

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint and petition for declaratory relief against BellSouth Telecommunications, Inc. for refusal to provide telephone service to a new development, by Litestream Holdings, LLC.

DOCKET NO. 060684-TP  
ORDER NO. PSC-07-0187-PCO-TP  
ISSUED: February 27, 2007

ORDER GRANTING MOTION FOR  
LEAVE TO FILE SECOND AMENDED COMPLAINT

On October 17, 2006, Litestream Holdings, LLC (Litestream) filed a Complaint and Petition for Declaratory Relief (Complaint) against BellSouth Telecommunications, Inc. (BellSouth). On November 17, 2006, BellSouth filed its Response to Litestream's Complaint (Response). On December 7, 2006, Litestream filed a Motion to Amend Complaint and Opposition to Request to Dismiss. By Order No. PSC-06-1033-PCO-TP, issued December 14, 2006, that Motion was granted.

On February 8, 2007, Litestream filed a Motion For Leave to File Second Amended Complaint. In its Motion, Litestream states that it seeks to amend the complaint to reflect changes in the relevant facts and to add new facts relevant to the complaint. Litestream states that BellSouth does not object to Litestream filing the Second Amended Complaint.

On February 19, 2007, BellSouth filed an Unopposed Motion for Extension of Time to Respond to Litestream's Second Amended Complaint. In its Motion, BellSouth seeks until February 21, 2007, in which to file its Response.

It is a general principle that an amendment should be allowed until the privilege to do so has been abused or the opposing party is prejudiced. See Fouts v. Margules, 98 So. 2d 394 (3d D.C.A. 1957). Upon consideration, it appears reasonable and appropriate to grant Litestream's Motion For Leave to File Second Amended Complaint. BellSouth shall file any Response to the Amended Complaint by February 21, 2007.

Based on the foregoing, it is

ORDERED by Chairman Lisa Polak Edgar, as Presiding Officer, that Litestream Holdings, LLC's Motion For Leave to File Second Amended Complaint is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s Unopposed Motion for Extension of Time to File Response is hereby granted. It is further

ORDERED that BellSouth shall file any Response to the Amended Complaint by February 21, 2007.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

By ORDER of Chairman Lisa Polak Edgar, as Presiding Officer, this 27th day of February, 2007.

  
LISA POLAK EDGAR  
Chairman and Presiding Officer

( 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.