

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition and complaint for expedited proceeding or, alternatively, petition and complaint or petition for declaratory statement, by MetroPCS Florida, LLC, requiring BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast; TDS Telecom d/b/a TDS Telecom/Quincy Telephone; Windstream Florida, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT Com; Smart City Telecommunications, LLC d/b/a Smart City Telecom; ITS Telecommunications Systems, Inc.; and Frontier Communications of the South, LLC, to submit agreements for transit services provided by AT&T Florida for approval.

DOCKET NO. 070552-TP
ORDER NO. PSC-07-1002-FOF-TP
ISSUED: December 12, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER ACKNOWLEDGING NOTICE OF VOLUNTARY DISMISSAL, WITH PREJUDICE

BY THE COMMISSION:

I. Case Background

On August 1, 2007, MetroPCS Florida, LLC (MetroPCS) filed its Petition and Complaint for Expedited Proceeding or, alternatively, Petition and Complaint or Petition for Declaratory Statement, Requiring BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T); TDS Telecom d/b/a TDS Telecom/Quincy Telephone (TDS); Windstream Florida, Inc. (WindStream); Northeast Florida Telephone Company d/b/a NEFCOM (NEFCOM); GTC, Inc. d/b/a GT Com (GT Com); Smart City Telecommunications, LLC d/b/a Smart City Telecom (Smart City); ITS Telecommunications Systems, Inc. (ITS); and Frontier Communications of the South, LLC (Frontier), to submit agreements for transit services provided by AT&T Florida for approval. On August 21, 2007, AT&T filed its Motion to Dismiss. Also on August 21, 2007, MetroPCS filed a voluntary dismissal, without prejudice of its complaint

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against TDS, NEFCOM, and GT Com. On August 23, 2007, Windstream, Smart City, and ITS filed their Joint Motion to Dismiss.

On October 25, 2007, MetroPCS filed its Notice of Voluntary Dismissal, with prejudice.

II. Analysis and Decision

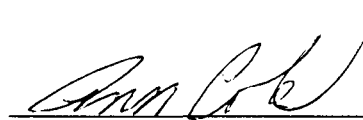
The law is clear that the plaintiff's right to take a voluntary dismissal is absolute. Fears v. Lunsford, 314 So.2d 578, 579 (Fla. 1975). It is also established civil law that once a timely voluntary dismissal is taken, the trial court loses its jurisdiction to act. Randle-Eastern Ambulance Service, Inc. v. Vasta, 360 So.2d 68, 69 (Fla. 1978). In its Motion, MetroPCS states that this dismissal is by agreement of the parties and any pending motions would thereby be mooted. Accordingly, we hereby acknowledge MetroPCS's Notice of Voluntary Dismissal, with prejudice.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that MetroPCS Florida, LLC's Notice of Voluntary Dismissal, with prejudice is acknowledged as set forth in the body of this Order. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 12th day of December, 2007.



ANN COLE
Commission Clerk

(S E A L)

AJT

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 Office of Commission Clerk, 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 Office of Commission Clerk, 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.