

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Emergency petition of AT&T Communications of the Southern States, LLC d/b/a AT&T d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a AT&T for cease and desist order and other sanctions against Supra Telecommunications and Information Systems, Inc.

DOCKET NO. 030200-TP
ORDER NO. PSC-04-0103-FOF-TP
ISSUED: January 29, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER ACKNOWLEDGING VOLUNTARY DISMISSAL OF PETITION

BY THE COMMISSION:

On February 24, 2003, AT&T Communications of the Southern States, LLC d/b/a AT&T d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a AT&T (collectively, AT&T), filed its Emergency Petition Requesting a Cease and Desist Order and Other Sanctions Against Supra Telecommunications and Information Systems, Inc. (Supra). On March 17, 2003, Supra filed its Motion to Dismiss AT&T's Emergency Petition, and on March 24, 2003, AT&T filed its Response to Supra's Motion to Dismiss. On May 6, 2003, Order No. PSC-03-0578-FOF-TP was issued, denying Supra's Motion to Dismiss and setting the matter for hearing. By Order No. PSC-03-0635-PCO-TP, issued May 23, 2003, the hearing and prehearing dates as well as other key activities dates were established for this proceeding. On June 18, 2003, AT&T filed its Motion for Suspension of Procedural Schedule, representing that Supra agreed with and joined in the Motion. That Motion was granted by Order No. PSC-03-0764-PCO-TP, entered June 25, 2003. On January 2, 2004, AT&T filed its Notice of Voluntary Dismissal.

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).

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Since there are no remaining issues in dispute between the parties in this docket, we acknowledge AT&T's Notice of Voluntary Dismissal of its Petition, and find that the voluntary dismissal renders any and all outstanding motions moot. Additionally, any confidential materials filed in this Docket shall be returned to the filing party.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that AT&T Communications of the Southern States, LLC d/b/a AT&T d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a AT&T's Notice of Voluntary Dismissal is hereby acknowledged. It is further


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

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 29th day of January, 2004.

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

By:



Kay Flynn, Chief
Bureau of Records

(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.