

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Ken Nickolai  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Department of  
Commerce's Formal Complaint and Request  
for Commission Action

ISSUE DATE: December 6, 2006

DOCKET NO. P-442, 5243, 5934, 5681, 6287,  
5656, 5936, 6144, 5542, 5981, 5720/C-05-1282

ORDER DISMISSING COMPLAINT  
AGAINST DESKTOP MEDIA, Inc.

**PROCEDURAL HISTORY**

On December 30, 2005, the Minnesota Department of Commerce (the Department) filed a complaint alleging that certain competitive local exchange carriers (CLECs) and AT&T Communications of the Midwest, Inc. (AT&T), in its role as an interexchange carrier (IXC), had violated statutes and rules by conducting business on terms inconsistent with the local carriers' tariffs.

On April 5 and 6, 2006, the Department filed stipulations and agreements signed by various local carriers. On May 19, the Commission issued an order approving the stipulations and dismissing the complaints against the stipulating parties.

On June 5, the Department filed a stipulation and agreement with AT&T. On August 7, the Commission issued an order approving the stipulation signed by the Department and AT&T and dismissed the complaint against AT&T.

On October 8, the Department filed comments recommending that the Commission dismiss Desktop Media, Inc. from the complaint.

On November 30, the Commission met to consider this matter.

**FINDINGS AND CONCLUSIONS**

The Department alleged that certain CLECs provided AT&T with switched access to the CLECs' local telecommunications networks on terms inconsistent with the terms in the CLECs' tariffs, and

that were concealed from regulators and other telecommunications service providers. In so doing, the Department alleged, the CLECs discriminated by knowingly and willfully charging, demanding, collecting, and receiving payments according to untariffed rates from AT&T while offering, charging, demanding, collecting or receiving different rates from AT&T competitors. According to the Department, this practice violates Minnesota Statutes §§ 237.07, 237.09, 237.121, subd. 4, and 237.74; and Minn. Rules, Part 7812.2210, subp. 2, 3, 5 and 9; and Part 7810.0500, subp. 1.

All of the parties to the Department complaint besides Time Warner Telecom, which is in contested case proceedings, and Desktop Media, Inc., have signed stipulations with the Department, dismissing the Complaint.

The Department's filing stated that its investigation demonstrated that, despite having entered into a questionable agreement with AT&T, Desktop had in fact charged tariffed rates to all IXCs and had not engaged in discriminatory pricing. The Department therefore recommended dismissing Desktop Media, Inc. from the proceeding.

No one objected to the proposed dismissal, and the Commission concurs with the Department that dismissal is appropriate.

### **ORDER**

1. The Department's complaint against Desktop Media, Inc. is dismissed.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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