docket No. 020589-TP - Bankruptcy cancellation by Florida Public Service Commission of IXC Certificate No. 7491 and ALEC Certificate No. 7490 issued to Telergy Network Services, Inc., effective 7/22/02.

(Continued from previous page)

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

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
14**PAA	<p>Docket No. 020505-TI - Application for certificate to provide interexchange telecommunications service by North American Telephone Network, L.L.C.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Williams GCL: Dodson</p> <p><u>ISSUE 1</u>: Should the Commission grant North American Telephone Network, L.L.C. (NAT) a certificate to provide interexchange telecommunications services within the state of Florida? <u>RECOMMENDATION</u>: Yes. The Commission should grant NAT Florida Public Service Commission Certificate No. 8166, to provide IXC services within the state of Florida.</p> <p><u>ISSUE 2</u>: Should Docket No. 020505-TI be closed? <u>RECOMMENDATION</u>: Yes. The docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
15**PAA	<p>Docket No. 020404-EQ - Petition for approval of plan to share risks of Bay County qualifying facility contract modification by Florida Power Corporation.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Deason</p> <p>Staff: ECR: Harlow, Bohrmann GCL: C. Keating</p> <p><u>ISSUE 1</u>: Should Florida Power Corporation's petition for approval of a plan to share the risks of the Bay County qualifying facility contract modification be approved? <u>RECOMMENDATION</u>: No. FPC's proposed sharing plan does not address the long-term nature of the risk to which ratepayers are exposed. The sharing plan also appears to favor FPC's shareholders, because FPC's ratepayers will still be required to pay all the up-front costs. FPC's sharing plan will reduce expected ratepayer NPV savings from \$4.4 million to \$1.9 million, leaving less room for error that ratepayers will not be harmed by the contract modification. Further, due to the unusual nature of the original contract, which provided for firm energy with no capacity charges from 2013 through 2022, FPC's shareholders will not be exposed to any significant risk until 2013.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If no person whose substantial interests are affected by this 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: This item was deferred to allow further negotiations and review of participation by the office of Public Counsel.

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

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
16**PAA	Docket No. 020557-EQ - Petition by Florida Power Corporation for approval of a negotiated qualifying contract with Jefferson Power, LLC.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki

Staff: ECR: Haff, Sickel
GCL: Stern

ISSUE 1: Should the Commission approve Florida Power Corporation's petition for approval of a negotiated contract for firm capacity and energy from Jefferson Power, LLC.?

RECOMMENDATION: Yes. Staff recommends that the negotiated contract should be approved.

ISSUE 2: 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: The recommendations were approved.

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

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
17**PAA	<p>Docket No. 020558-EQ - Petition by Florida Power Corporation for approval of negotiated qualifying facility contract with Timber Energy Resources, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Palecki</p> <p>Staff: ECR: Haff, Sickel GCL: Brubaker</p> <p><u>ISSUE 1</u>: Should the Commission approve Florida Power Corporation's petition for approval of a negotiated contract for firm capacity and energy from Timber Energy Resources, Inc.? <u>RECOMMENDATION</u>: Yes. Staff recommends that the negotiated contract should be approved.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jaber, Deason, Baez, Palecki, Bradley</p>

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

18**

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

Critical Date(s): 9/13/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

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

ISSUE 1: Should the Commission suspend Tampa Electric Company's (TECO) proposed tariff revisions which were filed as part of TECO's petition for approval of its new Standard Offer Contract?

RECOMMENDATION: Yes. The Commission should suspend TECO's proposed Standard Offer Contract tariff revisions.

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, Palecki, Bradley

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

19**

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Bradley

Staff: ECR: Merta, Rendell
GCL: Jaeger

ISSUE 1: Should the Commission approve the proposed resolution offered by Sanibel Bayous Utility Corporation?
RECOMMENDATION: Yes. The proposed resolution should be approved with the following modifications: (1) The proposed rates, as shown in the analysis portion of staff's August 22, 2002 memorandum, should be approved temporarily; (2) the utility should file revised tariff sheets within 20 days of the date of the Consummating Order in this docket to reflect the Commission-approved rates; staff should be given administrative authority to approve the tariff sheets upon staff verification that the tariffs are consistent with the Commission's decision; (3) the utility should hold the difference between the proposed temporary rates and the current tariff rates (\$14 - \$12 = \$2; \$12 - \$10 = \$2) subject to refund, pursuant to Rule 25.30-360, Florida Administrative Code, during the pendency of the SARC in Docket No. 020439-SU; (4) Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th day of each month indicating the monthly and total revenue collected subject to refund; and (5) the amount of any additional refunds and the appropriate disposition and amount of CIAC should be determined in the SARC.

