

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint against BellSouth Telecommunications, Inc. for alleged overbilling and discontinuance of service, and petition for emergency order restoring service, by IDS Telcom LLC.

DOCKET NO. 031125-TP

In re: Complaint of BellSouth Telecommunications, Inc. against IDS Telcom LLC to enforce interconnection agreement deposit requirements.

DOCKET NO. 040488-TP

In re: Request for approval of amendment to interconnection, unbundling, resale, and collocation agreement between IDS Telcom LLC and BellSouth Telecommunications, Inc.

DOCKET NO. 040611-TP

ORDER NO. PSC-05-0673-FOF-TP

ISSUED: June 20, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON  
LISA POLAK EDGAR

ORDER GRANTING JOINT MOTION FOR DISMISSAL

BY THE COMMISSION:

Case Background

On December 23, 2003, IDS Telecom, LLC (IDS) filed its Complaint Against BellSouth Telecommunications, Inc. (BellSouth) for Alleged Overbilling and Discontinuance of Service, and Petition for Emergency Order Restoring Service. On May 21, 2004, BellSouth filed its Complaint Against IDS to Enforce Interconnection Agreement Deposit Requirements, and on June 25, 2004, IDS filed its Request for Approval of Amendment to its Interconnection Agreement with BellSouth.

On May 11, 2005, IDS and BellSouth filed their Joint Motions for Dismissal With Prejudice of all matters encompassed by these three Dockets. The parties allege that they have jointly settled the issues contained therein.

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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, we find it appropriate to grant the Joint Motions for Dismissal With Prejudice filed by IDS and BellSouth, and find that the voluntary dismissal renders any and all outstanding motions moot. Additionally, all confidential materials filed in these Dockets should be returned to the filing party and these Dockets should be closed.

It is therefore,

ORDERED by the Florida Public Service Commission that the Joint Motions for Dismissal With Prejudice filed by IDS and BellSouth are hereby granted. It is further

ORDERED that these dockets shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of June, 2005.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

JPR

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.