

In re: Complaint of BellSouth  
Telecommunications, Inc.  
regarding Supra  
Telecommunications and  
Information Systems, Inc.'s  
inappropriate use of Local  
Exchange Navigation Service  
(LENS).

DOCKET NO. 020611-TP  
ORDER NO. PSC-02-1559-FOF-TP  
ISSUED: November 13, 2002

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

ORDER ACKNOWLEDGING VOLUNTARY DISMISSAL OF COMPLAINT  
AND CLOSING DOCKET

BY THE COMMISSION:

On June 27, 2002, BellSouth Telecommunications, Inc. (BellSouth) filed a Complaint against Supra Telecommunications and Information Systems, Inc. (Supra) regarding Supra's use of the Local Exchange Navigation Service (LENS), which is an operations support system (OSS) used by ALECs for ordering and preordering activities with BellSouth. BellSouth contended that Supra was logging into the system in an abusive manner aimed at causing problems with the system.

On July 18, 2002, Supra filed its Motion to Dismiss BellSouth's complaint, contending therein that we lack subject matter jurisdiction to address the Complaint because the parties' current interconnection agreement calls for private commercial arbitration of any disputes arising out of the agreement. On July 30, 2002, BellSouth filed its Response in Opposition to Supra's Motion to Dismiss, arguing that subject matter jurisdiction exists.

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ORDER NO. PSC-02-1559-FOF-TP

DOCKET NO. 020611-TP

PAGE 2

By Order No. PSC-02-1191-FOF-TP, issued September 3, 2002, the Motion to Dismiss was denied.

On October 7, 2002, the parties and our staff engaged in an informal issues identification meeting in an effort to reach agreement on the issues to be addressed in this proceeding. Thereafter, on October 10, 2002, BellSouth filed a Notice of Voluntary Dismissal of Complaint without Prejudice.

We are vested with jurisdiction over this matter pursuant to Sections 364.01(3) and (4)(g), Florida Statutes. Pursuant to Section 364.01 (3), Florida Statutes, the Florida legislature has found that regulatory oversight is necessary for the development of fair and effective competition in the telecommunications industry. To that end, Section 364.01 (4) (g), Florida Statutes, provides, in part, that we shall exercise our exclusive jurisdiction in order to ensure that all providers of telecommunications service are treated fairly by preventing anticompetitive behavior.

BellSouth states that it is withdrawing its complaint because Supra indicated at the issues identification meeting that it is no longer using its mechanized log-in process, and because Supra does not currently have access to LENS.

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, we hereby acknowledge BellSouth's withdrawal of its Complaint against Supra, and find that the voluntary dismissal renders any and all outstanding motions moot. As such, this Docket shall be closed.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s Notice of Voluntary Dismissal without Prejudice of its Complaint against Supra Telecommunications and Information Systems, Inc. is hereby acknowledged. It is further

ORDER NO. PSC-02-1559-FOF-TP  
DOCKET NO. 020611-TP  
PAGE 3

ORDERED that this Docket is closed.

By ORDER of the Florida Public Service Commission this 13th  
Day of November, 2002.



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BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( 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 Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15)

ORDER NO. PSC-02-1559-FOF-TP

DOCKET NO. 020611-TP

PAGE 4

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 Director, Division of the Commission Clerk and Administrative Services 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.