

AGENDA ITEM 2-a

MINUTES OF SPECIAL MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, APRIL 10, 2006, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Para opened the Special U.C. Meeting with an invocation followed by the Pledge of Allegiance.

(1) Supplemental Interim Report – Brent Millikan & Company, P.A.:

Chairman Para then thanked all for attending this special called meeting for the purpose of disseminating some information and receiving a supplemental interim report from Brent Millikan's office. He stated he would like to turn the meeting over to Mr. Rodi at this point, to introduce our guests and for a quick overview.

Mr. Rodi stated this evening I think there is a voluminous amount of information and my suggestion would be that we listen to the presentation by Brent Millikan and then think about what this means because obviously there's a great deal of information there. He added we can pick some things up at probably our next U.C. meeting.

Mr. Preston stated for a point of order, roll call was not taken.

Chairman Para then requested a roll call to be taken and there were a majority of the Commissioners present as follows:

Chairman Kevin J. Para
Commissioner William H. Reynolds
Commissioner Richard L. Spangler
Commissioner Jeanne K. Diesen
Commissioner William E. Hall (ABSENT)

Others in attendance were as follows: R. Rodi, General Manager/ CEO; R. Montalvo, Director of Finance; R. Mitchum, Director of Electric Operations; J. White, Director of Engineering; D. Hoover, Director of Water/Wastewater; G. Powers, Interim Director of I.T.; B. Mudge, Director of Human Resources; E. Mahle, Public Relations/Marketing Manager; K. Connor, Materials Manager; T. Gilligan, Payroll/Benefits Administrator; J. Lutz, Call Center Technician, Level II; J. Santrock, Repair Supervisor; M. Roberts, Electric T&D Lineman; D. Simmons, Executive Asst./Recording Secretary; and additional U.C. personnel, Bill Preston, Interim U.C. Legal Counsel; City Commissioner S. Grasty; City Commissioner L. Plaskett; City Commissioner R. Richenberg; F. Roberts, City Manager; Melanie Stawicki-Azam, Reporter for the NEWS JOURNAL; Pete Slavin, Reporter for THE OBSERVER; Alex Kish and Brad Douglas, Brent Millikan & Company, P.A.; Security Guard from World Security; Ron Vaden, Finley Buie; Bob Tolley; Robert Hunter, Craig Crawford, Donna Para, and a few unidentified men and women; all members of the public.

(1) Supplemental Interim Report – Brent Millikan & Company, P.A. (cont.):

Mr. Rodi then stated Mr. Kish if you would begin, I would imagine you are just going to talk from your information there.

Mr. Kish stated it's a pleasure to be with you all this afternoon. He stated as you all well know, hopefully what we're here tonight to do is to provide a quick summary update of where we are, basically what we've done so far, what we have found so far, and what we are continuing to do as we speak with additional projects that we're working on. Primarily what we're trying to do is to provide this as a supplement to a report that was rendered to you back in October of 2005. I'm not going to go through the information that's included in that section, basically what I'd like to do is to dwell on the issues that we've added to the report since that date.

Mr. Kish stated what I would like to point out to you is that basically the information that we've provided for you in here does not contain any information that was shared or provided in conjunction with our work with FDLE in this process. To be quite honest with you I don't know what the status of their report is, don't know what the status of any of that is, and for that matter I am not aware that any reports have been issued by them at least as of today. So what I'd like to do, very quickly, I'm on page two, is kind of walk through where we were and what we've done since then.

Mr. Kish stated on September 30, 2004 in conjunction with performing the audit we had some issues that came up with respect to a contractual obligation with EPICUS. We discussed in that report that some direct payments had been made to the tune in aggregate of \$400,000 which were proposed to be reimbursed but never were. We've indicated that we did not have any documentation for those and I'm going to talk about that in more detail in a moment. We had the same situation basically with the arrangement with RSVP Customer Care Centres, it's a Canadian company mind you, that basically never, no contract exists that's ever been provided to us with that arrangement, and a total of \$2.3 million was wired out of the country with respect to them providing outbound telemarketing services in the absence of any formal contract or approval of this Commission. Also we discussed with you at that time the relationship with Kissimmee Utility Authority, we'll refer to as KUA. As of the writing here we had spent some \$317,000 on residual payments to KUA and again we contend that this contract has never been brought forward to the Commission for consideration or approval in accordance with your very strict procurement policies. Same thing, issues, with an agreement with VStar, NCVStar, VStar, Inc., whatever you want to call them. We've paid \$406,000 plus in excess of \$1 million on marketing fees related to the arrangements with NCVStar. Again the thing that we tried to point out is that we were never provided any documentation to show that this contract was approved in accordance with your internal procurement policies and procedures, and also evidence had surfaced at that point in time that indicated there might potentially be a related party link with this company which we've discussed with you before, and we'll also continue to discuss tonight.

Mr. Kish stated as a result of the June 24th meeting many allegations came up, either that were discussed at that meeting or subsequent to that meeting with us individually, and we've tried to summarize those and hit on each of those individually. Some of them were rather broad, some of them had been brought up and had been discussed even before that point in time, and some were basically generated at that meeting and also at the October meeting. The first being that whether or not the Commission actually even had the authority to enter into the telecom business on its own

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anyway, that issue is discussed. We have allegations that management developed unauthorized vendor business arrangements without the Commission being made privy to the agreements nor were they secured, solicited, bonded or executed and approved in accordance with your procurement policies. Allegations of potential mismanagement of the Commission's business affairs including the Telecom Division as it relates to payments made for soliciting telecommunications customers and also internal monthly reporting activities since inception. Allegations of knowledge and participation in potential intentional, unintentional circumvention of policies and potentially in the related destruction of accounting records and also in the changing of agent sales codes for some 2,000 communications accounts. Item 5. is, we have allegations of management's prior knowledge and approval of the potential diversion of Commission's resources for time and expense and travel reimbursement expenses. Allegations of management's knowledge and approval of questionable business practices relating to preferred vendor treatment in violation of your procurement policies and procedures. Allegations of management's pre-existing knowledge and unauthorized approval of contract payments to potential related party organizations, again in violation of the provisions of your personnel policies and practices, also procurement policies and practices and also Chapter 12 of Florida Statutes. Allegations of management's knowledge and unauthorized approval of severance payments to terminated General Manager Ronald Vaden in violation of Section 1.8 and 3.23 of the Personnel Policies Manual. And also allegations of management's unlawful and unauthorized maintenance, removal and destruction of public records in violation of Chapter 119 Florida Statutes.

Mr. Kish stated these are allegations that came up either before, at, or subsequent to the June meeting as well as the October meeting that existed afterwards that we felt that we really needed to give you an update. Again, as I said, where we were, where we are, and what we have discovered in the process of looking at that. We're also aware that you had another independent examination post 9-30-04, and again three individual reports have been issued with respect to that investigation dated March 21, June 18, and September 8, 2005. We've attached copies and included them in here if you have not seen those, I'm sure you have, but they're included as exhibits 21 through 23.

Mr. Kish stated also in the way of post September 30, 2004 findings we did in fact issue a preliminary report in October. As I said I'm going to try to hit on those points without going through everything that was included in the prior October report. With respect to current matters, we did want to indicate to you that we're really not totally aware. I spoke with one of the investigators that indicated the examination was finished but I haven't been able to get anything or see anything to confirm that. I really don't know what the current status is of the examination and really we don't have to know that in order to move ahead with what we have here, but just to let you know.

