

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Gemini
Networks FL, Inc. for
declaratory statement regarding
Florida Public Service
Commission jurisdiction under
Sections 364.02(12) and 364.337,
F.S.

DOCKET NO. 001261-TP
ORDER NO. PSC-00-2127-FOF-TP
ISSUED: November 7, 2000

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ

ORDER ACKNOWLEDGING VOLUNTARY WITHDRAWAL

BY THE COMMISSION:

Gemini Networks FL, Inc. (Gemini) sought a declaratory
statement from the Commission, which it later voluntarily withdrew
on October 23, 2000. 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 and cannot revive the original action for
any reason. Randle-Eastern Ambulance Service, Inc. v. Vasta, 360
So. 2d 68, 69 (Fla. 1978).

We find that Gemini's voluntary withdrawal of its petition for
declaratory statement divests us of further jurisdiction over this
matter. The only additional action we can take is to acknowledge
Gemini's voluntary withdrawal without prejudice and close the
docket.

Based on the foregoing, it is

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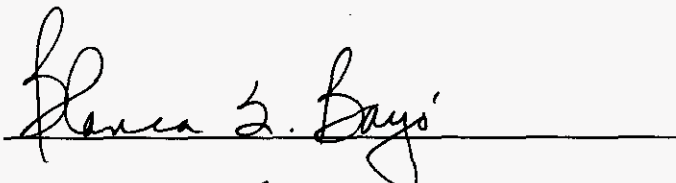
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ORDERED by the Florida Public Service Commission that Gemini Networks FL, Inc.'s withdrawal of its Petition for Declaratory is hereby acknowledged. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 7th day of November, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MAH

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 Director, Division of Records and Reporting, 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

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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 Director, Division of Records and reporting 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.