

**MINUTES OF SEPTEMBER 30, 2003**

**COMMISSION CONFERENCE**

**COMMENCED:** 9:35 a.m.

**ADJOURNED:** 5:25 p.m.

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

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

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1Approval of Minutes

September 2, 2003 Regular Commission Conference

DECISION: The minutes were approved.

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



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ITEM NO.

CASE

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3\*\*Docket No. 030830-WS - Proposed amendment of Rule 25-30.420,  
F.A.C., Establishment of Price Index, Adjustment of Rates;  
Requirement of Bond; Filings after Adjustment; Notice to  
Customers.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: GCL: Cibula, Rodan  
ECR: Fitch, Hewitt

ISSUE 1: Should the Commission propose the amendment to  
Rule 25-30.420, Florida Administrative Code, entitled  
Establishment of Price Index, Adjustment of Rates;  
Requirement of Bond; Filings After the Adjustment; Notice to  
Customers?

RECOMMENDATION: Yes. The Commission should propose the  
amendment of Rule 25-30.420, Florida Administrative Code.

ISSUE 2: If no request for hearing or comments are filed,  
should the proposed rule be filed for adoption with the  
Secretary of State and the docket closed?

RECOMMENDATION: Yes. The docket should be closed if no  
requests for hearing or comments are filed.

DECISION: The recommendations were approved.

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

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4\*\*Docket No. 030697-WS - Proposed adoption of Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in Application for Limited Proceeding, and Rule 25-30.446, F.A.C., Notice of and Public Information for Application for Limited Proceeding Rate Increase.

Critical Date(s): None

Rule Status: Proposed

Commissioners Assigned: Full Commission  
Prehearing Officer: Davidson

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

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

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

ISSUE 2: Should this docket be closed?

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

DECISION: This item was deferred.

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CASE

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5\*\*Docket No. 030867-TL - Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.  
Docket No. 030868-TL - Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.  
Docket No. 030869-TL - Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Bradley

Staff: GCL: Christensen, B. Keating, Banks  
CMP: Simmons  
EXT: Shafer  
MMS: Bethea

ISSUE 1: Should the Commission grant OPC's Motions to Dismiss Verizon's Petition, Sprint's Petition, and BellSouth's Petition for rate rebalancing in Dockets Nos. 030867-TL, 030868-TL, and 030869-TL, respectively?

RECOMMENDATION: Yes. Staff recommends that the Commission find that the petitions fail to state a cause of action upon which relief can be granted since the petitions are facially deficient in that they do not allege facts to support that the rate reductions would be implemented over a period of not less than two years. Therefore, staff recommends that the Commission grant OPC's Motions to Dismiss Verizon's Petition, Sprint's Petition, and BellSouth's Petition for rate rebalancing in Dockets Nos. 030867-TL, 030868-TL, and 030869-TL, respectively, without prejudice to refile amended petitions. Further, staff recommends that the Commission find that the 90-day statutory deadline set forth in the statute is reset at Day 1 upon the filing of the amended petitions.

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Docket No. 030867-TL - Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

Docket No. 030868-TL - Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

Docket No. 030869-TL - Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

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Staff also notes that other options are available for the Commission's consideration as more fully set forth in the Alternative Analysis Section of staff's September 18, 2003 memorandum.

DECISION: The recommendation was approved with the modification that the companies were granted leave to amend the relevant portions of their petitions within 48 hours. AARP's motion to dismiss was rendered moot by the Commission's decisions. The current dockets will remain open for addressing the amended petitions.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: No. These dockets should remain open regardless of whether the Commission approves or denies staff's recommendation in Issue 1. If staff's recommendation in Issue 1 is approved, these dockets should remain open to allow Verizon, Sprint, and BellSouth to file amended petitions in conformance with the Commission's decision. Staff also recommends that should the Commission approve staff's recommendation in Issue 1, the procedural schedule should be amended in accordance with the amended petition filing date(s), but the public hearings should continue on

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Docket No. 030867-TL - Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

Docket No. 030868-TL - Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

Docket No. 030869-TL - Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

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the current schedule and discovery should be ongoing. Furthermore, outstanding discovery should still be considered valid or active, to the extent that it does not go directly to the implementation schedule discussed herein.

DECISION: Staff's recommendation was approved. Additionally, the hearing dates were changed from 11/4-6 to 12/10-12; staff and intervenor testimony due date was changed to 10/31; rebuttal testimony due date to 11/19; and, prehearing statement due date to 11/21. The prehearing officer will consult with staff in setting the prehearing conference and special agenda dates. All other provisions in the OEP were affirmed. The freed-up November dates will be used for additional service hearings.

