

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: November 7, 2007

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Teitzman)
Division of Competitive Markets & Enforcement (Barrett, King)

RE: Docket No. 070387-TP – Complaint of BLC Management, LLC d/b/a Angles Communication Solutions against BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and request that Commission take jurisdiction over complaint for limited purpose of ordering parties to maintain status quo pending outcome of complaint in Tennessee.

AGENDA: 11/20/07 – Regular Agenda – Agreed Motion to Dismiss – Parties May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: McMurrian

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\070387.RCM.DOC

Case Background

On June 25, 2007, BLC Management, LLC d/b/a Angles Communication Solutions (Angles) filed its Complaint against BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T) and request that Commission take jurisdiction over complaint for limited purpose of ordering parties to maintain status quo pending outcome of complaint in Tennessee. AT&T filed its Response on July 20, 2007. On August 22, 2007, a conference call was held between the parties and staff to discuss how this matter should proceed.

On October 16, 2007, Angles filed its Agreed Motion to Dismiss, with prejudice.

Discussion of Issues

Issue 1: Should the Commission grant Angles' Agreed Motion to Dismiss, with prejudice?

Recommendation: Yes. The Commission should grant Angles' Agreed Motion to Dismiss, with prejudice. (TEITZMAN)

Staff 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 its Motion, Angles states that the parties' billing and collection dispute has been settled to the satisfaction of both parties. Accordingly, staff recommends that the Commission grant Angles' Agreed Motion to Dismiss, with prejudice.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, there are no further matters for the Commission to adjudicate in this docket and, therefore, it should be closed. (TEITZMAN)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, there are no further matters for the Commission to adjudicate in this docket and, therefore, it should be closed.