

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

In the Matter of)

MARY ANN HOLLIHAN,)

Complainant,)

v.)

File No. E-97-44

AT&T CORP.,)

Defendant.)

ORDER

Adopted: December 18, 1997

Released: December 18, 1997

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

1. On September 4, 1997, Mary Ann Hollihan filed the above-captioned complaint against AT&T Corp. (AT&T), alleging violations of a Commission rule¹ and Sections 202(a) and 258(a) of the Communications Act of 1934, as amended.² Ms. Hollihan alleged that AT&T changed, without authorization, her preferred interexchange carrier and engaged in discriminatory practices. The complaint was served on AT&T on September 17, 1997, and answered by AT&T on October 17, 1997. On November 4, 1997, AT&T filed a motion for summary judgment, based upon the information contained in the complaint. On December 16, 1997, Ms. Hollihan filed a motion to withdraw her complaint without prejudice, based on her inability to prosecute the case adequately because of her foreign residence in the United Kingdom.

2. We are satisfied that granting, in part, Ms. Hollihan's motion to withdraw her complaint will serve the public interest by eliminating the need for further litigation and the expenditure of further time and resources by the parties and by the Commission. Ms. Hollihan moves to withdraw the complaint without prejudice to her rights to refile, arguing that no substantial legal prejudice to AT&T will result. We find that Ms. Hollihan has not presented

¹ 47 C.F.R. § 64.1100.

² 47 U.S.C. §§ 202(a), 258(a).

sufficient grounds to show that dismissal without prejudice would serve the public interest. We therefore dismiss the complaint with prejudice.

3. 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), 208, and the authority delegated under Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that Ms. Hollihan's motion to withdraw the above-captioned complaint IS GRANTED to the extent indicated herein and is otherwise denied.

4. IT IS FURTHER ORDERED that the above-captioned complaint is DISMISSED WITH PREJUDICE and that this proceeding is TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



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