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

In the Matter of

AT&T COMMUNICATIONS Revisions to Tariff F.C.C. Nos. 9 and 11 — Transmittal Nos. 1359 and 1456

Private Line Educational Television Service

ORDER

Adopted: January 5, 1989; Released: January 6, 1989

By the Chief, Common Carrier Bureau:

1. On September 23, 1988, AT&T Communications (AT&T) filed the above-captioned proposed revisions to modify AT&T Tariff F.C.C. Nos. 9 and 11 as they pertain to the private line educational television (ETV) service provided to seven public television users, and for other purposes. On October 14, 1988,[1] six of these users filed three separate petitions to reject or, in the alternative, to suspend and investigate these revisions.[2] On that same date, the National Association of Public Television Stations (NAPTS) filed comments in support of these petitions. AT&T filed its reply on October 21, 1988. The proposed revisions are currently scheduled to take effect January 8, 1989.

2. Under these revisions, AT&T plans to increase various private line rates that it charges these ETV users. In particular, AT&T proposes increases in existing charges for interoffice channels (IOCs), the application of access coordination function (ACF) charges and central office connection (COC) charges to ETV users as well as commercial private line users, and the imposition of new charges for local channels (LCs) provided entirely by AT&T. Under the current proposal, AT&T will increase the IOC charges and implement the new LC charges in four stages with the first increase effective on July 1, 1989, and the last increase effective on that same date in 1990. Also under that proposal the new COC and ACF charges will become effective on July 1, 1989.

3. The petitioners raise a number of objections to these revisions. They generally object to the magnitude of the proposed increases, the extent of notice provided by AT&T, and an alleged failure to comply with Section 396(h) of the Communications Act, 47 U.S.C. § 396(h). EEN Petition at 10-13, 16-17; Georgia Petition at 5-6, 9-10; Iowa/Nebraska Petition at 5, 17-19. More specifically, they challenge AT&T's calculation of the proposed rates on various grounds. On the basis of these factors, petitioners ask the Bureau to reject these revisions as unjust, unreasonable, and therefore unlawful under Section 201 of the Communications Act, 47 U.S.C. § 201.

4. In its reply, AT&T addresses these objections. With regard to the magnitude of these changes, AT&T notes that the increases could have been larger and that it has attempted to mitigate their impact by a phase-in. AT&T Reply at 1-2, 4-5, 7. AT&T also notes that the size of a rate increase is not a basis for rejection or suspension of a tariff. *Id.* at 3. On the issue of notice, AT&T notes that in a January 1987 transmittal, it notified ETV users that it planned to file further increases and that the current transmittal represents such an increase. *Id.* at 5-6. The carrier also notes that it is phasing in these increases to provide ETV users with additional time to modify their budgets. With regard to Section 396(h), AT&T notes that its language and subsequent Commission Orders do not require that public broadcasters be provided with free service or reduced rates but they simply authorize such relief in the discretion of the carrier. *Id.* at 3-5.

5. With regard to the calculation of these proposed rates, AT&T states that while the Commission has authorized but not required an incremental cost approach in setting such rates, AT&T in fact uses such an approach in establishing and changing ETV rates. *Id.* at 6-8. Accordingly, AT&T claims that these revised rates are based on the incremental costs of providing existing ETV service alone and that AT&T is not charging increased rates to ETV users based upon its aggregate investment and expenses for all private line services. Thus, AT&T contends, ETV customers will not be subsidizing general private line or any other services. *Id.* at 9-10. With regard to the contention of some petitioners that their facilities are different, of lesser quality, or are not as well maintained as the facilities of others, AT&T notes, first, that since no ETV users have sought upgraded facilities since divestiture, no one such user is likely to have significantly better facilities than another. Second, AT&T asserts that it provides service, not facilities, to its ETV customers and that the service it does provide to each of these customers is alike in all "material functional respects." *Id.* at 10 n.*.

6. The Common Carrier Bureau has reviewed the tariff transmittals and the various pleadings and comments. We conclude that no compelling argument has been presented that the current tariff proposal is patently unlawful so as to require rejection and that no question has been presented that warrants suspension or investigation at this time.

7. IT IS THEREFORE ORDERED that the three petitions to reject or, in the alternative, to suspend and investigate AT&T Communications Tariff F.C.C. Nos. 9 and 11, Transmittal No. 1359, filed by the Eastern Educational Television Network, Inc., Maryland Public Television, and Louisiana Educational Television Authority, by the Georgia Public Telecommunications Commission, and by the Iowa Public Broadcasting Board and the Nebraska Educational Telecommunications Commission ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

FOOTNOTES

[1] *See* AT&T Communications, Order, DA 88-1600, released Oct. 11, 1988 (extending due date for petitions against the proposed revisions).

[2] The three petitions were filed by the EEN Group, consisting of Eastern Educational Television Network, Inc., Maryland Center for Public Broadcasting, and Louisiana Educational Television Authority (EEN Petition), by the Georgia Public Telecommunications Commission (Georgia Petition), and jointly by the Iowa Public Broadcasting Board and the Nebraska Educational Telecommunications Commission (Iowa/Nebraska Petition).