



# Public Service Commission

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**DATE:** 10/09/03

**TO:** DIRECTOR, DIVISION OF THE COMMISSION  
ADMINISTRATIVE SERVICES (BAYÓ)

**FROM:** OFFICE OF THE GENERAL COUNSEL (L. DODSON) *LD*  
DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (A. MARSH, *AM*  
M. BARRETT, J-~~EB~~ BROWN) *MB* *RA*

**RE:** DOCKET NO. 030296-TP - PETITION FOR ARBITRATION OF  
UNRESOLVED ISSUES RESULTING FROM NEGOTIATIONS WITH SPRINT-  
FLORIDA, INCORPORATED FOR INTERCONNECTION AGREEMENT, BY  
AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC D/B/A AT&T  
AND TCG SOUTH FLORIDA.

**AGENDA:** 10/21/03 - REGULAR AGENDA - NOTICE OF VOLUNTARY WITHDRAWAL  
OF COMPLAINT - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\030296.RCM

### CASE BACKGROUND

On March 24, 2003, AT&T Communications of the Southern States, LLC and TCG South Florida (AT&T) filed a petition pursuant to Section 252(b)(1) of the Telecommunications Act of 1996 (the Act) for arbitration of unresolved issues relating to AT&T's negotiations with Sprint-Florida, Incorporated (Sprint) for an interconnection agreement. On April 21, 2003, Sprint filed its response.

Sprint filed a Motion to Compel on July 15, 2003, requesting that AT&T be compelled to answer Interrogatories Nos. 3 through 15 of Sprint's First Set of Interrogatories to AT&T. On July 22, 2003, AT&T filed its response, and additionally, a Motion for Protective Order and a Motion in Limine. On July 28, 2003, Sprint

DOCUMENT NUMBER-DATE

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filed its Response to AT&T's Motion for Protective Order and Motion in Limine. The parties presented oral arguments on the Motions at the prehearing conference.

On August 29, 2003, Sprint filed a Second Motion to Compel, requesting that AT&T be compelled to answer Sprint's Second Set of Interrogatories Nos. 19, 20, 22, 23, 24, and 28 for the same reasons stated in its original Motion to Compel. On September 5, 2003, AT&T filed a second Motion for Protective Order, renewing its previous motion, and asked that the Protective Order also include Sprint's potential deposition questions for Witness Talbott. On September 8, 2003, AT&T filed its Response to Sprint's Second Motion to Compel. On September 8, 2003, Sprint filed its Response to AT&T's second Motion for Protective Order. No new arguments were included in either response. By Order No. PSC-03-1014-PCO-TP, the Motions to Compel and Motions for Protective Order were granted in part, and denied in part, and the Motion in Limine was denied. Pursuant to Section 252(b) of the Act, this matter was set for hearing on September 18 and 19, 2003.

On September 12, 2003, AT&T filed a Notice of Voluntary Dismissal pursuant to Rule 1.420(1), Florida Rules of Civil Procedures.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission acknowledge AT&T's Notice of Voluntary Dismissal of its Petition and close this docket?

**RECOMMENDATION:** Yes. The Commission should acknowledge AT&T's Notice of Voluntary Dismissal of its Petition, and close this docket. In addition, the Commission should find that the voluntary dismissal renders any and all outstanding motions moot, and all confidential materials filed in this Docket should be returned to the filing party. **(L. DODSON, A. MARSH)**

DOCKET NO. 030296-TP  
DATE: 10/09/03

**STAFF ANALYSIS:** The law is clear that the plaintiff's right to take a voluntary dismissal is absolute. Fears v. Lunsford, 314 So.2d 578, 579 (Fla. 1975). It is also established civil law that once a timely voluntary dismissal is taken, the trial court loses its jurisdiction to act. Randle-Eastern Ambulance Service, Inc. v. Vasta, 360 So.2d 68, 69 (Fla. 1978).

Therefore, staff recommends that the Commission acknowledge AT&T's Notice of Voluntary Dismissal of its Petition, and find that the voluntary dismissal renders any and all outstanding motions moot. Additionally, all confidential materials filed in this Docket should be returned to the filing party.

**ISSUE 2:** Should this Docket be closed?

**RECOMMENDATION:** Yes. There is nothing further in this Docket for this Commission to consider, and the Docket should be closed.  
**(L. DODSON)**

**STAFF ANALYSIS:** There is nothing further in this Docket for this Commission to consider. Therefore, the Docket should be closed.