Mr. Kish stated when we take a look at the current allegations, and in our revisions to the October 13th report, the first thing that we had in the first allegation is one that's been discussed and brought up and we've been asked about for I guess over two and half years, with respect to what authority was in place for the Utilities Commission to even get into the telecom business. Anyway, looking back, we're not attorneys, we're not lawyers, we're not really able to render a legal opinion, we're really not wanting to list any point of view or opinion other than the fact that we would like for you to understand the issues that we've discussed with others in response to trying to come up with an answer to those questions. I think if you take a look at the actual Charter provision itself, Chapter

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15, Section 217 of the Charter. It's very clear that the Commission has the authority to be in the electric, water, gas, and sewer business. However no provision is in there regarding any other utilities or any other businesses, subsequent to the enactment of the Charter, or Chapter 15, which was done I guess back in 1967, the creation of the Utilities Commission. In August 2001, one thing we wanted to point out was the City Commission, by virtue of the process referred to as Section 166 process where they generate ordinances to make changes to their code and so forth, through that process they provided authority to the Commission to enter into the telecom business. We've heard from others and seen tons of documentation going back and forth that questions whether or not that is the actual proper method to do that. We don't know if it is or isn't and we want you to know that we don't know if it is or isn't, however, there have been other issues that have been brought up in the process of explaining to us on both sides.

Mr. Kish stated issue one is an Attorney General opinion that was solicited by the City of New Smyrna Beach back in 1984 that very specifically addressed the issue of whether or not you could make changes to that Charter through the ordinance passing or Chapter 166 Process and in that opinion it is our understanding that the Attorney General had indicated that no it could not be done by ordinance, it had to be done via voter referendum. So all these questions that come up with respect to authority are valid questions and they're good questions, it's just again, we think that all those issues should be examined and a determination should be made, should it be that you want to do that. Really the only thing that we could suggest is that you refer it to the Attorney General of the state of Florida to give you an ultimate disposition or opinion regarding whether or not you have that legal authority to do that. That's basically the recommendation that we've made with respect to that one area, to pass it on to the next level.

Mr. Kish stated in allegations two and three, and on page eight we've also added sections regarding the ninth allegation, regarding the destruction of public records. Primarily what this is referring to is questions with respect to the business arrangements that were made with Epicus, RSVP, KUA, and VStar. He stated again we've not been provided with any evidence that shows these arrangements were procured in accordance with the existing Commission's Purchasing Policies and Procedures Manual requirements which was established by the Commission on Resolution 5-87 and it's been used for virtually every other procurement made by the Commission throughout its history. One thing we wanted to point out each of the arrangements we discussed were in excess of \$25,000.00 in aggregate therefore we feel like they were required to be done in accordance with those terms. None of the issues that we discussed were solicited or negotiated in accordance with mandatory competitive bidding and bonding requirements required by the Purchasing Manual, which we'll discuss in more detail. None of the arrangements were appropriately disclosed to the Commission board, the actual Utilities Commission board. No formal requests to negotiate or execute agreements on behalf of the Commission was provided or requested. Also nothing that we've been able to see indicates that the arrangements were submitted to the Commission for the appropriate approval in accordance with your own internal requirements.

Mr. Kish stated we're going to try to walk through each of those in more detail as we go through. On page nine we've indicated that there's roughly, there's eight bullet points there with pages that we'll refer to, in and out, those really are the procurement policies and procedures that we're wanting to bring to your attention. They are included as exhibits in the back under exhibit 28; that's where those items are found. What we would like to point out is we think the procurement

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procedures that you have are comprehensive and very well, very explicitly address virtually all types of procurements that you could run into. Obviously there is a provision for the exceptions, however the only things that we've tried to point out is we don't think that running an entire division by exception is what the intention of the actual manual was. While provisions are in fact there that allow for certain procurements to be made without following those procedures, again we want to point out that we don't think that it was the intent of this Commission to create an actual set of procurement policies that virtually everything that goes on in an operating division would be exempted from those requirements. So that's what we're going to try to tie in on tonight.

Mr. Kish stated the first item that we wanted to bring to your attention was the contract that basically started the telecom business, the Epicus, Inc. arrangement. The date of the contract, way back in 2001, it was approved by the City the same date it was signed under an emergency ordinance which we referred to earlier. The key thing that we wanted to point out in here is we understand that the agreement was in fact, it went through the process of being approved, but being solicited there was really nothing done in the form of soliciting the arrangement with them. The key thing that we want to bring to your attention here is that after the agreement had been in place and arrangements were actually in place to continue doing business with Epicus, September 9, 2002, in exhibit 29, Mark Richards of Epicus actually came to the Commission and requested a \$200,000.00 refundable customer deposit. If the Commission approved of making that deposit payment they would change the Commission rate from 16% to 18%. They also agreed to refund the full amount of those deposits with \$20,000.00 a month payments, ten \$20,000.00 a month payments, starting on October 1, 2003. Approximately two weeks after that, or one week after that, on September 17th, the General Manager ordered the payment of \$200,000.00 to Epicus in the form of a customer deposit. A key thing to point out is we don't see where any of that was ever approved by this Commission. It was never brought to the Commission for approval, never was approved. Also the key thing to point out to you is that Epicus failed to pay that back to you, they made two payments on that and then just quit making payments. So, \$160,000.00 of that, just forgot about it. About a year later Epicus also came back and made another request for another \$200,000.00, that was in June of 2003. The request was dated June 26th from Mark Richards and on the very next day on June 27th, the General Manager ordered the additional payment of \$200,000.00 in response to that request from Epicus. Again we do not believe that was an authorized expenditure and it was one that obviously was not approved by this Commission.

Mr. Kish stated also, during that same period of time and subsequent to that, the Commission was paying RSVP Customer Care Centres aggregate amounts totaling a little over \$1.5 million to add customers to the customer platform of this provider, Epicus. However, one of the key things that we point out to you here is that while they're actually making these telemarketing payments Epicus is delinquent in their bills to us. They were delinquent in their residual sales commissions, they were also delinquent in making the advance payments and repayments back to us. So looking at that we felt like that was throwing money into a machine and they're not making their required payments to us in the process of complying with their end of the agreement.

Mr. Kish stated prior to that from the period of November 2nd to May of 2003, the General Manager directed Commission staff to make payments to Epicus totaling \$612,500 to solicit communications accounts that were again added to the Epicus customer platform, not our customer platform but theirs. In other words we're going to receive a residual sales commission from

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customers that we actually provide to them. In that process there was a request made to make marketing expenses, it was a very vague request and just said I want authority to spend \$100,000.00 a month for a period of up to one year for marketing. Didn't say who, didn't say what, didn't say why, didn't say how, just requested that and the Commission approved it. The one thing that we wanted to bring to your attention was at that point in time when that request was made, that the Commission had already paid \$225,000.00 on payments for marketing that were not authorized. And in reality they had committed to \$325,000.00 worth of payments on that \$612,000.00. So the date that was brought in was in December, however in November and December we had already paid \$225,000.00 and the bills paid in January for December were another \$100,000.00. All we're trying to point out to you is that you can argue that we came and asked for approval but we had already committed any where from \$225,000.00 to \$325,000.00 of the Commission's resources to that agreement with no disclosure being made to the Utilities Commission at the time.

Mr. Kish stated also no information was supplied to corroborate that the Commission was ever informed of the existence of the arrangement and we're going to continue to indicate that it was not made in accordance with the Purchasing Manual. Also in addition to that we felt like in looking at that there's no express or inherent, there's nothing in the contract that requires you to make customer deposits. It's not even mentioned in the contract, it's not there, even the approval of the contract is one thing but there's no provision in there that says you need to make customer deposit payments. So we felt like the \$400,000.00 in payments that were made for customer deposits, in addition to the \$612,500.00 that were made by the Commission were unauthorized expenditures. And also we've indicated in here we feel that's a significant breach of the fiduciary responsibilities of both the Commission and the General Manager for that period of time.

Mr. Kish stated in reading the actual follow-up to that, we've hit on this and I don't want to beat it to death, but the key issue is the manual that exists, exists for a reason. The agreements to make deposits to Epicus, again two \$200,000.00 advances were not authorized in that original agreement nor were they ever brought to the attention of the Commission for approval. We feel like the Commission should consider whatever options you have available to you to recover all or part of those costs either from the General Manager or from any bonding or surety policies obtained for such protective actions. That recommendation is consistent with one that was provided to you in the other three reports that we referred to earlier as well.