DECISION: The recommendation was approved.

ITEM NO.

CASE

19**

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

(Continued from previous page)

ISSUE 2: Should the utility be required to provide security for money being collected subject to refund?

RECOMMENDATION: Yes. The utility should be required to file a bond, letter of credit or escrow agreement to guarantee any potential refunds of wastewater revenues collected under temporary rates. The letter of credit or bond should be in the amount of \$4,283. In lieu of a letter of credit or bond, SBUC may obtain an escrow agreement which requires the utility to deposit the amount of revenue subject to refund within seven days of receipt, until completion of the rate case.

DECISION: The recommendation was approved.

ISSUE 3: Should SBUC be ordered to show cause, in writing, within 21 days, why it should not be fined for collecting charges not approved by the Commission, in apparent violation of Section 367.091(4), Florida Statutes?

RECOMMENDATION: Show cause proceedings should not be initiated at this time. Staff cannot make a determination as to the appropriateness of a show cause proceeding at this time. A recommendation will be made in SBUC's upcoming SARC in Docket No. 020439-SU.

DECISION: The recommendation was approved with the understanding that strong language will be used to indicate to the company that show cause proceedings will be initiated if the company does not comply with the directive concerning charges collected and does not provide information requested by auditors for the staff-assisted rate case.

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
19**	Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

(Continued from previous page)

ISSUE 4: Should this docket be consolidated with Docket No. 020439-SU, Sanibel Bayous Utility Corporation's staff-assisted rate case?

RECOMMENDATION: Yes. Docket No. 020331-SU should be consolidated with Docket No. 020439-SU.

DECISION: The recommendation was approved.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. In Issue 4, staff is recommending that this docket be consolidated with Docket No. 020439-SU. If the Commission denies consolidation, this docket should remain open to verify that the refund has been made to SBUC customers and also to address any show cause proceeding.

DECISION: The recommendation was approved.

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

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
20**	<p>Docket No. 011379-SU - Application for transfer of Certificate No. 422-S in Gulf County from Gulf Aire Properties d/b/a Gulf Aire Wastewater Treatment Plant to ESAD Enterprises, Inc. d/b/a Beaches Sewer System. (Deferred from August 20, 2002 conference; revised recommendation filed.)</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Baez</p> <p>Staff: ECR: Clapp, Bass, Rieger GCL: Harris</p> <p><u>ISSUE 1</u>: Should the transfer of Certificate No. 422-S from Gulf Aire to ESAD Enterprises, Inc. be approved? <u>RECOMMENDATION</u>: Yes. The transfer of Certificate No. 422-S from Gulf Aire to ESAD should be approved. However, ESAD should be formally put on notice of its obligation to comply with all of the requirements of Chapter 367, Florida Statutes, and Rule 25-30, Florida Administrative Code. The failure to do so may result in the initiation of show cause proceedings and the possible imposition of sanctions, including penalties, fines, and possible revocation of the certificate. ESAD should be responsible for all future RAFs and annual reports. A description of the territory being transferred is appended to staff's August 22, 2002 memorandum as Attachment A.</p>
PAA	<p><u>ISSUE 2</u>: What is the rate base of Gulf Aire at the time of transfer? <u>RECOMMENDATION</u>: The rate base, which for transfer purposes reflects the net book value at the time of transfer, is \$7,371 for the wastewater system as of December 1, 2000.</p>
PAA	<p><u>ISSUE 3</u>: Should an acquisition adjustment be approved? <u>RECOMMENDATION</u>: No. An acquisition adjustment was requested; however, an acquisition adjustment should not be included in the calculation of rate base for transfer purposes.</p>

ITEM NO.

CASE

20**

Docket No. 011379-SU - Application for transfer of Certificate No. 422-S in Gulf County from Gulf Aire Properties d/b/a Gulf Aire Wastewater Treatment Plant to ESAD Enterprises, Inc. d/b/a Beaches Sewer System. (Deferred from August 20, 2002 conference; revised recommendation filed.)

(Continued from previous page)

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

RECOMMENDATION: Yes. ESAD should continue charging the rates and charges approved for Gulf Aire, with the exception of AFPI for treatment facilities, until authorized to change by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

PAA

ISSUE 5: Should the utility be required to discontinue collection of Allowance for Funds Prudently Invested (AFPI) for treatment facilities and to refund the overcollection of AFPI?

RECOMMENDATION: Yes. The utility should be required to discontinue collection of AFPI for treatment facilities and to refund overcollection of AFPI. The refunds should be made with interest pursuant to Rule 25-30.360, Florida Administrative Code, to each customer who paid the excess AFPI.

