

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Formal)	Application No. FC-1332
Complaint of OrbitCom, Inc.,)	
Sioux Falls, South Dakota,)	
seeking a determination that)	
AT&T Communications of the)	
Midwest, Inc., Denver, Colorado,)	ORDER DISMISSING COMPLAINTS
failed to pay intrastate access)	
charges billed by OrbitCom in)	
accordance with OrbitCom's)	
intrastate switched access)	
tariff.)	
In the Matter of the Formal)	Application No. FC-1335
Complaint of AT&T Communications)	
of the Midwest, Inc., Denver,)	
Colorado, seeking a)	
determination that OrbitCom,)	
Inc., Sioux Falls, South Dakota,)	
failed to negotiate Intrastate)	
Access Charges and that)	
OrbitCom's tariffed Intrastate)	
Switched Access Rates are unfair)	
and unreasonable.)	Entered: October 22, 2013

BY THE COMMISSION:

On February 27, 2009, a Formal Complaint was filed with the Nebraska Public Service Commission ("Commission") by OrbitCom, Inc., ("OrbitCom"), against AT&T Communications of the Midwest, Inc., ("AT&T"). The Formal Complaint was docketed by the Commission as Application No. FC-1332. AT&T filed an Answer to FC-1332 on March 31, 2009.

On April 30, 2009, AT&T filed the above-captioned Formal Complaint against OrbitCom, which was docketed as Application No. FC-1335. On May 12, 2009, the Commission, upon the motion of AT&T, consolidated the above-captioned proceedings. OrbitCom filed its Answer and Affirmative Defenses in Application No. FC-1335 on May 15, 2009.

The proceeding included two evidentiary hearings before the Commission and appeals, with the most recent appeal being filed on March 28, 2012, with the District Court of Lancaster County by AT&T.

AT&T and OrbitCom have now entered into a formal settlement that resolves all issues raised in the above-captioned complaints FC-1332 and FC-1335.

On September 6, 2013, AT&T, OrbitCom, and the Commission filed a Stipulation and Motion to Vacate and Remand with the District Court. On September 9, 2013, the District Court entered an Order vacating the April 11, 2013, District Court Order, remanding the proceeding back to the Commission for further proceedings consistent with the Stipulation, and dismissing the appeal.

On September 25, 2013, pursuant to the Stipulation and the September 9, 2013, District Court Order, OrbitCom and AT&T filed a Joint Motion to Vacate with the Commission. On October 1, 2013, the Commission entered an order vacating its previous orders issued in the above-captioned proceeding on February 28 and May 7, 2013.

On October 7, 2013, pursuant to the Stipulation, AT&T and OrbitCom filed Motions to Dismiss the above-captioned Formal Complaints with prejudice with the Commission.

Upon consideration of the Motions and being fully advised, the Commission finds the above-captioned Complaints should be dismissed with prejudice.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned Formal Complaints be, and are hereby, dismissed with prejudice.

MADE AND ENTERED at Lincoln, Nebraska, this 22nd day of October, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director

On September 6, 2013, AT&T, OrbitCom, and the Commission filed a Stipulation and Motion to Vacate and Remand with the District Court. On September 9, 2013, the District Court entered an Order vacating the April 11, 2013, District Court Order, remanding the proceeding back to the Commission for further proceedings consistent with the Stipulation, and dismissing the appeal.

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Tim Schram

Paul J. Anderson
Frank E. Landis

//s//Anne C. Boyle
//s//Frank E. Landis

Anne Boyle

Chair

ATTEST:

Steve Meredith

Executive Director