

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Primary Jurisdiction Referral by Baker
County Circuit Court of VoIP Access
Charge Issue Between Northeast
Florida Telephone Company and
Southeastern Services, Inc.

DOCKET NO. 060296-7P
FILED: March 30, 2006

NOTICE OF PRIMARY JURISDICTION REFERRAL
BY BAKER COUNTY CIRCUIT COURT
OF VOIP ACCESS CHARGE ISSUE
AND
REQUEST TO ESTABLISH NEW DOCKET

COMES NOW, SOUTHEASTERN SERVICES, INC., by and through its undersigned counsel, and files this Notice of Primary Jurisdiction Referral by Baker County Circuit Court of VoIP Access Charge Issue and Request to Establish New Docket, and states as follows:

1. Northeast Florida Telephone Company filed a civil suit against Southeastern Services, Inc. in the Circuit Court of the Eighth Judicial Circuit for Baker County, Florida, on September 4, 2003, titled *Northeast Florida Telephone Company v. Southeastern Services, Inc.*, Case No. 02-2003-CA-0141.

2. As a result of various pleadings filed and arguments made by the parties in the civil suit, the Baker County Circuit Court issued the attached *Order Granting Defendant, Southeastern Services, Inc.'s Motion to Abate* (Attachment A hereto) on February 28, 2006, referring one specific underlying issue to the Florida Public Service Commission.

3. The basis of the Court's referral is that the Florida Public Service Commission has primary jurisdiction over the following specific issue that is fundamental to the

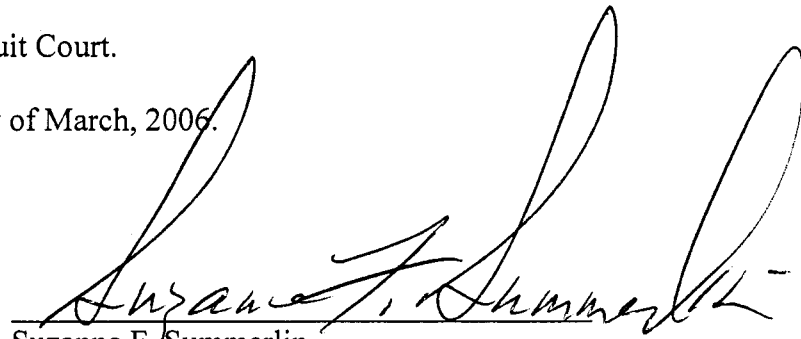
ultimate resolution of the civil suit by the Baker County Circuit Court: “Is Southeastern Services, Inc. liable to Northeast Florida Telephone Company for access charges on the Voice over Internet Protocol services Southeastern Services, Inc., has provided to its customers?”

4. Southeastern Services, Inc. requests that the Florida Public Service Commission establish a new docket to address the attached referral.

5. It is not appropriate for this referral to be handled in Docket No. 060083-TP which was opened by the Commission to handle Northeast Florida Telephone Company’s Complaint against Southeastern Services, Inc., filed on January 30, 2006, for the many reasons stated in Southeastern Services, Inc.’s pending Motion to Dismiss or, in the Alternative, to Abate Northeast Florida Telephone Company’s Complaint.

WHEREFORE, Southeastern Services, Inc. respectfully requests that the Florida Public Service Commission establish a new docket in which to consider and determine the issue referred by the Baker County Circuit Court.

Respectfully submitted this 30th day of March, 2006.



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IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR BAKER COUNTY, FLORIDA

NORTHEAST FLORIDA TELEPHONE
COMPANY, a Florida corporation,
Plaintiff,

CASE NO. 02-2003-CA-0141

vs.

SOUTHEASTERN SERVICES, INC., a
Florida corporation,
Defendant.

