

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint of XO Florida, Inc. against
BellSouth Telecommunications, Inc. for
alleged refusal to convert circuits to UNEs; and
request for expedited processing.

DOCKET NO. 041114-TP
ORDER NO. PSC-05-1246-FOF-TP
ISSUED: December 22, 2005

J. TERRY DEASON
LISA POLAK EDGAR

ORDER ACKNOWLEDGING VOLUNTARY DISMISSAL

BY THE COMMISSION:

Case Background

On September 22, 2004, XO Florida, Inc. (XO) filed a Complaint Against BellSouth Telecommunications, Inc. (BellSouth) for refusal to convert circuits to UNEs. On October 6, 2004, BellSouth filed its Response to XO's Complaint. On November 18, 2004, Order No. PSC-04-1147-PCO-TP was issued, setting the matter for hearing and establishing the procedures to be followed in preparation for said hearing.

Following extensive discovery, the parties convened for hearing on May 19, 2005, but announced at that time that they had reached a settlement in principle and requested that the matter be continued to allow time for drafting and resolving details of the settlement. On October 18, 2005, XO filed a notice announcing that the parties had reached a settlement on all issues which are a part of this Docket, and XO voluntarily dismissed its Complaint with prejudice, requesting that the Docket be closed.

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).

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that XO Florida, Inc.'s Voluntary Dismissal of Complaint is hereby acknowledged. It is further

ORDERED that any pending motions are rendered moot, and all confidential materials filed in this Docket shall be returned to the filing party. It is further

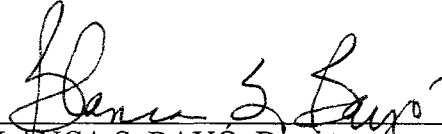
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FPSC-COMMISSION CLERK

ORDERED that this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd day of December, 2005.



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

(S E A L)

LF

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.