

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint against Verizon Florida, LLC
and MCI Communications Services, Inc. d/b/a
Verizon Business Services for failure to pay
intrastate access charges for the origination and
termination of intrastate interexchange
telecommunications service, by Bright House
Networks Information Services (Florida), LLC.

DOCKET NO. 110056-TP
ORDER NO. PSC-12-0254-FOF-TP
ISSUED: May 24, 2012

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

ORDER ACKNOWLEDGING VOLUNTARY DISMISSAL WITH PREJUDICE

BY THE COMMISSION:

Background

On February 22, 2011, Bright House Networks Information Services (Florida) LLC ("Bright House") filed a complaint alleging that Verizon Florida, LLC ("Verizon ILEC"), and MCI Communications Services, Inc. d/b/a Verizon Business Services ("Verizon") were violating Sections 364.01(4), 364.02(13) and 364.02(14), Florida Statutes (F.S.), and "other statutory provisions and applicable law and rules" by refusing to pay Bright House's established intrastate interexchange access charges. On July 28, 2011, Bright House filed a notice of voluntary dismissal of its complaint against Verizon ILEC, and Verizon ILEC has been dismissed from this docket. On August 26, 2011, we issued Order No. PSC-11-0359-PCO-TP, denying Verizon's March 14, 2011, Motion to Dismiss or Stay Proceeding.

After several Motions for Extension of Time, on January 3, 2012, Bright House filed a Motion to Temporarily Suspend Procedural Schedule ("Motion to Suspend"). In the Motion to Suspend, Bright House stated that on October 27, 2011, the FCC adopted its Report and Order and Notice of Proposed Rulemaking ("Order") addressing comprehensive reforms to the Universal Service Fund and Intercarrier Compensation mechanisms.¹ The complete text of the Order was subsequently issued on November 18, 2011, and based on their analysis and review of the provisions of the FCC's order, the parties began discussions geared towards the settlement of

¹ Report and Order and Notice of Proposed Rulemaking, Order FCC 11-161, issued in WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, November 18, 2011.

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matters in dispute in this docket. In the Motion to Suspend, the parties acknowledged that they had reached a mutually acceptable resolution and that additional time would allow the parties to finalize a settlement. Accordingly, the Prehearing Officer granted Bright House's Motion to Suspend the remaining procedural schedule by Order PSC-12-0018-PCO-TP, issued January 6, 2012.

In the instant Notice of Voluntary Dismissal with prejudice, filed May 1, 2012, Bright House states that the parties have finalized a settlement of this matter, which will resolve all issues in this docket, such that this proceeding can be terminated. We have jurisdiction pursuant to Chapter 364, Florida Statutes.

Decision

The law is clear that a plaintiff's right to take a voluntary dismissal is absolute² and once a voluntary dismissal is taken, the trial court loses all jurisdiction over the matter, and cannot reinstate the action for any reason.³ Both of these legal principles have been recognized in administrative proceedings⁴ and are consistent with our past decisions.⁵ We therefore acknowledge Bright House's voluntary dismissal with prejudice of its petition as a matter of right. Since there is nothing further for us to consider in this docket, it shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Bright House's Voluntary Dismissal with Prejudice is hereby acknowledged. It is further

ORDERED that this docket shall be closed.

² *Fears v. Lunsford*, 314 So. 2d 578, 579 (Fla. 1975)

³ *Randle-Eastern Ambulance Service, Inc. v. Vasta, Elena, etc.*, 360 So. 2d 68, 69 (Fla. 1978)

⁴ *Orange County v. Debra, Inc.*, 451 So. 2d 868 (Fla. 1st DCA 1983); *City of Bradenton v. Amerifirst Development Corporation*, 582 So. 2d 166 (Fla. 2d DCA 1991); *Saddlebrook Resorts, Inc. v. Wiregrass Ranch, Inc.*, 630 So. 2d 1123 (Fla. 2d DCA 1993) *aff'd*, 645 So. 2d 374 (Fla. 1994).

⁵ See Order No. PSC-11-0453-FOF-EI, issued October 10, 2011, in Docket No. 100358-EI, In re: Investigation into the design of Commercial Time-of-Use rates by Florida Power & Light, pursuant to Order No. PSC-10-0153-FOF-EI; Order No. PSC-10-0248-FOF-EQ, issued April 22, 2010, in Docket No. 090146-EQ, In Re: Petition by Tampa Electric Company for approval of extension of small power production agreement with City of Tampa; Order No. PSC-08-0822-FOF-WS, issued December 22, 2008, in Docket No. 080500-WS, In Re: Application for transfer of majority organizational control of Indiantown Company Inc., holder of Certificate Nos. 387-W and 331-S in Martin County, from Postco, Inc. to First Point Realty Holdings, LLC; Order No. PSC-08-0493-FOF-TP, In Docket 070408-TP, In re: Petition by Neutral Tandem, Inc. and Neutral Tandem-Florida, LLC for resolution of interconnection dispute with Level 3 Communications, LLC, and request for expedited resolution.

ORDERED by the Florida Public Service Commission this 24th day of May, 2012.



ANN COLE
Commission Clerk
Florida Public Service Commission
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

LDH

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.