Mr. Kish stated in bullet point two on page two, the General Manager did not have any delegated authority to authorize the continuance of financial support to Epicus in the form of these deposit advances or to finance the expenditure of funds to RSVP for active telemarketing services at that point in time. If those acts are determined to be potentially those of malfeasance, then you should consider whatever options you have to recover the costs in the same format.

Mr. Kish stated we also took a look at item two, RSVP Customer Care Centres, point out it's a foreign company, and we're dealing with business outside of the United States. There is not a contract that exists that we're aware of, other than an oral hand or oral agreement made between the past General Manager and principals of RSVP. It was never approved by the Commission. Payments commenced on the agreement on March 18, 2003 and payments ended November 30, 2004. During the term of this unwritten, handshake agreement, \$2,261,275.00 were paid to this Canadian company. Key thing again, no existence of any formal written contract has been provided

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to us and there's been no express approval of the Commission for the agreement that's been provided to us. One thing we've pointed out to you in here is that the uniform commercial code requires written contracts must exist for enforcement in amounts of \$500, whether or not we meet those requirements, again we're not attorneys, I'm not going to suggest that we are, but it's our understanding these provisions alone would dictate that we should have something in writing with respect to any contract. They're talking \$500, we're talking about a contract for \$2.3 million with nothing in writing.

Mr. Kish stated also we would point out to you that there was not a competitive bid process, no solicitation process followed. There are telemarketing companies out there by the scores, they're out there and really nothing was done that we know of to formally determine who we were going to spend that kind of money with. There was no competitive bid process which I point out was required, there was no performance and payment bond selected or adopted for this agreement which we would point out is required. He stated had a bond been put in for the tune of the amount of the contract payments we wouldn't be here tonight, we would have already collected that money back and we wouldn't be here.

Mr. Kish stated taking a look at the agreement it's really unusual when we see the way that the actual distribution of resources went with the payment on the telemarketing fees. Of the payments that went in, we've indicated here that we obtained telecommunication customers that were added to the customer account platform of Epicus. When we first got going with them they were added to the Epicus customer account platform, and remember in February 2004 we started having our own customers. At the same time that we're doing this we continued to make payments to RSVP to allow customers to be added to the Epicus platform, throughout this entire process, which to us doesn't make sense. If we're involved in the telecommunications business and we're trying to build our own customer base, what in the world are we paying money to a company in Canada to create customers for another third party provider that we're suppose to be getting a residual interest on of which they've not paid the customer deposits back and they're delinquent in paying those residual interests back; we're not making anything. To us it's just bad after bad after bad.

Mr. Kish stated what we're looking at with respect to those is we've got a memo back, that was done February 4, 2004. One of the things that caused us concern, in looking at exhibit 31, you'll see a memo from Ron Vaden to Leslie Marshall and Connie Waggenhoffer and Genny Turano, the first being representatives with RSVP, regarding an allocation of RSVP hours. You can see that the Epicus, Sparks and VStar totals, there's roughly 1,500 to 1,600 hours a month that are being funded for expenses to be done, and these are the allocation modes that are being suggested as to where these account customers should be added. In knowledge of that, with taking a look at where the payments are coming from, something just doesn't pan out. From our viewpoint it just simply looks that there's a duplication, looks like we're actually paying to generate customers and then we're turning around and giving those customers to another third party provider and paying residual commissions on them again.

Mr. Kish stated if payments were made by them, we've certainly requested information, Mr. Preston also in a very detailed lengthy letter has requested information to either corroborate these facts or tell us if they're not correct, and best to my knowledge we've received no response to any request for information from VStar to substantiate any statements made on their behalf.

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Mr. Kish stated the only conclusion that we can make from that is that there is a possibility that we are paying for the solicitation of the customers to give them to someone else to make residual payments for, in other words we're paying for the customers twice. That's what all indicators potentially look like to us in this process. Also we went through and listed the dollar amounts, I think we've covered the point there, but what we thought was interesting is subsequent to February 2004, we paid roughly \$700,000.00 to add customers to the platform and during this period of time all those payments that were made basically were made on accounts that, again we're talking about being delinquent, we just continued to throw money into this machine but they had already been in default of the payment of the customer deposit advance, already in default on that, and literally months behind in residual payments of the commissions due to the Utilities Commission during that period of time. So we felt like that was just a complete total waste of effort and waste of money that couldn't be documented.

Mr. Kish stated also taking that statement that you looked at there in that exhibit, one of the things that we noted was in the process of talking with your staff, they indicated to us that they had received instructions from the General Manager to recode accounts, actually not to recode but when they were literally in bound to you, that all accounts coming in on Monday, Wednesday, and Friday were actually....

Chairman Para interrupted and excused himself but requested for the sake of clarity as we walk through this, when you say General Manager, could you give us the last name of the General Manager for reference if you don't mind. It's for those folks in the audience as well as here.

Mr. Kish stated at this point in time it would be Ronald Vaden, February 2004. What we're looking at here, based on talking with personnel and reviewing emails, it's our understanding that they were directed to code in bound accounts from RSVP to the credit of VStar for Mondays, Wednesdays, and Fridays, when at the same time, for Tuesdays and Thursdays, they would be considered U.C. platform telemarketed accounts, added to your call center accounts. In looking at that, in all due respect, the first item that we would have would be to say is what can we see to justify that. What we look at is the actual expenses that were being paid for telemarketing at that period of time. If we're looking at an opportunity where someone's telling us that another provider is paying for those expenses, wouldn't you think our expenses would go down? If we're only picking up 2/5, two days out of five days of the customers, we're throwing hundred plus thousand dollars a week or a month into this machine to get customers, now we're only getting credit two days a week for the customers. The first thing we would think as auditors, looking at analytical review procedures, would be maybe we should see a 60% reduction in our telemarketing fees during that period of time. We're only getting credit for two days out of five days, and another firm is getting three days out of five days, that's 40% of the effort that exists, we should see a 60% reduction. Interestingly enough when we take a look at the detail, which we've provided in the exhibit there, RSVP's service costs continued to go up another 34%, over and above what it was when we were getting all five days. What that tells us, just on the surface, it certainly looks to us, potentially that we're paying for somebody else's fees during that period of time. We're not saying that's what it is, we're saying that's what it looks like, and certainly it's something that needs to be investigated.

Mr. Kish stated we tried to get information from RSVP personnel in Canada and basically we were denied any information. We also know there have been other parties that requested that information

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were denied any information. During the same process of time we tried to get information regarding VStar. I know your counsel made a detailed request which we've provided a copy of that written request in here which to the best of our knowledge has been totally ignored, there's been no response whatsoever.

Mr. Kish stated also one other issue that came up in the process in 2005 is in looking at the agent identification codes, one of the things that we were trying to do was determine, and with all the things that are going on there's been discussion made, allegations made, that the agent sales codes had been modified, changed, deleted, whatever. In the process of looking at that we ran across an internal email document dated March 21, 2005 which would be just one year ago, exhibit 32, which I would like to discuss with you. In this email it's an allegation that formal steps were being jointly considered by then Director of Telecommunications Rob Hunter who is listed as the two party on the agreement, with then Director of Information Technology Craig Crawford, whose name is also on the email, to intentionally modify the Commission's accounting database records by purposely deleting certain sales agent identification codes from the customer account database. This communication is really rather odd, the subject is VStar Gets Reduced 1331, and just the reading of it, the tone of the letter to us indicates that there is a problem or a potential problem. It says this is the plan for VStar, below is the SQL scripting that will do the deed. We think that is really odd wording to put on an internal email. If you read on it says we set this up to remove 1,331 agent I.D. codes. Why would we want to remove any? Why? Then we look here and it says this will correspondingly decrease the numbers over time and we can mess with the percent if we choose. You now have 11,978 VStar accounts, I have ordered an address DESC to add some randomness. These things are all very, very scary when you look at this. We've disregarded the status, number of accounts are disconnected, I've done that to add an element of randomness. In other words we want to make these changes but we want to make them in a manner that we cannot be detected in making them. I mean that's the way we read this. Also if you choose to cut out all of the non-working VStar accounts, I'm sorry, I can if you choose cut all of the non-working VStar accounts out as well, you choose. Then you see the SQL script running below which is basically the programs that they used to enter the database and extract the sales agent codes and replace them. We think that right there is very concerning, particularly as your auditors looking at the ability to go outside the software application to extract your database and make changes to it so they cannot be tracked. That is just not the right way to do things.

