

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AT&T Corp.,
Complainant,
v.
US WEST Communications, Inc.,
The Malheur Home Telephone Company,
and El Paso County Telephone Company,
Defendants.
File No. E-95-16
File No. E-95-17
File No. E-95-18

ORDER

Adopted: September 7, 2000

Released: September 8, 2000

By the Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. This matter comes before the Commission on the Joint Motion of AT&T Corp. and Qwest to dismiss without prejudice the above-captioned matters. On December 9, 1998, the Commission entered a liability decision in the above-captioned matters concluding that Qwest improperly assessed AT&T carrier common line access charges for certain optional calling services. AT&T timely filed supplemental complaints against Qwest for damages for those improper charges.

2. The parties state that, on October 26, 1999, AT&T and Qwest entered into an agreement to submit to mediation, and, if necessary, thereafter to binding arbitration, their pending dispute regarding the amount due to AT&T under the Commission's Liability Order. Pursuant to that agreement, the parties have engaged in mediation before a mutually agreeable private mediator. The agreement also provides for submission of the dispute to an arbitrator, who shall enter an award within one hundred twenty (120) days after being selected. Arbitration was demanded on August

1 On June 30, 2000 Qwest, Inc., the parent and sole shareholder of US WEST Communications, Inc. (U S WEST), merged with and into Qwest Communications International Inc. On July 6, 2000, U S WEST Communications, Inc. was renamed Qwest Corporation. On July 12, 2000, Qwest filed a Formal Notification of Change in Defendant's Corporate Identity.

2 In light of their request for this relief, the parties seek leave to withdraw their Joint Motion for Stay of Proceedings Pending Arbitration, filed on August 18, 2000.

3 See AT&T Corp., et al. v. Bell Atlantic-Pennsylvania, et al., 14 FCC Rcd 556 (1998) (Liability Order).

17, 2000. The parties anticipate that an arbitrator will be selected in the very near future. Because the parties anticipate that the arbitral decision will resolve this matter in its entirety, the parties jointly request that the Commission dismiss AT&T's pending supplemental complaints without prejudice.

3. The parties agree that the Commission's grant of this joint motion will not be deemed to prejudice AT&T's rights in the pending arbitration proceeding between the parties to these formal complaints. Further, as a condition of this joint motion to dismiss without prejudice, Qwest has agreed to waive the application of section 1.722(b)(2)(ii) of the Commission's rules, 47 C.F.R. § 1.722(b)(2)(ii), to any renewed supplemental complaints that may be filed hereafter.

4. We are satisfied that granting this motion to dismiss without prejudice will serve the public interest by enabling the parties to resolve this matter expeditiously through a private dispute resolution process, without unnecessary expenditure of further administrative resources by the Commission.

5. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 201(b) and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201(b) and 208, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that the parties' Joint Motion to Dismiss AT&T's Supplemental Complaints Without Prejudice IS GRANTED.

6. IT IS FURTHER ORDERED that section 1.722(b)(2)(ii) of the Commission's rules, 47 C.F.R. § 1.722(b)(2)(ii), shall not be applied to any renewed supplemental complaints that may be filed hereafter by AT&T against Qwest.

7. IT IS FURTHER ORDERED that the parties' Joint Motion To Withdraw their Joint Motion for Stay of Proceedings Pending Arbitration, filed herein on August 18, 2000, IS GRANTED.

8. IT IS FURTHER ORDERED that the above-captioned supplemental complaints ARE DISMISSED WITHOUT PREJUDICE and that these proceedings ARE TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr
Chief, Market Disputes Resolution Division
Enforcement Bureau

