

MINUTES OF
COMMISSION CONFERENCE, SEPTEMBER 18, 2001
COMMENCED: 9:30 A.M.
ADJOURNED: 11:45 A.M.

COMMISSIONERS PARTICIPATING: Chairman Jacobs
Commissioner Deason
Commissioner Jaber
Commissioner Baez
Commissioner Palecki

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

1 Approval of Minutes
August 7, 2001 Regular Commission Conference

DECISION: The minutes were approved.

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

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 Commission Conference
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ITEM NO. CASE

2** Consent Agenda

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>PHONE NO. & LOCATION</u>
011120-TC	BellSouth Public Communications, Inc.	305-940-2279 305-940-2237 Convenient Spot Food Store 1981 NE 135 Street North Miami

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
010830-TX	Telsys, Inc.
011152-TX	Southern Light, LLC
011036-TX	Telepak Networks, Inc.

PAA C) Application for certificate to provide alternative access vendor service.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
011153-TA	Southern Light, LLC

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ITEM NO. CASE

2** Consent Agenda

(Continued from previous page)

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
010829-TI	Telsys, Inc.
011035-TI	Telepak Networks, Inc.
011050-TI	Centrix Telecom, LLC

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
011103-TC	National Telephone Company, L.L.C.
011022-TC	Advanced Communication Service USA Inc.
011115-TC	Communication Manpower, Inc. d/b/a CMI
011124-TC	Qwest Interprise America, Inc.
011160-TC	Z.K. Mart, Inc.

PAA F) Request for cancellation of interexchange telecommunications certificate.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>
011084-TI	CapRock Telecommunications Corp.	08/14/01

PAA G) DOCKET NO. 011118-TP - Request for cancellation of Interexchange Telecommunications Certificate No. 7536 and Alternative Local Exchange Telecommunications Certificate No. 7498 by Urban Media of Florida, Inc., effective 6/18/01.

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<u>ITEM NO.</u>	<u>CASE</u>						
2**	Consent Agenda (Continued from previous page)						
PAA	H) Request for cancellation of pay telephone certificate.						
	<table><thead><tr><th><u>DOCKET NO.</u></th><th><u>COMPANY NAME</u></th><th><u>EFFECTIVE DATE</u></th></tr></thead><tbody><tr><td>011079-TC</td><td>Timothy B. Kelly</td><td>07/31/01</td></tr></tbody></table>	<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>	011079-TC	Timothy B. Kelly	07/31/01
<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>EFFECTIVE DATE</u>					
011079-TC	Timothy B. Kelly	07/31/01					
PAA	I) DOCKET NO. 011049-TX - Application for approval of transfer of and name change on ALEC Certificate No. 7736 from SCC Communications Corp. to Intrado Communications Inc.						

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

DECISION: The recommendation was approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
3**	<p>Docket No. 010982-EU - Proposed Rule 25-6.065, F.A.C., Interconnection of Small Photovoltaic Systems.</p> <p>Critical Date(s): None</p> <p>Rule Status: Proposed</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: APP: Moore ECR: Hewitt LEG: Stern PAI: Dean SER: Colson</p> <p><u>ISSUE 1</u>: Should the Commission propose Rule 25-6.065, Florida Administrative Code, Interconnection of Small Photovoltaic Systems? <u>RECOMMENDATION</u>: Yes.</p> <p><u>ISSUE 2</u>: If no request for hearing or comments are filed, should the proposed rule be filed for adoption with the Secretary of State and the docket be closed? <u>RECOMMENDATION</u>: Yes. The docket should be closed if no requests for hearing or comments are filed.</p> <p><u>DECISION</u>: This item was deferred.</p>

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<u>ITEM NO.</u>	<u>CASE</u>
4	Docket No. 010988-TL - Petition by BellSouth Telecommunications, Inc. for declaratory statement regarding disclosure of certain ALEC 911 information.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: APP: Bellak
CMP: Moses

ISSUE 1: Should the Commission declare that BellSouth's furnishing to counties the identity of resale ALECs for whom BellSouth collects 911 fees and the amount collected is not prohibited by Section 364.24, Florida Statutes?

RECOMMENDATION: Yes. The Commission should declare that Section 364.24 does not prohibit BellSouth from furnishing this information to counties.

ISSUE 2: Should the Commission declare that information concerning the identity of each ALEC and the amount of 911 fees remitted by each ALEC is non-confidential?

RECOMMENDATION: Yes. The Commission should declare that this information is non-confidential.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes.

DECISION: The recommendations were approved with modifications made at the conference.

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

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ITEM NO.

CASE

5**

Docket No. 010782-TL - Petition for generic proceedings to establish expedited process for reviewing North American Plan Administration (NANPA) future denials of applications for use of additional NXX Codes by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: CMP: Ileri, Casey
LEG: B. Keating

ISSUE 1: Should the Commission establish an expedited process for reviewing NANPA's central office code denials?
RECOMMENDATION: Yes. Staff recommends that the Commission approve staff's proposed expedited process for review of NANPA code denials for any telecommunications carrier certificated by the Commission, as set forth in the analysis portion of staff's September 6, 2001 memorandum. If the Commission approves staff's recommendation, the expedited process should be posted on the Commission website; staff should be directed to administratively dispose of these petitions as set forth herein; and appropriate modifications should be made to the APM to reflect this process.

DECISION: The recommendation was approved with the modification that Item 4 under B be eliminated, and that staff notify company first (under Item 2, C) if any of the four criteria are not met.

ISSUE 2: Should this docket be closed?
RECOMMENDATION: Yes. This recommendation addresses a purely procedural proposal for handling a category of petitions. Thus, no person's substantial interests will be affected by the Commission's decision from this recommendation. As such, this docket should be closed.

DECISION: The recommendation was approved.

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

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ITEM NO.

CASE

6**PAA

Docket No. 010937-TI - Investigation and determination of appropriate method for refunding overcharges and interest on 0+ calls made from pay telephones by USLD Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: M. Watts
ECR: D. Draper
LEG: B. Keating

ISSUE 1: Should the Commission accept USLD Communications, Inc.'s revised offer of refund and refund calculation of \$2,344.51 plus interest of \$208.26, for a total of \$2,552.77, for overcharging end users on intrastate 0+ calls made from pay telephones from February 1, 1999, through April 30, 2001, and supplement Order No. PSC-01-1744-PAA-TI issued August 27, 2001, to reflect the revised refund calculations?

