

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

Sprint Communications Company L.P.,)	
)	
Complainant,)	
)	
v.)	File No. EB-00-MD-007
)	
MGC Communications, Inc., d/b/a)	
Mpower Communications Inc.,)	
)	
Defendant.)	

ORDER

Adopted: October 12, 2000

Released: October 13, 2000

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

1. On May 11, 2000, Sprint Communications Company L.P. (Sprint) filed the captioned complaint against MGC Communications, Inc., d/b/a Mpower Communications Inc. (MGC), alleging, among other things, that MGC violated and continues to violate section 202(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 202(a). In short, Sprint maintained (1) that MGC is providing to Sprint pursuant to tariff the same switched access services that MGC is providing to other interexchange carriers (IXCs) pursuant to contract; (2) that the tariffed access rates are substantially higher than the contract rates; and (3) that there is no justification for the price disparity.

2. When Sprint filed its complaint, it was not privy to the terms of the contracts MGC allegedly had entered with other IXCs. During the course of discovery, however, MGC was ordered to disclose information about the contracts.

3. At a July 25, 2000, status conference, Commission staff ruled that Sprint should move to dismiss its complaint without prejudice and file a new complaint, because discovery had rendered the parties' pleadings insufficient to frame the issues for the agency's resolution. The staff further ruled that it would not decide Sprint's motion to dismiss the initial complaint until all the initial pleadings relating to Sprint's new complaint had been filed.

4. On August 11, 2000, Sprint filed a motion to dismiss the captioned complaint and filed a new complaint in an action that subsequently was designated EB-

00-MD-015. MGC filed an answer to the new complaint on September 5, 2000, and Sprint filed its reply on September 29, 2000.¹

5. Sprint filed the instant motion to dismiss at the direction of Commission staff. We are satisfied that dismissing the complaint will serve the public interest by furthering the orderly adjudication of the parties' dispute.

6. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 202(a), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 202(a), 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 joint motion to dismiss the above-captioned complaint without prejudice IS GRANTED.

7. IT IS FURTHER ORDERED that the above-captioned complaint IS DISMISSED WITHOUT PREJUDICE and that the proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

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

¹ The Commission granted a motion by Sprint to postpone the due date for its reply while the parties endeavored to finalize a settlement. While still ongoing, those discussions have not resulted in an agreement.