ISSUE 6: Should this docket be closed?

RECOMMENDATION: No. If no timely protest by a substantially affected person is received to the proposed agency action issues, a Consummating Order should be issued upon the expiration of the protest period. The docket should remain open until the utility provides verification that the refund recommended in Issue 5 has been properly completed, at which time the docket should be closed administratively.

DECISION: The recommendations were approved.

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

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
21**	<p>Docket No. 020256-WU - Application for transfer of Certificate No. 380-W from A. P. Utilities, Inc. in Marion County to Sunshine Utilities of Central Florida, Inc., holder of Certificate No. 363-W, for amendment of Certificate No. 363-W, and for cancellation of Certificate No. 380-W.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Bradley</p> <p>Staff: ECR: Johnson, Walden, Kaproth GCL: Crosby, Helton</p> <p><u>ISSUE 1</u>: Should the transfer of Certificate No. 380-W, from APU to Sunshine, holder of Certificate No. 363-W, be approved and Water Certificate No. 363-W be amended and Certificate No. 380-W be canceled?</p> <p><u>RECOMMENDATION</u>: Yes. The transfer of Certificate No. 380-W from APU to Sunshine should be approved, Water Certificate No. 363-W should be amended to include the Quail Run service area, and Certificate No. 380-W should be canceled. The utility is current on its 2001 regulatory assessment fees (RAFs) and annual reports. As of January 1, 2002, Sunshine is responsible for remitting all future RAFs and annual reports to the Commission. A description of the territory served by the utility is appended to staff's August 22, 2002 memorandum as Attachment A.</p>
PAA	<p><u>ISSUE 2</u>: What is the rate base of APU at the time of transfer?</p> <p><u>RECOMMENDATION</u>: The rate base for transfer purposes is \$19,685 for the water system as of March 15, 2002. Sunshine should be reminded of its obligation to maintain the utility's books and records in conformance with the National Association of Regulatory Utility Commissioners' (NARUC) Uniform System of Accounts (USOA).</p>
PAA	<p><u>ISSUE 3</u>: Should an acquisition adjustment be included in the calculation of rate base?</p> <p><u>RECOMMENDATION</u>: No. Sunshine has not requested an acquisition adjustment and there are no extraordinary circumstances in this case to warrant the inclusion of an</p>

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

21**

Docket No. 020256-WU - Application for transfer of Certificate No. 380-W from A. P. Utilities, Inc. in Marion County to Sunshine Utilities of Central Florida, Inc., holder of Certificate No. 363-W, for amendment of Certificate No. 363-W, and for cancellation of Certificate No. 380-W.

(Continued from previous page)

acquisition adjustment. Staff recommends that no acquisition adjustment should be included in the calculation of rate base.

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

RECOMMENDATION: Yes. Sunshine should continue charging the rates and charges approved for this utility system until authorized to change by the Commission in a subsequent proceeding. The tariff reflecting the change in ownership should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

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 should be closed.

DECISION: The recommendations were approved. Commissioner Deason dissented on Issue 3.

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

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

22**

Docket No. 020761-WU - Request for approval of revisions to water tariff regarding individual metering of multi-family and multi-unit structures by Florida Water Services Corporation.

Critical Date(s): 9/14/02 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Bradley

Staff: ECR: Hudson
GCL: Stern

ISSUE 1: Should Florida Water Services Corporation's proposed tariff sheets to codify, with respect to new construction, its longstanding policy for the individual metering of multi-family and multi-unit structures be suspended?

RECOMMENDATION: Yes. Florida Water's proposed tariff sheets to codify, with respect to new construction, its longstanding policy for the individual metering of multi-family and multi-unit structures should be suspended pending further investigation by staff. This docket should remain open pending the completion of staff's investigation.

DECISION: The recommendation was approved.

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

Minutes of
Commission Conference
September 3, 2002

<u>ITEM NO.</u>	<u>CASE</u>
22A	<p>Docket No. 990649A-TP - Investigation into pricing of unbundled network elements (BellSouth track).</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Jaber, Deason, Palecki Prehearing Officer: Jaber</p> <p>Staff: GCL: Christensen, B. Keating CMP: Dowds</p> <p><u>ISSUE 1</u>: Should parties be allowed to participate in the discussion of this matter? <u>RECOMMENDATION</u>: No. No request for oral argument has been filed in accordance with Rule 25-22.058, Florida Administrative Code.</p> <p><u>ISSUE 2</u>: Should the Commission grant AT&T Communications of the Southern States, LLC's Petition for Interim Rates? <u>RECOMMENDATION</u>: No. The Commission should deny AT&T Communications of the Southern States, LLC's Petition for Interim Rates.</p> <p><u>ISSUE 3</u>: Should this docket be closed? <u>RECOMMENDATION</u>: No. This docket should remain open pending further proceedings.</p>

DECISION: The recommendations were approved.