RECOMMENDATION: Yes. Staff recommends that the Commission accept USLD's revised refund calculation of \$2,344.51, adding interest of \$208.26, for a total of \$2,552.77, and supplement Order No. PSC-01-1744-PAA-TI issued August 27, 2001, to reflect the revised refund calculations. All remaining terms and conditions specified in Order No. PSC-01-1744-PAA-TI should remain the same.

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ITEM NO.

CASE

6**PAA

Docket No. 010937-TI - Investigation and determination of appropriate method for refunding overcharges and interest on 0+ calls made from pay telephones by USLD Communications, Inc.

(Continued from previous page)

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If no person whose interests are substantially affected by the proposed agency action files a protest of the Commission's decision in Issue 1 within the 21-day protest period, the Commission's Order will become final upon issuance of a Consummating Order. The docket should, however, remain open pending the completion of the refund and receipt of the final report on the refund. After completion of the refund and receipt of the final refund report, this docket should be closed administratively.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

7**PAA

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

Docket No. 010687-TC - Southwest Pay Telephone Corporation
Docket No. 010692-TC - FAGUN ENTERPRISES INC. d/b/a COIN 'O' WASH

Docket No. 010695-TC - Christopher and Melissa Willis d/b/a MCW COMMUNICATIONS

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: CMP: Isler

LEG: Pena, B. Keating, Elliott

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate as listed on Attachment A of staff's September 6, 2001 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 fine or cancel each company's respective certificate as listed on Attachment A if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine 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 fine 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 to the Office of the Comptroller for further collection efforts.

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ITEM NO.

CASE

7**PAA

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

(Continued from previous page)

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. 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 fine and fees or cancellation of the 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: Jacobs, Deason, Jaber, Baez, Palecki

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ITEM NO.

CASE

8**

Docket No. 010735-TI - Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 5672 issued to iTELSA (USA), Inc. 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
LEG: Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by iTELSA (USA), Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business 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. 5672 should be canceled administratively.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

9**

Docket No. 010697-TC - Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 7533 issued to CfL, L.L.C. d/b/a CfL Payphones 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: Deason

Staff: CMP: Isler
LEG: Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by CfL, L.L.C. d/b/a CfL Payphones to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business 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. 7533 should be canceled administratively.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. 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: Jacobs, Deason, Jaber, Baez, Palecki

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ITEM NO.

CASE

10**

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

Docket No. 010691-TC - Publicall Telecommunications Inc.
Docket No. 010693-TC - East & Main Grocery and Coin Laundry Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: CMP: Isler
LEG: Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by each company listed on Attachment A of staff's September 6, 2001 memorandum to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept each company's respective settlement proposal. Any contribution should be received by the Commission within ten business 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 any of the companies listed on Attachment A fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be cancelled administratively.

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ITEM NO.

CASE

10**

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

(Continued from previous page)

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A should be closed upon receipt of the \$150 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

11**

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

Docket No. 010427-TC - John C. Thomas d/b/a El Toro Barber Shop

Docket No. 010530-TC - Datatel, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
LEG: Elliott

ISSUE 1: Should the Commission accept the settlement offer proposed by each company listed on Attachment A of staff's September 6, 2001 memorandum to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept each company's respective settlement proposal. Any contribution should be received by the Commission within ten business 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 any of the companies listed on Attachment A fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be cancelled administratively.

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ITEM NO.

CASE

11**

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

(Continued from previous page)

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

12**

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

Docket No. 010717-TI - ATX Telecommunications Services
Docket No. 010734-TI - Focal Communications Corporation of Florida

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
LEG: Pena, B. Keating

ISSUE 1: Should the Commission accept the settlement offer proposed by each company listed on Attachment A of staff's September 6, 2001 memorandum to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept each company's respective settlement proposal. Any contribution should be received by the Commission within ten business 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 any of the companies listed on Attachment A fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be cancelled administratively.

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ITEM NO.

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12**

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

(Continued from previous page)

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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ITEM NO.

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13 Docket No. 001485-TX - Cancellation by Florida Public Service Commission of Alternative Local Exchange Telecommunications Certificate No. 7160 issued to CAT Communications International, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. (Deferred from July 10, 2001 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
 LEG: Banks

ISSUE 1: Should the Commission accept the settlement offer proposed by CAT Communications International, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business 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. 7160 should be cancelled administratively.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

14**PAA

Docket No. 010543-TC - Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 5954 issued to Wyatt Duvall d/b/a Fones for Kids for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Isler
LEG: Pena, B. Keating

ISSUE 1: Should the Commission grant Wyatt Duvall d/b/a Fones for Kids a voluntary cancellation of Certificate No. 5954?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5954 on its own motion, effective May 24, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

15**

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

Docket No. 010620-TC - Orlando Lamas

Docket No. 010694-TC - Alegre Marlin, Corp.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative (010620)

Prehearing Officer: Deason (010694)

Staff: CMP: Isler

LEG: Pena, B. Keating

ISSUE 1: Should the Commission grant the companies listed on Attachment A of staff's September 6, 2001 memorandum a voluntary cancellation of their respective certificates?

RECOMMENDATION: Yes. The Commission should grant each company a voluntary cancellation of its telecommunications certificate with an effective date as listed on Attachment A.

ISSUE 2: Should these dockets be closed?

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

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

16**

Docket No. 010721-TI - Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 4079 issued to GTE Telecommunication Services Incorporated 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
LEG: Elliott

ISSUE 1: Should the Commission grant GTE Telecommunication Services Incorporated a voluntary cancellation of its Certificate No. 4079?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its Certificate No. 4079 with an effective date of June 27, 2001.

ISSUE 2: 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: Jacobs, Deason, Jaber, Baez, Palecki

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<u>ITEM NO.</u>	<u>CASE</u>
17**	<p>Docket No. 010846-GU - Petition for approval of initial transportation cost recovery factors by Florida Public Utilities Company.</p> <p>Critical Date(s): 10/12/01 (60-day suspension date)</p> <p>Commissioners Assigned: Full Commission Prehearing Officer: Administrative</p> <p>Staff: CMP: Makin, Bulecza-Banks LEG: C. Keating</p> <p><u>ISSUE 1</u>: Should the Commission grant Florida Public Utilities Company's (FPUC or Company) petition for approval of initial transportation cost recovery factors? <u>RECOMMENDATION</u>: Yes. The Commission should grant FPUC's petition for approval of initial transportation cost recovery factors effective September 18, 2001, the date of the Commission's vote in this matter.</p> <p><u>ISSUE 2</u>: Should this docket be closed? <u>RECOMMENDATION</u>: Yes. If no protest is filed within 21 days of the issuance of the Order by a person whose substantial interests are affected, this docket should be closed upon the issuance of a Consummating Order.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Jacobs, Deason, Jaber, Baez, Palecki</p>

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ITEM NO.

