

**MINUTES OF**

**COMMISSION CONFERENCE, TUESDAY, APRIL 18, 2000**

**COMMENCED:** 9:30 a.m.

**ADJOURNED:** 3:30 p.m.

**COMMISSIONERS PRESENT:** Chairman Garcia  
Commissioner Deason  
Commissioner Clark  
Commissioner Jacobs  
Commissioner Jaber

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- 1                   Approval of Minutes  
                    February 15, 2000 Regular Commission Conference

DECISION: The minutes were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs

- 2                   Consent Agenda

- A) Applications for certificates to provide pay telephone service.

DOCKET NO. 000119-TC - MAH Communications, Inc.  
DOCKET NO. 000326-TC - VersaTel, Inc.  
DOCKET NO. 000330-TC - Phonexpert, Inc.  
DOCKET NO. 000335-TC - ETS Payphones, Inc.  
DOCKET NO. 000346-TC - James Truesdale  
DOCKET NO. 000367-TC - Link Tel Communications, Inc.  
DOCKET NO. 000396-TC - MK Communications, Inc.

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

DOCKET NO. 000195-TX - OnSite Access Local LLC  
DOCKET NO. 000246-TX- FairPoint Communications Corp.  
DOCKET NO. 000189-TX - PurePacket Communications of the South, Inc.  
DOCKET NO. 000245-TX - ET Telephone, Inc.  
DOCKET NO. 000305-TX - Advanced TelCom Group, Inc.  
DOCKET NO. 000253-TX - Backbone Communications Inc.

- C) Applications for certificates to provide interexchange telecommunications service.

DOCKET NO. 000194-TI - OnSite Access Local LLC  
DOCKET NO. 000247-TI - FairPoint Communications Corp.  
DOCKET NO. 000254-TI - Lyxom, Inc.  
DOCKET NO. 000304-TI - Advanced TelCom Group, Inc.  
DOCKET NO. 000164-TI - Locus Telecommunications, Inc.

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Consent Agenda

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D) Requests for cancellation of pay telephone certificates.

DOCKET NO. 000341-TC - Centre Ice  
DOCKET NO. 000303-TC - John M. Wingerd  
DOCKET NO. 000309-TC - Thrust-Tech Aviation, Inc.  
DOCKET NO. 000342-TC - Manuel Enrique Acevedo d/b/a ACE  
Telephone Service  
DOCKET NO. 000343-TC - Kham Kim Nguyen  
DOCKET NO. 000344-TC - Ronald Grant Powell  
DOCKET NO. 000354-TC - Robert L. Knippenberg d/b/a  
Ryckcom Payphone Co.  
DOCKET NO. 000387-TC - ALL-CALL Telephone Company

E) Requests for approval of resale agreements.

DOCKET NO. 000286-TP - GTE Florida Incorporated with  
Ciera Network Systems, Inc.  
(Critical Date: 5/8/00)  
DOCKET NO. 000294-TP - NOW Communications, Inc. with  
ALLTEL Florida, Inc.  
(Critical Date: 5/8/00)  
DOCKET NO. 000301-TP - GTE Florida Incorporated with NOS  
Communications, Inc. d/b/a  
International Plus d/b/a O11  
Communications d/b/a The Internet  
Business Association  
(Critical Date: 6/7/00)  
DOCKET NO. 000307-TP - BellSouth Telecommunications, Inc.  
with essential.com, inc.  
(Critical Date: 6/8/00)  
DOCKET NO. 000310-TP - GTC, Inc. d/b/a GT Com with Source  
One Communications, Inc.  
(Critical Date: 6/11/00)  
DOCKET NO. 000311-TP - GTC, Inc. d/b/a GT Com with  
International Design Group, Inc.  
d/b/a USA Telecom  
(Critical Date: 6/11/00)  
DOCKET NO. 000314-TP - BellSouth Telecommunications, Inc.  
with Pinnacle Telcom, Inc.  
(Critical Date: 6/11/00)

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Consent Agenda

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DOCKET NO. 000365-TP - BellSouth Telecommunications, Inc.  
with Phone-Link, Inc.  
(Critical Date: 6/25/00)

DOCKET NO. 000368-TP - Source One Communications, Inc.  
with ALLTEL Florida, Inc.  
(Critical Date: 6/26/00)

F) Requests for approval of interconnection, unbundling,  
resale and collocation agreements.

DOCKET NO. 000278-TP - BellSouth Telecommunications, Inc.  
with Business Telecom, Inc. d/b/a  
BTI  
(Critical Date: 6/1/00)

DOCKET NO. 000308-TP - BellSouth Telecommunications, Inc.  
with Interloop, Inc.  
(Critical Date: 6/8/00)

G) Requests for approval of renegotiated interconnection,  
unbundling, resale, and collocation agreements.

DOCKET NO. 000208-TP - BellSouth Telecommunications, Inc.  
with FreedomTel, Inc.  
(Critical Date: 5/18/00)

DOCKET NO. 000337-TP - BellSouth Telecommunications, Inc.  
with The Other Phone Company, Inc.  
d/b/a Access One Communications  
(Critical Date: 6/12/00)

H) Requests for approval of amendments to interconnection,  
unbundling, resale, and collocation agreements.

DOCKET NO. 000280-TP - BellSouth Telecommunications, Inc.  
with Network Access Solutions  
Corporation  
(Critical Date: 6/1/00)

DOCKET NO. 000336-TP - BellSouth Telecommunications, Inc.  
with Columbia Telecommunications,  
Inc. d/b/a axessa  
(Critical Date: 6/12/00)

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<u>ITEM NO.</u>	<u>CASE</u>
2	Consent Agenda  (Continued from previous page)  I) DOCKET NO. 000179-TP - Request for approval of amendment to existing collocation agreement between BellSouth Telecommunications, Inc. and Network Telephone Corporation. <p style="text-align: right;">(Critical Date: 5/11/00)</p> J) DOCKET NO. 000275-TP - Petition by GTE Florida Incorporated for approval of interconnection agreement with Teligent Services, Inc. <p style="text-align: right;">(Critical Date: 5/31/00)</p> K) DOCKET NO. 000264-TP - Request for approval of merger of America Online, Inc. (AOL) and Time Warner Inc. (TWI), indirect whole owner of Time Warner Connect (holder of IXC Certificate No. 4723, ALEC Certificate No. 4724, and STS Certificate No. 4725), whereby AOL and TWI will become wholly owned subsidiaries of AOL Time Warner Inc., a newly formed holding company.

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

DECISION: The recommendation was approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
3	<p>DOCKET NO. 980643-EI - Proposed amendments to Rules 25-6.135, F.A.C., Annual Reports; 25-6.1351, F.A.C., Cost Allocation and Affiliate Transactions; and 25-6.0436, F.A.C., Depreciation.</p> <p>Critical Date(s): None</p> <p>Rule Status: Proposed</p> <p>Commissioners Assigned: Full Commission Prehrg Officer JC</p> <p>Staff: APP: Helton AFA: Causseaux, Devlin, Hewitt, Lee, Mailhot, Merta, Revell, L. Romig, Salak, Wright EAG: Wheeler LEG: Elias</p> <p><u>Issue 1</u>: Should the Commission propose amendments to Rules 25-6.135, 25-6.1351, and 25-6.0436, Florida Administrative Code? <u>Recommendation</u>: Yes, the Commission should propose amendments to Rules 25-6.135, 25-6.1351, and 25-6.0436, Florida Administrative Code.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. If no requests for hearing or comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket closed.</p>

DECISION: The recommendations were approved with modifications made during discussion.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
4	<p>DOCKET NO. 991651-PU - Revision of Rule 25-22.032, F.A.C., Customer Complaints.</p> <p>Critical Date(s): None</p> <p>Rule Status: Proposed</p> <p>Commissioners Assigned: Full Commission Prehrg Officer DS</p> <p>Staff: APP: Brown AFA: Hewitt CAF: Johnson, DeMello</p>

Issue 1: Should the Commission propose the amendments to Rule 25-22.032, F.A.C., Customer Complaints, attached to staff's memorandum dated April 6, 2000?

Recommendation: Yes, the Commission should propose the amendments.

Issue 2: Should this docket be closed?

