

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint of Cargill Crop Nutrition, Inc., f/k/a Cargill Fertilizer, a subsidiary of Cargill Corporation, against Verizon Florida Inc. for enforcement of FCC orders and Florida Public Service Commission decisions eliminating application of tariff charges for complex inside wiring, and request for relief.

DOCKET NO. 030746-TP
ORDER NO. PSC-04-0968-FOF-TP
ISSUED: October 6, 2004

The following Commissioners participated in the disposition of this matter:

RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER ACKNOWLEDGING VOLUNTARY WITHDRAWAL OF PETITION

BY THE COMMISSION:

On August 1, 2003, Cargill Crop Nutrition, Inc. f/k/a Cargill Fertilizer (Cargill) filed a Complaint against Verizon Florida Inc. d/b/a Verizon Communications (Verizon) for enforcement of the our Order No. PSC-97-0385-FOF-TL that eliminates the regulated charges under Verizon General Service Tariff 113.2. On August 26, 2003, Verizon filed its Response to Cargill's Complaint. On October 31, 2003, Cargill filed a Motion to Amend its Complaint against Verizon to clarify the relief sought in this docket. Verizon did not file a Response to Cargill's Motion. By Order No. PSC-03-1305-PCO-TP, issued November 7, 2003, Cargill's Motion to Amend its Complaint was granted. Verizon filed its Answer to the Amended Complaint on December 4, 2003.

Thereafter, several motions for continuances were granted allowing parties additional time to resolve the issues in this docket. On July 30, 2004, Cargill filed a Notice of Voluntary Dismissal of its Complaint with prejudice.

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). Since there are no remaining issues in dispute between parties in this docket, we acknowledge Cargill's Notice of Voluntary Dismissal of its Complaint with prejudice. Additionally, all confidential materials filed in this Docket shall be returned to the filing party.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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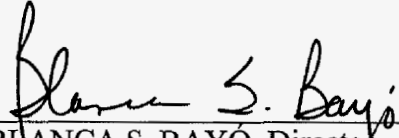
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Notice of Voluntary Dismissal filed by Cargill Crop Nutrition, Inc. f/k/a Cargill Fertilizer is hereby acknowledged. It is further

ORDERED that any and all confidential materials filed in this Docket shall be returned to the filing party.

ORDERED that this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 6th day of October, 2004.



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

(S E A L)

FRB

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,

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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.