

Before the
Federal Communications Commission
Washington, D.C. 20554

CenterPoint Energy Houston Electric, LLC,)	
)	
Complainant,)	
)	
v.)	File No. EB-04-MD-009
)	
Texas and Kansas City Cable Partners, L.P., d/b/a)	
Time Warner Cable,)	
)	
Respondent.)	

MEMORANDUM OPINION AND ORDER

Adopted: January 6, 2006

Released: January 9, 2006

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

1. On December 21, 2005, the complainant, CenterPoint Energy Houston Electric, LLC (“CenterPoint”), and the respondent, Texas and Kansas City Cable Partners, L.P. d/b/a Time Warner (“Time Warner Cable”), filed a motion to withdraw with prejudice¹ the Complaint that CenterPoint filed against Time Warner Cable on June 29, 2004.² In short, the Complaint alleges that Time Warner Cable should pay pole attachment rent at the higher “telecom rate,”³ rather than at the lower “cable rate,”⁴ because both Time Warner Cable and its licensee, Time Warner Telecom of Texas, L.P., are telecommunications carriers using the fiber optic cable on Time Warner Cable’s pole attachments to provide telecommunications services.⁵ The Motion states that the parties “have reached a mutually-acceptable resolution of their disputes,” and that, as part of that settlement, they agreed to dismiss the Complaint with prejudice.⁶

2. We are satisfied that dismissing the Complaint will serve the public interest by promoting the private resolution of disputes and by eliminating the need for further litigation and the expenditure of further time and resources of the parties and this Commission.

¹ Joint Motion to Dismiss with Prejudice, File No. EB-04-MD-009 (filed Dec. 21, 2005) (“Motion”).

² Complaint, File No. EB-04-MD-009 (filed June 29, 2004) (“Complaint”).

³ 47 U.S.C. §§ 224(e)(1)-(3).

⁴ 47 U.S.C. §§ 224(d)(1), (2).

⁵ Complaint at ii; 25-30, ¶¶ 59-68

⁶ Motion at 1-2, ¶ 6.

3. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), and 224 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 224, and the authority delegated in sections 0.111, 0.311, and 1.1401-1.1418 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, and 1.1401-1.1418, that the Motion is GRANTED, and that the Complaint is DISMISSED with prejudice.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr
Chief, Market Disputes Resolution Division