

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for arbitration concerning complaint of MCImetro Access Transmission Services LLC and MCI WorldCom Communications, Inc. against BellSouth Telecommunications, Inc. for alleged breach of interconnection agreements with respect to rates charged for certain high-capacity circuits.

DOCKET NO. 030103-TP
ORDER NO. PSC-04-0633-FOF-TP
ISSUED: July 1, 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 MCIMETRO ACCESS TRANSMISSION SERVICES LLC
AND MCI WORLDCOM COMMUNICATIONS, INC.'S
NOTICE OF VOLUNTARY DISMISSAL

BY THE COMMISSION:

On January 29, 2003, MCImetro Access Transmission Services LLC and MCI WORLDCOM Communications, Inc. (collectively MCI) filed a complaint against BellSouth Telecommunications, Inc. (BellSouth) for breach of the parties' interconnection agreements with respect to rates charged for certain high-capacity circuits. On February 7, 2003, BellSouth filed an Unopposed Motion for Extension of Time in which to file its response to the complaint. The extension of time was granted on February 28, 2003, by Order No. PSC-03-0284-PCO-TP. BellSouth submitted its Answer to the Complaint on April 15, 2003. On May 5, 2003, the parties jointly filed a Motion for Procedural and Scheduling Order, agreeing to certain discovery dates to coordinate discovery in this proceeding with contemporaneous proceedings in other states. That Motion was granted by the issuance of Procedural Order No. PSC-03-0703-PCO-TP, issued June 12, 2003.

On July 29, 2003, the parties filed a Joint Motion for Stay of Proceedings. The parties stated that they entered into a Settlement Agreement, effective July 25, 2003, which addressed a number of items at issue between the parties. Included in the Settlement Agreement are the

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issues raised in this docket. Accordingly, on June 1, 2004, MCI filed its Notice of Dismissal of its Complaint.

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). Therefore, we acknowledge MCI's Notice of Voluntary Dismissal of its Petition.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that MCImetro Access Transmission Services LLC and MCI WORLDCOM Communications, Inc.'s Notice of Voluntary Dismissal of its Petition is hereby acknowledged. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 1st day of July, 2004.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(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.

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.