

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of BLUMS OF BOCA, INC.)	DOCKET NO. 900721-TL
against SOUTHERN BELL TELEPHONE AND)	
TELEGRAPH COMPANY, regarding alleged)	ORDER NO. 24679
unauthorized "Leaky PBX" Charges)	
	ISSUED: 6/17/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 GERALD L. GUNTER
 MICHAEL MCK. WILSON

ORDER ACKNOWLEDGING WITHDRAWAL OF COMPLAINT
 AND CLOSING DOCKET

BY THE COMMISSION:

On August 22, 1990, Blums of Boca, Inc. (Blums) filed a Complaint against Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) regarding disputed Leaky PBX charges. On December 24, 1990, this Commission issued Order No 23928, a Proposed Agency Action (PAA), which denied the Blums Complaint. On January 3, 1991, Blums filed its Protest of the PAA and Petition for a Formal Proceeding. As the case involved primarily a factual dispute, on January 23, 1991, it was sent to the Division of Administrative Hearings (DOAH) for a hearing. A settlement was reached in this case. On May 9, 1991, DOAH determined that the proceeding was moot under Section 120.57(3), Florida Statutes and closed its file on the matter. On May 14, 1991, Blums filed a Request to Withdraw Complaint (Request).

Under Rule 1.420(a)(1) Florida Rules of Civil Procedure, voluntary dismissal by a party is of right. A voluntary dismissal is analogous to the instant Request by Blums. Thus, we find that it is appropriate for this Commission to acknowledge the May 14, 1991, Request by Blums.

Therefore, based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the withdrawal of Blums of Boca's August 22, 1990, complaint against Southern Bell Telephone and Telegraph Company, regarding Leaky PBX charges, is hereby acknowledged. It is further

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ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 19th
day of JUNE, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CWM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 Records and Reporting 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 or sewer utility by filing a notice of appeal with the Director, Division of

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Records and Reporting 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.