

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

Northeast Missouri Rural Telephone Company	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. IC-2008-0285
	)	
AT&T Corp.	)	
	)	
Respondent.	)	

Northeast Missouri Rural Telephone Company
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

Comes now Complainant Northeast Missouri Rural Telephone Company,
pursuant to 4 CSR 240-2.117, and hereby moves the Commission for an Order summarily
disposing the issue of AT&T Corp.’s liability to Northeast Missouri Rural Telephone
Company for intrastate prepaid calling card traffic misreported as interstate prepaid
calling card traffic. In support of this Motion, Northeast states as follows:

Introduction

The Federal Communications Commission has ruled that AT&T is responsible to
pay local exchange companies their intrastate access rates for intrastate prepaid calling
card traffic misreported by AT&T as being interstate in jurisdiction. The FCC ruling was
issued pursuant to its retroactive adjudication authority, and is dispositive. The FCC’s

rulings, with a single exception relating to the end date of AT&T's liability, have been affirmed by the United States Courts.

Northeast files this motion in order to dispose of the liability issue, and by so doing to reduce the remaining issues for hearing to those issues of fact necessary to quantify the amount of intrastate prepaid calling card traffic misreported by AT&T as being interstate.

Statement of Material Facts of which there is no Genuine Dispute

Northeast sets for the statements of fact in bold type in separately numbered paragraphs. Following each fact is a reference to the pleadings or decisions upon which each fact is based.

1. Complainant Northeast is an incumbent local exchange company properly certificated and doing business in Missouri.

See paragraph 1 of Northeast's March 3, 2008 Complaint, AT&T's April 2, 2008 Answer, Response to numbered allegations 1.

2. Respondent AT&T is a New York Corporation authorized to do business in Missouri.

See paragraph 2 of Northeast's March 3, 2008 Complaint, AT&T's April 2, 2008 Answer, Response to numbered allegations 2.

3. At some date, the precise date which is unknown to Northeast, AT&T began offering EPPC. EPPC was sold in the form of prepaid calling cards by AT&T, and by major consumer retailers such as Wal Mart Stores, Inc.

See paragraph 4 of Northeast's March 3, 2008 Complaint, AT&T's April 2, 2008 Answer, Response to numbered allegations 4.

4. EPPC calls were made by the customer dialing a number to reach a centralized switching platform, which requested a personal identification number associated with the customer's card. When prompted by the platform, the customer dialed the destination number of the called party, and the call was completed.

See paragraph 5 of Northeast's March 3, 2008 Complaint, AT&T's April 2, 2008 Answer, Response to numbered allegations 5.

5. AT&T configured its EPPC service so that all EPPC calls made appeared as two separate calls: one from the calling to the EPPC "platform"; and the second from the "platform" to the called party.

Northeast made this allegation in paragraph 6 of its complaint. AT&T's Answer to this paragraph stated it did not understand these allegations, and was without sufficient information to admit or deny them, therefore denied them. See AT&T's April 2, 2008 Answer to Numbered Allegation 6.

However in its response to the Summary of Complaint contained in Northeast's Complaint, AT&T admitted that the FCC denied AT&T's Petition for Declaratory Ruling, and had ruled that enhanced prepaid calling card service was a telecommunications service, that intrastate access charges applied to the service when used for calls that originate and terminate within the same state, and that as a result AT&T owes Northeast 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 Northeast's exchanges. See AT&T Answer of April 2, 2008, "Response to Complainant's Summary of Complaint".

6. AT&T improperly, without justification, manipulated traffic reports, call records, and intercarrier compensation billing records so that all EPPC calls were made to appear as if each EPPC call originated and terminated in different states, even though in many instances the EPPC calling party and called party were both located within the state of Missouri.

See paragraph 7, Northeast Complaint. In its Answer to numbered allegation 7, AT&T admitted it classified and reported EPPC service traffic as interstate.

7. This manipulation resulted in the under-billing of both originating and terminating intrastate Missouri exchange access charges by Northeast to AT&T.

See paragraph 8, Northeast Complaint. In its Answer to numbered allegation 8, AT&T admitted its classification and reporting of enhanced prepaid calling card traffic as interstate resulted in Northeast's under billing AT&T Corp. for some of the traffic.

Request for Official Notice in Support of Facts set forth in paragraphs 5, 6, and 7 above.

Official Notice is requested of the contents of the following decisions pertinent to the Facts set forth in paragraphs 5, 6, and 7 above:

- a. AT&T's May 15, 2003 Petition for Declaratory Ruling filed with the FCC, WC Docket No. 03-133, copy attached;
- b. the FCC's February 23, 2005 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 Nos. 03-133, 05-68, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 4826 (2005), copy attached;

- c. the FCC's June 30, 2006 Declaratory Ruling and Report and Order in the Matter of Regulation of Prepaid Calling Card Services, WC Docket No. 05-68, FCC 06-79, copy attached;
- d. the United States Court of Appeals for the District of Columbia Circuit's July 14, 2006 Opinion in AT&T v FCC, No. 05-1096, copy attached;
- e. the United States Court of Appeals for the District of Columbia Circuit's December 4, 2007 Opinion in Qwest Services Corp. v FCC, et al., No. 06-1274, et al, copy attached;

8. Northeast provides intrastate exchange access service to interexchange carriers such as AT&T pursuant to tariff. Such exchange access service tariff and rates are approved by the Missouri Public Service Commission, and are applicable to intrastate EPPC calls misreported by AT&T as being interstate calls, the traffic in question.

See paragraph 23, Northeast Complaint, and AT&T's Answer, response to numbered allegation 23, where AT&T admitted that Northeast provides intrastate exchange access service pursuant to tariff approved by this Commission, and that the FCC ruled AT&T Corp.'s enhanced prepaid calling card traffic is subject to intrastate access charges when such calls originate and terminate within the same state.

9. This Commission has jurisdiction over this complaint by virtue of the statutory authority vested in it by §386.390 RSMo and by §386.400 RSMo.

See paragraph 24 of Northeast's Complaint, and AT&T's response admitting the allegation of numbered paragraph 24.

WHEREFORE, on the basis of these facts, for which there is no genuine issue or dispute, and for the reasons set forth in its accompanying Legal Memorandum in Support of this Motion, Northeast Missouri Rural Telephone Company respectfully requests that the Commission enter an order disposing of the issue of AT&T's liability to Northeast. AT&T should be determined to be liable to Northeast for payment of the difference between the amount AT&T should have paid for such prepaid calling card traffic originating or terminating to Northeast that were intrastate in jurisdiction and the amount AT&T actually paid Northeast based upon AT&T's classification of that traffic as being interstate in jurisdiction. By so entering such an Order, the Commission will reduce the factual issues for hearing to quantification of the amount 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.

/s/
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CERTIFICATE OF SERVICE

A copy of this document was served on the following parties by e-mail on this 14th day of May, 2008:

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