

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to reform unbundled network element (UNE) cost of capital and depreciation inputs to comply with Federal Communications Commission's guidance in Triennial Review Order, by Verizon Florida Inc.

DOCKET NO. 050059-TL
ORDER NO. PSC-05-0906-FOF-TL
ISSUED: September 15, 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 ACKNOWLEDGING VERIZON FLORIDA INC.'S
NOTICE OF VOLUNTARY DISMISSAL

BY THE COMMISSION:

On January 25, 2005, Verizon Florida Inc. (Verizon) filed a Petition to Change the Cost of Capital and Depreciation Inputs (Petition) that were approved and used in calculating Verizon's UNE rates.¹ On June 9, 2005, our staff filed a recommendation addressing the merits contained in Verizon's Petition for the June 21, 2005 Agenda Conference. After much discussion at the June 21, 2005 Agenda Conference, we decided to set the matter for hearing and Order No. PSC-05-0737-PCO-TL was issued on July 11, 2005. Shortly thereafter, on July 19, 2005, Verizon filed a Notice of Voluntary Dismissal of its Petition (Notice).

In Verizon's Notice, it requests that we acknowledge Verizon's request to voluntarily dismiss its own Petition, and administratively close the docket. Verizon argues that a plaintiff's right to take a voluntary dismissal is absolute. Fears v. Lundsford, 314 So.2d 578, 579 (Fla. 1975)

We agree 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). We also note that it is well-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 Verizon's Notice of Voluntary Dismissal of its Petition to reform unbundled network element (UNE) cost of capital and depreciation inputs. This docket shall be closed because no further action is needed.

¹ Along with its petition, Verizon also filed testimony.

DOCUMENT NUMBER-DATE

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COMMISSION CLERK

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Verizon Florida Inc.'s Notice of Voluntary Dismissal of its Petition is hereby acknowledged. It is further

ORDERED that the docket shall be closed.

By ORDER of the Florida Public Service Commission this 15th day of September, 2005.


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

(S E A L)

JLS

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.