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

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6\*\*Docket No. 030889-TP - Complaints of Terranova.net against BellSouth Telecommunications, Inc., alleging predatory pricing and switching Internet service provider's service without authorization.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: GCL: Fordham  
CAF: Raspberry  
CMP: Moses

ISSUE 1: Should the Commission dismiss Terranova's complaints against BellSouth Telecommunications, Inc. concerning predatory DSL pricing and switching ISP customers without authorization?

RECOMMENDATION: Yes. The Commission should dismiss Terranova's complaints.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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7\*\*Docket No. 030030-EI - Complaint of Charo Rojo against Florida Power & Light Company for alleged overbilling and damages to equipment. (Deferred from February 18, 2003 conference; revised recommendation filed.)

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: GCL: Fordham  
AUS: Ruehl  
CAF: Hicks

ISSUE 1: Should the Commission dismiss the complaint of Ms. Charo Rojo?

RECOMMENDATION: Yes. The Commission should dismiss the complaint of Ms. Charo Rojo.

ISSUE 2: Should this Docket be closed?

RECOMMENDATION: Yes. If the recommendation in Issue 1 is approved there would be no further action required by this Commission and this docket should be closed.

DECISION: The recommendations were approved.

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

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8Docket No. 010503-WU - Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Baez

Staff: GCL: Holley, Jaeger  
ECR: Fletcher, Merchant

ISSUE 1: Should Aloha Utilities, Inc.'s Motion for Extension of Time to Comply with Order No. PSC-02-0593-FOF-WU (Final Order) be granted?

RECOMMENDATION: No. Aloha's Motion for Extension of Time to Comply with Order No. PSC-02-0593-FOF-WU is premature and should not be granted at this time.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open so that the remaining outstanding issues can be resolved.

DECISION: The recommendations were approved.

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

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9\*\*PAADocket No. 030875-TI - Compliance investigation of Dakota Telecommunications, Corp. for apparent violation of Sections 364.02 and 364.04, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Curry  
GCL: Susac

ISSUE 1: Should the Commission impose a \$25,000 penalty upon Dakota Telecommunications, Corp. for its apparent violation of Sections 364.02(13) and 364.04, Florida Statutes, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

RECOMMENDATION: Yes. If Dakota Telecommunications, Corp. fails to timely protest the Commission's Order, and fails to file a tariff and provide the Commission with current contact information, the company should also be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida upon issuance of the Consummating Order until the company files a tariff and provides the Commission with current contact information.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of the 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. If the Commission's Order is not protested and the payment of the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of

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9**PAA	Docket No. 030875-TI - Compliance investigation of Dakota Telecommunications, Corp. for apparent violation of Sections 364.02 and 364.04, Florida Statutes.

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the penalty should be referred to the Department of Financial Services. This docket should be closed administratively upon either receipt of the payment of the penalty or upon the referral of the penalty to the Department of Financial Services.

DECISION: The recommendations were approved.

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

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10\*\*PAADocket No. 030876-TI - Compliance investigation of IBGH Communications, LLC for apparent violation of Sections 364.02 and 364.04, Florida Statutes.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Curry  
GCL: Susac

ISSUE 1: Should the Commission impose a \$25,000 penalty upon IBGH Communications, LLC for its apparent violation of Sections 364.02(13) and 364.04, Florida Statutes, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

RECOMMENDATION: Yes. If IBGH Communications, LLC fails to timely protest the Commission's Order, and fails to file a tariff and provide the Commission with current contact information, the company should also be required to immediately cease and desist providing intrastate interexchange telecommunications service in Florida upon issuance of the Consummating Order until the company files a tariff and provides the Commission with current contact information.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of the 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. If the Commission's Order is not protested and the payment of the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of the penalty should be referred to the Department of

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10\*\*PAA

Docket No. 030876-TI - Compliance investigation of IBGH Communications, LLC for apparent violation of Sections 364.02 and 364.04, Florida Statutes.

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Financial Services. This docket should be closed administratively upon either receipt of the payment of the penalty or upon the referral of the penalty to the Department of Financial Services.

DECISION: The item was deferred.

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11\*\*PAADocket No. 030685-TC - Cancellation by Florida Public Service Commission of PATS Certificate No. 2357 issued to Hughes' Pay Telephones for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay

ISSUE 1: Should the Commission cancel Hughes' Pay Telephones' PATS Certificate No. 2357 on its own motion with an effective date of May 27, 2003?