Mr. Kish stated we think that in looking at that it is much more than what it looks like on the surface. We'll go so far to think that it's a potential conspiracy, one to discuss and formalize a plan to purposely delete the Commission's sales agent I.D. codes, to develop the sequential database procedural source code which if implemented would be capable of removing the sales agent I.D. codes from the database files, and developing an unauthorized scheme to remove the agent sales under a programmatically manufactured random basis in an attempt to obscure the ability to track potentially unlawful alteration of these accounts. We think that's something that seriously should be looked at and should be examined by whatever appropriate law enforcement officers or officials that you want to have look at this in the process.

Mr. Kish stated when we look at the actual responses that we're making without trying to beat this to death, I want to look on page 15, the evidence, we feel like the lack of compliance with the

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manuals as it relates to the failure to notify the Commission of the existence of an oral business arrangement is also a violation of the manual and the code of ethics and also the procurement standards of the Commission. Again we think these are all things that should be looked at and whatever actions that need to be taken to determine if these are such that can be recovered from bonding or surety policies, those are actions that you need to take. On the second item that we've got that testimony evidence exists which may corroborate that the General Manager was solely responsible for ordering Commission personnel to inappropriately recognize and record VStar, a potential related party company, as the customer sales agent for telecom agents obtained through the telemarketing efforts of RSVP, all of which were paid for by the Commission. We're talking in total again for all three allocations of \$2.3 million paid out there. We think that these actions potentially indicate a system was inappropriately and potentially unlawfully solely established by the General Manager/CEO and this would be Vaden, wherein the Commission effectively paid both telemarketing solicitation fees and residual agency commissions to both parties. RSVP to secure them and VStar on a residual basis afterwards. Again, we're suggesting that these be reported to the appropriate law enforcement agencies for complete investigation and determine the existence, if any, of criminal actions.

Mr. Kish stated in addition to that, item 3., nothing has been provided to us that corroborates that the General Manager obtained mandatory approval of the Commission to enter into any type of oral or written agreement, nothing was ever made, no mention of it was ever made. Payments made totaling \$2.3 million under the non-approved arrangement were unauthorized and potentially unlawful. A key thing to point out to you, at that time we did indicate that an agenda item had been produced in February 2002 asking for authorization to spend \$100,000.00 a month for up to a year. No company was named, that's it, that's all that it asked for, no one asked so therefore no answer was ever provided. However, at that time we were not involved in an arrangement with RSVP and that arrangement was intended, at least in our understanding, was intended to mean Epicus, payments made to Epicus, which followed the initiation of the approval of that arrangement. Again, at that point in time as we told you that we had already spent anywhere from \$225,000 to \$325,000 prior to receiving any authorization. We would suggest that comprehensive and appropriate legal actions be considered and undertaken to satisfactorily determine the legal status of the oral telemarketing service arrangement and also to determine if there's wrong doing, if any, associated with that for the recovery of the associated amounts from the agents listed.

Mr. Kish stated item 4., discussion regarding the intentional or unintentional manipulation of data contained in the database files, we believe that physical evidence exists that may corroborate the Commission's Director of Telecommunications and Director of I.T. may have conspired in the development of a formal plan to systematically and randomly alter and destroy sales agent I.D. codes in the Commission's formal accounting records and database systems. We have documentation with evidence and feel like all of this should be reported to the appropriate law enforcement agency for investigation follow-up; particularly to determine the potential existence, if any, of a criminal conspiracy and potential criminal acts. We also suggest that with respect to that item, steps be considered to determine the extent, if any, of customer records altered as a result of that, which again would be in violation of Chapter 119 Florida Statutes, particularly as it relates to unlawful and unauthorized maintenance, removal and destruction of public records.

(1) Supplemental Interim Report – Brent Millikan & Company, P.A. (cont.):

Mr. Kish stated contract number three that we looked at, KUA, this contract was originally approved by the Commission in January, or actually the date of the contract was January 6, 2004. The Commission was never, basically never approved this contract. Date payments commenced were in March 2004, last payment date that we had at the point in time when we were generating the data for this report was March 17th. I don't know if any residual payments have been made since then or not. The total amount paid through that period, through our cut off point, was \$316,563.00. The key thing here we wanted to point out that again an arrangement was made with KUA to act as telemarketing sales agent for an exclusive area. The understanding was established solely by the General Manager/CEO Ron Vaden in a written agreement with KUA dated January 6, 2004. Again that was never approved by the Commission, the only reference to the existence of that business arrangement was included on page seven of the General Manager's Monthly Summary Report for December 2003 which is dated January 9, 2004. It just says KUA signed an agent contract and will be selling UC phone services starting in February. We contend that is not the proper disclosure and that certainly does not serve as approval for the Commission for that transaction. We don't think that anyone, including the General Manager/CEO has any legal authorization or inherent authority to execute contracts on behalf of the Commission in excess of the \$25,000.00 threshold established in Section 1.4 of the procurement standards. Also it's our understanding the provisions also expressly prohibit the ability for the Commission to delegate any type of level procurement authority to any person including the General Manager/CEO by consensus. He stated also as we indicated in the earlier contract, they're also required to do this procurement through a competitive bid process, allowing an exclusive you can semi-offer the fact it could be a sole source issue however nothing was ever done to argue it was or wasn't. In the process of doing that the key thing we'd like to point out under normal circumstances you would have typically required and received a performance payment bond. As I said earlier, if we had a payment bond we wouldn't be here tonight, these items would have been resolved.

Mr. Kish stated another issue that came up, we obtained a copy of a formal Letter of Agreement on Change in Independent Sales Representative Agreement with KUA and the Commission entered into by the parties on January 1, 2004. We've not been provided with any evidence that corroborates that any authority was delegated to management, in this case Rob Hunter at that time Vice President of Telecom, to execute a contract on behalf of the Commission on May 31, 2005. That contract exhibit is included in here as exhibit 34. Based on our review of the transaction we couldn't find any formal evidence that documents the individual possessed or was delegated any contractual authority to enter into or execute any amendments or agreements on your behalf. Nor could we find any evidence which corroborates the agreement was reported to then General Manager/CEO Genny Turano prior to its being executed. And we found no evidence which corroborates the agreement was reported to the Commission in accordance with the requirements of the manual nor could we find any evidence that the contract amendment was submitted to the Commission for its mandatory approval in accordance with the terms and conditions of the manual.

Mr. Kish stated what we suggest doing here is, the first item is, again there's no apparent, no expressed, no inherent authority to enter into these agreements without Commission approval therefore we're going to suggest again that you take a look at whatever options you have to recover through a fidelity, bonding, surety policies that are involved in that. Item 2, we've made payments totaling \$316,563 under a non-approved arrangement. We think again that we would also potentially recommend steps be considered to determine if future payments should be suspended

(1) Supplemental Interim Report – Brent Millikan & Company, P.A. (cont.):

and attempts made to potentially recover those; that's something this Commission has to decide. Also, no evidence exists, that has been provided to us, even though it's been requested that corroborates any May 2005 amendment to the KUA contract to the Commission, same items in item 2 be considered to consider the legal status of the amendment and determine if any recovery is required, other than the fact in this case the evidence indicates the agreement was made without your approval.