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

DECISION: The recommendations were approved as modified at the Conference.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
5	<p>DOCKET NO. 000393-WS - Proposed Repeal of Rule 25-30.111, F.A.C., Exemption for Resale of Utility Service, Annual Report.</p> <p>Critical Date(s): None</p> <p>Rule Status: Proposed</p> <p>Commissioners Assigned: Full Commission Prehrg Officer - Pending</p> <p>Staff: APP: Helton AFA: Hewitt LEG: Van Leuven WAW: Williams</p> <p><u>Issue 1</u>: Should the Commission repeal Rule 25-30.111, Florida Administrative Code, Exemption for Resale of Utility Service, Annual Report? <u>Recommendation</u>: Yes, the Commission should repeal Rule 25-30.111, Florida Administrative Code.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. If no requests for hearing or comments are filed, the rule repeal as proposed should be filed for adoption with the Secretary of State and the docket closed.</p>

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
6	<p>DOCKET NO. 000298-EI - Petition by Florida Power &amp; Light Company for approval of proposed revisions to curtailable service tariff.</p> <p>Critical Date(s): 5/6/00 (60-day suspension date)</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: EAG: Wheeler LEG: Isaac</p> <p><u>Issue 1</u>: Should the Commission suspend Florida Power &amp; Light Company's petition to revise its Curtailable Service tariff? <u>Recommendation</u>: Yes. The Commission should suspend Florida Power &amp; Light Company's petition to revise its Curtailable Service tariff.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: No. The docket should remain open pending a final decision on the tariff.</p>

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
7	<p>DOCKET NO. 000300-EI - Petition by Tampa Electric Company for approval of a Special Lighting Service Agreement and Revised Lighting tariffs.</p> <p>Critical Date(s): 5/8/00 (60-day suspension date)</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: EAG: Draper LEG: Stern</p> <p><u>Issue 1</u>: Should the Commission approve Tampa Electric Company's proposed Special Lighting Service Agreement and changes to its Street (SL-2) and Outdoor (OL-1 and OL-3) Lighting rate schedules? <u>Recommendation</u>: Yes.</p> <p><u>Issue 2</u>: What is the appropriate effective date for the revised tariffs? <u>Recommendation</u>: The appropriate effective date for the revised tariffs is April 18, 2000.</p> <p><u>Issue 3</u>: Should this docket be closed? <u>Recommendation</u>: Yes, if no protest is filed within 21 days of the issuance of the order.</p>

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

<u>ITEM NO.</u>	<u>CASE</u>
8	<p>DOCKET NO. 991788-EG - Approval of demand-side management plan of Florida Power &amp; Light Company.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer GR</p> <p>Staff: EAG: Harlow, Ballinger, Ging LEG: Elias</p> <p><u>Issue 1:</u> Should Florida Power &amp; Light Company's (FPL) Demand-Side Management (DSM) Plan be approved, including approval for cost recovery? <u>Recommendation:</u> Yes. FPL's DSM Plan should be approved because the Plan: 1) meets the objectives of Rule 25-17.001 and FEECA; 2) contains programs that appear to be cost effective and directly monitorable; 3) appears to meet FPL's numeric conservation goals; and 4) appears to adhere to the stipulation between FPL and LEAF. Expenditures on FPL's proposed R&amp;D programs should be capped at the levels contained in FPL's Plan.</p> <p><u>Issue 2:</u> Should Florida Power &amp; Light Company (FPL) be required to submit detailed program participation standards? <u>Recommendation:</u> Yes. FPL has recently filed proposed program participation standards with staff. Staff should administratively approve the program standards if they conform to the description of the programs contained in FPL's approved DSM Plan.</p> <p><u>Issue 3:</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 proposed agency action files a protest within 21 days of the issuance of the order.</p>

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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DOCKET NO. 000061-EI - Complaint by Allied Universal Corporation and Chemical Formulators, Inc. against Tampa Electric Company for violation of Sections 366.03, 366.06(2) and 366.07, F.S., with respect to rates offered under commercial/industrial service rider tariff; petition to examine and inspect confidential information; and request for expedited relief.

Critical Date(s): None

Commissioners Assigned: **Full Commission**  
Prehrg Officer JC

Staff: LEG: Stern, Elias  
EAG: Draper

Issue 1: Should the Commission grant TECO's Request for Approval of Proposed Procedures for a Disposition of This Proceeding Without Disclosing Confidential Information?

Recommendation: No. The Commission should deny TECO's Request because it violates fundamental principles of due process, and denies Allied the rights granted to parties to a formal hearing in Section 120.57(1)(b), Florida Statutes.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should not be closed.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
10	<p>DOCKET NO. 991332-TC - Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 5927 issued to Payphone Advertising Media, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer JC</p> <p>Staff: CMU: Isler LEG: K. Peña, B. Keating</p> <p><u>Issue 1</u>: Should the Commission accept the settlement offer proposed by Payphone Advertising Media, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?</p> <p><u>Recommendation</u>: 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, the company's Certificate No. 5927 should be canceled administratively.</p> <p><u>Issue 2</u>: Should this docket be closed?</p> <p><u>Recommendation</u>: 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.</p>

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
11	<p>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.</p> <p>DOCKET NO. 991586-TI - Protel Advantage, Inc. d/b/a Long Distance Savings DOCKET NO. 991773-TI - Axsys, Inc./TEL PTNS DOCKET NO. 991828-TI - Gnet Telecom, Inc. DOCKET NO. 991831-TI - @xess Communications, Inc. DOCKET NO. 991846-TI - Single Billing Services, Inc. d/b/a Asian American Association DOCKET NO. 991850-TI - Alliance Group Services, Inc. DOCKET NO. 991862-TI - Communications Billing, Inc. DOCKET NO. 991869-TI - IDT America Corp.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM (991586, 991828, 991831, 991846, 991850, 991862, 991869) Prehrg Officer GR (991773)</p> <p>Staff: CMU: Isler LEG: K. Peña, B. Keating</p> <p><u>Issue 1</u>: Should the Commission accept the settlement offer proposed by each company listed on page 4 of staff's April 6, 2000 memorandum to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies? <u>Recommendation</u>: Yes. The Commission should accept the companies' settlement proposals. 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 page 4 fails to pay in accordance with the terms of the Commission Order, that company's certificate should be canceled administratively.</p>

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11	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.
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Issue 2: Should these dockets be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, the docket for each company listed on page 4 should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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

DOCKET NO. 991879-TX - Strategic Technologies, Inc.

DOCKET NO. 991968-TX - Axsys, Inc. d/b/a Axsys, Inc./Tel Ptns.

DOCKET NO. 991987-TX - NOW Communications, Inc.

DOCKET NO. 991990-TX - Gnet Telecom, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: CMU: Isler  
LEG: K. Peña, B. Keating

Issue 1: Should the Commission accept the settlement offer proposed by each company listed on page 4 of staff's April 6, 2000 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 the companies' settlement proposals. 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 page 4 fails to pay in accordance with the terms of the Commission Order, that company's certificate should be canceled administratively.

Issue 2: Should these dockets be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, the docket for each company listed on page 4 should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber





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DOCKET NO. 992013-TC - Cancellation by Florida Public Service Commission of Pay Telephone Service Certificate No. 5381 issued to Bestel, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: CMU: Isler  
LEG: K. Peña, B. Keating

Issue 1: Should the Commission impose a \$1,000 fine or cancel Bestel, Inc.'s pay telephone certificate for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes. The Commission should impose a \$1,000 fine or cancel the company's certificate if the fine and the 1998 and 1999 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 company's Pay Telephone Certificate No. 5381 should be canceled administratively.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves or modifies staff's recommendation on Issue 1, this docket should be closed upon receipt of the fine and fees or cancellation of the certificate, 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. If the Commission denies staff's recommendation on Issue 1, this docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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16 DOCKET NO. 992038-TX - Cancellation by Florida Public Service Commission of ALEC Certificate No. 4769 issued to Easy Phone, Inc. d/b/a Easy Tel, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer GR

Staff: CMU: Isler  
LEG: K. Peña, B. Keating

Issue 1: Should the Commission grant Easy Phone, Inc. d/b/a Easy Tel, Inc. a voluntary cancellation of ALEC Certificate No. 4769?

Recommendation: No. The Commission should not grant the company a voluntary cancellation of its ALEC certificate. The Commission should cancel the company's Certificate No. 4769 on its own motion, effective on the date of issuance of the Consummating Order.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves or modifies staff's recommendation on Issue 1, this docket should be closed upon receipt of the ~~fine~~ and fees or cancellation of the certificate, 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. If the Commission denies staff's recommendation on Issue 1, this docket should be closed administratively.