RECOMMENDATION: The Commission should cancel the company's PATS Certificate No. 2357 on its own motion, effective May 27, 2003. In addition, the Division of the Commission Clerk and Administrative Services will be notified that the 2002 and 2003 RAFs, including statutory penalty and interest charges for calendar year 2002, should not be sent to the Florida Department of Financial Services for collection, but that permission for the Commission to write off the uncollectible amount should be requested. If the certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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12\*\*PAA Cancellation by Florida Public Service Commission of PATS  
certificates for violation of Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 030687-TC - Anthony T. Giansante d/b/a Smart Pay  
Phones of Florida  
Docket No. 030688-TC - Douglas C. Parrish, Jr.  
Docket No. 030689-TC - Payphones Unlimited Inc.  
Docket No. 030690-TC - George H. Meyer  
Docket No. 030701-TC - David P. Mandeville  
Docket No. 030703-TC - TDB Systems  
Docket No. 030704-TC - Lizabeth Perez  
Docket No. 030708-TC - Fikrat Tahhan  
Docket No. 030717-TC - Resource Express Inc.  
Docket No. 030719-TC - Intele - Management, LLC  
Docket No. 030721-TC - Kwik-Mart, Inc.  
Docket No. 030724-TC - Larry E. Sherman d/b/a Brevard  
Payphone Systems  
Docket No. 030725-TC - Clean Machine of South Beach, Inc.  
Docket No. 030726-TC - PSI International, Corp.  
Docket No. 030727-TC - Federal Correctional Institution  
Miami  
Docket No. 030728-TC - Sovicha Corp.  
Docket No. 030729-TC - @comm inc.  
Docket No. 030730-TC - Advanced Communication Service USA  
Inc.  
Docket No. 030731-TC - Donald Mark Deaton d/b/a Deaton  
Communications  
Docket No. 030732-TC - Kim Kuczynski  
Docket No. 030733-TC - Colony 14 Communications, Inc.  
Docket No. 030734-TC - Jim H. Fluck d/b/a BSI  
Docket No. 030735-TC - Noel C. Mackay  
Docket No. 030736-TC - Woodrow J. Zeitlen  
Docket No. 030742-TC - FTF, Inc.  
Docket No. 030743-TC - Jorge E. Zapata  
Docket No. 030691-TC - Lisa Karavokiris  
Docket No. 030692-TC - J.K. Miami Corp.  
Docket No. 030693-TC - Pancho Villas, Inc. d/b/a Taco Tex  
Docket No. 030706-TC - Terry Alan Hall d/b/a Communicall  
Docket No. 030707-TC - AmeriCall, Inc.  
Docket No. 030710-TC - Publicall Telecommunications Inc.  
Docket No. 030718-TC - K.C.I. Original Inc.

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12\*\*PAA

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

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Docket No. 030720-TC - MAH Communications, Inc.  
Docket No. 030722-TC - Donatella Communications LLC  
Docket No. 030702-TC - The Train-Tel Company

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: CMP: Isler  
GCL: McKay, Rojas, Christensen

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate, as listed on Attachment A of staff's September 18, 2003 memorandum, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

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

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12\*\*PAA

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

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recommendation, the respective company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should the Commission impose a \$1,000 penalty or cancel each company's respective certificate, as listed on Attachment B of staff's September 18, 2003 memorandum, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: The Commission should impose a \$1,000 penalty or cancel each company's respective certificate, as listed on Attachment B of staff's memorandum, for apparent violation of Rule 25-4.0161, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment B, should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate, as listed on Attachment B, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 3: Should the Commission cancel The Train-Tel Company's PATS Certificate No. 5016, as listed on Attachment C of staff's September 18, 2003 memorandum, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

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

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RECOMMENDATION: The Commission should cancel The Train-Tel Company's Certificate No. 5016, as listed on Attachment C of staff's memorandum, for apparent violation of Rule 25-4.0161, Florida Administrative Code. If the past due fee, including statutory penalty and interest charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Florida Department of Financial Services for further collection efforts. If the Commission's Order is not protested, the company's Certificate No. 5016, as listed on Attachment C, should be cancelled administratively. If the company's certificate, as listed on Attachment C, is cancelled in accordance with the Commission's Order from this recommendation, The Train-Tel Company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 4: Should these dockets be closed?

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

DECISION: The recommendations were approved with the exception of Dockets 030701-TC and 030736-TC, which were deferred.

