

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

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|---|---|----------------------------|
| In the Matter of |) | |
| |) | |
| CenturyLink Communications, LLC and Level |) | Proceeding No. 18-73 |
| 3 Communications, LLC, |) | Bureau ID No. EB-18-MD-002 |
| |) | |
| Complainant |) | |
| |) | |
| v. |) | |
| |) | |
| Birch Communications, Inc., |) | |
| |) | |
| Defendant |) | |
| |) | |

ORDER OF DISMISSAL

Adopted: September 26, 2018

Released: September 26, 2018

By the Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. On March 23, 2018, the above-named Complainants (collectively, CenturyLink) filed with the Commission a formal complaint (Complaint)¹ against the above-named defendant, (Birch) pursuant to section 208 of the Communications Act of 1934, as amended (Act),² and section 1.720 *et seq.* of the Commission's rules.³ The Complaint alleges that Birch, a competitive local exchange carrier, violated Section 61.26 of the Commission's rules⁴ and Section 201(b) of the Act⁵ by filing a tariff for interstate switched exchange access services that prices those services above a benchmark rate charged by the incumbent local exchange carrier

¹ Formal Complaint, Docket No. 18-73, File No. EB-18-MD-002 (filed Mar. 23, 2018) (Complaint).

² 47 U.S.C. § 208.

³ 47 CFR §§ 1.720-1.736.

⁴ 47 CFR § 61.26.

⁵ 47 U.S.C. § 201(b).

with which Birch competes.⁶ On April 23, 2018 Birch filed an answer to the Complaint in which it denied that it has exceeded the benchmark in violation of Section 61.26.⁷

2. On September 20, 2018 the parties jointly filed a motion to dismiss the Complaint.⁸ In the Motion, the parties state that they have resolved the disputes giving rise to the Complaint and request that the Complaint be dismissed with prejudice.⁹

3. We are satisfied that granting the Motion will serve the public interest by promoting the private resolution of disputes and eliminating the need for further litigation and the expenditure of additional time and resources of the parties and this Commission.

4. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 201(b) and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201(b) and 208, and the authority delegated in sections 0.111, 0.311, and 1.720 - 1.736 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, and 1.720 - 1.736, that the Motion is GRANTED, and that the Complaint in this proceeding is DISMISSED with prejudice.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary H. McEnery
Chief
Market Disputes Resolution Division
Enforcement Bureau

⁶ See 47 CFR § 61.26(b).

⁷ Birch Communications, LLC Answer to Formal Complaint of CenturyLink and Level 3, Docket No. 18-73, File No. EB-18-MD-002 (filed Apr. 23, 2018) (Answer).

⁸ Joint Motion to Withdraw and Dismiss Formal Complaint, Docket No. 18-73, File No. EB-18-MD-002 (filed Sept. 20, 2018) (Motion).

⁹ Motion at 1-2.