CASE

18**

Docket No. 011061-GU - Petition of Florida Division of Chesapeake Utilities Corporation for approval of tariff modifications relating to Competitive Rate Adjustment Cost Recovery Mechanism.

Critical Date(s): 10/8/01 (60-day suspension date)

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: CMP: Makin, Bulecza-Banks
LEG: C. Keating

ISSUE 1: Should the Commission grant the Florida Division of Chesapeake Utilities Corporation's (Chesapeake or Company) petition for approval of tariff modifications relating to its Competitive Rate Adjustment Cost Recovery Mechanism?

RECOMMENDATION: Yes. The Commission should grant Chesapeake's petition for approval of tariff modifications relating to its Competitive Rate Adjustment Cost Recovery Mechanism. The modifications should become effective September 18, 2001, the date of the Commission's vote in this matter.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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ITEM NO.

CASE

19**PAA

Docket No. 001682-WU - Application for staff-assisted rate case in Columbia County by Consolidated Water Works, Inc.

Critical Date(s): 15-month effective date waived

Commissioners Assigned: Full Commission

Prehearing Officer: Palecki

Staff: ECR: Walker, Edwards, Lingo, Crouch, Rendell

LEG: Cibula

ISSUE 1: Should the Commission approve a year end rate base for Consolidated?

RECOMMENDATION: Yes. The Commission should approve a year end rate base for Consolidated to allow it an opportunity to earn a fair return on the required pro forma items, as well as to provide compensatory rates in this rate case.

ISSUE 2: Is the quality of service provided by Consolidated satisfactory?

RECOMMENDATION: No. The quality of service should not be considered satisfactory. In addition, staff recommends that the utility be required to complete the pro forma improvements and rectify all the discrepancies found in this case.

ISSUE 3: What used and useful percentages should be applied to the three treatment plants and three distribution systems?

RECOMMENDATION: The three separate plants are each closed systems consisting of one operational well, chlorination equipment, and a hydropneumatic tank for storage and pressure control. Each water treatment plant should be considered 100% used and useful. Two of the service areas, Azalea Park and Shady Oaks, are essentially built out with no appreciable growth anticipated. The distribution systems for Azalea Park and Shady Oaks should also be considered 100% used and useful. The remaining system, 242 Village, has numerous undeveloped lots although the distribution lines are in place and capable of serving those lots when needed. The distribution system for 242 Village should be considered 80% used and useful.

ISSUE 4: Are there deficiencies at Consolidated's water treatment facilities?

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ITEM NO.

CASE

19**PAA

Docket No. 001682-WU - Application for staff-assisted rate case in Columbia County by Consolidated Water Works, Inc.

(Continued from previous page)

RECOMMENDATION: Yes. There are numerous deficiencies associated with the plants that provide services to the Shady Oaks and Azalea Park subdivisions. Staff recommends that Consolidated be required to bring its water treatment facilities into compliance with the requirements comprised in the Consent Order issued by the DEP.

ISSUE 5: Are any pro forma adjustments needed for Consolidated's plant?

RECOMMENDATION: Yes. Pro forma adjustments of \$29,617 are needed for a meter replacement program, replacement of a hydropneumatic tank, construction of plant security fences, one new well, flow meters, doors for the chlorinator rooms, tank painting, and replacement of a chlorine pump. These items should be installed and operational within six months of the effective date of the Order arising from this recommendation.

ISSUE 6: What is the appropriate year end rate base?

RECOMMENDATION: The appropriate year end rate base is \$62,449.

ISSUE 7: Should a negative acquisition adjustment be approved relating to the purchase of 242 Village?

RECOMMENDATION: Yes. A negative acquisition adjustment in the amount of \$4,651 should be approved relating to the purchase of 242 Village. The acquisition adjustment should be amortized over the life of the plant. This is the first time the Commission has addressed a negative acquisition adjustment for reasons of poor management and/or poor quality of service caused by the subsequent owner of a utility.

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ISSUE 8: 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 should be 9.94% with a range of 8.94% to 10.94% and the appropriate overall rate of return should be 10.48%.

ISSUE 9: What is the appropriate test year revenue for this utility?

RECOMMENDATION: The appropriate test year revenue should be \$45,339.

ISSUE 10: What is the appropriate amount of operating expenses for rate setting purposes?

RECOMMENDATION: The appropriate amount of operating expenses for rate setting purposes should be \$63,488. The utility should provide staff with a signed contract with Wiley's Insurance with proof of the insurance policy within 30 days of the effective date of the Commission Order. Further, the utility should maintain its books and records in compliance with NARUC USOA. The utility should provide a statement with its 2002 annual report that it has brought its books and records into compliance with the NARUC USOA.

ISSUE 11: What is the appropriate revenue requirement for this system?

RECOMMENDATION: The appropriate revenue requirement should be \$70,036 for the test year.

ISSUE 12: Is a continuation of the utility's current rate structures for its separate subdivisions appropriate in this case, and, if not, what is the appropriate rate structure?

RECOMMENDATION: No. A continuation of the utility's current rate structures for its separate subdivisions is not appropriate in this case. The current rate structures should be changed to a traditional base facility charge (BFC)/gallage charge rate structure with uniform rates for the three subdivisions. No conservation adjustment should be implemented at this time. In order to monitor the effects of the new meters on customers' consumption, the utility should be ordered to provide actual billing reports,

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by customer and subdivision, for the period of August 2001 - December 2001. The implementation of a conservation adjustment and an inclining-block rate structure will be reevaluated in six months after staff has obtained actual billing data for that period.

ISSUE 13: Is an adjustment to reflect repression of residential consumption due to the price increase and change in rate structures appropriate in this case, and, if so, what is the appropriate repression adjustment and the resulting residential consumption for rate-setting?