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

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13\*\*PAA Cancellation by Florida Public Service Commission of PATS certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

Docket No. 030694-TC - VisionComm, Inc. d/b/a Vision Communications of Delaware, Inc.

Docket No. 030709-TC - OL Corporation

Docket No. 030723-TC - T. Todd

Docket No. 030744-TC - Digi Communications, Inc.

Critical Date(s): None

Commissioners Assigned: Full Commission

Prehearing Officer: Administrative

Staff: CMP: Isler

GCL: Dodson

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel each company's respective certificate, as listed on Attachment A of staff's September 18, 2003 memorandum, for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, Florida Administrative Code, Reporting Requirements?

RECOMMENDATION: The Commission should impose a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective certificate, as listed on Attachment A of staff's memorandum, for apparent violation of Rule 25-4.0161, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.520, Florida Administrative Code, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and

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13\*\*PAA

Cancellation by Florida Public Service Commission of PATS certificates for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

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required information are not received, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone service in Florida.

ISSUE 2: Should these dockets be closed?

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

DECISION: The recommendations were approved.

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

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14\*\*PAADocket No. 030222-GU - Request for approval of change in depreciation rates to be implemented as of 10/1/03, by City Gas Company of Florida.

Critical Date(s): None

Commissioners Assigned: Full Commission  
Prehearing Officer: Davidson

Staff: ECR: Gardner, Kenny  
AUS: Mills  
CMP: Lee  
GCL: Jaeger

ISSUE 1: Should the current depreciation rates of City Gas be changed?

RECOMMENDATION: Yes. A review of the company's current capital recovery position indicates the need to revise depreciation rates.

ISSUE 2: What should be the date of implementation for revised depreciation rates and capital recovery schedules?

RECOMMENDATION: Staff recommends approval of the company's proposed October 1, 2003, date of implementation for revised depreciation rates and recovery schedules.

ISSUE 3: Should any corrective reserve measures be made?

RECOMMENDATION: Yes. Staff recommends the following corrective reserve measures:

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Docket No. 030222-GU - Request for approval of change in depreciation rates to be implemented as of 10/1/03, by City Gas Company of Florida.

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Account	Book Reserve	Recommended Transfers	Restated Reserve
	(\$)	(\$)	(\$)
380 - Services - Other than Plastic	12,099,061	58,336	12,157,397
387 - Other Equipment	167,166	(58,336)	108,830
390 - Structures & Improvements	598,920	182,217	781,137
391.3 - Computers	1,234,790	(162,964)	1,071,826
392 - Transportation Equipment	322,938	(73,676)	249,262
393 - Stores Equipment	17,198	(7,049)	10,149
394 - Tools, Shop, Garage Equip.	211,983	54,423	266,406
395 - Laboratory Equipment	11,733	7,049	18,782
Total	14,663,789	0	14,663,789

ISSUE 4: What are the appropriate depreciation rates and recovery schedules for City Gas?

RECOMMENDATION: The staff recommended remaining lives, net salvage values, reserve positions, and resulting depreciation rates and recovery schedules are shown on Attachment A of staff's September 18, 2003 memorandum. These recommendations result in a decrease in annual depreciation expense of about \$280,000, based on estimated October 1, 2003, investments and reserves as shown on Attachment B of staff's memorandum.

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Docket No. 030222-GU - Request for approval of change in depreciation rates to be implemented as of 10/1/03, by City Gas Company of Florida.

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ISSUE 5: Should the current amortization of investment tax credits (ITCs) and the flowback of excess deferred income taxes be revised to reflect the approved depreciation rates and recovery schedules?

RECOMMENDATION: Yes. The current amortization of ITCs and the flowback of excess deferred income taxes (EDIT) should be revised to match the actual recovery periods for the related property. The utility should file detailed calculations of the revised ITC amortization and flowback of EDIT at the same time it files its surveillance report covering the period ending September 30, 2004.

ISSUE 6: Should this docket be closed?

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

DECISION: The recommendations were approved.

