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Before the  
FEDERAL COMMUNICATIONS COMMISSION      FCC 95M-185  
Washington, D.C. 20554

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In ~~DISPATCHED BY~~ )

CC Docket No. 95-84

TCA Management Co.; Teleservice )  
Corporation of America; and TCA )  
Cable of Amarillo, Inc )

Complainants, )

v. )

PA 90-0002

Southwestern Public Service )  
Company, )

Respondent

MEMORANDUM OPINION AND ORDER

Issued: August 24, 1995 ; Released: August 28, 1995

1. Under consideration are a Motion for Entry of Stipulated Order, filed on August 16, 1995, by TCA Management Co., Teleservice Corporation of America, and TCA Cable of Amarillo, Inc. (collectively "Complainants"), and Southwestern Public Service Company ("Southwestern"); a Settlement Agreement, filed on August 16, 1995, entered into by Complainants and Southwestern; and Comments on Motion for Entry of Stipulated Order, filed on August 21, 1995, by the Common Carrier Bureau ("Bureau").

2. Complainants and Southwestern have entered into a Settlement Agreement which has been submitted for approval. Among other things, the Agreement provides that: (a) Complainants will pay a flat rate of \$3.23 for all of their communications attachments, with adjustments for accumulated changes in the Consumer Price Index, from January 1, 1995, through December 31, 2004; (b) neither Complainants nor Southwestern will change or challenge this rate during the term of the Agreement regardless of Commission rules or changes therein; (c) Southwestern will refund to Complainants \$141,618.07; (d) neither Complainants nor Southwestern will file any pole attachment complaint with the Commission with respect to the agreed upon pole attachment rates; (e) Complainants and Southwestern have agreed that the Agreement is a compromise settlement of disputed claims and is not to be construed as an admission of liability by either party; and (f) Complainants and Southwestern have agreed that the Agreement does not affect their present or future participation in any rulemaking or similar non-complaint proceeding related to pole attachment rates. The Bureau supports a grant of the Motion and approval of the Settlement Agreement.

3. The Motion for Entry of Stipulated Order will be granted and the Settlement Agreement approved. Suffice it to say, the pole attachment rate agreed upon appears just and reasonable, and the approval of the Settlement agreement is in the public interest. In this connection, it is noted that the Commission encourages negotiations and mutually agreeable settlements in complaint cases, since eliminating the need for further litigation and the

expenditure of the time and resources of the Commission is in the public interest. See, e.g., Longview Cable TV Company, Inc., et al. v. Southwestern Electric Power Company, 5 FCC Rcd 686 (1990); Warner Amex Cable Communications, Inc. v. Southwestern Electric Power Company, 5 FCC Rcd 578 (1990). Finally, since there no longer appears to be any issue remaining for determination at the hearing, the above captioned complaint will be dismissed and this proceeding will be terminated.

Accordingly, IT IS ORDERED that the Motion for Entry of Stipulated Order, filed by Complainants and Southwestern on August 16, 1995, IS GRANTED.

IT IS FURTHER ORDERED that the Settlement Agreement, filed August 15, 1995, entered into by Complainants and Southwestern, IS APPROVED.

IT IS FURTHER ORDERED that the above captioned complaint IS DISMISSED with prejudice.

IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



Arthur I. Steinberg  
Administrative Law Judge