Mr. Kish stated item 4 of 5 in this section is the VStar contract, where we had a lot of information that we provided to you before in October but we want to go through a quick update on the issues that we have here. The date of the agreement was January 26, 2004, date approved by the Commission it wasn't, never been approved, never been submitted for approval. Date payments commenced February 18, 2004 and last payment date that we know was November 29, 2004 when the Commission basically effectively cancelled payments to them. Under that period of time amounts paid totaled \$406,455. We think that those payments for telemarketing sales agent were not, they were established in a written agreement but was never presented to or formally approved by the Commission. We indicate this arrangement, nothing's been provided to us that corroborates that it is not, is in violation of Section 1.4, Sections 2.0 and 2.1 and so forth of the procurement standards of the Commission. We made reference here that the disclosure of this to a reader was made in a paragraph, it was thrown in the back on page 8 of a Manager's Report that just basically said KUA received training from UC staff and agent VStar began selling phone service in February. As we stated before, we do not believe that is the appropriate way to request approval, just to tell you that you're involved in doing business with them.. They never requested approval for that agreement therefore with the same basic reasons as before we don't have any legal authorization or inherent right to execute contracts in excess of the \$25,000. In this case different than an exclusive arrangement like in KUA. If we go to a VStar, a company purportedly headquartered in North Carolina, where did they come from, how did we find them, why did we contract with them. Those questions typically would come up in the process of determining if you have a valid arrangement with a vendor. We didn't solicit them, we did not basically do anything to look and see, are they who we wanted to do this, why are they the ones that we wanted to do this. None of those questions have ever been asked nor answered. The key thing here is there was no procurement process followed to retain them, there was not a competitive bid process followed that's required mind you, and there was no performance and payment bond, required item 3. We talk about these payment bonds over and over again, if we had a bond on that arrangement we wouldn't be here. Also would any of those three arrangements been bondable, looking at the Epicus arrangement, the arrangement with RSVP, and the arrangement with VStar. I don't know if any of them were bondable at all anyway but those are issues that your procurement requirements put in place. You are required to obtain performance bonds on contracts, particularly contracts in excess of \$100,000.00.

Mr. Kish stated we've indicated in this section as we had in the other that we've continued to request information regarding the status, ownership, and management of VStar. We've just been ignored and no formal response has been provided unto those inquiries, or nothing in response to the actual questions that have been asked. The key thing that we wanted to point out to you here is that when we were talking about RSVP payments, payments were made totaling almost \$700,000.00, \$699,469 was paid through November 2004, directly to RSVP in Canada for soliciting telecommunications customer accounts which would be added to the customer platform of U.C. but to the credit of VStar. You take that amount, \$699,000 and \$406,000, already we've spent

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\$1,105,924.00 on that arrangement. Again nothing's been provided to us that corroborates that the allocations, procedures, or actual encoded accounts themselves are appropriate or even justified.

Mr. Kish stated also as I've indicated earlier we've repeated in here the information regarding the allocation of funds and the reason it's done here is we've discussed these separate for purposes of coming up with our conclusions. We refer back to the same memo where there's direction made to staff and also direction made to others to tell us where resources are to be allocated internally. Nothing's been provided to us that shows the actual payments for those resources justifies any allocation. What we discussed, what we would expect to see if we're cutting from five days to two days we would expect to see a 60% reduction in our expense for telemarketing during that period of time, instead of going down 60% it went up 34%; the relationships are not appropriate there. The other side of the agreement as we discussed earlier regarding the existence of evidence that indicates that these accounts may have intentionally or unintentionally been altered through a procedural process of actually randomly deleting the accounts. Again that causes us great concern and we feel like that needs to be reported to you for investigative follow-up by whatever law enforcement agencies you deem appropriate. Also on the conclusions of the VStar area, failure to notify you, failure to obtain Commission approval, we've discussed that with all of the others. To the extent that these are acts of malfeasance or determined to be potential acts of malfeasance, we think you should consider what options are available to you for recovery of those amounts. The fact that testimonial evidence exists that may corroborate they were inappropriately asked to recode accounts, also from discussing with others, and there is written documentation behind on that, we feel like that also is an issue that clearly indicates the possibility that we're paying telemarketing fees two different times. We're paying the provider, then we're paying someone for providing us the customer. Basically those are issues that we think should be transferred to the appropriate law enforcement agencies to review. Again, for item 3., we've discussed with you the plans there, the memo, and also the fact that is a potential destruction of public records. For all items we suggest that you pass on to the appropriate law enforcement agency for review.

Mr. Kish stated item number 5., to close out this section, is one of the allegations that was brought up regarding mismanagement in the monthly reporting and what we tried to look at here is we can clearly see that the Commission continued to receive monthly updates regarding the telecom's operations and while each of the monthly reports were based on estimates of operating results, we felt like some of the underlying assumptions and representations were clearly not consistent with the data that was in fact available for that period of time to make those and as a result we feel like there's been some miscommunication of the actual status of the telecom operations during that period of time. December 20, 2004 you received a formal update from the Director of Telecommunications indicating that the Commission was beginning to recover from it's unprofitable business relationships. It was also supplemented with graphs, charts, so forth. It was reported in that communication that the telecom profits earned in October, November and December, 2004 were \$12,000, \$52,000, and \$125,000 respectively. There's absolutely nothing that we could find, no documentation to support that any of those amounts were even remotely close to being correct. They were prematurely reported and potentially distorted. During 2005 net operating loss from the telecom division alone amounted to \$3.8 million or \$315,000 a month. We don't know how if the first three months, when we turn that thing around, none of this makes sense. But when you actually look at the detail supporting that, then you can see, you get a picture of how this was all pulled together. I'm not suggesting it was malicious, I'm just saying it wasn't done

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properly. Operational losses were just totally ignored, we didn't make any provisions to account for losses on uncollectible telecom accounts, none. Those numbers were huge, the uncollectible amount alone for September 2005 was a little in excess of \$1,030,000; \$95,000 a month. It's a large number that we just ignored. Also, losses on uncollectible accounts for CABS billings was in excess, right at \$350,000. Those two items alone represent losses of \$115,000 a month; those are huge swings that we clearly distorted the results of the financial operations represented to you. In May 2005, in a workshop meeting, statements were made which represented the division had experienced a radical turn around in the past six months. Again six months, we've gone through three, this is the next three. Taking a look at the six months there, it was subsequently generating surplus profits which were being retained for deposits to the Commission's Rate Stabilization Fund and Renewal & Replacement Fund. Quite frankly we could find nothing anywhere that would support any remote reasonableness of the statements that were made to there and there's no documentation that corroborates those assertions whatsoever. Furthermore to the contrary we couldn't find anything where any amounts were ever added to those funds, to the Rate Stabilization Fund, Operating Account, or any R&R Funds ever, it just wasn't done, there were no profits, there were no amounts generated to put in there during that period of time. As we indicated earlier during this period we lost \$3.8 million, there's just no way we could have been putting money aside during that period of time.

Mr. Kish stated issues that came up subsequent to the termination of the telecom director, actually I'll move into that in a minute. Issues came up regarding multiple Sprint ILEC charges that were not properly accrued and recognized. We came in and looked at those, there were numerous accounting errors, numerous accounting oversights basically indicating that very few reconciliations were done. A complete package just was not implemented to validate the ongoing operating expense for the division, it was not being reconciled. Of that amount we could see that delinquent payments amounts, on July 11, 2005 delinquent amounts were \$487,000 that were identified in a reconciliation process that we went through.

Chairman Para stated it comes to his attention, just like with the General Manager/CEO if you could give us the Telecommunications Director's name for those in the audience.

Mr. Kish stated at this point in time who we're discussing would be Rob Hunter. He stated in July 2005 this would be after Hunter's departing from the Utilities Commission. There had been allegations made that payments had been duplicated, payments had actually been overpaid, and just basically there was no accounting for those. What we basically found was those statements were partially correct but the responsibility for doing them was the person making the allegations. If you take a look at this, of that amount, had the amount that was delinquent in the billing to Sprint, the amount delinquent for subsequent billings to Sprint and so forth. All we're trying to point out to you here is that the representations made to you in these and prior meetings were potentially inaccurate and very misleading. If you have a false sense of recovery, profitability that was conveyed to you during this period of time, we want you to know that those issues, there's nothing that can be done to corroborate those.