RECOMMENDATION: Yes. A repression adjustment of 2,573 kgal to residential consumption is appropriate, resulting in residential consumption for rate-setting of 10,639 kgal. In order to monitor the effects of 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 14: What are the appropriate monthly rates for service?

RECOMMENDATION: The appropriate monthly rates should be designed to produce revenues of \$69,563, excluding miscellaneous service charges. Although the three plants in Consolidated's system operate under two different rate structures, staff recommends combining the three systems under a uniform rate. 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, has received and approved the required escrow agreement addressed in Issue 15, and the notice has been received by the customers. The utility should provide

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proof of the date notice was given no less than 10 days after the date of the notice.

ISSUE 15: Should the utility be required to place in escrow the percentage of revenues that are directly related to the necessary pro forma plant additions?

RECOMMENDATION: Yes. The utility should be required to escrow 11.18% of revenues related to the pro forma items. Consolidated should file a monthly report with this Commission detailing the monthly collections, as well as the aggregate amount. The escrow requirement should remain in effect until the requirements set forth in the DEP Consent Order are met and all additional pro-forma items are purchased and properly installed.

ISSUE 16: Should the utility be authorized to collect miscellaneous service charges, and if so, what are the appropriate charges?

RECOMMENDATION: Yes. The utility should be authorized to collect miscellaneous service charges as recommended in the analysis portion of staff's September 6, 2001 memorandum. The utility should file revised tariff sheets which are consistent with the Commission's decision. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the miscellaneous service charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 17: 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 rates should be reduced, as shown on Schedule 4 of staff's memorandum, to remove rate case expense grossed up for RAFs 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,

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

RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed in the staff analysis. 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 Office of the Commission Clerk and Administrative Services 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 19: Should Consolidated be ordered to show cause, in writing within 21 days, why it should not be fined for charging rates and charges that are not contained in its tariff, in apparent violation of Sections 367.081(1) and 367.091(4), Florida Statutes?

RECOMMENDATION: No. A show cause proceeding should not be initiated. The utility should, however, be put on notice

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that, pursuant to Sections 367.081(1) and 367.091(4), Florida Statutes, it must only charge those rates and charges approved by the Commission in its tariff.

ISSUE 20: Should Consolidated be ordered to show cause, in writing within 21 days, why it should not be fined for failing to file a revised tariff for the 242 Village system, in apparent violation of Order No. PSC-94-1357-FOF-WU and Section 367.091(3), Florida Statutes?

RECOMMENDATION: No. A show cause proceeding should not be initiated. The utility should, however, be put on notice that, pursuant to Section 367.091(3), Florida Statutes, it must have a tariff on file with the Commission containing its Commission-approved rates, charges and customer service policies.

ISSUE 21: Should this docket be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional 12 months from the effective date of the Order to allow staff to verify completion of pro forma meter installations and other system repairs as described in Issues 4 and 5. Due to incomplete gallonage data, staff will adjust rates, if necessary, six months from the effective date of the Order to better match rates with the approved revenue requirement. If staff determines that a rate adjustment is necessary at that time, staff will file a recommendation with the new rates for the Commission's consideration at a future agenda conference. At that time, staff will readdress the escrow requirement discussed in Issue 15 and the appropriate time to close the docket.

DECISION: The recommendations were approved with the noted modification to Issue 14.

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

<u>ITEM NO.</u>	<u>CASE</u>
20	<p>Docket No. 990649-TP - Investigation into pricing of unbundled network elements.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Jacobs, Deason, Jaber Prehearing Officer: Jacobs</p> <p>Staff: LEG: B. Keating, Knight CMP: Marsh, Dowds, King, Davis ECR: P. Lee PAI: Ollila</p> <p><u>ISSUE 1</u>: Should the Commission grant BellSouth's Motion for Reconsideration? <u>RECOMMENDATION</u>: The Motion for Reconsideration should be granted, in part, and denied, in part, as set forth in the analysis portion of staff's September 6, 2001 memorandum. Furthermore, clarification regarding references to hybrid fiber/copper loops and BellSouth's ability to submit support for costs, if any, associated with tagging xDSL-capable loops should be provided as set forth in the Staff Analysis.</p> <p><u>ISSUE 2</u>: Should the Commission grant MCI, AT&T, Covad, and Z-Tel's Joint Motion for Reconsideration? <u>RECOMMENDATION</u>: The Motion for Reconsideration should be denied as set forth in the Staff Analysis.</p> <p><u>ISSUE 3</u>: Should the Commission grant BellSouth's Motion to Conform Staff Analysis and Cost Model Run to Order No. PSC-01-1181-FOF-TP? <u>RECOMMENDATION</u>: No. The Motion is actually an untimely Motion for Reconsideration. However, staff does recommend that the Commission should, on its own motion, conform the cost model runs to its decisions set forth in the Order.</p> <p><u>ISSUE 4</u>: Should this Docket be closed? <u>RECOMMENDATION</u>: No. This Docket should remain open to address BellSouth's 120-day filings and Phase III for Verizon and Sprint.</p>

DECISION: This item was deferred.

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CASE

21 Docket No. 000828-TP - Petition of Sprint Communications Company Limited Partnership for arbitration of certain unresolved terms and conditions of a proposed renewal of current interconnection agreement with BellSouth Telecommunications, Inc.
Docket No. 000761-TP - Petition by Sprint Spectrum L.P., d/b/a Sprint PCS for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc. pursuant to Section 252 of the Telecommunications Act.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez (000828)
Prehearing Officer: Deason (000761)

Staff: LEG: Christensen, Banks
 CMP: Fulwood, Barrett, King

ISSUE 1: Should BellSouth and Sprint's Joint Motion for Extension of Time be granted?

RECOMMENDATION: Yes. BellSouth and Sprint's Joint Motion for Extension of Time should be granted.

ISSUE 2: In accordance with Order No. PSC-01-1095-FOF-TL, should the Commission approve Sprint's or BellSouth's proposed agreement language regarding stand-alone custom calling features, Issue 3?

RECOMMENDATION: The Commission should adopt the language proposed by Sprint.

ISSUE 3: Should Docket Nos. 000828-TP and 000761-TP be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendations in Issue 2, these dockets should remain open in order that the parties may file their final interconnection agreement. Staff recommends that the parties be required to file the final interconnection agreement within 30 days from the issuance date of the Order resolving the disputed contract language.

