

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

Page 1 of 1
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EXPRESS PHONE SERVICE, INC,

Plaintiff,

110087-TP

v.

CASE NO. 1:12-cv-00197-MP-GRJ

FLORIDA PUBLIC SERVICE COMMISSION;
RONALD A BRISE, in his official capacity
as the Chairman of the Florida Public Service
Commission; LISA POLAK EDGAR, ART GRAHAM,
EDUARDO E. BALBIS, and JULIE I. BROWN, in
their official capacities as Commissioners of
the Florida Public Service Commission; and
BELLSOUTH TELECOMMUNICATIONS, LLC, d/b/a
AT&T Florida d/b/a AT&T Southeast,

Defendants.

_____ /

ORDER

This matter is before the Court on the Joint Report of the Parties' Planning Meeting (doc. 12), in which the parties request that the Joint Report supersede and replace any inconsistent provisions of the Initial Scheduling Order. The joint report is adopted, and the Clerk is directed to set the appropriate deadlines therefrom.

DONE AND ORDERED this 20th day of November, 2012

s/Maurice M. Paul
Maurice M. Paul, Senior District Judge

DOCUMENT NUMBER DATE
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Kathryn Cowdery

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U.S. District Court

Northern District of Florida

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Case Name: EXPRESS PHONE SERVICE INC v. FLORIDA PUBLIC SERVICE COMMISSION et al
Case Number: 1:12-cv-00197-MP-GRJ
Filer:
Document Number: 13

Docket Text:

ORDER: [12] Joint Report of Rule 26(f) Planning Meeting is ADOPTED: Amended Pleadings and Seek Consolidation of Related Cases due by 2/11/2012., Filing of Administrative Record due by **1/25/2013.**, Plaintiff's Initial Brief due by **2/4/2013.**, Defendants' Answer Briefs due by **3/6/2013.**, Plaintiff's Reply Brief due by **3/20/2013.** Signed by SENIOR JUDGE MAURICE M PAUL on 11/20/2012. (jws)1

1:12-cv-00197-MP-GRJ Notice has been electronically mailed to:

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

Express Phone Service, Inc.

Plaintiff,

110087-TP

Civil Action No.

1:12-cv-00197-MP-GRJ

Florida Public Service Commission; Ronald A. Brisé,
in his official capacity as the Chairman of the Florida
Public Service Commission; Lisa Polak Edgar, Art
Graham, Eduardo E. Balbis, and Julie I. Brown, in
their official capacities as Commissioners of the
Florida Public Service Commission; and
BellSouth Telecommunications, LLC, d/b/a AT&T
Florida d/b/a AT&T Southeast,

Defendants.

JOINT RULE 26(f) REPORT

Plaintiff, EXPRESS PHONE SERVICE INC., (“Express Phone”), together
with Defendants BELLSOUTH TELECOMMUNICATIONS, LLC d/b/a AT&T
FLORIDA (“AT&T Florida”), and the FLORIDA PUBLIC SERVICE
COMMISSION, RONALD A. BRISÉ, LISA POLAK EDGAR, ART GRAHAM,
EDUARDO E. BALBIS, and JULIE I. BROWN, pursuant to this Court’s
Scheduling Order dated October 26, 2012, and Rule 26(f) of the Federal Rules of
Civil Procedure, hereby file this Joint Report. The parties respectfully request that

this Joint Report supersede and replace any inconsistent provisions of the Scheduling Order.

Rule 26(f) Conference: The parties met and conferred telephonically on November 19, 2012. Attendees were:

Marsha E. Rule
Rutledge Ecenia, P.A.
Express Phone Service, Inc.

Suzanne L. Montgomery
Tracy W. Hatch
BellSouth Telecommunications, LLC d/b/a AT&T Florida

Kathryn Gale Winter Cowdery
Samantha McRae Cibula
Florida Public Service Commission, Ronald A. Brisé, Lisa Polak Edgar, Art Graham, Eduardo E. Balbis, and Julie I. Brown

1. **Magistrate Jurisdiction:** The parties have discussed the matter of magistrate jurisdiction. The parties do not consent to decision by a magistrate judge.

2. **Nature of Claim and Defenses:** This case arises under Sections 251 and 252 of the Telecommunications Act of 1996 (“1996 Act”). 47 U.S.C. § 252(e)(6) provides that “[i]n any case in which a State commission makes a determination under this section, any party aggrieved by such determination may bring an action in an appropriate Federal district court to determine whether the agreement meets the requirements of section 251 and this section.”

Express Phone, a competitive local exchange telecommunications company, asserts that the Florida Public Service Commission (“Commission”) erred in determining that Express Phone was not eligible to adopt an interconnection agreement between AT&T Florida and another telecommunications provider because it failed to pay disputed amounts due to AT&T Florida under the parties’ existing interconnection agreement. The Commission and AT&T Florida assert that the Commission properly determined that Express Phone was not eligible to adopt the interconnection agreement.

3. **Possibility for prompt settlement or resolution of the case:** Given that this case will review a final Commission order issued after an evidentiary hearing and briefing, the parties do not believe that settlement of this dispute is possible. The parties do not believe mediation would be constructive in this matter.

4. **Discovery Plan:** Because this case is an administrative appeal seeking review of a final Commission order, the parties do not intend to conduct any discovery in this matter. As this is an administrative appeal, the parties propose that the record of the Commission be provided to the Court, with a full briefing schedule such as that conducted in the United States Courts of Appeal in cases reviewing decisions of federal agencies.

5. **Rule 26 Disclosures:** This case is an administrative appeal seeking review of a Commission decision. Rule 26(a)(1)(B)(i) of the Federal Rules of Civil Procedure exempts actions “for review of an administrative record” from the disclosure requirements of Rule 26(a)(1). In addition, Local Rule 26.1 exempts actions for review of administrative determinations of governmental agencies upon a fully developed record from Rule 26(a)(1) and (2) disclosures. Accordingly, the parties do not intend to submit such disclosures.

6. **Proposed Briefing Schedule:** The parties jointly have established the following proposed schedule for resolution of this matter:

Deadline to Amend Pleadings and Seek Consolidation of Related Cases	December 11, 2012
Plaintiff shall file Directions to the Clerk of the Commission to forward the record	December 17, 2012
Defendants shall file Supplemental Directions to the Clerk of the Commission	December 26, 2012
Filing of Administrative Record	January 25, 2013
Plaintiff’s Initial Brief	February 4, 2013
Defendants’ Answer Briefs	March 6, 2013
Plaintiff’s Reply Brief	March 20, 2013
Oral Argument	If and when deemed appropriate by the Court

7. **Format of Briefs:** Initial and Answer Briefs shall be limited to 30 pages each, and Plaintiff's Reply Brief shall be limited to 15 pages. Such limits do not include appendices to the briefs.

8. **Estimate of When Case Will Be Ready for Trial:** Non-applicable.

9. **Other Matters:** None at this time.

10. **Statement Regarding Manual for Complex Litigation:** The parties agree that this case should not be subject to the Manual for Complex Litigation.

11. All parties concur in this Joint Report.

Respectfully submitted this 19th day of November, 2012.

s/ Marsha E. Rule

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s/ Suzanne L. Montgomery

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ATTORNEYS FOR THE FLORIDA PUBLIC
SERVICE COMMISSION AND
COMMISSIONERS

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2012, I electronically filed the foregoing Joint Rule 26(f) Report using CM/ECF on behalf of all parties.

s/ Marsha E. Rule
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