

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)	
)	
Indiana Paging Network, Inc.)	
)	
Complainant,)	
)	
v.)	File No. IC-98-53310
)	
Indiana Bell Telephone Company, an)	
SBC/Ameritech Operating Company,)	
Verizon,)	
BellSouth of Indiana,)	
Sprint Corporation and)	
Rochester Telephone Company,)	
)	
Defendants.)	

ORDER

Adopted: April 22, 2002

Released: April 23, 2002

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

1. On December 17, 1998, Indiana Paging Network, Inc. ("Indiana Paging") filed informal complaints with the Commission against Indiana Bell Telephone Company, an SBC/Ameritech operating company ("SBC/Ameritech"), Verizon (then GTE of Indiana), BellSouth of Indiana ("BellSouth"), Sprint Corporation ("Sprint") and Rochester Telephone Company ("RTC").

2. Under the FCC's complaint rules, Indiana Paging was required to file a formal complaint within six months of each LEC response to its informal complaint in order to have the formal complaint relate back to the date the informal complaint was filed.¹ However, on October 18, 1999, Indiana Paging filed a request for waiver of the six-month requirement, arguing that the issues raised in its informal complaints were similar to those raised in several pending formal complaint proceedings,² and that the public interest would be served by allowing Indiana Paging to delay the filing of its formal complaints until after at least one of those formal complaint

¹ See 47 C.F.R. § 1.718.

² See, e.g., Formal Complaints of Metrocall, Inc., File Nos. E-98-14 through E-98-18 (filed January 20, 1998).

proceedings was concluded. The FCC's Enforcement Bureau granted Indiana Paging's request for waiver on June 2, 2000, and established the time for filing formal complaints in this proceeding to be 90 days after the entry of a final non-appealable order in at least one of the identified formal complaint proceedings.³

3. The Commission issued the *TSR Wireless Order* on June 21, 2000, which resolved liability issues in five of the pending formal complaint proceedings.⁴ The United States Court of Appeals for the D.C. Circuit upheld the Commission's decision on June 15, 2001.⁵ The Court of Appeals' decision became final and non-appealable ninety days after it was issued (upon expiration of the period in which to file a writ of certiorari),⁶ and adding another ninety days as provided in the *Extension Order* made the date for filing Indiana Paging's formal complaint December 12, 2001.

4. On December 7, 2001, Indiana Paging filed a first Petition for Extension of Time requesting that we waive section 1.718 of the Commission's rules to allow Indiana Paging an additional thirty day period from December 12, 2001, to convert the informal complaints into formal complaints. Indiana Paging stated that it had been actively engaged in settlement discussions to resolve the matters at issue in its informal complaint proceedings and that the thirty day extension would facilitate settlement efforts. SBC/Ameritech, Verizon, BellSouth, Sprint and RTC all consented to the Petition, and we granted it on December 17, 2001.⁷ Our order specified that the time for conversion of the informal complaints into formal complaints was extended from December 12, 2001, to January 11, 2002.

5. On January 8, 2002, Indiana Paging filed a Petition for Additional Extension of Time, requesting another thirty day extension of time (from January 11 to February 11, 2002) for converting its informal complaints into formal complaints. Indiana Paging stated that it had made substantial progress in settlement discussions with the defendant carriers. Further, all parties consented to the requested extension. Accordingly, we granted the Petition for Additional Extension of Time.⁸

6. On February 8, 2002, Indiana Paging filed a Partial Withdrawal of Informal Complaint and Petition for Additional Extension of Time.⁹ Indiana Paging indicated that it had

³ See *Indiana Paging Network, Inc., Order*, 15 FCC Rcd 9436 (Enf. Bur. 2000) (waiving Section 1.718(a) of the Commission's rules, which requires that a formal complaint be filed within six months of an associated informal complaint) ("*Extension Order*").

⁴ See *TSR Wireless, LLC, et al. v U S West Communications, Inc, et al., Memorandum Opinion and Order*, 15 FCC Rcd 11166 (2000) ("*TSR Wireless Order*"), *aff'd Qwest Corp., et al. v. FCC*, No 00-1377 (D.C. Cir. June 15, 2001).