DECISION: The recommendations were approved.

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

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22 Docket No. 010089-TP - Complaint of Charlene Hoag against Verizon Florida Inc. and Sprint Communications Company, Limited Partnership d/b/a Sprint for alleged improper billing.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Administrative

Staff: LEG: Fudge
 CAF: Stokes
 RGO: McCoy

ISSUE 1: Should the request for oral argument by Ms. Charlene Hoag be granted?

RECOMMENDATION: No. Ms. Hoag has not stated why oral argument would aid the Commission in comprehending and evaluating the issue before it.

ISSUE 2: Should the Motion for Reconsideration filed by Ms. Charlene Hoag be granted?

RECOMMENDATION: No. Neither Ms. Hoag's March 12 letter nor the subsequent letters identify any point of fact or law which was overlooked or the Commission failed to consider in rendering its Order.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 2, no further action is required and this docket should be closed.

DECISION: This item was deferred.

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23**

Docket No. 010309-TL - Petition for expedited review of North American Plan Administration's (NANPA) denial of application for use of central office code numbering resources or NXX codes in Orlando Magnolia switch by BellSouth Telecommunications, Inc.
Docket No. 010782-TL - Petition for generic proceedings to establish expedited process for reviewing North American Plan Administration (NANPA) future denials of applications for use of additional NXX Codes by BellSouth Telecommunications, Inc.
Docket No. 010783-TL - Petition for review of pooling administrator's denial of request for additional numbering resources by NeuStar by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Palecki (010309)
Prehearing Officer: Baez (010782)
Prehearing Officer: ADM (010783)

Staff: LEG: Fordham
CMP: Casey

ISSUE 1: Should the Protest of BellSouth's Protest of NANPA and PA Denials of NXX and NXX-X Codes and State of Florida PSC Overturn of Denials, and FCC Clarification Filing filed July 16 by Emmanuel Arvanitas and Peggy Arvanitas be dismissed in Docket Nos. 010309-TL, 010782-TL, and 010783-TL?

RECOMMENDATION: Yes. The Protest of BellSouth's Protest of NANPA and PA Denials of NXX and NXX-X Codes and State of Florida PSC Overturn of Denials, and FCC Clarification Filing filed July 16 by Emmanuel Arvanitas and Peggy Arvanitas should be dismissed in Docket Nos. 010309-TL, 010782-TL, and 010783-TL on the Commission's own motion.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Proposed Agency Action Orders issued in Docket Nos. 010309-TL and 010783-TL should be made final and the Dockets should be closed. Docket No. 010782-TL should remain open at this time pending resolution of the issues therein.

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23**

Docket No. 010309-TL - Petition for expedited review of North American Plan Administration's (NANPA) denial of application for use of central office code numbering resources or NXX codes in Orlando Magnolia switch by BellSouth Telecommunications, Inc.
Docket No. 010782-TL - Petition for generic proceedings to establish expedited process for reviewing North American Plan Administration (NANPA) future denials of applications for use of additional NXX Codes by BellSouth Telecommunications, Inc.

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DECISION: The recommendations were approved.

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

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CASE

24**

Docket No. 010827-EI - Petition by Gulf Power Company for approval of purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased capacity and purchased energy.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: LEG: Stern
SER: Harlow

ISSUE 1: Should the Commission acknowledge Gulf's Notice of Voluntary Dismissal and/or Withdrawal of Petition?

RECOMMENDATION: Yes.

ISSUE 2: Should the Commission, on its own motion, vacate its August 14, 2001, decision on OPC's Motion to Dismiss?

RECOMMENDATION: Yes. Gulf's withdrawal of its Petition renders the decision on OPC's Motion to Dismiss unnecessary, and the Commission has previously vacated decisions under such circumstances.

ISSUE 3: Should the Commission approve Gulf's Request for Immediate Return of Confidential Information Provided Pursuant to Discovery?

RECOMMENDATION: Gulf's Request should be granted to the extent that it asks for OPC and FIPUG to return discovery responses subject to a request for confidential classification. Gulf's Request should be denied in all other respects.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: This docket should be closed 32 days after the issuance of the order to allow the time for filing an appeal to run.

DECISION: The recommendations were approved for Issues 1 and 2. Issues 3 and 4 were deferred.

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

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<u>ITEM NO.</u>	<u>CASE</u>
25**	Docket No. 010801-WS - Application for transfer of majority organizational control of Bieber Enterprises d/b/a Breeze Hill Utilities, Inc., holder of Certificates Nos. 598-W and 513-S in Polk County, from Paul E. Bieber to Terrance Hartigh.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Baez

Staff: RGO: Brady, Rieger
ECR: Iwenjiora
LEG: Crosby

ISSUE 1: Should the transfer of majority organizational control of Bieber Enterprises d/b/a Breeze Hill Utilities from Paul E. Bieber to Terrance Hartigh be approved?

RECOMMENDATION: Yes. The transfer of majority organizational control should be approved. The seller should be held responsible for remitting to the Commission 2001 regulatory assessment fees accrued prior to the closing. The buyer should be held responsible for the 2001 annual report for the period January 1 through December 31, 2001, and remitting to the Commission the balance of 2001 regulatory assessment fees accrued after the closing.

ISSUE 2: Should the existing rates and charges for the utility be continued?

RECOMMENDATION: Yes. The rates and charges approved for the utility should be continued. The tariff reflecting the transfer of majority organizational control should be approved effective for services rendered or connections made on or after the stamped approval date.

ISSUE 3: Should the docket be closed?

RECOMMENDATION: Yes. There are no issues remaining and the docket should be closed upon the issuance of the Final Order.

DECISION: The recommendations were approved.

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

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26**

Docket No. 001826-WU - Application for transfer by Heartland Utilities, Inc. (holder of Certificate No. 420-W in Highlands County) of DeSoto City and Sebring Country Estates water systems to City of Sebring.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Deason

Staff: RGO: Clapp, Walden
LEG: Crosby, Gervasi

ISSUE 1: Should the transfer of a portion of Heartland's water systems to the City be approved as a matter of right and should Water Certificate No. 420-W be amended to reflect the deletion of territory?

RECOMMENDATION: Yes. The transfer of a portion of Heartland's water systems to the City should be approved as a matter of right pursuant to Section 367.071(4)(a), Florida Statutes, and Water Certificate No. 420-W should be amended to reflect the territory deletion effective January 3, 2001, which is the closing date of the sale. A description of the territory remaining after the partial transfer is contained in Attachment A of staff's September 6, 2001 memorandum.

