

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

COURTLINK CORPORATION,)	
)	DOCKET NO. UT-001712
Complainant,)	
)	FIRST SUPPLEMENTAL
v.)	ORDER; APPROVING AND
)	ADOPTING SETTLEMENT
AT&T COMMUNICATIONS OF THE)	AGREEMENT; DISMISSING
PACIFIC NORTHWEST, INC.,)	COMPLAINT WITHOUT
)	PREJUDICE
Respondent.)	
.....)	

1 ***SYNOPSIS:*** *This Order resolves a complaint between a telecommunications carrier and its end-user customer arising out of a written service contract. The parties jointly filed a Settlement Agreement and requested that the Commission dismiss the complaint in this proceeding. The Commission approves and adopts the Settlement Agreement, and dismisses the complaint without prejudice.*

2 **PROCEEDINGS:** Courtlink Corporation (“Courtlink”), on November 6, 2000, filed a complaint against AT&T Communications of the Pacific Northwest, Inc. (“AT&T”), alleging billing errors, and violations of state statutes and Commission rules. Contemporaneously, AT&T filed suit against Courtlink in the United States District Court for the Western District of Washington seeking money damages for breach of contract and violation of tariffs.¹ On November 27, 2000, AT&T filed a motion to dismiss the Complaint. On December 12, 2000, the Commission stayed the proceedings to enable the parties to conduct settlement negotiations as requested. On February 26, 2001, Courtlink filed an answer to AT&T’s motion to dismiss.

3 The parties continued to negotiate and, on May 22, 2001, they jointly filed a stipulation to submit their dispute to binding arbitration. The Commission entered an Order on June 21, 2001, extending the stay of all proceedings and authorized the parties to pursue informal settlement of their claims. Thereafter, the parties regularly reported that settlement negotiations were progressing. On November 29, 2001, Courtlink and AT&T jointly requested the Commission to adopt their Settlement Agreement as full and final resolution of their dispute and to dismiss the complaint.

¹ The District Court suit was filed on November 15, 2000.

4 **PARTIES:** Richard J. Busch, attorney, Miller Nash LLP, Seattle, represents
Courtlink. Paul R. Franke, III, attorney, Hall & Evans, LLC, Denver, CO, represents
AT&T.

5 **SETTLEMENT AGREEMENT:** The Settlement Agreement provides for the
payment of consideration from one party to the other arising out of their contract for
services. The Settlement Agreement discloses all terms between the parties, and the
agreement does not alter or amend any interconnection agreements that have been
approved under Section 252 of the Telecommunications Act of 1996 (“Act”). The
parties do not consider the Settlement Agreement to be confidential, and they jointly
seek dismissal of the complaint.

I. MEMORANDUM

Discussion

6 The general powers and duties of the Commission are stated in RCW 80.01.040:

The Utilities and Transportation Commission shall:

* * *

(3) Regulate in the public interest, as provided by the public service laws,
the rates, services, facilities, and practices of all persons engaging within
this state in the business of supplying any utility service or commodity to
the public for compensation, and related activities; including, but not
limited to . . . telecommunications companies . . .

7 Courtlink purchased telecommunication services from AT&T pursuant to a contract
tariff negotiated between the parties. The Settlement Agreement between Courtlink
and AT&T providing for monetary payments supports the suggestion made in
pleadings and attachments that the central dispute in this proceeding regards the value
of services rendered. Because this matter is a dispute between a telecommunications
carrier and one of its end user customers, and the underlying relationship is not
subject to an interconnection agreement pursuant to Section 252 of the Act, the
settlement of this dispute does not raise any issues that may impact other
telecommunications carriers, or any entity not a party to this action.

8 We find and conclude that the Settlement Agreement is consistent with the public
interest and should be approved. We adopt and incorporate the Settlement Agreement
into this Order by reference as a reasonable resolution of the issues pending in this
proceeding. The Settlement Agreement is attached to this Order as Appendix A.

9 In accepting and adopting this settlement, the Commission finds that the result is consistent with the public interest and that its adoption saves time, effort, and expense for the Commission, the company, the complainants, and the Company's ratepayers. Acceptance of the settlement, however, is done without detailed examination and the close study of partisan arguments on contested issues that produce informed decisions on each litigated issue. The Commission therefore observes, consistent with similar observations in other proceedings resolved by settlement, that this Order does not constitute a ruling on any underlying issue that might have been litigated, including the nature and extent of the Commission's jurisdiction over any of the matters in question.

II. FINDINGS OF FACT

10 Having discussed above all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary findings of fact. Those portions of the preceding discussion that include findings pertaining to the ultimate decisions of the Commission are incorporated by this reference.

11 The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including telecommunications companies.

12 AT&T Communications of the Pacific Northwest, Inc., provides telecommunications services within Washington State as a public service company subject to the jurisdiction of this Commission.

13 Courtlink Corporation is a Washington corporation duly authorized to conduct business in Washington State and is a purchaser of telecommunications services from AT&T.

14 Courtlink filed a complaint with the Commission on November 6, 2000, alleging, among other things, that AT&T had failed to comply with state statutes and Commission rules in provisioning telecommunications services.

15 On November 6, 2001, all parties to this proceeding, with the exception of Commission Staff, filed a proposed Settlement Agreement with the Commission.

16 The Settlement Agreement reasonably resolves the issues pending in this proceeding and is in the public interest.

III. CONCLUSIONS OF LAW

- 17 The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and all parties to, these proceedings. *Title 80 RCW.*
- 18 AT&T is a public service company as defined in RCW 80.04.010.
- 19 The Settlement Agreement as contained in Appendix A reasonably resolves the issues pending in this proceeding and is in the public interest. Accordingly, it is in the public interest to approve the Settlement Agreement in accordance with its terms and the requirements of this Order.
- 20 The Commission should retain jurisdiction over the subject matter of and the parties to this proceeding to effectuate the provisions of this Order.

IV. ORDER

THE COMMISSION ORDERS That:

- 21 The Settlement Agreement (Appendix A to this Order) is approved, adopted, and made part of this Order.
- 22 The complaint in this matter is hereby dismissed without prejudice, and this docket is closed.
- 23 THE COMMISSION FURTHER ORDERS That it retains jurisdiction over the subject matter and the parties to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective this day of December, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).