

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition of Alltel Communications, Inc. for designation as eligible telecommunications carrier (ETC) in certain rural telephone company study areas located partially in Alltel's licensed area and for redefinition of those study areas.

DOCKET NO. 060581-TP
ORDER NO. PSC-07-0458-FOF-TP
ISSUED: May 29, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER ACKNOWLEDGING NOTICE OF
VOLUNTARY WITHDRAWAL WITHOUT PREJUDICE

BY THE COMMISSION:

I. Case Background

On August 30, 2006, Alltel Communications, Inc. (Alltel) filed two Applications for Designation as an Eligible Telecommunications Carrier (ETC) in the State of Florida (Applications).¹ Docket No. 060581-TP was opened to address Alltel's application for designation as an ETC in certain rural telephone company study areas located partially in Alltel's licensed area and for redefinition of these study areas. Docket No. 060582-TP was opened to address the application requesting ETC designation in certain rural telephone company study areas that are located entirely within Alltel's licensed service area in the State of Florida.

On October 11, 2006, Embarq Florida, Inc. (Embarq) petitioned to intervene in both dockets. On January 8, 2007, Order No. PSC-07-0020-PCO-TP was issued granting intervention to Embarq in this proceeding. On December 12, 2006, Embarq filed a Notice of Withdrawal of Petition to Intervene in Docket No. 060582-TP.

By Order No. PSC-07-0288-PAA-TP, issued April 3, 2007, we found that this Commission did have authority to consider applications for ETC designation by CMRS

¹ On October 13, 2005, Alltel filed a petition with the FCC seeking designation as an ETC in the State of Florida. As of the filing of this recommendation, the FCC has yet to rule on Alltel's Petition (Docket No. 96-45).

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providers and that Docket Nos. 060581-TP and 060582-TP should remain open to consider the merits of Alltel's Applications.

On April 17, 2007, Alltel filed its Notice of Withdrawal of Petition, without prejudice, in Docket No. 060581-TP. Alltel asserts it is withdrawing its Application in Docket No. 060581-TP to more efficiently focus its efforts to obtain approval as an ETC in Florida, and to minimize the costs of litigation.

Alltel's Application in Docket No. 060582-TP will remain a pending matter before this Commission.

II. Analysis and Decision

The law is clear that the plaintiff's right to take a voluntary dismissal is absolute. Fears v. Lundsford, 314 So. 2d 578, 579 (Fla. 1975).

Accordingly, we hereby acknowledge Alltel's Notice of Voluntary Withdrawal of its Petition, without prejudice, and find that the voluntary dismissal renders any and all outstanding motions moot.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we acknowledge Alltel Communications, Inc.'s Notice of Voluntary Withdrawal of its Petition, without prejudice. It is further

ORDERED that any and all outstanding motions are moot. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 29th day of May, 2007.



ANN COLE
Commission Clerk

(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 Office of Commission Clerk, 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 Office of Commission Clerk, 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.