

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

|                            |   |                        |
|----------------------------|---|------------------------|
| In the Matter of           | ) |                        |
|                            | ) |                        |
| AT&T Corp.,                | ) |                        |
|                            | ) |                        |
| Complainant,               | ) | File No.: EB-10-MD-005 |
|                            | ) |                        |
| v.                         | ) |                        |
|                            | ) |                        |
| YMax Communications Corp., | ) |                        |
|                            | ) |                        |
| Defendant.                 | ) |                        |
|                            | ) |                        |

ORDER

Adopted: July 9, 2013

Released: July 11, 2013

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

I. INTRODUCTION

1. On April 8, 2011, the Commission issued an Order<sup>1</sup> granting in part and otherwise dismissing without prejudice claims alleged in a formal complaint<sup>2</sup> that AT&T Corp. (AT&T) filed against YMax Communications Corp. (YMax) under section 208 of the Communications Act of 1934, as amended (Act).<sup>3</sup> The Order authorized AT&T to file a supplemental complaint for damages.<sup>4</sup> In addition, the Order noted that Commission staff had granted AT&T's motion to sever Counts VII, VIII, IX, X, and XIV from the Complaint, and to convert them into an informal complaint that would be placed in the pre-existing informal complaint proceeding that AT&T initiated on October 1, 2010, File Number EB-10-MDIC-0008.<sup>5</sup>

2. On May 9, 2011, YMax filed a petition for reconsideration of the Order<sup>6</sup> pursuant

<sup>1</sup> *AT&T Corp. v. YMax Commc'ns Corp.*, Memorandum Opinion and Order, 26 FCC Rcd. 5742 (2011) (Order).

<sup>2</sup> Formal Complaint of AT&T Corp., File No. EB-10-MD-005 (filed Nov. 9, 2010) (Complaint).

<sup>3</sup> 47 U.S.C. § 208.

<sup>4</sup> Order, 26 FCC Rcd. at 5743, para. 1 and n.6.

<sup>5</sup> Order, 26 FCC Rcd. at 5742, para. 1 and n.4. See Informal Complaint of AT&T Corp., File No. EB-10-MDIC-0008 (filed Oct. 2, 2010) (Informal Complaint). See Letter from Alexander P. Starr, Chief, Market Disputes Resolution Division, Enforcement Bureau, to David Lawson, counsel for AT& T, and Russell M. Blau and Antoinette C. Bush, counsel for YMax, File No. EB-10-MD-005 (rel. Dec. 22, 2010).

<sup>6</sup> Petition for Reconsideration of YMax Communications Corp., File No. EB-10-MD-005 (filed May 9, 2011) (Petition for Reconsideration). AT&T filed an Opposition to YMax's Petition for Reconsideration, see AT&T's Opposition to Petition for Reconsideration, File No. EB-10-MD-005 (filed May 19, 2011)

to Section 405(a) of the Act and rule 1.106.<sup>7</sup> Shortly thereafter, the Commission extended the deadline for AT&T to file a supplemental complaint for damages until 60 days after the Order becomes final and non-appealable.<sup>8</sup>

3. AT&T and YMax have each filed letters dated July 2, 2013 in this proceeding stating that the parties had entered into agreements resolving their disputes.<sup>9</sup> The YMax Letter stated that YMax “hereby withdraws its pending Petition for Reconsideration.”<sup>10</sup> The AT&T Letter stated that AT&T will not be filing a supplemental complaint for damages and that AT&T will not pursue any of the severed claims, either as an informal or formal complaint, and that “AT&T hereby withdraws the informal complaint.”<sup>11</sup> In light of these developments, both parties indicated that there is no need to hold further proceedings in this matter or in the AT&T informal complaint matter, and they both requested that the docket in this proceeding and in File No. EB-10-MDIC-0008 be closed.<sup>12</sup>

4. We are satisfied that closing the docket in the File No. EB-10-MD-005 and EB-10-MDIC-0008 proceedings 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.

5. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), 208, and 405 of the Act, 47 U.S.C. §§ 154(i), 154(j), 208, and 405, and sections 1.3, 1.106, and 1.717-1.736 of the Commission’s rules, 47 C.F.R. §§ 1.3, 1.106, 1.717-1.736, and the authority delegated by sections 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111 and 0.311, that formal complaint proceeding File No. EB-10-MD-005 and informal complaint proceeding File No. EB-10-MDIC-0008 are hereby TERMINATED and the records CLOSED.

FEDERAL COMMUNICATIONS COMMISSION

Lisa J. Saks  
Deputy Chief, Market Disputes Resolution Division  
Enforcement Bureau

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(Opposition), and YMax filed a Reply to AT&T’s Opposition, *see* Reply to Opposition to Petition for Reconsideration of YMax Communications Corp., File No. EB-10-MD-005 (filed May 26, 2011) (Reply).

<sup>7</sup> 47 U.S.C. § 405(a); 47 C.F.R. § 1.106.

<sup>8</sup> *See* Letter from Alexander P. Starr, Chief, Market Disputes Resolution Division, Enforcement Bureau, to David Lawson, counsel for AT&T, and Russell M. Blau and Antoinette C. Bush, counsel for YMax, File No. EB-10-MD-005 (rel. May 26, 2011).

<sup>9</sup> Letter dated July 2, 2013 from David Lawson, counsel for AT&T, to Lisa Saks, Lisa Boehley, and Michael Engel, Market Disputes Resolution Division, Enforcement Bureau, File No. EB-10-MD-005 (filed July 8, 2013) (AT&T Letter); Letter dated July 2, 2013 from Russell M. Blau, counsel for YMax, to Lisa Saks, Lisa Boehley, and Michael Engel, Market Disputes Resolution Division, Enforcement Bureau, File No. EB-10-MD-005 (filed July 3, 2013) (YMax Letter).

<sup>10</sup> YMax Letter at 1.

<sup>11</sup> AT&T Letter at 1.

<sup>12</sup> AT&T Letter at 1-2; YMax Letter at 1.