Mr. Kish stated a key thing to point out is we're not accruing our costs then, all we want to do is we want to recognize items that we've paid, we want to accrue in all our revenues that are earned and unearned, we want to pull in all our revenues but we only want to recognize expenses that we paid

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and we're not current on our bills so we don't have all of them paid that we should have paid, nor have we made any attempt to accrue in those that we didn't actually have paid to that point in time. When you do that, pull in all your revenues and ignore all your expense, then obviously you're going to get a different picture.

Mr. Kish stated other activities occurred that duplicate payments had been illegally and improperly made to Bellsouth and Sprint. The key thing to point out to you here is we did a complete detailed summary analysis of all of that and we indicated that the processing accounting of these activities associated with that was just totally incomplete and significantly mismanaged. We've reported to you the issues, there's six specific issues here that we've basically discovered that we make that on. Item 1., we found several instances of late and/or incomplete payments of ILEC charges due to management's failure to develop and implement systematic ongoing procedures for processing invoices and having those approved by supervisory personnel prior to being remitted to the Finance Department for payment processing; so you have the evidence to make a payment. Item 2., we discovered the existence of numerous duplicate vendor overpayments, underpayments, management's failure to establish an adequate invoice processing and payment system. These are all issues that they lend themselves to problems. Management's failure to adequately reconcile prior month billing statements with current period billings. Obviously if you're not making any attempt to determine what you paid, it's very difficult to determine and carry that balance forward. No reconciliation procedures were ever fully or formally developed and utilized by management to identify and resolve these as they occurred.

Mr. Kish went to item 3., we noted instances where personnel were incorrectly applying vendor credits and duplicate vendor invoice payments were not being appropriately identified or recognized in future periods. The reconciliation process, or lack thereof contributes to that. No formal records were ever developed or printed to support your ILEC invoice billings (item 4.). You had information that's provided to you on CD's or DVD's on a monthly basis from Bellsouth and Sprint. None of the information is actually summarized and printed that allows you the opportunity to clearly see what you paid and what you've paid for which produces the reconciliation evidence to be able to roll the numbers forward. Nothing was done with respect to that, it's very difficult, and we actually had to go back and reprint the data in order to do the reconciliation ourselves. There's basically no managerial oversight exercised in that area to ensure those items were recognized and submitted on a timely basis to the vendors as needed. Item 5., no adequate records of ILEC supplied CD-ROMs during that period, they typically were kept in a notebook, they may or may not have been in there, items were missing. It was very difficult to recreate where they were, to locate them, track them down, it was just a very difficult process to do that. Also, as we indicated earlier the cutoff procedures basically just did not exist (item 6.) and you cannot determine profit or loss in any operating division unless you effect a formal cutoff procedure. If you cut off at 12/31 or 4/31, you have to make a cutoff, accrue in all of your revenues that are earned through the last day of the month and accrue in all of your expenses that were incurred through the last day of the month in order to do a proper match. If you're not doing a formal expense cutoff or revenue cutoff you're not ever going to be able to get fair numbers.

Mr. Kish stated and we've followed up here, one thing that we think, at least in looking at this, that a lot of changes have in fact been implemented to the areas here. The reconciliations that were done were carried forward I believe through November 2005. So steps have been in place to try to work

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on that. Also one of the issues that we pushed real hard is we feel like all the information needs to go through the Director of Finance's office before being disseminated. Questions had come up, conflicts regarding amounts reported had existed before and we feel like that is the proper chain for events to follow, should go through your Director of Finance before disseminated publicly, and we concur with the changes that were implemented with respect to that.

Mr. Kish stated on allegations 4. and 9., having to do with the potential knowledge and participation in the circumvention of established controls to remove or recode 2,000 telecom directed accounts. If you recall back in October we went through a very lengthy process of discussing this with you, we reproduced those sections that were in that report for you. He stated I want to bounce over to page 28, and this was in the report also, but previous to June, Mrs. Turano the General Manager at that time, basically denied any involvement in all those matters until literally confronted with the email traffic that was here and other email traffic that existed to support the allegations that were made here. She has in effect admitted to having had some participation in the destruction of 2,000 accounts or the destruction of records to support the service agent code for some 2,000 accounts. What we found was substantially different than that when we actually came out and started pulling the documentation together trying to piece these pieces of this monster jigsaw puzzle together. We went through major expanded and detailed inquiries, and basically what we found was instead of 2,000 accounts that were potentially changed, emails just for that six month period alone, from personnel back and forth through Mrs. Turano indicated that 4,964 accounts had been changed during that period of time, just less than 5,000. She had said 2,000, the real number was closer to 5,000. Mr. Kish stated again the key thing that we're trying to point out here is we think that those are obviously violations of the personnel practice manual, code of ethics, going in and making changes or authorizing such changes; that's just not proper. Commission employees shall not use or attempt their position to secure special privileges or exemptions for themselves or others. We feel like that is a very clear issue there that can be examined and determined to see if there's a problem there.

Mr. Kish stated also we think evidence exists that may corroborate that then General Manager Turano initiated and subsequently ordered the modification of those codes to the extent of 4,964 accounts. We can't tell you what the real actual number is, those represent only accounts from March 2004 through August 2004, so it could have continued on after that, it's entirely possible. That coupled with the fact that we say other evidence indicating that the agent codes had been eliminated on other accounts or changed indicates that there's obviously been some finagling with the database files there. Keep in mind that the bulk of these database files are maintained offsite, they're maintained with another vendor offsite, so that provides even more exposure to possible mishandling of those accounts.

Mr. Kish stated items 5. and 6. on page 32, we already went through this regarding the relationship of Mr. Vaden, Mr. Paczkowski, and VStar back in October. One thing I think we had actually made representations in there that it was our understanding that Mr. Paczkowski at that point in time had performed services for VStar, however we also indicated at that time that we didn't have any evidence that indicated that. Subsequent to our report, he confirmed to us in written evidence that he did in fact have a relationship with VStar and he was in fact paid to provide contract services to VStar. Basically he informed us of that so we're going to inform you and let you know that what we anticipated as being a problem was in fact a problem. We think that those are clearly violations

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of the code of ethics and violations of the purchasing manual and also need to having these transactions also forwarded to the appropriate law enforcement agency to determine if any criminal acts have occurred so that actions can be taken if they have.

Mr. Kish stated allegation number 7., I am not going to go through all that again indicating basically that we've tried to indicate here that we believe very strongly that a relationship exists between Ron Vaden, Colleen Vaden, and VStar. We think that throughout the entire period were told there was no such relationship even as much as 6:00 p.m. before the meeting, before I came over here, I spoke with Mr. Vaden. He indicated to me then that he had no involvement whatsoever with VStar and I guess we were somewhat surprised to see an article in the paper indicating that there was in fact a relationship there at some time. He stated again all those items we've discussed, we've added the same exhibits in there, and we think that they actually show the story for what it is. We think there's an overwhelming evidence providing a link there and we think it may corroborate the link between the two, and that there was in fact knowledge of the existence of VStar and potential personal relationship prior to doing business with them. We recommend that those be appropriately reported to the appropriate law enforcement agency to follow up, to determine if any actions constitute criminal acts as defined by Florida Statutes so that actions can be taken.

Mr. Kish stated allegation number 8., just to clear that up, I don't know if we actually cleared that up with this Commission before regarding payments, severance payments made to Manager Vaden at the end of his termination. I think we had indicated to you that those payment requirements were not in accordance with your personnel policies and procedures, however, there was a signed agreement that indicated that would in fact be the way it was done. Even those are the actual calculated amounts but please keep in mind that there was an agreement that provided for that.

Mr. Kish stated other issues, just want you to know I'm trying to close in on pulling this together. On page 47, I would like you to know that one of the things I guess that has semi-prompted us to pull this together and give you an update is the status of current affairs here. It's been brought to our attention that you've had a recent demand for payment of \$40,572.05 from VStar for potentially delinquent residual commissions and as we've told you before nothing, nothing whatsoever has been supplied to support any amounts arrived at in that invoice. I'm talking about a one page invoice you get for a half million dollars and I guess you're suppose to roll over and pay it and forget about it; but absolutely no supporting documentation was provided to you with that to evidence that the amount is even determinable from records that were provided. He added as we stated in the earlier sections here we don't believe that the agreement was ever procured properly, we don't believe it was ever approved by the Commission, and question the sufficiency of any and all payments made to them.