DECISION: The recommendations were approved as modified.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber



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DOCKET NO. 991849-TI - Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 5717 issued to Public Telephone Network, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480(2)(a) and (b), F.A.C., Records & Reports; Rules Incorporated.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: CMU: Isler  
LEG: K. Peña, B. Keating

Issue 1: Should the Commission accept the settlement offer proposed by Public Telephone Network, Inc. to resolve the apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480(2)(a) and (b), F.A.C., Records & Reports; Rules Incorporated?

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, the company's Certificate No. 5717 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: Garcia, Deason, Clark, Jacobs, Jaber



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19                   DOCKET NO. 991248-TI - Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 5738 issued to First Call USA, Incorporated for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

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If First Call USA fails to respond to the show cause, and the fine is not paid within 10 business days after the 21-day show cause period, Certificate No. 5738 should be canceled. If the fine is paid, it should be remitted by the Commission to the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

Issue 3: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon issuance of a consummating order and upon receipt of the fine and fees or cancellation of the certificate, unless a person whose substantial interests are affected by the Commission's decision files a protest to the proposed agency action within 21 days of the issuance of the Order.

Furthermore, if the Commission approves staff's recommendation in Issue 2, the company will have 21 days to respond in writing to the Commission's show cause order explaining why it should not have its certificate canceled or be fined in the amount proposed. If the company timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If the company fails to respond to the show cause order, this docket may be closed upon receipt of the fine and fees or cancellation of the certificate and upon issuance of an order consummating the Commission's proposed agency action in Issue 1.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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DOCKET NO. 992012-TC - Cancellation by Florida Public Service Commission of Pay Telephone Service Certificate No. 5892 issued to Payphone Service Company Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies; 25-24.520, F.A.C., Reporting Requirements; and 25-4.043, F.A.C., Response to Commission Staff Inquiries.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer ADM

Staff: CMU: Isler  
LEG: K. Peña, B. Keating

Issue 1: Should the Commission impose a \$500 fine or cancel the pay telephone certificate issued to Payphone Service Company Inc. 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 Payphone Service Company Inc.'s certificate 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, Pay Telephone Certificate No. 5892 should be canceled administratively.

Issue 2: Should the Commission impose a \$500 fine or cancel the pay telephone certificate issued to Payphone Service Company Inc. for apparent violation of Rule 25-24.520, F.A.C., Reporting Requirements?

Recommendation: Yes. The Commission should impose a \$500 fine or cancel Payphone Service Company Inc.'s certificate if the information required by Rule 25-24.520, F.A.C., Reporting Requirements, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the

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DOCKET NO. 992012-TC - Cancellation by Florida Public Service Commission of Pay Telephone Service Certificate No. 5892 issued to Payphone Service Company Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies; 25-24.520, F.A.C., Reporting Requirements; and 25-4.043, F.A.C., Response to Commission Staff Inquiries.

(Continued from previous page)

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 required information are not received, Pay Telephone Certificate No. 5892 should be canceled administratively.

Issue 3: Should Payphone Service Company Inc. be ordered to show cause why a fine of \$10,000 for apparent violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries, should not be imposed or Certificate No. 5892 should not be canceled?

Recommendation: Yes. The Commission should order Payphone Service Company to show cause in writing within 21 days of the issuance of the Commission's Order why it should not have Certificate No. 5892 canceled or be fined \$10,000 for apparent violation of Rule 25-4.043, F.A.C. The company's response should contain specific allegations of fact or law. If Payphone Service Company fails to respond to the show cause, and the fine is not paid within 10 business days after the 21-day show cause period, Certificate No. 5892 should be canceled. If the fine is paid, it should be remitted by the Commission to the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

ITEM NO.

CASE

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20

DOCKET NO. 992012-TC - Cancellation by Florida Public Service Commission of Pay Telephone Service Certificate No. 5892 issued to Payphone Service Company Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies; 25-24.520, F.A.C., Reporting Requirements; and 25-4.043, F.A.C., Response to Commission Staff Inquiries.

(Continued from previous page)

Issue 4: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation on Issues 1 and 2, this docket should be closed upon issuance of a consummating order and upon receipt of the fines and fees, the required information, or cancellation of the certificate, unless a person whose substantial interests are affected by the Commission's decision files a protest to the proposed agency action within 21 days of the issuance of the Order.

Furthermore, if the Commission approves staff's recommendation in Issue 3, the company will have 21 days to respond in writing to the Commission's show cause order explaining why it should not have its certificate canceled or be fined in the amount proposed. If the company timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If the company fails to respond to the show cause order, this docket may be closed upon receipt of the fine and fees or cancellation of the certificate and upon issuance of an order consummating the Commission's proposed agency action in Issues 1 and 2.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
21	<p>DOCKET NO. 000213-TC - Request for exemption from requirements of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls, by BellSouth Public Communications, Inc.</p> <p>Critical Date(s): 5/22/00 (statutory deadline)</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: CMU: Isler LEG: Vaccaro</p> <p><u>Issue 1</u>: Should the Commission grant the provider listed on page 4 of staff's April 6, 2000 memorandum an exemption from the requirement that each telephone station shall allow incoming calls for the pay telephone number at the address listed? <u>Recommendation</u>: Yes.</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 order.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber</p>



<u>ITEM NO.</u>	<u>CASE</u>
23	<p>DOCKET NO. 000258-TL - Investigation into telephone exchange boundary issues in St. Augustine and Palm Coast exchanges (Daytona Beach and Jacksonville LATA boundaries).</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer CL</p> <p>Staff: CMU: Ileri LEG: B. Keating</p> <p><u>Issue 1:</u> Should the Commission approve BellSouth's proposal and require that customers in the Flagler County pocket of the St. Augustine exchange be balloted for a possible transfer to the Palm Coast exchange? If so, what should be the implementation schedule for this balloting?</p> <p><u>Recommendation:</u> Yes. Staff recommends that the Commission approve BellSouth's proposal and require that customers in the Flagler County pocket of the St. Augustine exchange be balloted for a possible transfer to the Palm Coast exchange, thereby providing a basis for BellSouth to determine the appropriateness of requesting a LATA boundary waiver from the FCC to permit inclusion of this pocket in the Palm Coast exchange. The survey should be initiated within <del>45</del> <u>60</u> days from the date that the Order from this recommendation becomes final. The ballot should advise the subscribers that their seven-digit telephone number and calling scope would change (from Rate Group IV to Rate Group III), and that their area code may change, pending the outcome of Docket No. 990517-TL. The survey letter and ballot should be submitted to staff for review prior to distribution to the affected customers. In order for the survey to pass, staff recommends that the Commission require that at least 60 percent of the subscribers balloted must respond, and of those responding, <del>at least 60 percent</del> <u>a majority</u> must vote in favor of the boundary change.</p> <p><u>Issue 2:</u> Should this docket be closed?</p> <p><u>Recommendation:</u> No. With the approval of staff's recommendation in Issue 1, this docket should remain open pending the outcome of the subscriber survey results.</p>

DECISION: The recommendations were approved as modified.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber



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<u>ITEM NO.</u>	<u>CASE</u>
24	<p>DOCKET NO. 991269-TI - Investigation and determination of appropriate method for refunding interest and overcharges on intrastate 0+ calls made from pay telephones and in a call aggregator context by Network Operator Services, Inc.</p> <p>(Continued from previous page)</p> <p><u>Issue 3:</u> Should this docket be closed? <u>Recommendation:</u> No. If no person whose interests are substantially affected by the proposed action files a protest within the 21-day protest period, a consummating order should be issued, but this docket should 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 may be closed administratively.</p>

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

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<u>ITEM NO.</u>	<u>CASE</u>
25	<p>DOCKET NO. 991786-TP - Petition by BellSouth Telecommunications, Inc. for arbitration of resale agreement with TEL-LINK of Florida, L.L.C. and Tel-Link, L.L.C.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer GR</p> <p>Staff: CMU: Favors, Dowds LEG: Vaccaro</p> <p><u>Issue 1</u>: Should the Commission grant BellSouth Telecommunications, Inc.'s Motion for Withdrawal of Petition for Arbitration? <u>Recommendation</u>: Yes. The Commission should grant BellSouth Telecommunications, Inc.'s Motion for Withdrawal of Petition for Arbitration.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. If Issue 1 is approved, the docket should be closed.</p>

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

ITEM NO.

