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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of )  
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Rules and Regulations Implementing the )  
Telephone Consumer Protection Act of 1991 )  
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CG Docket No. 02-278

**ORDER**

**Adopted: November 15, 2004**

**Released: November 16, 2004**

By the Deputy Bureau Chief, Consumer & Governmental Affairs Bureau:

1. On July 28, 2004, Express Consolidation, Inc. (Express) filed a petition for declaratory ruling (petition), pursuant to section 1.2 of the Federal Communications Commission's (Commission) rules. In its petition, Express asked the Commission to preempt a Florida telemarketing law, Florida Statute, section 501.059. The Commission released a Public Notice on October 4, 2004, requesting that comments be filed by November 17, 2004, and reply comments by December 2, 2004. Comments were received from Joe Shields and Teleytics, LLC.

2. On November 5, 2004, Express filed a letter requesting that its petition in this matter be withdrawn. In its letter, Express states that it has reached a settlement with the State of Florida in the underlying complaint which formed a basis for the petition. In light of the parties' settlement of the issues giving rise to the petition, we do not find it necessary at this time to address issues raised by the petition and dismiss the petition as requested.

3. Accordingly, pursuant to Sections 0.361 and 1.2 of the Commission's rules, 47 C.F.R. §§ 0.361 and 1.2, IT IS ORDERED that the Motion to Withdraw Petition for a Declaratory Ruling by Express Consolidation, Inc. is GRANTED and the Petition for a Declaratory Ruling is DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION



P. June Taylor  
Chief of Staff,  
Consumer & Governmental Affairs Bureau