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

RECOMMENDATION: No. The Commission should not open a docket to examine whether Heartland's sale of its facilities involves a gain that should be shared with Heartland's remaining customers.

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26**

Docket No. 010826-TX - Application for certificate to provide alternative local exchange telecommunications service by KMC Data, LLC.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If no protest is received to the proposed agency action issue, the docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendations were approved with the understanding under Issue 2 that no gain on sale investigation is being initiated at this time.

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

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<u>ITEM NO.</u>	<u>CASE</u>
27**PAA	Docket No. 010357-EI - Request for authorization, pursuant to Rule 25-6.015(1), F.A.C., to keep records out of state, by Florida Power Corporation.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Jaber

Staff: RGO: Buckley
ECR: Slemkewicz
LEG: Elias

ISSUE 1: Should the Commission authorize Florida Power Corporation to keep its accounting records out of state?
RECOMMENDATION: Yes. The Commission should approve Florida Power Corporation's request to keep its records out of state.

ISSUE 2: Should this docket be closed?
RECOMMENDATION: Yes, if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order.

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
28**PAA	Docket No. 010888-EG - Petition for approval of modification to residential duct repair program by Tampa Electric Company. Critical Date(s): None Commissioners Assigned: Full Commission Prehearing Officer: Administrative Staff: SER: Colson LEG: C. Keating <u>ISSUE 1</u> : Should the Commission approve Tampa Electric Company's petition for approval of a modification to the Residential Duct Repair Program? <u>RECOMMENDATION</u> : Yes. The proposed modification is intended to lower the overall cost of implementing the duct repair program and increase customer participation. <u>ISSUE 2</u> : Should this docket be closed? <u>RECOMMENDATION</u> : Yes, if no protest is filed within 21 days of the issuance of the order.

DECISION: The recommendations were approved.

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

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29

Docket No. 000731-TP - Petition by AT&T Communications of the Southern States, Inc. d/b/a AT&T for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc. pursuant to 47 U.S.C. Section 252. (Deferred from September 4, 2001 conference; revised recommendation filed.)

Critical Date(s): None

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

Staff: LEG: L. Fordham
CMP: Barrett, Fulwood, Hinton
RGO: Broussard, Vinson

ISSUE 1: Should the Motions for Reconsideration filed by BellSouth and AT&T be granted?

RECOMMENDATION: No. The Motions for Reconsideration filed by BellSouth and AT&T should not be granted. However, the Order should be corrected as reflected in this recommendation to correct a scrivener's error identified by both parties.

ISSUE 2: Should BellSouth's Motion for Extension of Time for Filing Executed Interconnection Agreement be granted?

RECOMMENDATION: Yes. BellSouth's Motion for Extension of Time for Filing Executed Interconnection Agreement should be granted.

ISSUE 3: Should this Docket be closed?

RECOMMENDATION: No. This Docket should remain open, pending the filing and approval of the final agreement by this Commission.

DECISION: The recommendations were approved.

Commissioners participating: Jacobs, Baez, Palecki

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CASE

30**

Docket No. 981079-SU - Application for amendment of Certificate No. 104-S to extend service territory in Pasco County by Hudson Utilities, Inc., and request for limited proceeding.

Critical Date(s): None

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

Staff: LEG: Cibula
RGO: Clapp

ISSUE 1: Should the Commission grant Hudson Utilities, Inc.'s Motion for Third Extension of Time to File Proof of Transfer of Territory?

RECOMMENDATION: Yes. The Commission should grant Hudson Utilities, Inc.'s Motion for Third Extension of Time to File Proof of Transfer of Territory. As requested in its motion, the utility should be allowed until June 30, 2002, to file proof of the transfer of the Signal Cove territory from Pasco County to Hudson Utilities, Inc.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to allow staff to verify that Hudson Utilities, Inc., has filed proof of the transfer of the Signal Cove territory from Pasco County to the utility. Once staff has verified this information, this docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Baez, Palecki

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31 Docket No. 001797-TP - Petition by DIECA Communications, Inc. d/b/a Covad Communications Company for arbitration of unresolved issues in interconnection agreement with BellSouth Telecommunications, Inc.

Critical Date(s): None

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

Staff: CMP: Fulwood, Barrett, Bloom, Dowds, King
LEG: Banks, Elliott

LEGAL ISSUE A: What is the Commission's jurisdiction in this matter?

RECOMMENDATION: Staff believes that the Commission has jurisdiction pursuant to Chapter 364, Florida Statutes, and Section 252 of the Federal Telecommunications Act of 1996 (Act) to arbitrate interconnection agreements, and may implement the processes and procedures necessary to do so in accordance with Section 120.80 (13)(d), Florida Statutes. Section 252 states that a State Commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions required. This section requires this Commission to conclude the resolution of any unresolved issues not later than nine months after the date on which it received the request under this section. In this case, however, the parties have explicitly waived the nine-month requirement set forth in the Act.

Further, staff believes that while Section 252(e) of the Act reserves the state's authority to impose additional conditions and terms in an arbitration not inconsistent with the Act and its interpretation by the FCC and the courts, the Commission should use discretion in the exercise of such authority.

DECISION: The recommendation was approved.

ISSUE 1: What limitations of liability, if any, should be included in the Parties' Interconnection Agreement?

RECOMMENDATION: Staff believes the record does not provide sufficient evidence upon which a decision can be made as to

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31 Docket No. 001797-TP - Petition by DIECA Communications, Inc. d/b/a Covad Communications Company for arbitration of unresolved issues in interconnection agreement with BellSouth Telecommunications, Inc.

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whether or not to impose the disputed language addressing limitations on liability. Therefore, staff recommends that the Commission not impose the adoption of any disputed terms contained in the limited liability provision of the parties' interconnection agreement, whereby the parties would be liable in damages, without a liability cap, for a material breach of the interconnection agreement.

DECISION: The recommendation was approved.

ISSUE 5a: What is the appropriate interval for BellSouth to provision an unbundled voice-grade loop, ADSL, HDSL, or UCL for Covad?