CASE

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26

DOCKET NO. 990548-WU - Application for transfer of majority organizational control of Dixie Groves Estates, Inc., holder of Certificate 139-W in Pasco County, from Frank W. Potter to Judson F. Potter and Matthew A. Potter.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehrg Officer JC

Staff: WAW: Clapp  
LEG: Crosby

Issue 1: Should Dixie Groves Estates, Inc. be ordered to show cause, in writing within twenty-one days, why it should not be fined for apparent violation of Section 367.071, Florida Statutes?

Recommendation: No. Show cause proceedings should not be initiated.

Issue 2: Should the application for transfer of majority organizational control of the utility from Mr. Frank Potter to Mr. Judson Potter and Mr. Matthew Potter be approved?

Recommendation: Yes, the application for transfer of majority organizational control of the utility from Mr. Frank Potter to Mr. Judson Potter and Mr. Matthew Potter should be approved.

Issue 3: Should rate base be established for Dixie Groves Estates, Inc. as of the time of transfer?

Recommendation: No. Rate base should not be established as of the time of transfer.

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

Recommendation: Yes. The rates and charges approved for Dixie Groves Estates, Inc. should be continued.

Issue 5: Should this docket be closed?

Recommendation: Yes, this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber



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ITEM NO.

CASE

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27

DOCKET NO. 000149-WU - Application for transfer of majority organizational control of Raintree Utilities, Inc., holder of Certificate No. 539-W in Lake County, from Don Monn to Keith J. Shamrock, and correction of territory description.

(Continued from previous page)

Issue 5: Should this docket be closed?

Recommendation: No. The docket should remain open pending receipt of required documentation evidencing the closing, after which time the docket should be closed administratively.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

ITEM NO.

CASE

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28                   DOCKET NO. 990939-WS - Application for rate increase in  
Martin County by Indiantown Company, Inc.

Critical Date(s):   5/6/00 (60-day suspension date)  
                          8/7/00 (5-month effective date)

Commissioners Assigned:   Full Commission  
  Prehrg Officer DS

Staff:   WAW:   Merchant, Crouch, B. Davis, Quijano, Munroe  
          AFA:   Draper, Maurey  
          LEG:   Christensen, Gervasi

Issue 1:   Should the utility's proposed final rates be  
suspended?

Recommendation:   Yes. Indiantown's proposed final water  
and wastewater rates should be suspended. The docket should  
remain open pending the Commission's final action on the  
utility's requested rate increase.

Issue 2:   Should an interim revenue increase be approved?

Recommendation:   Yes. On an interim basis, the utility  
should be authorized to collect annual water and wastewater  
revenues as indicated below:

	<u>Revenues</u>	<u>\$ Increase</u>	<u>% Increase</u>
Water	\$545,003	\$58,133	11.94%
Wastewater	\$724,454	\$180,355	33.15%

Issue 3:   What are the appropriate interim water and  
wastewater rates?

Recommendation:   The interim rates for Indiantown should be  
designed to allow the utility the opportunity to generate  
additional annual operating revenues of \$58,133 for water  
and \$180,355 for wastewater. The interim percentage  
increase should be applied to the rates in effect on June  
30, 1999. The approved rates should be effective for  
service rendered on or after the stamped approval date on  
the tariff sheets pursuant to Rule 25-30.475(1), Florida  
Administrative Code, provided the customers have received  
notice. The utility should provide proof to staff of the  
date notice was given within 10 days after the date of  
notice.

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28	DOCKET NO. 990939-WS - Application for rate increase in Martin County by Indiantown Company, Inc.
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(Continued from previous page)

Issue 4: What is the appropriate security to guarantee the interim increase?

Recommendation: The utility should be required to open an escrow account, file a security bond or a letter of credit to guarantee any potential refunds of revenues collected under interim conditions. The escrow account, security bond or letter of credit should be in the amount of \$162,000. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

ITEM NO.

CASE

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29

DOCKET NO. 991437-WU - Application for increase in water rates in Orange County by Wedgefield Utilities, Inc.

Critical Date(s): 4/29/00 (60-day suspension date)

Commissioners Assigned: Full Commission  
Prehrg Officer CL

Staff: WAW: Kyle, Quijano, Merchant  
LEG: Christensen

Issue 1: Should the utility's proposed final water rates be suspended?

Recommendation: Yes. Wedgefield's proposed final water rates should be suspended. This docket should remain open pending completion of the rate case.

Issue 2: Should an interim revenue increase be approved?

Recommendation: Yes. The utility should be authorized, on an interim basis, to collect annual water revenues as indicated below.

	<u>Revenues</u>	<u>\$ Increase</u>	<u>% Increase</u>
Water	\$362,654	\$103,394	39.88%

Issue 3: What are the appropriate interim water rates?

Recommendation: The interim rates for Wedgefield should be designed to allow the utility the opportunity to generate annual operating revenues of \$362,654 for its water system. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of notice.

Issue 4: What is the appropriate security to guarantee the water interim increase and the amount subject to refund?

Recommendation: The utility should be required to file a corporate undertaking guaranteed by the parent company to guarantee any potential refunds of ~~wastewater~~ water revenues collected under interim conditions. The corporate undertaking should be in the amount of \$63,000. Pursuant to

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29                    DOCKET NO. 991437-WU - Application for increase in water rates in Orange County by Wedgefield Utilities, Inc.

(Continued from previous page)

Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

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

Commissioners participating: Garcia, Deason, Clark, Jacobs, Jaber

<u>ITEM NO.</u>	<u>CASE</u>
30	<p>DOCKET NO. 000331-WU - Investigation of possible 1998 overearnings by Mountain Lake Corporation in Polk County.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: Full Commission Prehrg Officer ADM</p> <p>Staff: WAW: Casey, Edwards, Williams, Kaproth LEG: Van Leuven</p> <p><u>Issue 1:</u> What percentage of the utility's water treatment plant and distribution system is used and useful? <u>Recommendation:</u> The water treatment plant and the water distribution system should both be considered 100% used and useful.</p> <p><u>Issue 2:</u> What is the appropriate average amount of test year rate base? <u>Recommendation:</u> The appropriate average amount of test year rate base for Mountain Lake Corporation should be \$54,913.</p> <p><u>Issue 3:</u> What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility? <u>Recommendation:</u> The appropriate rate of return on equity for MLC should be 9.02% with a range of 8.02% - 10.02% and the appropriate overall rate of return should be 8.90% with a range of 8.00% - 9.80%.</p> <p><u>Issue 4:</u> What is the appropriate test year operating revenue? <u>Recommendation:</u> The appropriate test year operating revenue should be \$155,264.</p> <p><u>Issue 5:</u> What is the appropriate amount of operating expense? <u>Recommendation:</u> The appropriate amount of operating expense should be \$88,776.</p> <p><u>Issue 6:</u> What is the appropriate revenue requirement? <u>Recommendation:</u> The appropriate revenue requirement should be \$93,664.</p> <p><u>Issue 7:</u> Did Mountain Lake earn in excess of its authorized return on equity for the test year ended September 30, 1999? <u>Recommendation:</u> Yes, the Commission should recognize \$61,600 of water revenue which exceeds MLC's recommended authorized return on equity of 9.02%.</p>

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CASE

30 DOCKET NO. 000331-WU - Investigation of possible 1998 overearnings by Mountain Lake Corporation in Polk County.

(Continued from previous page)

Issue 8: What is the appropriate rate structure for this utility and what are the appropriate monthly rates?

Recommendation: The appropriate rate structure for residential customers is the base facility/inclining block rate structure consisting of three tiers (usage blocks). The appropriate rate structure for general service customers is the traditional base facility/uniform gallonage charge rate structure. The recommended rates, as shown in the analysis portion of staff's April 6, 2000 memorandum, are designed to produce revenues of \$93,664. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until staff has approved the proposed customer notice, and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 9: In the event of a protest of the Proposed Agency Action (PAA) Order, should any amount of annual water revenues be held subject to refund?

