

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

Broadwing Communications, LLC,)
)
 Complainant,)
)
 v.)
)
 AT&T, Inc.,)
 AT&T Services, Inc.,)
 Illinois Bell Telephone Co.)
 d/b/a AT&T Illinois,)
 Indiana Bell Telephone Co., Inc.)
 d/b/a AT&T Indiana,)
 Michigan Bell Telephone Co.)
 d/b/a AT&T Michigan,)
 The Ohio Bell Telephone Co.)
 d/b/a AT&T Ohio,)
 Wisconsin Bell, Inc.)
 d/b/a AT&T Wisconsin,)
 Southwestern Bell Telephone, L.P.)
 d/b/a AT&T Arkansas,)
 AT&T Kansas, AT&T Missouri,)
 AT&T Oklahoma, AT&T Texas,)
 Pacific Bell Telephone Co.)
 d/b/a AT&T California, and)
 The Southern New England Telephone Co.)
 d/b/a AT&T Connecticut,)
)
 Defendants.)

File No. EB-07-MD-005

ORDER OF DISMISSAL

Adopted: April 2, 2009

Released: April 2, 2009

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

1. On December 28, 2007, the above-captioned complainant (“Complainant”) filed a formal complaint¹ against the above-captioned defendants (“Defendants”) pursuant to section

¹ Formal Complaint, File No. EB-07-MD-005 (filed Dec. 28, 2007) (“Complaint”).

208 of the Communications Act of 1934, as amended (“Act”).² In its Complaint, Complainant alleged that Defendants violated sections 201(b), 202(a) and 203(c) of the Act and the *AT&T-BellSouth Merger Order*³ by charging excessive rates for certain special access services.⁴

2. On July 1, 2008, Complainant moved to dismiss its claim under section 202(a) of the Act with prejudice, stating that Defendants consented to the dismissal.⁵ On March 31, 2009, Complainant moved to dismiss all remaining claims asserted in the Complaint with prejudice, stating that Complainant had resolved its dispute with Defendants.⁶ Defendants consent to the March 2009 Motion.⁷

3. We are satisfied that dismissing the Complaint with prejudice 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.

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, sections 1.720-1.736 of the Commission’s rules, 47 C.F.R. §§ 1.720-1.736, and the authority delegated in section 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111 and 0.311, that the July 2008 and March 2009 Motions ARE GRANTED, that the Complaint IS DISMISSED WITH PREJUDICE, and that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Lisa B. Griffin
Deputy Chief, Market Disputes Resolution Division
Enforcement Bureau

² 47 U.S.C. § 208.

³ *AT&T Inc. and BellSouth Corp. Application for Transfer of Control*, Memorandum Opinion and Order, 22 FCC Rcd 5662 (2006) (“*AT&T-BellSouth Merger Order*”).

⁴ See Complaint at 31, ¶ 48 (alleging that Defendants violated section 201(b) of the Act); *id.* at 33, ¶ 52 (alleging that Defendants violated section 202(a) of the Act); *id.* at 27, ¶ 41 (alleging that Defendants violated section 203(c) of the Act); *id.* at 27, ¶ 39 (alleging that Defendants violated the *AT&T-BellSouth Merger Order*).

⁵ Motion of Broadwing Communications, LLC to Dismiss Count 4 of the Complaint with Prejudice, File No. EB-07-MD-005 (filed July 1, 2008) (“July 2008 Motion”).

⁶ Motion of Broadwing Communications, LLC to Dismiss the Complaint with Prejudice, File No. EB-07-MD-005 (filed March 31, 2009) (“March 2009 Motion”).

⁷ Email from Christopher M. Heimann, Counsel to Defendants, to Lisa Griffin and Lia Royle, FCC, and Tamar E. Finn and Michael R. Romano, counsel to Complainant, File No. EB-07-MD-005 (filed April 1, 2009).