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

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<u>ITEM NO.</u>	<u>CASE</u>
15**Docket No.	030884-EU - Objections to Florida Power & Light Company's 2003 request for proposals filed August 25, 2003, by Florida Partnership for Affordable Competitive Energy (PACE) and some individual member companies.
	Critical Date(s): Rule 25-22.082, Florida Administrative Code, requires Commission action by October 6, 2003.
	Commissioners Assigned: Full Commission Prehearing Officer: Deason
	Staff: ECR: Haff, Maurey, Sickel GCL: C. Keating, M. Brown MMS: Futrell
	<u>ISSUE 1</u> : Should the Commission grant FPL's Motion to Exclude PACE from Bid Rule Objection Process? <u>RECOMMENDATION</u> : No. Allowing PACE to participate in the objection process is consistent with the intent of the Bid Rule and will potentially avoid a more resource-consuming, formal dispute over the same objections during FPL's upcoming need determination proceeding. PACE is in a unique position to state the concerns of independent power producers under this process in an efficient manner.
	<u>ISSUE 2</u> : Do PACE's Objections to FPL's Request for Proposals indicate a violation of any portion of Rule 25-22.082, Florida Administrative Code? <u>RECOMMENDATION</u> : No. PACE's Objections do not indicate that FPL's Request for Proposals violates any provision of Rule 25-22.082, Florida Administrative Code. Of the fourteen specific objections cited by PACE, three are inappropriate, two have been resolved by FPL's actions taken subsequent to PACE's filing, and nine do not appear to violate any provision of Rule 25-22.082, Florida Administrative Code.
	<u>ISSUE 3</u> : Should this docket be closed? <u>RECOMMENDATION</u> : Yes. The docket to address objections to FPL's Request for Proposals on a preliminary basis pursuant to Rule 25-22.082(12), Florida Administrative Code, should be closed.

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<u>ITEM NO.</u>	<u>CASE</u>
15**	Docket No. 030884-EU - Objections to Florida Power & Light Company's 2003 request for proposals filed August 25, 2003, by Florida Partnership for Affordable Competitive Energy (PACE) and some individual member companies.

(Continued from previous page)

DECISION: The Commissioners acknowledged FPL's withdrawal of its motion in Issue 1. No order will be issued on this item; the docket will be closed administratively.

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

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ITEM NO.

CASE

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16\*\*Docket No. 030748-SU - Application for approval of new class of service for bulk wastewater service in Lee County by Forest Utilities, Inc.

Critical Date(s): 9/30/03 (60-day suspension date)

Commissioners Assigned: Full Commission  
Prehearing Officer: Administrative

Staff: ECR: Biggins  
GCL: Rodan, Brown

ISSUE 1: Should the Commission deny Lee County's Motion to Dismiss?

RECOMMENDATION: Yes. The Commission should deny Lee County's Motion to Dismiss. Forest has adequately stated a cause of action for approval of a tariff for a new bulk wastewater class of service upon which the Commission may grant relief.

DECISION: This issue was deferred based on staff's oral revised recommendation at the conference.

ISSUE 2: Should Forest Utilities, Inc.'s request for a new class of service for bulk wastewater service be approved?

RECOMMENDATION: Yes. Forest's request for a new class of service for bulk wastewater service should be approved. The utility should be allowed to charge \$3.14 per 1,000 gallons as discussed in the analysis portion of staff's September 18, 2003 memorandum. The utility should file a new tariff sheet which is consistent with the Commission's vote within 30 days of issuance of the consummating order. Staff should approve the tariff sheet upon verification that the tariff is consistent with the Commission's decision. If the new tariff sheet is filed and approved, the new class of service for bulk wastewater service should become effective on or after the stamped approval date of the tariff sheet.

DECISION: The recommendation was approved with the modification that, based on staff's oral revised recommendation at the conference, the tariff was suspended.

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<u>ITEM NO.</u>	<u>CASE</u>
16**	Docket No. 030748-SU - Application for approval of new class of service for bulk wastewater service in Lee County by Forest Utilities, Inc.

(Continued from previous page)

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If Issues 1 and 2 are approved, the new tariff should become effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariffs should remain in effect with common bulk wastewater charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order.

DECISION: The recommendation was approved with the modification that, based on staff's oral revised recommendation at the conference, the docket will remain open for return to a subsequent Commission conference.

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

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ITEM NO.

CASE

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17\*\*PAADocket No. 980119-TP - Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc. for violation of the Telecommunications Act of 1996; petition for resolution of disputes as to implementation and interpretation of interconnection, resale and collocation agreements; and petition for emergency relief. (Deferred from September 16, 2003 conference.)

Critical Date(s): None

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

Staff: GCL: B. Keating  
CMP: Harvey, Simmons, Vinson

ISSUE 1: Has BellSouth provided Supra with on-line edit checking capabilities as required in Order No. PSC-98-1001-FOF-TP, and was the capability provided in a timely manner?  
RECOMMENDATION: Yes. The Commission should incorporate the results of the Third-Party OSS Test conducted in Docket No. 960786B-TL into this record, as contemplated by Order No. PSC-00-1777-PCO-TP. Based on this additional evidence, the Commission should find that BellSouth has provided on-line edit checking capability as required by Order No. PSC-98-1001-FOF-TP in a timely manner.