Recommendation: Yes. In the event of a protest of the PAA Order, the utility should be allowed to continue collecting existing rates as temporary rates. However, in order to protect utility customers from potential overearnings, the utility should hold \$61,600 of annual revenues subject to refund. The following amount is recommended:

		Amount	
	<u>Test Year</u>	<u>Subject</u>	<u>% Subject</u>
	<u>Revenue</u>	<u>To Refund</u>	<u>To Refund</u>
Water	\$155,264	\$61,600	39.67%

Issue 10: In the event of a protest of the PAA Order, what is the appropriate security to guarantee the amount subject to refund?

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CASE

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DOCKET NO. 000331-WU - Investigation of possible 1998 overearnings by Mountain Lake Corporation in Polk County.

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Recommendation: The security should be in the form of a bond or letter of credit in the amount of \$65,173. Alternatively, the utility could establish an escrow agreement with an independent financial institution. If security is provided through an escrow agreement, the utility should escrow 39.67% of its monthly revenues as detailed in Issue No. 9.

Issue 11: Should MLC be ordered to show cause, in writing within 21 days, why it should not be fined up to \$5,000 per day for non-payment of regulatory assessment fees (RAFTs) in apparent violation of Section 350.113, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, and should the utility be required to remit the appropriate past due RAFTs with penalties and interest?

Recommendation: No. A show cause proceeding should not be initiated. However, the utility should be required to file a revised 1998 RAF form to include general service revenue in the amount of \$53,843.11. Additionally, MLC should be ordered to remit an additional 1998 RAF payment of \$2,422.93, a statutory penalty in the amount of \$605.75, and \$314.99 in interest for its apparent violation of Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for failure to pay RAFTs on intercompany revenue in 1998, by April 30, 2000. Also, the utility should be ordered to submit a revised 1999 RAF form, annual report and additional RAFTs if it has not included its 1999 intercompany revenue.

Issue 12: Should the utility be ordered to make arrangements for installation of an electric meter dedicated strictly to utility operations?

Recommendation: Yes. The utility should be required to have an electrical meter installed which will be dedicated strictly to utility operations within 90 days of the effective date of the Order.

Issue 13: Should MLC be ordered to show cause, in writing within 21 days, why it should not be fined up to \$5,000 per day for failure to maintain its accounts and records in conformity with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of

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30 DOCKET NO. 000331-WU - Investigation of possible 1998 overearnings by Mountain Lake Corporation in Polk County.

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Accounts(USOA), in apparent violation of Rule 25-30.115(1), Florida Administrative Code?

Recommendation: No. A show cause proceeding should not be initiated. However, the utility should be ordered to maintain its accounts and records in conformance with the 1996 NARUC USOA, and submit a statement from its accountant by March 31, 2001 along with its 2000 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order.

Issue 14: Should this docket be closed?

Recommendation: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of the Consummating Order. However, this docket should remain open for an additional 120 days from the effective date of the Order to allow staff to verify that the utility has paid all past due regulatory assessment fees (including penalties and interest), amended its annual report(s) to include intercompany metered revenues, installed an electrical meter dedicated to utility operations, and has submitted revised tariff sheets as recommended in Issue No. 8. Once staff has verified that this work has been completed, the docket should be closed administratively.

DECISION: This item was deferred to the May 16, 2000 Commission Conference.

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CASE

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31 DOCKET NO. 981488-TI - Initiation of show cause proceedings against Accutel Communications, Inc. for Unlawful Billing Practices in violation of Section 364.10(1) and Section 364.604(2), F.S., and Insufficient Management Capability pursuant to Section 364.337(3), F.S.

Critical Date(s): None

Commissioners Assigned: GR CL JC  
Prehrg Officer CL

Staff: LEG: Fordham  
CMU: Williams

Issue 1: Should the Commission, on its own motion, dismiss Accutel's September 8, 1999 Response to Order to Show Cause?  
Recommendation: Yes. Accutel has failed to diligently pursue its Response to Order to Show Cause and has failed to comply with any aspect of the Order Establishing Procedure for this docket. In accordance with that Order, Order No. PSC-99-2496-PCO-TI, Accutel has waived the right to present any testimony and to raise any additional issues. Staff recommends, therefore, that Accutel's Response be dismissed.

Issue 2: Should the Commission require Accutel to pay the \$1,710,000 fine identified in Order No. PSC-99-1619-SC-TI?  
Recommendation: Yes. Accutel has failed to show cause why it should not be fined in the amount of \$10,000 per infraction for a total of \$1,710,000 for its apparent violations of Sections 364.10 (1) and 364.604(2), Florida Statutes, Unlawful Billing Practices, and for Insufficient Management Capability, pursuant to Section 364.337(3), Florida Statutes. Therefore, the fine should be assessed. If the fine is not received within 10 days of the issuance of the Commission's order, the fine should be forwarded to the Office of the Comptroller for further collection efforts.

Issue 3: Should this Docket be closed?  
Recommendation: Yes. If the Commission approves staff's recommendations in Issues 1 and 2, this Docket will require no further action, and may be closed.

DECISION: The recommendations were approved.

Commissioners participating: Garcia, Clark, Jacobs

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<u>ITEM NO.</u>	<u>CASE</u>
32	<p>DOCKET NO. 000001-EI - Fuel and purchased power cost recovery clause and generating performance incentive factor.</p> <p>Critical Date(s): None</p> <p>Hearing Date(s): 11/22 &amp; 23/99, Talla., DS CL JC (roll over Docket No. 990001)</p> <p>Commissioners Assigned: DS CL JC Prehrg Officer CL</p> <p>Staff: EAG: Bohrmann LEG: C. Keating</p> <p><u>Issue 1</u>: Should Florida Industrial Power Users Group's Petition for Reconsideration of Order No. PSC-99-2512-FOF-EI be granted? <u>Recommendation</u>: No. Florida Industrial Power Users Group's Petition for Reconsideration should be denied because it fails to satisfy the standard of review for a motion for reconsideration. The motion fails to identify any point of fact or law overlooked or not considered by the Commission.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: No. The Fuel and Purchased Power Cost Recovery Clause docket is an on-going docket and should remain open.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Clark, Jacobs

ITEM NO.

CASE

33 DOCKET NO. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.  
DOCKET NO. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

Critical Date(s): None

Hearing Date(s): 12/9/99, Talla., Prehrg., DS  
1/12, 13 & 14/00, Talla., DS CL JC

Commissioners Assigned: DS CL JC  
Prehrg Officer DS

Staff: CMU: Favors, Audu, Barrett, Ileri, Fulwood, Hinton, Wolfe

LEG: B. Keating, Stern

Issue 1: When should an ILEC be required to respond to a complete and correct application for collocation and what information should be included in that response?

Recommendation: Staff recommends that ILECs be required to respond to a complete and correct application for collocation within 15 calendar days with all information necessary for an ALEC to place a firm order, including space availability and a price quote for the collocation requested. If an ALEC submits ten or more applications within ten calendar days, the ILEC should have additional time to respond. Staff recommends the following intervals:

Applications 1-9	15 calendar days from receipt of each application
Applications 10-19	Within 25 calendar days from receipt of the first application
Applications 20-29	Within 35 calendar days from receipt of the first application

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DOCKET NO. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

DOCKET NO. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

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Each 10 additional applications, or fraction thereof	10 additional calendar days <u>after 35 days</u> from receipt of the first application
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Issue 2: If the information included in the ILEC's initial response is not sufficient to complete a firm order, when should the ILEC provide such information or should an alternative procedure be implemented?

Recommendation: If the Commission approves staff's recommendation in Issue 1, the initial response provided within 15 calendar days to a complete and correct application for collocation will contain sufficient information to complete a firm order for collocation.

Issue 3: To what areas does the term "premises" apply, as it pertains to physical collocation and as it is used in the Act, the FCC's Orders, and FCC Rules?

Recommendation: Staff recommends that the term "premises" should apply to ILEC-owned or leased central offices, serving wire centers, buildings or similar structures that house network facilities, including but not limited to ILEC network facilities on public rights-of-way or in controlled environmental vaults (CEVs).

Issue 4: What obligations, if any, does an ILEC have to interconnect with ALEC physical collocation equipment located "off-premises"?

Recommendation: The Telecommunications Act of 1996 requires ILECs to interconnect with ALECs for the mutual exchange of traffic regardless of whether the ALEC is located on or off "premises." Further, when space legitimately exhausts in an ILEC "premises," the FCC Advanced Services Order, FCC 99-48, obligates ILECs to provide power and physical collocation services and facilities to an ALEC located on an ILEC's

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DOCKET NO. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

DOCKET NO. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

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property contiguous to an ILEC's "premises" to the extent technically feasible. Also, staff recommends that ALECs collocating "off-premises" should be allowed to use copper entrance cabling. However, ILECs may require an ALEC to use fiber entrance cabling after providing the ALEC with an opportunity to review evidence that demonstrates entrance capacity is near exhaustion at a particular central office.

