

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Capital Services)	DOCKET NO. 980520-TP
of South Florida, Inc. against)	
Intermedia Communications Inc.)	FILED: June 3, 1998
regarding failure to comply with)	
contract for telecommunications)	
services.)	

INTERMEDIA COMMUNICATIONS INC.'S
REPLY TO CAPITAL SERVICES OF SOUTH FLORIDA'S RESPONSE TO
MOTION TO ABATE OR IN THE ALTERNATIVE STAY

Respondent Intermedia Communications Inc. (Intermedia) replies to Capital Services of South Florida, Inc.'s "Response To Intermedia Communications Inc.'s Motion To Abate or In The Alternative Stay."

UNDER COMMISSION RULE 25-24.22-023 THE COMPLAINT
INITIATED A FORMAL PROCEEDING INVOLVING ADJUDICATION

On April 15, Capital Services of South Florida, Inc. (Capital Services) filed with the Commission an Amended Complaint (Complaint) against Intermedia Communications, Inc. (Intermedia). Although Capital Services alleges that the Complaint was filed with the Division of Consumer Affairs pursuant to Rule 25-22.032, Florida Administrative Code, it apparently was filed with the Division of Records and Reporting, which Division logged the Complaint and assigned it a formal docket number.

The Complaint, as read by Intermedia, accuses Intermedia of certain rule violations and requests the Commission to adjudicate a contractual dispute between Capital Services and Intermedia by granting certain measures of relief. For example, Capital Services requests that the Commission "determine the correct amount of the

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disputed billings." [Complaint at page 4]

On May 5, 1998, Intermedia filed a motion for an order of this Commission abating or, in the alternative, staying this action. Intermedia filed this motion because Intermedia believed that Capital Services had initiated a formal proceeding before the Commission through the filing of its Complaint against Intermedia.

On May 15, 1998, Capital Services filed its response to Intermedia's motion. In its response Capital Services argues, inter alia, that Intermedia has misinterpreted its intention in filing the Complaint. According to Capital Services, rather than having initiated a formal proceeding under Section 120.57 and Rule 25-22, Part IV, Subpart B, Florida Administrative Code, it has ". . . simply initiated the informal complaint process resolution process detailed in Rule 25-22.032, Florida Administrative Code." [Response at page 2] That rule requires the complaint be filed with the Division of Consumer Affairs. To reiterate, Capital Services apparently filed the Complaint with the Division of Records and Reporting as contemplated by Rule 25-22.028.

If Intermedia has misinterpreted the intent of the Complaint, it has not misapprehended the effect. In response to the filing of the Complaint with the Division of Records and Reporting, the Commission has opened a formal docket and assigned a prehearing officer. This is not the informal process apparently contemplated by Capital Services. The Commission's actions in this regard were to be expected, given the operation of Rule 25-22.028 and of Rule 25-22.636(5) which provides that one way to initiate a formal

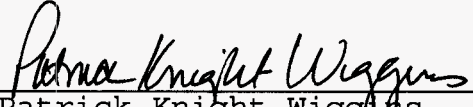
proceeding with the Commission is by the filing of a complaint.

CAPITAL SERVICES SHOULD FILE MOTION FOR VOLUNTARY DISMISSAL

If Capital Services currently intends to involve the staff of the Commission in this contractual dispute at the informal level of dispute resolution, then it should eliminate the procedural confusion by filing a voluntary motion to dismiss. If Capital Services does not move to dismiss, then - for the reasons stated in Intermedia's motion - the Commission should enter an order abating this action, or in the alternative, staying it until there is a resolution of the two lawsuits currently filed in two separate circuit courts.

CONCLUSION

Based on the above, Intermedia respectfully maintains its request that the Commission enter an order abating this action, or in the alternative, staying it until the actions in the circuit courts have been resolved.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail to the following this 3rd day of June, 1998:

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