Mr. Kish stated one other issue we wanted to bring to your attention in looking at that, going through the agreement, it was one that was brought when we discussed this in October but we did not have in the report but one I wanted to clarify with you. Yes, we did discuss with you at the time that the agreement with VStar does have a provision in there that says they are prohibited from using any telemarketing activities other than their own to solicit customers. Keep in mind virtually all of this occurred through RSVP, a Canadian company purportedly engaged by them. I'm just telling you that no one from that company has ever provided us any documentation of any sort whatsoever to corroborate those statements. We think that there is a process involved, even though

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we disagree that the agreement is a valid one from the viewpoint that it wasn't procured properly, there's nothing in the agreement that also documents that you ever provided your express approval to take those actions anyway. We would suggest that you continue to rely on your attorney's recommendation to hold off on that until information is provided by them to indicate to you who they are, what they are, how they are, how they were formed, and what's their status.

Mr. Kish stated subsequent to that, just to keep you in mind of where we're at now, we're having a very difficult time determining the adequacy of your database files, your customer database files that are maintained on site. One of the things that we've run into problems with is when we've made attempts, even as late as October last year, to obtain copies of certain documents from your vendors they basically just ignore us. They won't return phone calls, they won't respond to written confirmations. This past February we had to get on the phone, had to go through unusually difficult steps, had to get your attorney involved, and we had to go through a major process to get them to respond to us. As a result of that we're still not, there's a lot of issues and situations that exist with respect to that, that cause us some concerns on your behalf. We're still not able to tell you that we think the data that you have, that's being provided for you and managed for you offsite, is accurate. We think there's evidence that the data has in fact been potentially altered and there is evidence that can show when that was done and how it was done but I guess you could argue there's no evidence to show who did it. There is evidence that indicates we cannot rely on the information in the data systems that you have that are being maintained offsite. What we've done since then is gone to both primary parties, actually the Excleron Commworx database that you have is maintained in Texas. There's another piece to that, the verification of your accounts when you have accounts that are added there's a local, I say local meaning Orlando, a company that's engaged to actually verify your call switches or your customer switches. What we've attempted to do is obtain copies of the database files from each of these entities in some way, shape or form, do a comparison to try to regenerate or replicate what the files were from the get go. The most disturbing thing to us is when we reviewed the data that comes in directly from the company it doesn't agree with the data down feeds that we're provided here, doesn't agree with different timings of data feeds. If we obtain the data feeds we get one series of information, if you're providing them to us or your staff is providing them to us, we have another series of information feeds to look at. They don't, none of the three, agree, there's really no reason why that should be that way. The data should be systematically the same, the only difference would be the change in accounts, but we can tell you if you look at agent codes for instance and data that's generated on one source, they don't necessarily agree with the data that's on another source; that causes us concern in looking at it from that angle.

Mr. Kish stated we also looked at, we went one step further with this in the process of trying to assist management in taking control of that. The only reason we did it through us was basically to solicit information for management but to keep it out of the queue and we found some really unusual things. In the Excleron database there were over 160 individuals that had access to your files at some point in time there, 97 were active users. We understand that you've got a need to access the files but 97 active users, many of which weren't employees here, many of which weren't involved in contractual relationships with you. Those were in fact reset two weeks back, those accounts were reset. We have also since obtained copies of certain archive files and we feel like at this stage of the game that even those files are compromised based on relationships that some of your personnel have had with those companies, based on relationships that may have even existed at the time the backups were made. We're concerned about the actual authenticity of the files that

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exist and are in your name there.

Mr. Kish stated other actions, just to kind of let you know where we're at, on Friday, March 31, 2006, we assisted management in completing a complete security and perimeter lock down of all, your lock down of all your onsite computer systems. We tried to the extent possible to do that in conjunction with the resetting of the passwords on your external systems. A very detailed process, almost knocks you to your knees for a moment to get things back, in order again to get everything operational and moving. That was done, also it's our understanding that you have an interim I.T. Director, I believe Mr. Rodi was going to talk about that later. Those are just kind of things to let you know where we're at, there are still issues that we're examining, and there are still issues that are material that we're examining. I'm going to say that we are probably still several weeks out from trying to finalize a report but we would like for you to know that this is where we're at right now. We do have some additional things that are on our plate to move forward with and we are trying to round up the wagons and pull this thing to a close and move on. One of the problems that we have is that we still need to rely on some external source or agency to review this. We are hampered by the fact that as your auditors we're not police officers, we're not law enforcement agents, there's only so much we can do, we cannot make someone produce something, we cannot subpoena records, we can't do that and in this case we think that there's more than enough evidence to suggest that needs to be done. We know that steps have been taken, we do not know what the actual status of that is. However, we would like to let you know that we do have significant transactions that are occurring out of state, we have significant transactions occurring out of this country and I don't know who the appropriate agency would be to look at it from that angle. He stated \$2.5 million alone was shipped out to Canada through the telecom division during that period of time and \$400,000 plus sent to North Carolina and by the time you add the telemarketing in with that it's well over \$1.1 million that we've spent on that one-sided contract. We think really and truly, somewhere, somehow, that needs to be looked at and sorted through to come up with some suggestion.

Mr. Kish stated basically that's an hour and twenty minutes trying to give you an update on fifty pages of stuff. He stated I did not go through the individual exhibits with you but they're all indexed in. I tried to hit the high points without reviewing other issues there and I would at this time like to answer any questions you may have.

Chairman Para thanked Mr. Kish for his time and then asked Mr. Brad Douglas if he had anything to say.

Mr. Douglas added that cumulatively the Commission has lost \$7.5 million, even more going into this fiscal year.

Chairman Para commented troublesome and then stated we'll start down with Commissioner Spangler, any questions of these folks.

Commissioner Spangler stated no, I would want to question counsel. There's a whole lot of things that happened here and the question is where can we go. The FDLE's been messing with this for a long time. I don't know whether or not the Federal Government has the power to subpoena, maybe this should be brought to their attention, I don't know whether they would be interested. But what

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really interests me, and the question that I have for Mr. Preston, is if someone circumvents the procedures and protocol of the Utilities Commission and leave us dealing with people of shaky financial structure and we're not protected by bonding or any of the ordinary procedures, is that malfeasance?

Mr. Preston stated you're asking...

Commissioner Spangler interjected you.

Mr. Preston stated I know who you're asking, I'm clarifying what you're asking. What you're asking is both a criminal and a civil matter.

Commissioner Spangler stated I want to know if we have these protocol and procedures, and the reason why that you check the credit of people that you're going to do business with, to say it simply, is to know that they can stand behind their agreement and you won't get hung for a couple of million dollars or something when they go bankrupt, like Epicus. We apparently did not follow any of our procurement or procedures or request procedures when we went and engaged them. Now if a CEO, for instance Mr. Vaden, elected to, without following any of those procedures, do business with a company of shaky financial means and they went belly up and we lost a couple million dollars, is that malfeasance, and if so, aren't we insured?

Mr. Preston stated I'll simply answer the question that if all allegations are proven then yes it would be considered malfeasance.

Commissioner Spangler asked who would prove those.

Mr. Preston stated we would, perhaps, bring claim against any individual that we had sufficient evidence, this evidence presented to us and additional evidence to pursue such a claim. It would be a civil claim. That's why I was distinguishing between the initial part of your question which was criminal in nature. And it's not up to us to bring a criminal matter, it's up to us to notify those that would conduct further investigation, look at this evidence, what other evidence is necessary to make determination as to whether or not to pursue anything criminal.

Commissioner Spangler stated another question is, are we insured against something like this?

Mr. Preston yes we are, to my knowledge we are, I'm sure that we are.

Chairman Preston asked Commissioner Reynolds for his comments or questions.

Commissioner Reynolds stated those were the questions he was going to ask.