Issue 5: What terms and conditions should apply to converting virtual collocation to physical collocation?

Recommendation: Staff recommends that the Commission order the terms and conditions, together with the procedures, for converting virtual collocation to physical collocation as presented in the analysis portion of staff's April 6, 2000 memorandum.

Issue 6: What are the appropriate response and implementation intervals for ALEC requests for changes to existing collocation space?

Recommendation: Consistent with staff's recommendation in Issue 1, staff recommends that ILECs be required to respond to a complete and accurate request or application for changes to existing collocation space within 15 calendar days with all the information necessary for an ALEC to place a firm order. Staff also recommends that the implementation interval for changes to existing collocation space should be 45 days after receipt of a firm order or the change request has been accepted.

Issue 7: What are the responsibilities of the ILEC and collocators when:

- A. a collocator shares space with, or subleases space to, another collocator;
- B. a collocator cross-connects with another collocator.

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DOCKET NO. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

DOCKET NO. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

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Recommendation: The FCC has provided sufficient guidance in its rules and orders on ILEC and ALEC responsibilities in shared and subleased collocation space and collocator cross-connects. Staff recommends that the ILECs and ALECs follow those rules and orders. Staff also recommends that, in a shared or subleased collocation space arrangement, each ALEC be allowed to submit its own request to the ILEC for equipment placement, unbundled network elements and other services, regardless of which ALEC was the original collocator.

Issue 8: What is the appropriate provisioning interval for cageless physical collocation?

Recommendation: Staff recommends that the provisioning interval for cageless physical collocation be ninety (90) calendar days after an applicant carrier has submitted a firm order, the same as that for caged physical collocation.

Issue 9: What is the appropriate demarcation point between ILEC and ALEC facilities when the ALEC's equipment is connected directly to the ILEC's network without an intermediate point of interconnection?

Recommendation: The appropriate demarcation point is an ILEC designated location at the perimeter of an ALEC's collocation space; however, parties may negotiate another demarcation point up to the conventional distribution frame (CDF).

Issue 10: What are reasonable parameters for reserving space for future ILEC and ALEC use?

Recommendation: Either an ILEC or ALEC should have the ability to reserve space for a period not to exceed 18 months. The reservation of space should be non-discriminatory allowing ALECs and ILECs to reserve space under the same terms and conditions.

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DOCKET NO. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

DOCKET NO. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

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Issue 11: Can generic parameters be established for the use of administrative space by an ILEC, when the ILEC maintains that there is insufficient space for physical collocation? If so, what are they?

Recommendation: No. Generic parameters cannot be established due to the uniqueness of each central office. When an ~~ALEC~~ ILEC believes that no space exists for physical collocation, the Commission will follow the procedures outlined in PSC Order Nos. PSC-99-1744-PAA-TP and PSC-99-2393-FOF-TP to determine whether a waiver of the physical collocation requirements should be granted.

Issue 12: What types of equipment are the ILECs obligated to allow in a physical collocation arrangement?

Recommendation: Staff recommends that the Commission order ILECs to allow the types of equipment, in a physical collocation arrangement, that are consistent with FCC rules and orders. Further, if the ILEC objects to the collocation of equipment by a requesting telecommunications carrier, it must prove to the Commission that the equipment will not be used for interconnection or access to unbundled network elements. However, staff does recommend that the ALEC provide to the ILEC, upon request, any manufacturer specifications regarding the equipment in dispute.

Issue 13: If space is available, should the ILEC be required to provide price quotes to an ALEC prior to receiving a firm order for space in a central office (CO)?

A. If an ILEC should provide price quotes to an ALEC prior to receiving a firm order from that ALEC, when should the quote be provided?

B. If an ILEC should provide price quotes to an ALEC prior to receiving a firm order from that ALEC, should the quote provide detailed costs?

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DOCKET NO. 981834-TP - Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

DOCKET NO. 990321-TP - Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

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Recommendation: Yes. If collocation space is available, the ILEC should be required to provide price quotes to an ALEC prior to receiving a firm order for space in a central office. A. The price quote should be provided within fifteen (15) calendar days from the date the ILEC receives the complete and accurate application.

B. The price quote should provide detailed costs.

Issue 14: Should an ALEC have the option to participate in the development of the ILEC's price quote and, if so, what time frames should apply?

Recommendation: No. The ALEC should not have the option to participate in the development of the ILEC's price quote for collocation space.

Issue 15: Should an ALEC be permitted to hire an ILEC certified contractor to perform space preparation, racking and cabling, and power work?

Recommendation: Yes. The ALEC should be permitted to hire ILEC-certified contractors or utilize their own ILEC-certified employees, if any, to perform space preparation, racking, cabling, and power work for the construction of physical collocation arrangements, but only within their collocation space.

Issue 16: For what reasons, if any, should the provisioning intervals be extended without the need for an agreement by the applicant ALEC or filing by the ILEC of a request for an extension of time?

Recommendation: Staff recommends that there are no reasons for the provisioning intervals to be unilaterally extended without the need for an agreement by the applicant ALEC or the filing by the ILEC of a request for an extension of time. If an ILEC cannot meet the established provisioning intervals for physical and virtual collocation, it must comply with the

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requirements of Order No. PSC-99-1744-PAA-TP regarding extensions of time for provisioning intervals.

Issue 17: How should the costs of security arrangements, site preparation, collocation space reports, and other costs necessary to the provisioning of collocation space, be allocated between multiple carriers?

Recommendation: Costs associated with security arrangements, space preparation, and other costs necessary to the provisioning of collocation space should be allocated among those parties who will benefit from the costs incurred. The costs associated with a collocation report should be recovered through a non-recurring charge payable to the ILEC upon requesting a collocation space report.

Issue 18: If insufficient space is available to satisfy the collocation request, should the ILEC be required to advise the ALEC as to what space is available?

Recommendation: Yes. If insufficient space is available to satisfy an ALEC's request, the Commission should require that the ILEC inform the ALEC of the amount of available collocation space in the central office (CO) within fifteen (15) calendar days, consistent with Issue 1, and that the ILEC provide the ALEC with sufficient information on the available collocation space to enable the ALEC to submit a firm order.

Issue 19: If an ILEC has been granted a waiver from the physical collocation requirements for a particular CO, and the ILEC later makes modifications that create space that would be appropriate for collocation, when should the ILEC be required to inform the Commission and any requesting ALECs of the availability of space in that office?

Recommendation: Sixty (60) calendar days before space will become available in a central office (CO) where the ILEC has been granted a waiver from the physical collocation

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requirements, the ILEC should inform the Commission and requesting ALECs by mail, in addition to posting the updates on its external website. In the event the ILEC's determination that space will be available does not allow for sixty (60) calendar days' notice, the ILEC should notify the Commission and requesting ALECs within two business days of this determination.

Issue 20: What process, if any, should be established for forecasting collocation demand for CO additions or expansions?

Recommendation: The Commission should not establish a specific process for forecasting collocation demand for central office (CO) additions or expansions. However, the Commission should require that the ILEC's forecasts of collocation demand be based on historical collocation data, CO characteristics, and ALEC forecasts of collocation space needs. The process of weighing these factors is inherently subjective; thus, the Commission should not prescribe a particular process.

Issue 21: Applying the FCC's "first-come, first-served" rule, if space becomes available in a central office because a waiver is denied or a modification is made, who should be given priority?

Recommendation: When space becomes available in a central office due to a Commission denial of a waiver request or modifications are made that create space, staff recommends that priority be given to the first ALEC that was denied collocation space in that central office, and then to subsequent ALECs who were denied space until all such space is exhausted. Staff recommends that ILECs be required to maintain a waiting list of ALECs that were denied space, by order of the application denial date. Staff also recommends that ILECs be required to accept a letter of intent to

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collocate, in central offices where a waiver is granted and a waiting list already exists, as a means of securing an ALEC's place on the waiting list without having to file an application for space that does not exist.

Issue 22: Should this docket be closed?

