

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: March 9, 2007

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

ORDER APPROVING STIPULATION AND
AGREEMENT AND DISMISSING
COMPLAINT AGAINST TIME WARNER

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, 2006, the Department filed a stipulation and agreement with AT&T. On August 7, 2006, 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, 2006, the Department filed comments recommending that the Commission dismiss Desktop Media, Inc. from the complaint. On December 7, 2006, the Commission issued an order dismissing the complaint against Desktop Media, Inc.

On January 31, 2007, the Department and Time Warner Telecom of Minnesota (Time Warner) filed a stipulation and agreement.

All other parties in the Department's Complaint have signed stipulations or been dismissed from the complaint.

On March 6, 2007, 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's 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.

The stipulation and agreement reached by the Department and Time Warner requires new rates for intrastate switched access services, which Time Warner has agreed to charge the interexchange carriers and to file with the Commission. Time Warner agrees that it will not initiate any further legal or regulatory action to enforce the rates established in the agreement that are the subject of the Department's complaint. The stipulation provides for certain payments to the state treasury. The stipulation does not imply, nor does Time Warner admit, any violation of law, rule or Commission order.

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

ORDER

1. The stipulation and agreement filed in this matter on January 31, 2007, is approved.
2. The Department's complaint against Time Warner is dismissed with prejudice, and this docket is hereby closed.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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