

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 10th day of
June, 2008.

Northeast Missouri Rural	)	
Telephone Company,	)	
	)	
Complainant,	)	
	)	
v.	)	<u>Case No. IC-2008-0285</u>
	)	
AT&T Corporation	)	
	)	
Respondent.	)	

ORDER GRANTING PARTIAL SUMMARY DETERMINATION

Issue Date: June 10, 2008

Effective Date: June 10, 2008

Northeast Missouri Rural Telephone Company (NE Rural) filed a complaint against AT&T Corporation on March 3, 2008. The complaint alleged that AT&T represented certain enhanced prepaid calling card services as an information service, rather than a telecommunications service. On that basis, AT&T sought a declaratory ruling from the FCC holding that AT&T did not have to pay intrastate access charges on those enhanced prepaid calling card services. The FCC disagreed and found that AT&T was required to pay intrastate access charges for those enhanced prepaid calling card calls.¹

¹ See, *Order and Notice of Proposed Rulemaking*, In the Matter of AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services, WC Docket No. 03-133, 20 FCCR 4826, (Feb. 26, 2005). See also, *Declaratory Ruling and Report and Order*, In the Matter of Regulation of Prepaid Calling Card Services, WC Docket No. 05-68, 21 FCCR 7290, (June 1, 2006).

The complaint alleges that during the time AT&T misclassified the enhanced prepaid calling card services, NE Rural, along with other similarly situated local telephone companies, under billed AT&T for intrastate access for those services. NE Rural asks the Commission to determine that AT&T is responsible under NE Rural's tariffs to pay for the intrastate enhanced prepaid calling card calls that it improperly reported as interstate calls. NE Rural also asks the Commission to determine the quantity of such misreported calls and the amount of money AT&T should pay NE Rural for those calls. Finally, NE Rural asks the Commission to determine the amounts AT&T should pay for interest or late-charges, as well as attorney fees under NE Rural's tariffs.

In its answer to NE Rural's complaint, filed on April 2, AT&T admitted that its classification and reporting of enhanced prepaid calling card traffic as interstate resulted in NE Rural under billing it for that traffic. AT&T also admitted that the FCC determined that its classification and reporting of that traffic was incorrect. AT&T's answer raised several affirmative defenses against the complaint, including an assertion of accord and satisfaction in that the parties have allegedly reached a settlement of the claims underlying the complaint.

On May 14, NE Rural filed a motion for partial summary disposition, asking the Commission to find that AT&T is liable to NE Rural for intrastate prepaid calling card traffic that AT&T misreported as interstate traffic. Essentially, NE Rural argues the FCC has already determined that the traffic in question should have been reported as intrastate instead of interstate and on that basis; NE Rural should be able to bill AT&T for the lost intrastate access charges. NE Rural contends that if the Commission grants its motion for partial summary determination, the factual issues to be decided by the Commission at

hearing would be limited to the quantification of such traffic, the difference in interstate and intrastate rates applicable to such traffic, and whether AT&T is responsible for late fees on such traffic.

AT&T filed a timely response to NE Rural's motion for partial summary determination on May 27. AT&T again acknowledges, as it did in its answer, that the FCC has ruled that intrastate access charges applied to its enhanced prepaid calling card service when used for calls that originated and terminated within the same state. As a result, AT&T admitted that it owed NE Rural the difference between its interstate and intrastate access rates for intrastate calls made through AT&T's enhanced prepaid calling card service that originated or terminated in NE Rural's exchanges. AT&T further indicated its understanding that the only issues to be determined by the Commission are (1) whether AT&T and NE Rural have reached a previous settlement on the claims underlying the complaint; and if not, (2) a quantification of what AT&T owes NE Rural. On that basis, AT&T asks the Commission to deny NE Rural's motion for partial summary determination.

NE Rural replied to AT&T's response on June 2. NE Rural agrees with AT&T that the only issues before the Commission are AT&T's affirmative defense of accord and satisfaction and if that defense is denied, a quantification of what AT&T owes NE Rural. However, after acknowledging that agreement, NE Rural takes the opposite position from that of AT&T and urges the Commission to grant the motion for summary determination.

Fundamentally, there is no disagreement between NE Rural and AT&T regarding the issues before the Commission. They both agree that the FCC has already determined that the calls in question are intrastate in character, not interstate, and that AT&T is required to pay NE Rural the intrastate access charges for those calls. AT&T is correct that such

agreement can be discerned from an examination of its answer. As a result, NE Rural's motion for partial summary determination is not strictly necessary. However, the record will be clearer if the Commission grants the motion and makes a specific finding about the nature of the issues before it.

Therefore, the Commission will grant the motion for partial summary determination. In addition, the Commission finds that the remaining issues before it in this complaint are (1) AT&T's affirmative defense of accord and satisfaction; (2) the quantification of the difference between NE Rural's intrastate and interstate exchange access rates for intrastate calls made through AT&T's enhanced prepaid calling card service that originated or terminated in NE Rural's exchanges; and (3) whether AT&T is responsible for late fees and attorney's fees and the quantification of those fees.

IT IS ORDERED THAT:

1. Northeast Missouri Rural Telephone Company's Motion for Summary Disposition with Respect to Respondent AT&T Corp.'s Liability for Intrastate Prepaid Calling Card Traffic Misreported as Interstate Prepaid Calling Card Traffic is granted.
2. This order shall become effective on June 10, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton, Jarrett,
and Gunn, CC., concur.

Woodruff, Deputy Chief Regulatory Law Judge