Recommendation: No. Whether or not the Commission approves Issues 1 through 21, this docket should remain open pending further proceedings to set collocation rates.

DECISION: The recommendations were approved with modifications to Issues 1 and 11. The recommendation for Issue 7 was modified to reflect that prorating will be allowed, though it is not required.

Commissioners participating: Deason, Clark, Jacobs

<u>ITEM NO.</u>	<u>CASE</u>
34	<p>DOCKET NO. 990036-TP - Request for arbitration concerning complaint of American Communication Services of Jacksonville, Inc. d/b/a e.spire Communications, Inc. and ACSI Local Switched Services, Inc. d/b/a e.spire Communications, Inc. against BellSouth Telecommunications, Inc. regarding enforcement of interconnection agreement.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: DS CL JC Prehrg Officer JC</p> <p>Staff: LEG: Clemons CMU: Favors</p> <p><u>Issue 1</u>: Should the Commission acknowledge e.spire's Notice of Withdrawal of its Complaint against BellSouth Telecommunications, Inc. for Enforcement of its Interconnection Agreement? <u>Recommendation</u>: Yes. Staff recommends that the Commission acknowledge e.spire's Notice of Withdrawal of its Complaint against Bellsouth Telecommunications, Inc. for Enforcement of its Interconnection Agreement. The Commission's acknowledgment of the Notice of Withdrawal would render moot BellSouth's pending Motion to Dismiss.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. If the Commission approves staff's recommendation on Issue 1 to acknowledge e.spire's Notice of Withdrawal of its Complaint, no further action by the Commission is necessary. Therefore, this docket may be closed.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Clark, Jacobs



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DOCKET NO. 980992-WS - Complaint by D.R. Horton Custom Homes, Inc. against Southlake Utilities, Inc. in Lake County regarding collection of certain AFPI charges.

DOCKET NO. 981609-WS - Emergency petition by D.R. Horton Custom Homes, Inc. to eliminate authority of Southlake Utilities, Inc. to collect service availability charges and AFPI charges in Lake County.

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Issue 5: Does the utility's current water and wastewater tariff authorize a reassessment of plant capacity charges for changed consumption for residential customers at any time after connection to the system?

Recommendation: No. The utility's current water and wastewater tariff does not authorize a reassessment of plant capacity charges for changed consumption for residential customers at any time after connection to the system.

Issue 6: Should the utility's water tariff Sheet No. 31.0 and wastewater tariff Sheet No. 28.0 be revised?

Recommendation: Yes. The utility's water tariff sheet 31.0 and wastewater tariff sheet 28.0 should be revised as discussed in the analysis portion of staff's April 6, 2000 memorandum.

Issue 7: Should Southlake Utilities' growth projections be used to calculate the plant capacity charge?

Recommendation: No. The utility's growth projection for the year 2000 and beyond should be estimated based on linear regression using historical growth in ERCs.

Issue 8: What is the capacity of Southlake's existing water and wastewater plants and how many ERCs will the existing plants serve?

Recommendation: Southlake's water treatment plant had plant upgrades which increased the capacity to 1,075,200 gpd, raised its ability to serve approximately 1,365 ERCs, and increased its potential service to beyond the year 2001. Southlake's wastewater treatment plant has a permitted capacity of 0.550 million gallon per day (mgd) Annual Average Daily Flow (AADF) which will serve approximately 1,964 ERCs, and should be adequate beyond the year 2007 using the historical growth data provided by the utility.

Issue 9: When should Southlake expand its system to insure capacity to serve the projected customer base as supported by growth projections?

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DOCKET NO. 980992-WS - Complaint by D.R. Horton Custom Homes, Inc. against Southlake Utilities, Inc. in Lake County regarding collection of certain AFPI charges.

DOCKET NO. 981609-WS - Emergency petition by D.R. Horton Custom Homes, Inc. to eliminate authority of Southlake Utilities, Inc. to collect service availability charges and AFPI charges in Lake County.

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Recommendation: Based on current growth, Southlake should not need to expand its water treatment system until beyond the year 2001. The utility should not need to expand its wastewater treatment system until beyond the year 2007.

Issue 10: What are the appropriate plant capacity charges for Southlake?

Recommendation: The water plant capacity charges should be discontinued. Wastewater plant capacity charges should be \$240 per ERC for residential customers and \$1.105991 per gallon for all other customers.

Issue 11: Should the utility be required to refund any plant capacity charges?

Recommendation: Yes. The utility should be required to refund all water plant capacity charges collected on or after December 15, 1998. This refund should include all outstanding prepaid water plant capacity charges. Moreover, the utility should be required to refund the difference between the utility's existing residential wastewater plant capacity charge of \$775 and staff's recommended charge of \$240. The utility also should be required to refund the difference between the utility's existing \$2.58333 per gallon charge for all other customers from staff's recommended charge of \$1.105991. The wastewater refunds should include all plant capacity charges and prepayments collected on or after December 15, 1998. The refunds should be made pursuant to Rule 25-30.360, Florida Administrative Code. Also, the refunds should be made payable to the individual customer or developer who paid the plant capacity charges. Further, the utility should provide refund reports in conformance with Rule 25-30.360(7), Florida Administrative Code.

Issue 12: Is the utility's AFPI true-up procedure authorized by the Commission?

Recommendation: Yes. The utility's AFPI true-up procedure is authorized by the Commission.

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DOCKET NO. 981609-WS - Emergency petition by D.R. Horton Custom Homes, Inc. to eliminate authority of Southlake Utilities, Inc. to collect service availability charges and AFPI charges in Lake County.

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Issue 13: Should the utility's collection of AFPI charges be discontinued, and should the utility be required to refund any AFPI collected?

Recommendation: Yes. Staff recommends that the utility's water AFPI charges be discontinued. The wastewater tariff for AFPI is already canceled since the utility has collected more than the maximum allowed by tariff. Staff also recommends that the utility refund, pursuant to Rule 25-30.360, Florida Administrative Code, all water AFPI charges collected after December 15, 1998. This includes all outstanding prepaid AFPI during this same period. Further, staff recommends that the utility be ordered to refund all wastewater AFPI charges collected beyond the 375 ERC limit authorized by Order No. PSC-96-1082-FOF-WS, in accordance with Rule 25-30.360, Florida Administrative Code. This includes any outstanding prepaid AFPI charges in excess of the 375 ERC limit. Refunds should be made payable to the individual customer or developer who paid the AFPI. The utility should provide refund reports in conformance with Rule 25-30.360(7), Florida Administrative Code.

Issue 14: Should Southlake Utilities, Inc., be ordered to show cause, in writing, within 21 days, why it should not be fined for its apparent violation of Order No. PSC-96-1082-FOF-WS, pertaining to the collection of AFPI charges?

Recommendation: Yes. The utility should be ordered to show cause, in writing, within 21 days, why it should not be fined \$5,000 for its apparent violation of Order No. PSC-96-1082-FOF-WS. The show cause order should incorporate the conditions stated in the staff analysis.

Issue 15: Does the Commission have the authority to order Southlake to refund AFPI charges collected prior to December 15, 1998?

Recommendation: Yes, but only the wastewater AFPI collected in excess of the 375 ERC limit, regardless of the date it was collected. This is because the utility exceeded the

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amount allowed by a Commission order. Except as noted above, staff believes that the Commission cannot order the utility to refund any AFPI charges collected prior to December 15, 1998, due to the prohibition against retroactive ratemaking.

Issue 16: What are the appropriate effective dates and noticing requirements for staff's recommended tariff changes?

Recommendation: If there is no timely protest to the Commission's Proposed Agency Action (PAA) by a substantially affected person, the utility should file the appropriate revised tariff sheets within 10 days of the effective date of the Order for the Commission-approved tariff changes. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariff is consistent with the Commission's decision. If the revised tariff sheets are filed and approved, the tariff sheets should become effective on or after the stamped approval date. Within 20 days of the Commission's decision at agenda, the utility shall provide notice of the Commission's decision to all persons in the service area who are affected by the discontinuance of the utility's water plant capacity charges, the revised wastewater plant capacity charges and the discontinuance of Southlake's AFPI charges. The notice should be approved by Commission staff prior to distribution. The utility should provide proof that the appropriate customers or developers have received noticed within ten days of the date of the notice.

