

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Emergency complaint seeking order requiring BellSouth Telecommunications, Inc. and Verizon Florida Inc. to continue to honor existing interconnection obligations, by XO Florida, Inc. and Allegiance Telecom of Florida, Inc. (collectively, Joint CLECs).

DOCKET NO. 040489-TP

In re: Emergency petition seeking order requiring BellSouth Telecommunications, Inc. and Verizon Florida Inc. to continue to honor existing interconnection obligations, by the Florida Competitive Carriers Association, AT&T Communications of the Southern States, LLC, MCImetro Access Transmission Services, LLC, and MCI WorldCom Communications, Inc.

DOCKET NO. 040520-TP

ORDER NO. PSC-05-0724-FOF-TP

ISSUED: July 6, 2005

The following Commissioners participated in the disposition of this matter:

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

ORDER ON VOLUNTARY DISMISSAL

BY THE COMMISSION:

On May 21, 2004, in Docket No. 040489-TP, XO Florida, Inc. (XO) and Allegiance Telecom of Florida, Inc. (Allegiance) filed their Emergency Complaint Seeking an Order Requiring BellSouth Telecommunications Inc. (BellSouth) and Verizon Florida Inc. (Verizon) to Continue to Honor Existing Interconnection Obligations. On June 10, 2004, BellSouth filed its Response in Opposition and Motion to Dismiss and Verizon filed its Motion to Dismiss with Supporting Memorandum.

On May 28, 2004, in Docket No. 040520-TP, Florida Competitive Carriers Association (FCCA), AT&T Communications of the Southern States, LLC, (AT&T), and MCImetro Access Transmission Services, LLC and MCI WorldCom Communications, Inc. (collectively MCI), filed their Emergency Petition Seeking Order Requiring BellSouth and Verizon to Continue

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to Honor Existing Interconnection Obligations. On June 17, 2004, BellSouth filed its Response in Opposition and Motion to Dismiss and Verizon filed its Response in Opposition.

On November 4, 2004, Order No. PSC-04-1083-PCO-TP was issued holding both dockets in abeyance. On May 11, 2005, the Competitive Carriers of the Southeast (CompSouth f/k/a Florida Competitive Carriers Association), AT&T and MCI filed their Notice of Voluntary Dismissal of their Emergency Petition in Docket No. 040520-TP. On May 19, 2005, XO and Allegiance filed their Notice of Voluntary Dismissal of their Emergency Complaint in Docket No. 040489-TP.

The law is clear that the plaintiff's right to take a voluntary dismissal is absolute. Fears v. Lundsford, 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 XO and Allegiance's Notice of Voluntary Dismissal of their Emergency Complaint in Docket No. 040489-TP, and CompSouth, AT&T and MCI's Notice of Voluntary Dismissal in Docket No. 040520-TP, and find that the voluntary dismissals render any and all outstanding motions moot. Additionally, all confidential materials filed in these Dockets shall be returned to the filing party.

Based on the foregoing, it is

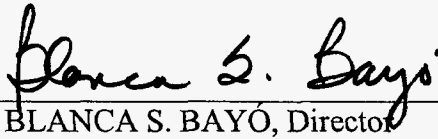
ORDERED by the Florida Public Service Commission that XO Florida, Inc. (XO) and Allegiance Telecom of Florida, Inc. Notice of Voluntary Dismissal of their Emergency Complaint in Docket No. 040489-TP is hereby acknowledged. It is further

ORDERED that Competitive Carriers of the Southeast f/k/a Florida Competitive Carriers Association, AT&T Communications of the Southern States, LLC, and MCI WorldCom Communications, Inc.'s Notice of Voluntary Dismissal of their Emergency Petition in Docket No. 040520-TP is hereby acknowledged. It is further

ORDERED that all confidential materials filed in Docket Nos. 040489-TP and 040520-TP shall be returned to the filing party.

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 6th day of July, 2005.



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) 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.