

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

In the Matter of
WORLD COM, INC.
Complainant,
v.
VIRGIN ISLANDS TELEPHONE CORPORATION
d/b/a INNOVATIVE TELEPHONE
Defendant.
EB-01-MDIC-1158

ORDER

Adopted: January 8, 2002

Released: January 9, 2002

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

1. On September 28, 2001, pursuant to section 1.716 of the Commission's rules, 47 C.F.R. § 1.716, WorldCom, Inc. ("WorldCom") filed an informal complaint against Virgin Islands Telephone Corporation d/b/a Innovative Telephone ("Vitelco").1 WorldCom alleges that Vitelco has violated the Communications Act of 1934, as amended ("the Act"), and the Commission's rules regarding the maximum allowable rate-of-return for local exchange carriers in 47 C.F.R. § 65.700 et seq. According to a proposed order attached to a joint motion filed by the parties on October 11, 2001, "Vitelco is expected to respond to the complaint by denying all of the allegations in the complaint and claiming it has no liability to WorldCom."2

2. WorldCom's claims are in key respects similar to claims presented by General Communications, Inc. ("GCI") in a formal complaint on which the Commission ruled in favor of the complainant.3 That ruling is now under review by the U.S. Court of Appeals for the District

1 Informal Complaint of WorldCom, Inc. Against Virgin Islands Telephone Corporation d/b/a Innovative Telephone, EB-01-MDIC-1158 (filed Sept. 28, 2001).

2 See Proposed Order at 1 submitted with Joint Motion of WorldCom, Inc. and Virgin Islands Telephone Corporation d/b/a Innovative Telephone Regarding Procedure for Response of Informal Complaint (filed Oct. 11, 2001) ("Joint Motion").

3 General Communications, Inc. v. Alaska Communications Systems Holdings et al., EB-00-MD-016, Memorandum Opinion and Order, 16 FCC Rcd 2834 (2001) ("GCI Order").

of Columbia Circuit (“D.C. Circuit”).⁴

3. Because the outcome of that appeal is likely to affect the resolution of WorldCom’s informal complaint, and to conserve the resources of the parties and the Commission, the parties submitted a joint motion on October 11, 2001, proposing that the Commission require Vitelco not to respond to WorldCom’s informal complaint until ninety (90) days after the D.C. Circuit’s decision on the merits in ACS of Anchorage, Inc. v. FCC, Case No. 01-1059, has become final and appellate remedies have been exhausted.⁵

4. We are satisfied that granting this joint request, as modified, regarding Vitelco’s filing obligation will serve the public interest. The approach the Parties have proposed will fully protect both WorldCom’s and Vitelco’s rights, conserve private and public resources, and cause no injury to other parties. We note that our standard procedure is to allow defendant carriers approximately 30 days from the date we transmit the complaint to file a response. The Joint Motion asks that the Enforcement Bureau “direct Vitelco that it not respond to WORLDCOM’s informal complaint *until ninety (90) days after a decision on the merits*” by the D.C. Circuit in ACS of Anchorage, Inc. v. FCC, Case No. 01-1059, has become final and appellate remedies have been exhausted.⁶ Given the language contained in the Joint Motion, we direct Vitelco to file its response no sooner than ninety (90) days after the D.C. Circuit’s decision on the merits in ACS of Anchorage, Inc. v. FCC, Case No. 01-1059, has become final and appellate remedies have been exhausted, but no later than one hundred and twenty (120) days after the D.C. Circuit’s decision on the merits in ACS of Anchorage, Inc. v. FCC, Case No. 01-1059, has become final and appellate remedies have been exhausted.

5. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 154(j), 208 and the authority delegated by sections 0.111, 0.311, 1.717, and 1.718 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, 1.717, and 1.718, that Vitelco respond to WorldCom’s informal complaint no sooner than ninety (90) days after the D.C. Circuit’s decision on the merits in ACS of Anchorage, Inc. v. FCC, Case No. 01-1059, has become final and appellate remedies have been exhausted, but no later than one

⁴ ACS of Anchorage, Inc. v. FCC, Case No. 01-1059 (D.C. Cir. Filed Feb. 7, 2001).

⁵ Joint Motion at 1, 4.

⁶ Joint Motion at 4 (emphasis added).

hundred and twenty (120) days after the D.C. Circuit's decision on the merits in ACS of Anchorage, Inc. v. FCC, Case No. 01-1059, has become final and appellate remedies have been exhausted.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr
Chief
Market Disputes Resolution Division
Enforcement Bureau