RECOMMENDATION: Staff recommends that the appropriate intervals for BellSouth to provision unbundled voice grade, ADSL, HDSL, or UCL loops for Covad should be:

Loop Type	Provisioning Intervals
Service Level 1 (SL1)	Three Business Days
Service Level 2 (SL2)	Four Business Days
ADSL, HDSL, or UCL	Four Business Days

Staff notes that these intervals apply to loops that do not require conditioning. Staff recommends that the provisioning interval should begin after Covad submits an error-free electronic order during BellSouth's normal retail business hours. Staff notes that when Covad submits orders outside of BellSouth's normal business hours, BellSouth should deem Covad's order as received at the start of business the following business day. Staff recommends that BellSouth should be allowed an additional day for manually submitted orders.

Staff recommends that these provisioning intervals should be included in the Interconnection Agreement. Further, staff recommends that BellSouth should be required

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31 Docket No. 001797-TP - Petition by DIECA Communications, Inc. d/b/a Covad Communications Company for arbitration of unresolved issues in interconnection agreement with BellSouth Telecommunications, Inc.

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to meet these intervals for at least 90 percent of SL1 and SL2 loop requests within any calendar month, which is derived from Rule 25-4.066(2), FAC. Staff notes that this rule only applies to BellSouth's retail service; however, staff believes that parity extends this benchmark to Covad as well. Staff notes that there is not enough record evidence to support a determination of the percentage of time that BellSouth should be required to meet for the intervals for ADSL, HDSL, or UCL loops.

DECISION: The recommendation was approved.

ISSUE 5b: What is the appropriate interval for BellSouth to provision an IDSL-compatible loop for Covad?

RECOMMENDATION: Staff recommends that the appropriate provisioning interval for an IDSL-compatible/UDC loop should be five business days. Staff notes that this provisioning interval includes an additional day for end-users served by digital loop carrier (DLC) systems. Staff also notes that when an end-user's copper pair is served by a fiber-fed IDLC system, a "work around" is required. Staff recommends that when a "work around" is required, the appropriate provisioning interval should be ten business days.

Staff recommends that these provisioning intervals should begin after Covad submits an error-free electronic order during BellSouth's normal retail business hours. Staff notes that when Covad submits orders after BellSouth's normal business hours, BellSouth should deem Covad's order as received at the start of business the following day. Staff recommends that BellSouth should be allowed an additional day for manually submitted orders.

Staff recommends that these provisioning intervals should be included in the Interconnection Agreement. Staff notes that there is not enough record evidence to support a determination of the percentage of time that BellSouth

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should be required to meet this interval for IDSL-compatible/UDC loops.

DECISION: The recommendation was approved.

ISSUE 5c: What is the appropriate interval for BellSouth to "decondition" (i.e., remove load coils or bridged-tap) loops requested by Covad?

RECOMMENDATION: Staff recommends that the appropriate interval for BellSouth to "decondition" loops should be 14 days. Staff recommends that the provisioning interval should begin after Covad submits an accurate error-free electronic order during BellSouth's normal retail business hours. Staff notes that when Covad submits orders after BellSouth's normal business hours, BellSouth should deem Covad's order as received at the start of business the following day. Staff recommends that BellSouth should be allowed an additional day for manually submitted orders.

Staff also recommends that the 14-day loop deconditioning interval should be included in the Interconnection Agreement.

DECISION: The recommendation was approved.

ISSUE 6: Where a due date for the provisioning of a facility is changed by BellSouth after a Firm Order Confirmation has been returned on an order, should BellSouth reimburse Covad for any costs incurred as a direct result of the rescheduling?

RECOMMENDATION: Yes. Staff recommends that for modifications or cancellations due to personnel-related problems, the Commission should require BellSouth to credit Covad for the ordering and provisioning charges (if billed prior to the actual loop provisioning). Further, staff recommends that for modifications or cancellations due to facilities-related problems, the Commission should require

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BellSouth to credit Covad for any provisioning charges that have been billed prior to the actual loop provisioning.

DECISION: The recommendation was approved.

ISSUE 7(A): When BellSouth provisions a non-designed xDSL loop, under what terms, conditions and costs, if any, should BellSouth be obligated to participate in Joint Acceptance Testing to ensure the loop is properly provisioned?

RECOMMENDATION: BellSouth should not be required to participate in Joint Acceptance Testing at no charge when it provisions a non-designed xDSL loop to Covad. If Covad requests Joint Acceptance Testing for a non-designed xDSL loop, the appropriate charges should be BellSouth's time and material rates for the specified loop.

DECISION: The recommendation was approved.

ISSUE 7(B): Should BellSouth be prohibited from unilaterally changing the definition of and specifications for its loops?

RECOMMENDATION: No. BellSouth should not be prohibited from unilaterally changing the definition of and specifications for its loops in its TR 73600. However, to the extent that certain technical specifications are explicitly stated in the parties' interconnection agreement, BellSouth should not be permitted to unilaterally modify these standards.

DECISION: The recommendation was approved.

ISSUE 8: When Covad reports a trouble on a loop where, after BellSouth dispatches a technician to fix the trouble, no trouble is found but later trouble is identified on that loop that should have been addressed during BellSouth's first dispatch, should Covad pay for BellSouth's cost of the dispatch and testing before the trouble is identified?

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RECOMMENDATION: No. Covad should not be required to pay BellSouth's cost (i.e., BellSouth's rate) of the dispatch and testing for trouble tickets which meet the strict parameter as framed in the wording of this issue. However, Covad should pay for BellSouth's cost (i.e., BellSouth's rate) of the dispatch and testing in two instances: 1) If BellSouth determines the trouble condition resulted from a problem with a Covad customer's inside wiring that prevented the loop from functioning properly; or 2) if a subsequent trouble ticket for the given loop is not forthcoming within a 30-calendar-day period after the original trouble ticket was closed by BellSouth as a "No Trouble Found."

DECISION: The recommendation was approved.

ISSUE 11: What rate, if any, should Covad pay BellSouth if there is no electronic ordering interface available, when it places a manual LSR for:

- (a) an xDSL loop?
- (b) line sharing?

RECOMMENDATION: The parties should include language in the interconnection agreement which reflects that when problems with BellSouth's electronic ordering systems prevent Covad from placing electronic orders that BellSouth normally accepts, Covad may order the services manually and pay only the electronic ordering rate. In addition, Covad may be assessed manual ordering charges when it submits an order manually because BellSouth does not have an electronic interface in place for that service.

