

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayner	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of a Complaint of AT&T
Communications of the Midwest, Inc.
Against U S WEST Communications, Inc. for
Improper Application of Switched Access
Charges on Vendor Intercepted Services

ISSUE DATE: October 22, 2001

DOCKET NO. P-421/C-00-565

ORDER DISMISSING COMPLAINT WITH
PREJUDICE

PROCEDURAL HISTORY

On May 4, 2000, AT&T Communications of the Midwest, Inc. (AT&T) filed a complaint against U S WEST Communications, Inc. (Qwest) alleging that Qwest's collection of carrier common line (CCL) charges on what AT&T has termed Vendor Intercepted Services (VIS) contravenes applicable tariffs in violation of Minn. Stat. §§ 236.06, 237.081 and 237.121(a)(4) and are unreasonable in violation of Minn. Stat. §§ 236.06, 237.081 and 237.121(a)(4). VIS include call forwarding, call waiting, three-way calling, foreign exchange, voice messaging or fax processing services and paging services.

On May 25, 2000, the Commission issued a notice soliciting comments.

On June 20, 2000, Qwest filed a Consent Motion to Stay Proceedings Pending Resolution of Mediation, wherein it stated that AT&T and Qwest were in mediation expressly intended to settle all issues raised by AT&T's complaint. Qwest also indicated that it was authorized by AT&T to note that AT&T did not oppose the granting of Qwest's motion.

On September 18, 2000, Qwest, on behalf of both parties, filed a petition requesting that the docket be held in abeyance until after January 1, 2001. Qwest indicated that several meetings were scheduled for the remainder of the year to resolve some or all of the issues raised in the complaint.

On September 26, 2000, the Commission granted the parties' request to hold the docket in abeyance.

On February 1, 2001, the parties submitted a joint stipulation to dismiss with prejudice.

The Commission met on September 19, 2001 to consider this matter.

FINDINGS AND CONCLUSIONS

I. THE PARTIES' STIPULATION FOR DISMISSAL

The parties stipulation stated:

Whereas, the parties have executed a Settlement Agreement and Mutual Release settling all matters contained in AT&T's complaint; and

Whereas, there are no remaining issue[s] for the Commission to resolve;

Now, therefore, the parties jointly stipulate that AT&T's complaint is dismissed with prejudice.

II. AT&T'S COMPLAINT

AT&T initially filed this complaint with the FCC and subsequently at a few state commissions, including Minnesota. The FCC asked the parties to seek the services of a private arbitrator to estimate damages from the misapplication of the carrier common line charge. During proceedings with the arbitrator, the parties reached a settlement for past actions and no settlement was necessary on a prospective basis because Qwest has eliminated the carrier common line charge at the interstate level.

In the course of negotiating the settlement of AT&T's complaint at the FCC, AT&T and Qwest did not reach a settlement regarding the case in Minnesota. However, citing the settlement on damages at the interstate (FCC) level and the apparent small impact on costs at the state level, AT&T has decided to withdraw its complaint in Minnesota and the other states and has filed jointly with Qwest a request for permission to do so.

III. COMMISSION ANALYSIS AND ACTION

Once a petition has been submitted to the Commission, the parties may not dismiss it on their own, but must obtain the Commission's permission to do so. In this case, the parties have requested permission to dismiss the complaint with prejudice. The Department has reviewed the request and did not oppose it. No other parties filed comments.

The Commission notes AT&T's lack of interest in pursuing its complaint further and finds no public interest reason to oppose this requested withdrawal. The Commission will, therefore, grant the parties' request and dismiss AT&T's complaint with prejudice.

ORDER

1. The Commission hereby grants, the joint request of AT&T and Qwest and dismisses AT&T's complaint against Qwest with prejudice.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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