Commissioners participating: Jaber, Deason, Palecki

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

23**

Docket No. 971622-SU - Initiation of show cause proceedings against Landmark Enterprises, Inc. in Highlands County for violation of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, Regulatory Assessment Fees.

Critical Date(s): None

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

Staff: GCL: Brubaker, Holley
CCA: Knight
ECR: Kaproth, Peacock

ISSUE 1: Should the Commission modify Order No. PSC-98-0269-FOF-SU and order that the penalties and interest for delinquent annual reports and regulatory assessment fees be a lien on the real and personal property of the utility and its directors?

RECOMMENDATION: Yes. Staff recommends that Order No. PSC-98-0269-FOF-SU be modified and that pursuant to Section 367.161, Florida Statutes, the penalty for delinquent annual reports and regulatory assessment fees assessed in that Order, as set forth in the body of staff's recommendation, be a lien on the real and personal property of the utility, enforceable by the Commission as a statutory lien under Chapter 85, Florida Statutes. Pursuant to Chapter 85, the proceeds of such lien should be deposited by the Commission in the General Revenue Fund Unallocated Account.

Further, staff recommends that Order No. PSC-98-0269-FOF-SU be modified so that delinquent regulatory assessment fees be recorded as a lien on the real and personal property of the utility and its directors, and should be enforceable as a lien upon being duly recorded with the Clerk of the County Court in Highlands County pursuant to Section 55.10, Florida Statutes. The Commission should provide notice to the utility and its directors of such lien pursuant to Section 55.10, Florida Statutes. The Commission should pursue collection efforts as appropriate pursuant to Section 69.041, Florida Statutes. The proceeds of such lien should be deposited in the Florida Public Service Commission

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

23**

Docket No. 971622-SU - Initiation of show cause proceedings against Landmark Enterprises, Inc. in Highlands County for violation of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, Regulatory Assessment Fees.

(Continued from previous page)

Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes.

ISSUE 2: Should Landmark be ordered to show cause, in writing, within 20 days, why it should not remit a penalty in the amount of \$13,296 for violation of Rule 25-30.110, Florida Administrative Code, by failing to file its annual reports from 1997 to 2001; and penalties and interest in the amount of \$6,157.56 for violation of Rule 25-30.120, Florida Administrative Code, by failing to pay its regulatory assessment fees for 1996 through 2001?

RECOMMENDATION: Yes. Staff recommends that Landmark should be ordered to show cause, in writing, within 20 days, why it should not remit a penalty in the amount of \$13,296 for violation of Rule 25-30.110, Florida Administrative Code, by failing to file its annual reports from 1997 to 2001; and penalties and interest in the amount of \$6,157.56 for violation of Rule 25-30.120, Florida Administrative Code, by failing to pay its regulatory assessment fees for 1996 through 2001. The show cause order should incorporate the conditions stated in the analysis portion of staff's August 22, 2002 memorandum. Further, Landmark should immediately file the annual reports from 1997 to 2001, and pay the regulatory assessment fees from 1996 through 2001, and should be put on notice that further violations of Rules 25-30.110 and 25-30.120, Florida Administrative Code, will result in further action by the Commission.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If Landmark responds to the show cause order by paying the penalty and filing the annual reports for 1997 through 2001, and by paying 1996 through 2001 RAFs and remitting all associated penalties and interest, this docket should be closed administratively once the Commission's Order modifying Order No. PSC-98-0269-FOF-SU has been appropriately filed with the Clerk of the County

Minutes of
Commission Conference
September 3, 2002

ITEM NO.

CASE

23**

Docket No. 971622-SU - Initiation of show cause proceedings against Landmark Enterprises, Inc. in Highlands County for violation of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, Regulatory Assessment Fees.

(Continued from previous page)

Court of Highlands County and the liens recorded. If Landmark fails to timely respond to the show cause order and fails to respond to Commission staff's reasonable collection efforts, then this docket should be closed administratively once the Commission's order has been appropriately filed with the Clerk of the County Court of Highlands County and the liens recorded with respect to the 1997 through 2001 annual reports and 1996 through 2001 RAFs. If Landmark responds to the show cause order and requests a hearing, this docket should remain open for final disposition.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Palecki