

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint against 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 www.prepayserviceguide.com d/b/a CONQUEST for failure to pay intrastate access charges pursuant to Embarq's tariffs, by Embarq Florida, Inc., f/k/a Sprint-Florida, Incorporated.	DOCKET NO. 060455-TP ORDER NO. PSC-07-0051-FOF-TP ISSUED: January 17, 2007
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The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW
KEN LITTLEFIELD

ORDER ACKNOWLEDGING STIPULATION FOR VOLUNTARY
DISMISSAL WITH PREJUDICE

BY THE COMMISSION:

I. Case Background

On June 14, 2006, Embarq Florida, Inc., f/k/a Sprint-Florida, Incorporated (Embarq), filed its Complaint against 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 www.prepayserviceguide.com d/b/a CONQUEST (AT&T) for failure to pay intrastate access charges pursuant to Embarq's tariffs. On July 10, 2006, AT&T filed its Motion to Dismiss Embarq's Complaint or, in the Alternative, Stay the Proceeding. Embarq filed its Response on July 17, 2006.

On September 18, 2006, we issued Order No. PSC-06-0777-FOF-TP holding this proceeding in abeyance for a 60-day period ending October 30, 2006, while the parties participated in a mediation proceeding held before the Federal District Court for the Western District of Missouri, Case Number 06-0480-CV-W-RED.

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On October 30, 2006, the parties filed a Joint Status Report and Motion for Continued Abeyance. The parties requested a continuance of the abeyance pending finalization of a settlement or a determination that settlement will not occur. On November 20, 2006, we issued Order No. PSC-06-0967-PCO-TP granting the parties' Joint Motion for Continued Abeyance.

On November 29, 2006, the parties filed a Stipulation for Dismissal With Prejudice.

II. Analysis

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). In their Stipulation for Dismissal With Prejudice, the parties advise this Commission that they have executed a confidential Settlement and Mutual Release Agreement that settles the issues in this Docket, with prejudice to the rights of each party to further pursue these issues in any forum.

III. Decision

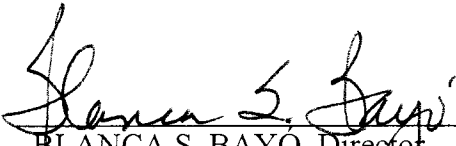
We hereby acknowledge the parties' Stipulation for Dismissal With Prejudice. No other party has filed for intervention in this matter; therefore, acknowledging the stipulated voluntary dismissal will not be prejudicial to any party. With the parties' stipulated voluntary dismissal, there are no further matters for this Commission to adjudicate in this Docket and, therefore, it shall be closed.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the parties' Stipulation for Dismissal With Prejudice is hereby acknowledged. It is further

ORDERED that this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 17th day of January, 2007.



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

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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.