**ORDER GRANTING DEFENDANT, SOUTHEASTERN
SERVICES, INC.'S MOTION TO ABATE**

THIS CAUSE came on for consideration pursuant to the Defendant, SOUTHEASTERN SERVICES, INC.'s Motion to Abate filed December 8, 2005. After argument of counsel and being fully advised, this Court finds as follows:

This Court on February 4, 2004 entered its "Order Denying Southeastern Services, Inc.'s Motion to Dismiss or/in the Alternative to Hold in Abeyance Northeast Florida Telephone Company's Complaint." In said Order, this Court found "that Defendant's request that the action be abated until the issue, i.e., "access charges for Voice-Over-Internet-Protocol Services" is properly decided by the regulatory agencies . . . was premature and should be denied without prejudice."

The Defendant has again filed their "Motion to Stay or Abate Action." The Plaintiff has filed a Complaint against the Defendant, S. S. I. with the Florida Public Service Commission (PSC) and now in their Response to the Motion to Stay or Abate "request the Court to stay or abate this action and refer this case on primary jurisdiction grounds to the Florida Public Service Commission. The Public Service Commission has the resources and technical expertise regarding the primary issue of whether or not Defendant, S. S. I., should be required to pay NORTHEAST FLORIDA TELEPHONE COMPANY access charge for Voice-Over-Internet-Protocol ("VOIP") Services?

Accordingly, it is

ORDERED and ADJUDGED as follows:

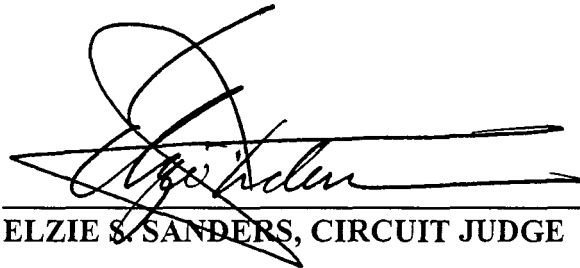
1. The Defendant's Motion to Stay or Abate Action filed December 8, 2005 is hereby granted; however, the request to abate until the Federal Communications Commission addresses the issue as framed in the pleading is denied.

ATTACHMENT "A"

2. The Florida Public Service Commission is the appropriate regulatory agency to properly address the primary issue under the dispute of these parties i.e., whether or not SOUTHEASTERN SERVICES, INC. is legally responsible for payment to NORTHEAST FLORIDA TELEPHONE COMPANY for originating intrastate access charges under Northeast Florida's Public Service Commission approved tariff for the long distance calls provided by SOUTHEASTERN SERVICES, INC. as alleged in the Amended Complaint. This Court shall stay this proceeding and refer this case on primary jurisdiction grounds to the Florida Public Service Commission for the determination of the primary issue underlying the Complaint currently before the Commission and thereby also addressing the legal principle as to the causes of action set forth in the Complaint in this cause of action.

3. This Court reserves jurisdiction to proceed with the prosecution of this cause of action after a ruling by the Florida Public Service Commission has been received.

ORDERED on February 28, 2006



ELZIE S. SANDERS, CIRCUIT JUDGE

A conformed copy of the foregoing has been furnished 02/28/06 by the Court's Judicial Assistant to:

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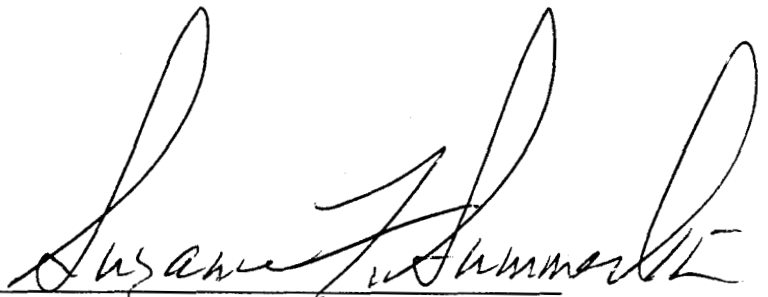
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Primary Jurisdiction Referral by Baker County Circuit Court of VoIP Access Charge Issue and Request to Establish New Docket was served by U.S. Mail to the following persons on this 30th day of March, 2006.

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