

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

US LEC of Virginia L.L.C.,	)	
	)	
Complainant,	)	
	)	
v.	)	File No. EB-02-MD-035
	)	
Verizon Virginia Inc.,	)	
	)	
Defendant.	)	

**ORDER**

**Adopted: December 12, 2002**

**Released: December 13, 2002**

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

1. On September 5, 2002, US LEC of Virginia, L.L.C. (“US LEC”) filed with this Commission a formal complaint against Verizon Virginia, Inc. (“Verizon”) pursuant to section 252(e)(5) of the Communications Act of 1934, as amended (the “Act”),<sup>1</sup> and sections 1.720-1.736 of the Commission’s rules.<sup>2</sup> The complaint alleges, among other things, that Verizon has unlawfully failed to fulfill its obligations under the parties’ interconnection agreement to make payments relating to the exchange of certain traffic.<sup>3</sup> Verizon filed its answer denying these obligations on September 25, 2002.<sup>4</sup>

2. On December 4, 2002, the parties filed a Joint Motion to Convert Case requesting that the Commission convert US LEC’s formal complaint into an informal complaint as defined by section 1.716 of the Commission’s rules, 47 C.F.R. § 1.716.<sup>5</sup> In addition to this request, the parties asked that the filing date of the informal complaint be deemed September 5, 2002, which is the filing date of the formal complaint, and that the Commission extend the six-month period within which the informal complaint must be converted to a formal complaint under sections 1.717-18 of the Commission’s rules, 47 C.F.R. §§

<sup>1</sup> 47 U.S.C. § 252(e)(5). *See US LEC of Virginia, LLC Petition for Preemption of Jurisdiction of the Virginia State Corporation Commission Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996*, Memorandum Opinion and Order, 17 FCC Rcd 1409 (Com. Car. Bur. rel. Jan. 22, 2002).

<sup>2</sup> 47 C.F.R. §§ 1.720-1.736.

<sup>3</sup> Formal Complaint, File No. EB-02-MD-035 (filed Sept. 5, 2002).

<sup>4</sup> Amended Answer, File No. EB-02-MD-035 (filed Sept. 25, 2002).

<sup>5</sup> Joint Motion to Convert Case, File No. EB-02-MD-034 (filed Dec. 4, 2002) (“Joint Motion”).

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1.717-18, to November 1, 2003 (the “Conversion Date”).<sup>6</sup> Moreover, the parties requested that either party or the Commission on its own motion may, upon a showing of good cause, move for an extension of the Conversion Date. The parties also requested that the Commission waive those portions of sections 1.717-18 of the Commission’s rules, 47 C.F.R. §§ 1.717-18, that require US LEC to file a formal complaint in the form specified in section 1.721 of the Commission’s rules, 47 C.F.R. § 1.721, in order for the filing of such formal complaint to be deemed to relate back to the filing date of the informal complaint;<sup>7</sup> in other words, the parties requested an order indicating that, on or before November 1, 2003, either party may re-convert the informal complaint to a formal complaint by simply filing and serving a motion requesting such action, rather than filing an entirely new formal complaint.<sup>8</sup>

3. We are satisfied that granting the Joint Motion to Convert Case will serve the public interest by promoting the efficient and orderly management and resolution of complaint proceedings, and by postponing the need for further litigation and expenditure of further time and resources of the parties and of this Commission until such time as may actually be necessary.

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.3, 1.716-18, and 1.720-1.736 of the Commission’s rules, 47 C.F.R. §§ 1.3, 1.716-18, 1.720-36, and the authority delegated in sections 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, that the Joint Motion to Convert Case IS GRANTED.

5. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.3, 1.716-18, and 1.720-1.736 of the Commission’s rules, 47 C.F.R. §§ 1.3, 1.716-18, 1.720-36, and the authority delegated in sections 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, that US LEC’s formal complaint be converted to an informal complaint with a designated filing date of September 5, 2002, and that the formal complaint and answer filed in the above-captioned proceeding satisfy sections 1.716-17 of the Commission’s rules, 47 C.F.R. §§ 1.716-17.

6. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.3, 1.716-18, and 1.720-1.736 of the Commission’s rules, 47 C.F.R. §§ 1.3, 1.716-18, 1.720-36, and the authority delegated in sections 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, that the file number for the informal complaint is EB-02-MDIC-0091.

7. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.3, 1.716-18, and 1.720-1.736 of the Commission’s rules, 47 C.F.R. §§ 1.3, 1.716-18, 1.720-36, and the authority delegated in sections 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, that the docket established in the above-captioned formal complaint proceeding shall be transferred in its entirety to the newly established informal complaint docket.

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<sup>6</sup> Joint Motion at 1.

<sup>7</sup> Joint Motion at 2.

<sup>8</sup> *Id.*

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8. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.3, 1.716-18, and 1.720-1.736 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.716-18, 1.720-36, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the period within which the informal complaint may be converted to a formal complaint under sections 1.717-18 of the Commission's rules, 47 C.F.R. §§ 1.717-18, shall end on November 1, 2003, unless extended by further order.

9. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.3, 1.716-18, and 1.720-1.736 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.716-18, 1.720-36, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that, on or before November 1, 2003, either party may move to re-convert the informal complaint to a formal complaint by filing and serving a motion requesting that the informal complaint proceeding and its entire docket be re-converted to a formal complaint proceeding.

10. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.3, 1.716-18, and 1.720-1.736 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.716-18, 1.720-36, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that either party, or the Commission on its own motion, may, upon a showing of good cause, move for an extension of the November 1, 2003 re-conversion date.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr  
Chief, Market Disputes Resolution Division  
Enforcement Bureau