⁵ *Id.*

⁶ In the interim, the petitioners filed a petition for rehearing *en banc* that was denied.

⁷ See *Indiana Paging Network, Inc., Order*, DA 01-2910 (rel. Dec. 17, 2001).

⁸ See *Indiana Paging Network, Inc., Order*, DA 02-104 (rel. Jan. 15, 2002).

⁹ Partial Withdrawal of Informal Complaint and Petition for Additional Extension of Time, File No. IC-98-53310 (filed Feb. 8, 2002) ("Petition").

resolved its dispute with BellSouth and was, therefore, withdrawing its informal complaint against that defendant.¹⁰ Further, Indiana Paging indicated that it had agreed to settlement terms with three of the four remaining defendants and had made substantial progress in settlement discussions with the fourth defendant.¹¹ Accordingly, Indiana Paging requested that we extend the deadline for conversion of its informal complaints into formal complaints from February 11, 2002 to March 13, 2002. All parties consented to the requested extension, and we granted it on February 13, 2002.¹²

7. On March 13, 2002, Indiana Paging filed another Partial Withdrawal of Informal Complaint and Petition for Additional Extension of Time.¹³ Indiana Paging stated that it had resolved its dispute with Sprint and RTC and was, therefore, withdrawing its informal complaints against those defendants.¹⁴ Further, Indiana Paging indicated that it was on the verge of executing settlement agreements with the remaining two carriers, SBC/Ameritech and Verizon.¹⁵ Accordingly, Indiana Paging requested that we extend the deadline for conversion of informal complaints into formal complaints from March 13, 2002 to April 12, 2002. The remaining two defendants, SBC/Ameritech and Verizon, consented to this extension and we granted it on March 26, 2002.¹⁶

8. On April 12, 2002, Indiana Paging filed the pending Petition Additional Extension of Time.¹⁷ Further, on April 19, 2002, Indiana Paging filed a Partial Withdrawal of Informal Complaint, withdrawing its complaint against SBC/Ameritech, because the parties have settled their dispute.¹⁸ Thus, Indiana Paging currently has a dispute with only one remaining defendant, Verizon. Indiana Paging's present petition states that its settlement agreement with Verizon is nearly complete.¹⁹ Accordingly, Indiana Paging requests that we extend the deadline for conversion of its informal complaint into a formal complaint against Verizon from April 12, 2002 to May 13, 2002. Verizon consents to this extension.²⁰ We are satisfied that granting Indiana Paging's petition will serve the public interest by promoting the private resolution of

¹⁰ *Id.* at 4-5.

¹¹ *Id.*

¹² *See* Indiana Paging Network, Inc., *Order*, DA 02-323 (rel. Feb. 13, 2002).

¹³ Partial Withdrawal of Informal Complaint and Petition for Additional Extension of Time, File No. IC-98-53310 (filed Mar. 13, 2002).

¹⁴ *Id.* at 1.

¹⁵ *Id.*

¹⁶ *See* Indiana Paging Network, Inc., *Order*, DA 02-707 (rel. Mar. 26, 2002).

¹⁷ Petition for Additional Extension of Time, File No. IC-98-53310 (filed Apr. 12, 2002) ("April 12 Petition").

¹⁸ Partial Withdrawal of Informal Complaint, File No. IC-98-53310 (filed Apr. 19, 2002).

¹⁹ April 12 Petition at 4.

²⁰ *Id.* at 5.

disputes 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.

9. 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 and 1.718 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.718, 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 Partial Withdrawal of Informal Complaint and the Petition for Additional Extension of Time filed by Indiana Paging Network, Inc. ARE GRANTED.

10. IT IS FURTHER ORDERED that, unless otherwise extended by order, the deadlines that would otherwise apply under section 1.718 of our rules, 47 C.F.R. § 1.718, are hereby waived, and the date on which Indiana Paging must convert its informal complaint into a formal complaint against Verizon pursuant to section 1.718 of our rules, 47 C.F.R. § 1.718, is extended to May 13, 2002.

FEDERAL COMMUNICATIONS COMMISSION

Radhika V. Karmarkar
Deputy Chief, Market Disputes Resolution Division
Enforcement Bureau