Commissioner Diesen stated I personally would like to see us kick it to the Federal level. I think it's time, I think we have out of state things, we have out of country things, I think there were a whole lot more questions that were raised than answers given, and I don't think we're going to get anywhere just playing around locally. So I would be willing to do that, to proceed to the next level with this.

(1) Supplemental Interim Report – Brent Millikan & Company, P.A. (cont.):

Chairman Para stated Mr. Preston, just to follow a couple lines of questioning, would you be comfortable tonight or would you prefer to wait until our next meeting to advise us as legal counsel which law enforcement agency that we could ask, for instance Brent Millikan's office, to begin working with. I prefer to go tonight and make that recommendation that we follow through with some kind of referral to either the FCC, and I don't know if they have any jurisdiction, certainly it's a communication's issue. The FBI if there's out of state funds, certainly out of country funds, have been transferred and we've got some very serious allegations made. We're not an investigative body as we talked about many months ago when we started this great journey. So we would like to get your advice possibly on that.

Mr. Preston stated sure and the beauty is it's not our decision really. The issue is what evidence do we have and who's appropriate jurisdiction is it. In my opinion the FBI might be an appropriate entity for to whom we can give this information simply because there is some interstate issue.

Commissioner Diesen stated I would make a motion that we kick this to the FBI.

Chairman Para asked if there was a second.

Commissioner Reynolds stated he would second for discussion.

Commissioner Reynolds stated I would like to have Mr. Preston and Mr. Rodi get together with those recommendations, along with Brent Millikan and at our next meeting have a formal agenda item to address that so that we are number one notifying the correct people, that we're putting it in the hands of people that are interested in this and also whether we pursue civil action. It seems to me that we've heard this, we know basically what is contained in here, we don't know what FDPL (sic FDLE) has, but perhaps by letting them know what we're doing that they would co-coordinate this with what other agencies we have.

Commissioner Diesen stated you're saying then you don't want it to go to the Federal level?

Commissioner Reynolds stated no, I'm saying that I wish that we hold off making that motion or passing it until our next meeting, which I think is the 20th.

Chairman Para interjected Monday, the 17th.

Commissioner Reynolds reiterated next Monday the 17th, to give our Director and our counsel a chance to meet with Brent Millikan and make a recommendation to us.

Commissioner Diesen stated do we want to go ahead and give them the authority to do that tonight, so that if they go ahead and make that decision this week, do we want to give them the authority to do that?

Commissioner Reynolds stated I would think that would be appropriate.

Commissioner Diesen stated then I will change my motion to give them (Mr. Rodi, Mr. Preston, and representatives from firm of Brent Millikan) the authority to move forward however they see fit.

(1) Supplemental Interim Report – Brent Millikan & Company, P.A. (cont.):

Commissioner Reynolds stated I will second that motion.

Chairman Para asked if there was any further discussion, commented I think that's entirely appropriate, and then asked for a roll call vote to be taken on that motion.

Commissioner Diesen's motion then passed unanimously on a roll call vote.

Chairman Para then asked if there was any further comments or further action.

Commissioner Spangler stated I'm still interested in the insurance aspect of it and maybe Mr. Rodi can explain that to us next Monday also, what our options are there. Who's going to say what? I suppose if we make a claim then they have to determine whether it's a valid claim, but I'm not sure how that works, but I'm sure we have it. So we can probably get some input from the CEO next Monday also on that part of it. It think it's a two-prong situation here, I think we need to go to our insurance company and I think we need to bypass FDLE. They seemed to have let the dust grow on it, and we can't get the information we need except Federally.

Chairman Para stated yes, that's an independent responsibility that they have. I would like to have a little dialogue with the Commissioners, the issue of ethical behavior and reporting this, to my knowledge we have never reported any of these potential breaches of ethics to the State Ethics Board, have we or have we not?

Mr. Preston stated not during my tenure and I'm not familiar if we have.

Chairman Para stated I would like, if we could, between now and next week through Mr. Millikan's office, Mr. Kish if you could take care of that for us, and prepare along with Mr. Rodi, your experience in this area, narrow it down to specific names and specific actions in this report that can be presented for that reporting, and then this board can decide and vote on that as it wishes.

Chairman Para stated the other thing I'd like to ask is we see in the national press the whole issue of Enron playing out before us. There are some similar issues here at foot, is there anything that is learned in that investigative process that would help us in pursuing some of these matters; if we could review that as well. The other thing I'd like to say is that we don't pay any more of these bills until we figure out what we're doing here. I think the only live account that we have right now is KUA and maybe you'll talk about that later, but that's just twenty cents out of a dollar here saying that.

Commissioner Spangler stated I would think that any of these contractors are legitimate they would be forthcoming with proof of their legitimacy, therefore why should we talk to them if they won't talk to us. We're suppose to do business with people that won't talk to us? I'm not interested in that.

Chairman Para commented well in business if you stop payment then you get folks attention.

Commissioner Spangler stated then you get a one page request for money.

(1) Supplemental Interim Report – Brent Millikan & Company, P.A. (cont.):

Chairman Para commented there you go, just stop writing the checks. He stated at this point, Mr. Rodi, I would like to hear from you if I could.

Mr. Rodi stated just one clarification, KUA is responsive so that from a standpoint of some of the other conversation they do respond and they do communicate, so I wanted to put that on the record. Other than that I really don't have anything.

Chairman Para stated but as I understand they don't have a contract with us, correct.

Mr. Rodi stated that's the premise of the report, that if there is not a valid contract then we should not continue to be paying as I hear the Commission right now.

Mr. Preston stated let me add to that if I can, we also have not made a legal determination that we do not have a contract. And I think that would be important before we default on our end of the bargain. There are legal theories that might in fact make that an enforceable contract, whether it's an agency theory, novation theory, or otherwise. So the information provided and the recommendations provided by Brent Millikan & Company are good in that they have gathered the information and evidence they have, some of which is circumstantial, some of which is factual, some of which is exclusive of other legal theories that might be there. So for the KUA contract in particular I would urge caution on taking action there.

Chairman Para thanked Mr. Preston for the counsel there. He stated so we'll wait and by the time we come back again, lots of this stuff will be cleared up, correct.

Mr. Preston answered you bet.

Chairman Para then asked if there were any further comments or discussion.

Commissioner Reynolds stated I would like to put a little personal statement on this that this amount of money, which is in the tens of millions, comes from us ratepayers. All of you out there, all of you have service with this Commission, and somehow we have to recover these which I want you to know I think this Commission here will do our very best to ensure that we collect from individuals or companies through legal means as much of the funds that have been misappropriated or misused. And I would like for you to know that all of us here, plus 24,000 other ratepayers, should be incensed by this and should expect us to do something.

Commissioner Diesen stated I approve of everything that was just said previously, I'm not going to enlarge on it, I agree with it, I approved it, and I think we're on the right track, we have to just push it to the next step.

Chairman Para stated one thing I would like to ask for is clarifications. In the motion that was made, is there going to be conversation and consideration for specific civil litigation against the individuals. Do I understand that correctly that you will consider that as well as a recommendation to us?

Mr. Preston stated that's what I heard in the recommendation.

(1) Supplemental Interim Report – Brent Millikan & Company, P.A. (cont.):

Chairman Para stated okay, I just want to clarify that.

Mr. Preston stated that's one of the prongs of the two prongs.

Chairman Para stated and that's a piggyback to what Mr. Reynolds had just said, just making sure. He then asked if there was a motion for adjournment.

Commissioner Diesen made a motion to adjourn. Commissioner Reynolds seconded this motion.

Mr. Vaden then stood up and asked for public participation.

Chairman Para stated chair's not going to recognize you Mr. Vaden this evening.

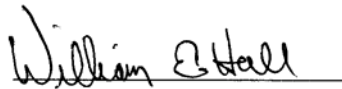
There being no further business to come before the Commission, Chairman Para adjourned this Special U.C. Meeting. The meeting closed at 7:35 p.m.

APPROVED:



CHAIRMAN

ATTEST:



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their
May 15, 2006 meeting.