

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

Dr. Bonnie O'Day,	)	
	)	
Complainant,	)	
	)	
v.	)	File Nos.
	)	
Audiovox Communications Corporation	)	EB-03-TC-F-004
	)	
and	)	
	)	
Cellco Partnership, d/b/a Verizon Wireless,	)	EB-03-TC-F-001
	)	
Defendants.	)	

**ORDER**

Adopted: April 11, 2003

Released: April 14, 2003

By the Chief, Telecommunications Consumers Division, Enforcement Bureau:

1. On February 21, 2003, Dr. Bonnie O'Day ("O'Day" or "Complainant") filed a formal complaint alleging, among other things, that many of the features of a wireless telephone developed by Audiovox Communications Corporation and Cellco Partnership d/b/a Verizon Wireless ("Defendants") are inaccessible to blind or visually-impaired users. In a Notice of Formal Complaint issued on February 28, 2003, the Telecommunications Consumers Division ("Division") set forth a pleading cycle for the O'Day formal complaint proceeding.<sup>1</sup> On March 13, 2003, in response to a joint motion filed by the Defendants, the Division slightly modified the pleading schedule for the proceeding.<sup>2</sup>

2. On April 7, 2003, the Complainant filed an "Unopposed Motion for Limited Modification of the Procedural Schedule" ("Motion"), requesting that the pleading cycle established in the *March 13 Order* be extended by one week to afford her the opportunity to

respond to Defendants' Answers, Audiovox's Motion to Dismiss, and to meet other deadlines in the proceedings.<sup>3</sup>

<sup>1</sup> See O'Day v. Audiovox Communications Corporation and Verizon Wireless, Notice of Formal Complaint, dated February 28, 2003. The Notice inadvertently omitted the second file number for these proceedings; both file numbers are set out in the caption to this Order.

<sup>2</sup> See O'Day v. Audiovox Communications Corporation & Cellco Partnership, d/b/a Verizon Wireless, Order, DA 03-767, rel. Mar. 13, 2003 ("*March 13 Order*").

3. We are satisfied that granting the Complainant's unopposed Motion will serve the public interest by promoting the development of a complete record in this proceeding, without harming any of the parties involved. We therefore set out the following modified procedural schedule and instructions to the parties:

- 1) The Complainant shall, on or before April 18, 2003, file and serve a reply to the answer that complies with 47 C.F.R. § 1.726.
- 2) The Complainant shall, on or before April 18, 2003, file and serve its request for up to fifteen (15) interrogatories upon each of the Defendants, and file and serve any opposition and objections to defendants' request for interrogatories, if any. 47 C.F.R. § 1.729.
- 3) The Complainant shall, on or before April 18, 2003, file and serve its Opposition to Defendant Audiovox's Motion to Dismiss filed on April 2, 2003. We note that defendant Audiovox has waived any timeliness objections to Complainant's filing of its Opposition on April 18, 2003.
- 4) The Defendants shall, on or before April 25, 2003, file any opposition and objections to the Complainants' request for interrogatories, if any. 47 C.F.R. § 1.729.
- 5) We note that Complainant has waived any timeliness objection to Defendant Audiovox's filing of a Motion to Compel with respect to Complainant's response to Audiovox's "First Interrogatory" in this proceeding.
- 6) An initial status conference in this proceeding has been scheduled for May 1, 2003, at 10:00 a.m., in the Third Floor North Conference Room (Room 3-B112) of the Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. After reaching the 3<sup>rd</sup> Floor-North elevator lobby, the parties should call Amy Goodman at 418-1549 to be escorted to the conference room. See 47 C.F.R. § 1.733. Counsel should be prepared to spend at least two hours in conference.
- 7) The parties shall meet prior to attending the initial status conference. One purpose of that meeting is to resolve or narrow as many issues as possible prior to the conference. The parties shall discuss matters including, but not limited to, settlement prospects, discovery, factual and legal issues in dispute, pleading schedules, and the creation of a joint statement of stipulated facts, disputed facts, and key legal issues. See 47 C.F.R. § 1.733(b)(1).
- 8) The parties shall file with the Commission Secretary and the Commission counsel (Amy Goodman) a joint statement of all proposals agreed to and any disputes remaining with respect to the matters listed in 47 C.F.R. § 1.733(b)(1)(i)-(iv) as a

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<sup>3</sup> A conference call had been held on April 4, 2003, to discuss Complainant's request. In her Motion, the Complainant states that the one-week extension would apply to paragraphs 3 through 9 of the Division's *March 13 Order*. Motion at 2. The Complainant further states that the parties have agreed to waive challenges to the timeliness of pleadings filed in accordance with Complainant's Motion. *Id.*

result of the parties' meeting. At the same time, the parties also shall submit a joint statement of stipulated facts, disputed facts, and key legal issues. *See* 47 C.F.R. §§ 1.732(h), 1.733(b)(1)(v), 1.733(b)(2). Both joint statements must be hand-delivered (if counsel is located in the Washington, D.C. area), faxed, and e-mailed to the Commission counsel, and filed with the Commission Secretary, on or before April 25, 2003. *See* 47 C.F.R. § 1.733(b)(2). The parties may submit these two joint statements in a single document, as long as each is separately identified therein. We strongly encourage the parties to devote substantial effort to developing comprehensive and detailed joint statements. *See Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as enacted by the Telecommunications Act of 1996; Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities*, 16 FCC Rcd 6417, 5696-97 (1999) ("Section 255 Order").

- 9) The parties shall review the formal complaint rules carefully to determine whether the circumstances of this proceeding require that any additional pleadings, other than those described herein, must be served and filed prior to the initial status conference. *See, e.g.*, 47 C.F.R. §§ 1.726 (replies), 1.729 (discovery).

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), 208, and 255 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, 255, section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, 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 Unopposed Motion of Complainant for Limited Modification of the Procedural Schedule IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Colleen K. Heitkamp  
Chief, Telecommunications Consumers Division  
Enforcement Bureau