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- 35                   DOCKET NO. 980992-WS - Complaint by D.R. Horton Custom Homes, Inc. against Southlake Utilities, Inc. in Lake County regarding collection of certain AFPI charges.  
DOCKET NO. 981609-WS - Emergency petition by D.R. Horton Custom Homes, Inc. to eliminate authority of Southlake Utilities, Inc. to collect service availability charges and AFPI charges in Lake County.

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Issue 17: Should these dockets be closed?

Recommendation: No. These dockets should remain open to allow staff to verify that Southlake has filed revised tariff sheets consistent with the Commission's decision and has made the proper refunds of the service availability and AFPI charges and to resolve the show cause matter. Upon expiration of the protest period, if no timely protest is received to the proposed agency action issues, this order should become final and effective upon the issuance of a consummating order. Once staff has verified that the utility's revised tariff is consistent with the Commission's decision and that the proper refunds have been made and the show cause matter has been resolved, the dockets should be closed administratively.

DECISION: The recommendations were approved with additional requirement that utility will obtain proper security, as discussed at the conference, in the event of a proposed agency action protest.

Commissioners participating: Deason, Clark, Jacobs

ITEM NO.

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36 DOCKET NO. 980678-WU - Initiation of show cause proceedings against Gem Estates Utilities, Inc., in Pasco County for violation of Rule 25-30.110(3), F.A.C., Annual Report, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

Critical Date(s): None

Commissioners Assigned: DS CL JC  
Prehrg Officer ADM

Staff: LEG: Brubaker  
ADM: Knight  
WAW: Hines

Issue 1: Should the Commission grant Gem Estates Utilities, Inc.'s petition for waiver of Rule 25-30.110(3), (6) and (7), Florida Administrative Code?

Recommendation: Yes, the Commission should grant Gem Estates Utilities, Inc.'s petition for waiver of Rule 25-30.110(3), (6) and (7), Florida Administrative Code, because the petition meets the requirements of Section 120.542, Florida Statutes. The Commission should refer \$3,888 in unpaid penalties associated with the failure to file 1995 through 1997 annual reports to the Comptroller's Office for permission to write off the account. Further, a notice acknowledging the satisfaction and discharge of the lien on the utility's property should be filed with the Pasco County Clerk of Circuit Court.

Issue 2: Should the docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation, upon referral of the unpaid 1995 through 1997 annual report penalty to the Comptroller's Office, and upon Commission staff's filing notice with the Pasco County Clerk of Circuit Court acknowledging the satisfaction and discharge of the lien filed on the utility's property pursuant to Order No. PSC-99-0265-SC-WU, no further action will be required, and this docket should be closed.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Clark, Jacobs



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DOCKET NO. 970201-WU - Application for transfer of facilities of Lake Region Paradise Island and amendment of Certificate No. 582-W held by Keen Sales, Rentals and Utilities, Inc. in Polk County.

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Issue 3: Should the transfer of the LRPI facilities from S & S to Keen and the amendment of Water Certificate No. 582-W be approved?

Recommendation: Yes. The transfer of the LRPI facilities from S & S to Keen and the amendment of Water Certificate No. 582-W to include the LRPI territory should be approved. The seller should be responsible for the RAFs owed from May 14, 1996 through January 9, 1997.

Issue 4: What is the rate base of Lake Region Paradise Island at the time of transfer?

Recommendation: The rate base of Lake Region Paradise Island could not be determined. Keen should be put on notice that an original cost study may be required at the time of filing a rate petition. Keen should also be required to maintain its books in compliance with the NARUC Uniform System of Accounts.

Issue 5: Should an acquisition adjustment be approved?

Recommendation: No. An acquisition adjustment should not be approved, since rate base cannot be established at this time.

Issue 6: Should Keen Sales, Rentals and Utilities, Inc., use the rates approved by Polk County for Lake Region Paradise Island?

Recommendation: Yes. Keen should charge the rates approved by Polk County for LRPI. The tariff should be effective for services provided on or after the stamped approval date, in accordance with Rule 25-30.475, Florida Administrative Code.

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37                    DOCKET NO. 970201-WU - Application for transfer of facilities of Lake Region Paradise Island and amendment of Certificate No. 582-W held by Keen Sales, Rentals and Utilities, Inc. in Polk County.

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Issue 7: Should this docket be closed?

Recommendation: No. Upon expiration of the protest period, if a timely protest is not filed by a substantially affected person, the Order should become final and effective upon the issuance of a Consummating Order. The docket should remain open pending verification of the refund and that any unclaimed refunds have been treated as CIAC. The docket should also remain open to address the outstanding RAFs and annual report for the period from 5/14/96 through 1/7/00. Staff should be granted administrative authority to close the docket upon verification that the refunds have been made in accordance with the Commission Order.

DECISION: The recommendations were approved with noted modification.

Commissioners participating: Deason, Clark, Jacobs

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<u>ITEM NO.</u>	<u>CASE</u>
38	<p>DOCKET NO. 980731-WS - Application for certificate to provide water and wastewater service in Charlotte County by Hunter Creek Utilities, LLC.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: DS CL JC Prehrg Officer CL</p> <p>Staff: LEG: Van Leuven WAW: Brady, Redemann</p> <p><u>Issue 1:</u> Should the Commission order the deletion of the unserved territory in Hunter Creek's water service territory? <u>Recommendation:</u> No. The Commission should not proceed with the deletion of the unserved portion of Hunter Creek's water service territory. Hunter Creek's water service territory should remain as currently authorized by Order No. PSC-99-0756-FOF-WS.</p> <p><u>Issue 2:</u> Should this docket be closed? <u>Recommendation:</u> Yes. The docket should be closed because no further action is required.</p>

DECISION: The recommendations were approved.

Commissioners participating: Deason, Clark, Jacobs

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<u>ITEM NO.</u>	<u>CASE</u>
39	<p>DOCKET NO. 981663-WU - Application for staff-assisted rate case in Orange County by Tangerine Water Company, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: DS CL JC Prehrg Officer JC</p> <p>Staff: LEG: Clemons WAW: Tiffany Davis, T. Davis, Casey, Chu, Daniel, McNulty</p> <p><u>Issue 1</u>: Should the Commission grant Florida Water's Motion for Extension of Time to Comply with Commission Order? <u>Recommendation</u>: Yes, the Commission should grant Florida Water's Motion for Extension of Time to Comply with Commission Order.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: No. If Issue 1 is approved, this docket should remain open for an additional 180 days from the effective date of the Order to allow staff to verify that the utility has completed the required pro forma improvements. Once staff has verified that this work has been completed, the docket should be closed administratively.</p> <p><u>DECISION</u>: This item was deferred to the May 16, 2000 Commission Conference.</p>

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<u>ITEM NO.</u>	<u>CASE</u>
40	<p>DOCKET NO. 991838-TP - Petition by BlueStar Networks, Inc. for arbitration of certain unresolved issues in interconnection negotiations with BellSouth Telecommunications, Inc.</p> <p>Critical Date(s): None</p> <p>Commissioners Assigned: DS JC Prehrg Officer JC</p> <p>Staff: LEG: Clemons CMU: Favors, T. Watts</p> <p><u>Issue 1</u>: Should the Commission acknowledge BlueStar's Notice of Withdrawal of its Petition for Arbitration of Certain Unresolved Issues in Interconnection Negotiations with BellSouth Telecommunications, Inc.? <u>Recommendation</u>: Yes. Staff recommends that the Commission acknowledge BlueStar's Notice of Withdrawal of its Petition for Arbitration of Certain Unresolved Issues in Interconnection Negotiations with BellSouth Telecommunications, Inc.</p> <p><u>Issue 2</u>: Should this docket be closed? <u>Recommendation</u>: Yes. If the Commission approves staff's recommendation on Issue 1 to acknowledge BlueStar's Notice of Withdrawal of its Petition for Arbitration, no further action by the Commission is necessary. Therefore, this docket may be closed.</p> <p><u>DECISION</u>: The recommendations were approved.</p> <p>Commissioners participating: Deason, Jacobs</p>



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41 DOCKET NO. 990696-WS - Application for original certificates to operate water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation. (Deferred from the 3/28/00 Commission Conference.)  
DOCKET NO. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.

(Continued from previous page)

Issue 4: Should these dockets be closed?

Recommendation: No. If the Commission approves staff's recommendations on Issues 2 and 3, these dockets should remain open to allow these matters to proceed to hearing.

DECISION: This item was deferred to the May 16, 2000 Commission Conference.

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