

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

In the Matter of)	
)	
HFT, Incorporated,)	
)	
Complainant,)	
)	
v.)	File No. E-96-001
)	
AT&T Corp.,)	
)	
Defendant.)	

ORDER

Adopted: June 13, 1996; Released: June 14, 1996

By the Chief, Formal Complaints & Investigations Branch, Enforcement Division, Common Carrier Bureau:

1. HFT, Incorporated (HFT), filed the above-captioned formal complaint on November 6, 1995, against AT&T Corp. (AT&T), alleging that AT&T had violated Section 202(a) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 202(a), in connection with a Terminating Switched Access Arrangement (TSAA) between HFT and AT&T. On April 4, 1996, HFT filed a motion to withdraw its complaint, citing "a variety of business reasons." On April 11, 1996, HFT filed a clarification that it wished to withdraw its complaint without prejudice. AT&T responded that, because a TSAA is not subject to Title II of the Act, the Bureau should dismiss the complaint for failure to state a claim upon which relief could be granted. In the alternative, AT&T requested that the complaint be dismissed with prejudice.

2. We are satisfied that granting HFT's motion, as clarified, will serve the public interest by eliminating the need for further litigation and the expenditure of further time and resources of the parties and of this Commission. AT&T's responsive motion to dismiss for failure to state a claim is moot and will be dismissed. Moreover, AT&T has not presented sufficient grounds to show that dismissal with prejudice would serve the public interest.

3. 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 Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, that the above-captioned formal complaint filed by HFT, Incorporated against AT&T Corp. IS DISMISSED without prejudice.

4. IT IS FURTHER ORDERED that AT&T Corp.'s motion to dismiss for failure to state a claim upon which relief could be granted IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION



Kurt A. Schroeder
Chief, Formal Complaints and
Investigations Branch
Common Carrier Bureau