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 issuance of a Consummating Order if no person whose substantial interests are affected files a timely protest of the Commission's Proposed Agency Action Order resulting from this recommendation within 21 days of issuance of the Order.

DECISION: The recommendations were approved.

Commissioners participating: Deason, Bradley, Davidson

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ITEM NO.

CASE

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18 Docket No. 020412-TP - Petition for arbitration of unresolved issues in negotiation of interconnection agreement with Verizon Florida Inc. by US LEC of Florida Inc.

Critical Date(s): None

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

Staff: CMP: J-E Brown  
GCL: Teitzman

ISSUE 1: Should the Commission approve the arbitrated Interconnection Agreement between Verizon and US LEC in Docket No. 020412-TP?

RECOMMENDATION: Yes. The Commission should approve the arbitrated Interconnection Agreement between Verizon and US LEC in Docket No. 020412-TP.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, no further action will be required in this docket. Therefore, this docket may be closed.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Bradley, Davidson

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CASE

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19\*\*Docket No. 021206-TC - Compliance investigation of Florida Commercial PayFon, Inc. for apparent violation of Rule 25-4.019, F.A.C., Records and Reports in General.

Critical Date(s): None

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

Staff: GCL: Teitzman  
AUS: Vandiver  
CMP: Buys

ISSUE 1: Should the Commission dismiss Florida Commercial PayFon's protest of PAA Order No. PSC-03-0134-PAA-TC?

RECOMMENDATION: Yes. The Commission should dismiss Florida Commercial PayFon, Inc.'s protest of PAA Order No. PSC-03-0134-PAA-TC. Florida Commercial PayFon's failure to prefile testimony, file a prehearing statement, and appear at the prehearing conference constitutes waiver of all issues in accordance with the Order Establishing Procedure, Order No. PSC-03-0493-PCO-TC, and there remain no issues to be decided by the Commission.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, Florida Commercial PayFon should make payment of the penalty and provide the documentation required by PAA Order No. PSC-03-0134-PAA-TC, within fourteen calendar days after the issuance of the Commission's Order from this recommendation. If payment of the penalty and the required documentation are not received, Pay Telephone Certificate No. 7545 should be cancelled. Further, if Florida Commercial PayFon's certificate is cancelled, Florida Commercial PayFon should be ordered to

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<u>ITEM NO.</u>	<u>CASE</u>
19**	Docket No. 021206-TC - Compliance investigation of Florida Commercial PayFon, Inc. for apparent violation of Rule 25-4.019, F.A.C., Records and Reports in General.  (Continued from previous page)  immediately cease and desist providing pay telephone service in Florida. This docket should be closed administratively upon either receipt of the payment of the penalty and the required documentation, or upon cancellation of Pay Telephone Certificate No. 7545.

DECISION: The recommendations were approved.

Commissioners participating: Baez, Bradley, Davidson

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ITEM NO.

CASE

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20\*\*Docket No. 021249-TP - Complaint of Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc. for non-compliance with Commission Order PSC-02-0878-FOF-TP. (Deferred from September 16, 2003 conference.)

Critical Date(s): None

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

Staff: GCL: Christensen  
CMP: Dowds, Simmons  
MMS: Ollila

ISSUE 1: Should the Motion to Dismiss filed by BellSouth Telecommunications, Inc. be granted on the grounds that the Commission lacks subject matter jurisdiction over allegations made in Supra's Complaint, thus requiring it to relinquish jurisdiction and refrain from any proceedings touching on the subjects set forth in the Complaint?

RECOMMENDATION: BellSouth's Motion to Dismiss should be denied on Issue 1.

ISSUE 2: Should the Commission dismiss Supra's Complaint on the grounds that the facts in Supra's Complaint fail to state a claim upon which relief can be granted?

RECOMMENDATION: BellSouth's Motion to Dismiss should be denied on Issue 2.

ISSUE 3: Should the Commission dismiss Supra's Complaint because, even if it is legally sufficient to state a claim for relief, that claim is not yet "ripe" for adjudication?

RECOMMENDATION: BellSouth's Motion to Dismiss should be denied on Issue 3.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending further negotiations by the parties and a possible evidentiary hearing on this matter.

DECISION: This item was deferred.