

ISSUE DATE: February 11, 1997

DOCKET NO. P-442/C-95-225

ORDER APPROVING SETTLEMENT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Edward Garvey
Marshall Johnson
Mac McCollar
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Complaint Against AT&T
Communications of the Midwest, Inc. for
Providing an Untariffed Telecommunications
Service

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PROCEDURAL HISTORY

On April 7, 1995, the Minnesota Department of Public Service (the Department) filed a complaint against AT&T Communications of the Midwest, Inc. (AT&T) alleging that AT&T violated Minn. Stat. § 237.74 (1) by offering a telecommunications service in Minnesota without first filing a tariff with the Commission.

On May 1 and 2, 1995, AT&T responded to the complaint indicating that it had submitted the tariff filing to the Commission via courier and was unaware that the Commission did not receive the filing until the Department brought the issue to its attention.

On September 20, 1996, the Department and AT&T signed an agreement in which AT&T will provide refunds to appropriate persons and the Department will withdraw its complaint.

The matter came before the Commission for consideration on January 21, 1997.

FINDINGS AND CONCLUSIONS

A. Complaint and Response

On October 17, 1994, AT&T instituted a new service called "Prison Collect With Controls" but did not file a tariff for the new service with the Department until January 24, 1995. Prior to October 17, 1994, AT&T provided collect service to this facility at a call set-up charge of \$1.45 per call. Prison Collect With Controls was offered at a set-up charge of \$3.00 per call.

On April 7, 1995, the Department filed a complaint against AT&T alleging that AT&T violated Minn. Stat. § 237.74 (1) by offering a telecommunications service in Minnesota for a period of 99 days (October 17, 1994 to January 24) without first filing a tariff with the Commission.

In its response to the Department's complaint, AT&T did not dispute that neither the Department nor the Commission show any record of the filing but asserted that it acted in good faith with respect to the filing and took all proper steps necessary to file the tariff in a timely manner. AT&T provided a sworn statement from the courier charged with delivering the tariff filing, stating that the courier arrived at the Commission shortly after the close of business on October 14, 1994 and left the filing in the door of the Commission office. AT&T stated that it was unaware that the filing was not received by the Commission until Department staff alerted AT&T on January 23, 1995. AT&T noted that upon receipt of this information it filed the tariff change the following day, January 24, 1995.

B. Settlement

On September 20, 1996, the Department and AT&T signed a settlement agreement. The principal terms of the parties' agreement are as follows:

- AT&T will refund to customers a total of \$954.70. This represents the total sum overcharged at two correctional facilities (Ramsey County Adult Detention Center for the period of October 17, 1994, to January 24, 1995 and Anoka County Sheriff's Office for the period January 17, 1995 to January 24, 1995) based on the difference between the rate charged (\$3.00) and the tariffed rate for AT&T's standard collect call service (\$1.45).
- Refunds of more than \$5.00 or more will be mailed to the overcharged customers. Refunds of less than \$5.00 will be paid to the inmate facility.
- The Department will withdraw its complaint.

A copy of the document setting out the parties' settlement in full is attached and incorporated by reference.

The Department stated that it is satisfied that the terms of the agreement are reasonable and asked that the Commission approve the terms of the Settlement and allow the Department to withdraw its complaint and close this docket.

C. Commission Action

The Commission finds that AT&T attempted to file the tariff change and believed that the filing was properly delivered. Upon becoming aware that the tariff was not, in fact, filed, AT&T promptly filed the tariff change.

In these circumstances, the Commission believes that the refund agreed to by AT&T and the Department is appropriate and sufficient. Accordingly, the Commission will accept the Settlement pursuant to Minn. Stat. § 237.076, subd. 2 as supported by substantial evidence and in the public interest. Further, the Commission will grant the Department's motion to withdraw the complaint.

ORDER

1. The Settlement proposed by the Minnesota Department of Public Service (the Department) and AT&T in this matter is accepted. Copy attached.
2. AT&T is directed to fulfill its refund obligations under the Settlement, including the filing of a sworn affidavit with the Department certifying completion of the refund, within 60 days of this Order.
3. The Department's motion to withdraw its complaint is granted.
4. Upon notification from the Department that AT&T has provided the affidavit referred to in Ordering Paragraph 2, this docket shall be closed.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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