

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Commission to intervene,
investigate and mediate dispute between DSL
Internet Corporation d/b/a DSLi and BellSouth
Telecommunications, Inc.

DOCKET NO. 080631-TP
ORDER NO. PSC-10-0390-FOF-TP
ISSUED: June 16, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP

FINAL ORDER ACKNOWLEDGING VOLUNTARY DISMISSAL

BY THE COMMISSION:

Case Background

On October 9, 2008, DSL Internet Corporation (“DSLi”) filed its Petition for the Florida Public Service Commission (“Commission”) to Intervene, Investigate and Mediate in which DSLi asked this Commission to enjoin BellSouth Telecommunications, Inc. d/b/a AT&T Florida (“AT&T”) from suspending the services of DSLi, to deny AT&T the true-up of rates, and to provide “any such other and further relief as the Commission deems necessary to protect the Florida consumer.”

On November 3, 2008, AT&T filed a Partial Motion to Dismiss which was granted. The case was set for hearing. On January 8, 2010, AT&T filed a Request for Continuance which was granted and a new hearing date was established. On May 21, 2010, DSLi filed its Notice of Voluntary Dismissal which is the subject of this Order.

A plaintiff’s right to take a voluntary dismissal is absolute¹ and once a voluntary dismissal is taken, the trial court loses all jurisdiction over the matter, and cannot reinstate the action for any reason.² Both of these legal principles have been recognized in administrative proceedings.³ Thus, we acknowledge DSLi’s Notice of Voluntary Dismissal and close this docket.

Based on the foregoing, it is

¹ Fears v. Lunsford, 314 So. 2d 578, 579 (Fla. 1975)

² Randle-Eastern Ambulance Service, Inc. v. Vasta, Elena, etc., 360 So. 2d 68, 69 (Fla. 1978)

³ Orange County v. Debra, Inc., 451 So. 2d 868 (Fla. 1st DCA 1983); City of Bradenton v. Amerifirst Development Corporation, 582 So. 2d 166 (Fla. 2d DCA 1991); Saddlebrook Resorts, Inc. v. Wiregrass Ranch, Inc., 630 So. 2d 1123 (Fla. 2d DCA 1993) aff’d, 645 So. 2d 374 (Fla. 1994).

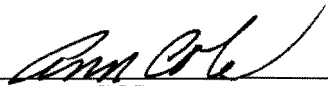
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FPSC-COMMISSIONER

ORDERED by the Florida Public Service Commission that DSL Internet Corporation's May 21, 2010, Notice of Voluntary Dismissal is hereby acknowledged and the docket closed.

By ORDER of the Florida Public Service Commission this 16th day of June, 2010.



ANN COLE
Commission Clerk

(S E A L)

CWM

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.