

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

Texas and Kansas City Cable Partners, L.P., d/b/a)	
Time Warner Cable,)	
)	
Complainant,)	
)	File No. EB-04-MD-004
v.)	
)	
CenterPoint Energy Houston Electric, LLC,)	
)	
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, Texas and Kansas City Cable Partners, L.P. d/b/a Time Warner (“Time Warner Cable”), and the respondent, CenterPoint Energy Houston Electric, LLC (“CenterPoint”), filed a motion to withdraw with prejudice¹ the Complaint that Time Warner Cable filed against CenterPoint on March 11, 2004.² In short, the Complaint alleges that CenterPoint violated section 224 of the Communications Act³ when, in calculating an annual pole attachment fee, it relied on internal (*i.e.*, not publicly-reported) depreciation data and based the average number of attaching entities on “outdated and inaccurate” numbers.⁴ The Motion states that the parties “have reached a mutually-acceptable resolution of their disputes,” and that, as part of that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.⁵

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.

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,

¹ Joint Motion to Dismiss with Prejudice, File No. EB-04-MD-004 (filed Dec. 21, 2005) (“Motion”).

² Complaint, File No. EB-04-MD-004 (filed Mar. 4, 2004) (“Complaint”).

³ 47 U.S.C. § 224.

⁴ Complaint at i-ii; 6, ¶ 14; 7, ¶ 17; 9-20, ¶¶ 23-42; 20-24, ¶¶ 25-48.

⁵ Motion at 1-2, ¶ 6.

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