

State of Florida



# Public Service Commission

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## -M-E-M-O-R-A-N-D-U-M-

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**DATE:** March 1, 2007

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Office of the General Counsel (Fudge, Wiggins) *GF FKW*  
Division of Competitive Markets & Enforcement (Simmons, Trueblood) *SAS* *π* *MMX*

**RE:** Docket No. 060292-TL – Review of tariff filing (T-060052) by Verizon Florida Inc. to establish permanent promotional offering.

**AGENDA:** 03/13/07 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\060292.RCM.DOC

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### Case Background

On January 27, 2006, Verizon Florida, Inc. (Verizon) filed to establish a permanent promotional tariff offering (T-060052). By Proposed Agency Action Order No. PSC-06-0390-PAA-TL, issued May 10, 2006, the Commission allowed the tariff to remain in effect subject to two conditions: Verizon would provide staff with one-day, advance written notice of each promotional offer made during 2006; and Verizon would provide semi-annual tracking reports during 2006.

On May 31, 2006, the Florida Cable Telecommunications Association (FCTA) filed a protest seeking a formal proceeding pursuant to Section 120.57(1), Florida Statutes.

DOCUMENT NUMBER-DATE

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Docket No. 060292-TL  
Date: March 1, 2007

By Order No. PSC-06-0720-PCO-TL, issued August 24, 2006, controlling dates and hearing dates were established in this docket. On September 7, 2006, FCTA filed its Motion to Hold Docket in Abeyance Pending Its Motion to Raise Additional Issues. By Order No. PSC-06-0767-PCO-TL, issued September 12, 2006, this docket was held in abeyance.

On February 8, 2007, FCTA filed a Notice of Substitution of Counsel and Notice of Withdrawal of Protest of Proposed Agency Action Order No. PSC-06-0390-PAA-TL.

**Discussion of Issues**

**Issue 1:** Should the Commission acknowledge the Notice of Withdrawal of Protest and close this Docket?

**Recommendation:** Yes. (Fudge)

**Staff Analysis:** The Notice of Withdrawal of Protest filed by FCTA negates the need for a hearing in this matter. Furthermore, the law is clear that the petitioner'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). Since there are no remaining issues in dispute, staff recommends that the Notice of Withdrawal be acknowledged and this Docket be closed.