DECISION: The recommendation was approved.

ISSUE 12: Should Covad have to pay for a submitted LSR when it cancels an order because BellSouth has not delivered the loop in less than five business days?

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RECOMMENDATION: The Commission should require BellSouth to credit to Covad an LSR OSS charge previously paid by Covad when Covad cancels a loop order because Covad's customer has canceled his/her loop order, due to BellSouth's failure to deliver the loop within the applicable loop provisioning interval specified in staff's recommendations in Issues 5a through 5c.

DECISION: The recommendation was approved.

ISSUE 16: Where should the splitters be located in the central office?

RECOMMENDATION: Staff recommends that BellSouth-owned splitters should be located in the ALEC common area of the central office where the ALECs are collocated. Staff recommends that Covad-owned splitters should be located in Covad's collocation space.

DECISION: The recommendation was approved.

ISSUE 18: What should the provisioning interval be for the line sharing unbundled network element?

RECOMMENDATION: Staff recommends that the appropriate interval for BellSouth to provision the line shared loop should be four business days. Staff recommends that the provisioning interval should begin after Covad submits an error-free electronic order during BellSouth's normal business hours. Staff notes that when Covad submits orders after BellSouth's close of business hours, BellSouth should deem Covad's order as received at the start of business the following day. Staff recommends that BellSouth should be allowed an additional day for manually submitted orders.

Staff also recommends that these provisioning intervals should be included in the Interconnection Agreement. Staff notes that there is not enough record evidence to support a determination of the percentage of time that BellSouth

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should be required to meet this interval for line shared loops.

DECISION: The recommendation was approved.

ISSUE 22: Should BellSouth test for data continuity as well as voice continuity both when provisioning and repairing line shared loops?

RECOMMENDATION: No. Staff recommends that BellSouth should only be required to test the continuity of the data circuit, including the high frequency spectrum.

DECISION: The recommendation was approved. Additionally, language will be added to the order encouraging BellSouth to make the Sunset test available to Covad at market test rates.

ISSUE 23: Should Covad have access to all points on the line shared loop?

RECOMMENDATION: No. Staff recommends that Covad should not be allowed to test all points on a line shared loop. However, staff recommends that BellSouth should be obligated to provide one of the following options:

- 1) allow Covad to test the loop at the point of interconnection on the customer's side of the splitter; or
- 2) offer Covad a cross-connect from the loop access point of interconnection on the splitter to Covad's collocation space.

Staff believes that these methods provide BellSouth with network security, while minimizing the costs to Covad.

DECISION: The recommendation was approved.

ISSUE 24: Are the rates proposed by BellSouth for line sharing compliant with TELRIC pricing?

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RECOMMENDATION: Staff recommends that BellSouth should revise its line sharing cost studies to incorporate the adjustments noted in the analysis portion of its September 6, 2001 memorandum. A revised line sharing cost study that reflects staff's recommended adjustments should be filed with the Commission 30 days after the issuance of the order in this proceeding, and the associated rates should be included in the parties' agreement. Staff also recommends BellSouth incorporate all appropriate adjustments ordered by this Commission in Docket No. 990649-TP. Staff does not recommend rates be interim subject to true-up, but notes that when the Commission sets rates for collocation line-sharing, Covad will have the ability to adopt those rates at its discretion.

DECISION: The recommendation was approved with the noted modification and with a modification on page 105 of staff's recommendation as discussed at conference.

ISSUE 25: In the event Covad desires to terminate its occupation of a collocation space, and if there is a waiting list for space in that central office, should BellSouth notify the next ALEC on the waiting list to give that ALEC the opportunity to take that space as configured by Covad (such as racks, conduits, etc.), thereby relieving Covad of its obligation to completely vacate the space?

RECOMMENDATION: No. In the event Covad desires to terminate its occupation of a collocation space, and if there is a waiting list for space in that central office, BellSouth should not be required to notify the next ALEC on the waiting list to give that ALEC the opportunity to take that space as configured by Covad, and thus relieve Covad of its subsequent obligations.

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DECISION: The recommendation was approved with the modification that the language discussed at the conference on pages 111 and 113 of staff's recommendation be adopted.

ISSUE 29: What rates should Covad pay for collocation?

RECOMMENDATION: Staff recommends that BellSouth should revise its collocation cost studies to incorporate the adjustments noted in staff's analysis. A revised collocation cost study that reflects staff's recommended adjustments should be filed with the Commission 30 days after the issuance of the order in this proceeding, and the associated rates should be included in the parties' agreement. Staff also recommends BellSouth incorporate all appropriate adjustments ordered by this Commission in Docket No. 990649-TP. Staff does not recommend rates be interim subject to true-up, but notes that when the Commission sets rates for collocation, Covad will have the ability to adopt those rates at its discretion.

DECISION: The recommendation was approved.

ISSUE 30: Should BellSouth resolve all loop "facilities" issues within thirty days of receiving a complete and correct local service request from Covad?

RECOMMENDATION: Yes. BellSouth should resolve all loop "facilities" issues in a nondiscriminatory manner within thirty calendar days of receiving a complete and correct local service request from Covad. However, if BellSouth is unable to resolve all loop "facilities" issues due to a major network outage(s) or congestion condition(s) within thirty calendar days of receiving a complete and correct local service request from Covad, BellSouth should be required to expedite the provisioning of these loop facilities.

DECISION: The recommendation was approved.

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ISSUE 32a: Should Covad be required to pay amounts in dispute as well as late charges on such amounts?

RECOMMENDATION: No. Staff recommends that Covad should not be required to pay any legitimately disputed portion of a bill during the pendency of the dispute. Where the dispute is resolved in favor of BellSouth, Covad should be required to pay the amount it owes BellSouth plus applicable late payment charges. When a dispute is resolved in favor of Covad and Covad has previously paid the disputed charges, BellSouth should refund to Covad the monies with interest.

ISSUE 33: Should this docket be closed?

DECISION: The recommendation was approved.

RECOMMENDATION: No. The parties should be required to submit a signed agreement that complies with the Commission's decisions in this docket for approval within 30 days of issuance of the Commission's Order. This docket should remain open pending Commission approval of the final arbitration agreement in accordance with Section 252 of the Telecommunications Act of 1996.

DECISION: The recommendation was approved.

Commissioners participating: Jaber, Baez, Palecki