

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by DIECA Communications, Inc. d/b/a Covad Communications Company for arbitration of issue resulting from interconnection negotiations with BellSouth Telecommunications, Inc., and request for expedited processing.

DOCKET NO. 040601-TP  
ORDER NO. PSC-07-0459-FOF-TP  
ISSUED: May 29, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

ORDER ACKNOWLEDGING NOTICE OF  
VOLUNTARY WITHDRAWAL WITHOUT PREJUDICE

BY THE COMMISSION:

I. Case Background

On June 23, 2004, DIECA Communications, Inc. d/b/a Covad Communications Company (Covad) filed its Petition for Arbitration and Request for Expedited Processing of an issue resulting from interconnection negotiations with BellSouth Telecommunications, Inc. (AT&T Florida).<sup>1</sup> Covad requested we resolve the parties' dispute regarding line sharing rates, terms and conditions. On July 19, 2004, AT&T Florida filed its Response to Covad's Arbitration Petition in which it raised additional issues and requested this proceeding be treated as a change of law dispute rather than an arbitration.

On October 26, 2004, Order No. PSC-04-1044-FOF-TP (Line Sharing Order) was issued which required AT&T Florida to provide Covad access to new line sharing arrangements pursuant to the parties' interconnection agreement through its term ending December 19, 2004. On November 10, 2004, AT&T Florida filed its Motion for Reconsideration and Clarification of Order No. PSC-04-1044-FOF-TP. On November 12, 2004, Covad filed its Response to AT&T Florida's Motion for Reconsideration and Clarification and Cross-Motion for Reconsideration and Request for Oral Argument. On January 27, 2005, Order No. PSC-05-0109-FOF-TP was issued denying AT&T Florida's Motion for Reconsideration and Covad's Cross-Motion for Reconsideration.

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<sup>1</sup> Order No. PSC-07-0114-FOF-TP acknowledged the name change from BellSouth Telecommunications, Inc. to BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Our staff has held periodic conference calls with the parties to discuss the status of this case. During these calls, the parties notified our staff that negotiations were continuing and jointly requested that the docket remain open. On April 4, 2007, Covad filed its Notice of Withdrawal of Petition, without prejudice.

II. Analysis and Decision

The law is clear that the plaintiff's right to take a voluntary dismissal is absolute. Fears v. Lundsford, 314 So. 2d 578, 579 (Fla. 1975).

Accordingly, we hereby acknowledge Covad's Notice of Voluntary Withdrawal of its Petition, without prejudice, and find that the voluntary dismissal renders any and all outstanding motions moot.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we acknowledge DIECA Communications, Inc. d/b/a Covad Communications Company's Notice of Voluntary Withdrawal of its Petition, without prejudice. It is further

ORDERED that any and all outstanding motions are moot. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 29th day of May, 2007.



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ANN COLE  
Commission Clerk

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.