

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Phillip R.
Brown against BellSouth
Telecommunications, Inc. for
billing dispute involving
alleged improper installation
and static on line.

DOCKET NO. 020976-TL
ORDER NO. PSC-03-0454-FOF-TL
ISSUED: April 1, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER ACKNOWLEDGING VOLUNTARY DISMISSAL OF COMPLAINT

On February 22, 2002, Phillip R. Brown filed a complaint against BellSouth Telecommunications, Inc. (BellSouth). This complaint was logged as Consumer Activity Tracking System Request No. 438467T. Mr. Brown alleged that BellSouth performed repairs without his authorization for which he was billed. Mr. Brown also requested his account be credited for the months of service when his line was unusable for 90 percent or more of the time due to static.

On November 12, 2002, Proposed Agency Action Order No. PSC-02-1543-PAA-TL was issued denying Mr. Brown's complaint. Phillip R. Brown filed a protest to Proposed Agency Action Order No. PSC-02-1543-PAA-TL on December 13, 2002. On January 6, 2003, an Order Establishing Procedure, Order No. PSC-03-0039-PCO-TL, was issued and the matter was set for hearing. On February 20, 2003, Mr. Brown filed a Notice of Dismissal of Complaint No. 438467T.

Mr. Brown's voluntary dismissal divests the Commission of jurisdiction over this matter. The law is clear that the plaintiff's right to take a voluntary dismissal is absolute. Fears

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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 acknowledge Mr. Brown's dismissal and close the docket. Since no other action remains for us to address, this docket will be closed upon issuance of this Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Phillip R. Brown's Notice of Dismissal of Complaint No. 438467T, against BellSouth Telecommunications, Inc. is acknowledged. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 1st day of April, 2003.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

LHD

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) 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.