

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

In the Matter of	)	
	)	
Informal Complaints Filed By	)	
Independent Payphone Service	)	File Nos. IC-98-42853, et al.
Providers Against Various	)	
Local Exchange Carriers	)	
Seeking Refunds Of End User	)	
Common Line Charges	)	

**ORDER**

**Adopted:** June 18, 2003

**Released:** June 19, 2003

By the Chief, Enforcement Bureau:

1. In this Order, we extend the deadline for converting End User Common Line (“EUCL”) informal complaints that are covered by the Common Carrier Bureau’s Order of September 10, 1999,<sup>1</sup> into formal complaints.<sup>2</sup> In these informal complaints, independent payphone providers (“IPPs”) allege that the defendant local exchange carriers (“LECs”) improperly assessed EUCL charges, in violation of the Commission’s rules and sections 201(b) and 202(a) of the Communications Act, as amended (the “Act”).<sup>3</sup> In the *First Waiver Order*, the Common Carrier Bureau determined that the period for converting the informal complaints to formal complaints would be extended to three months after a final nonappealable order had been entered in a pending complaint proceeding.<sup>4</sup> For reasons of administrative efficiency and due to ongoing settlement discussions, the staff further extended the deadline for conversion of these informal complaints into formal complaints.<sup>5</sup> Pursuant to the most recent Enforcement Bureau order, informal complaints

<sup>1</sup> *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 16 FCC Rcd 3669 (CCB 1999) (“*First Waiver Order*”).

<sup>2</sup> Ordinarily, section 1.718 requires that a formal complaint must be filed with six months of the carrier’s response to the informal complaint if the formal complaint is to relate back to the filing of the informal complaint. See 47 C.F.R. § 1.718(a).

<sup>3</sup> 47 U.S.C. §§ 201(b) and 202(a); 47 C.F.R. §§ 69.1 *et seq.*

<sup>4</sup> See *First Waiver Order*, 16 FCC Rcd at 3672, ¶ 8. A final nonappealable order has been entered in that proceeding. See *Verizon Telephone Companies, et al. v. FCC*, 269 F.3d 1098 (D.C. Cir. 2001).

<sup>5</sup> See *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 17 FCC Rcd 2115 (EB 2002) (“*Second Waiver Order*”); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 17 FCC Rcd 14759 (EB 2002) (“*Third Waiver Order*”).

were required to be converted by June 30, 2003, to benefit from the relation back rule outlined in section 1.718.<sup>6</sup>

2. On November 19, 2002, the Commission ruled on certain liability issues in thirteen formal complaints that raised many issues similar to those raised in the pending informal complaints.<sup>7</sup> The Commission's resolution of the legal issues in the *Liability Order* may facilitate the settlement of the pending informal complaints. Moreover, the parties to the thirteen formal complaints have petitioned the United States Court of Appeals for the District of Columbia to review the Commission's *Liability Order*,<sup>8</sup> and we anticipate that a ruling from the Court in that matter will affect any future EUCL proceedings. Accordingly, we now extend to June 30, 2004, the filing deadline for the conversion of these EUCL informal complaints into formal complaints. Because this extension will facilitate the possible settlement of these numerous claims and allow the parties to await the Court's review of the *Liability Order*, we are satisfied that our action today serves the public interest.

3. 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, section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that section 1.718(a) of the Commission's rules, 47 C.F.R. § 1.718(a), IS HEREBY WAIVED, with regard to the IPP EUCL informal complaints described herein and the deadline for the conversion and filing of these informal complaints into formal complaints is hereby extended to June 30, 2004. This waiver is effective as of the release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>6</sup> *Third Waiver Order*, 17 FCC Rcd 14759 (EB 2002).

<sup>7</sup> *See Communications Vending Corporation of Arizona, Inc., et al. v. Citizens Communications Company f/k/a Citizens Utility Company and Citizens Telecommunications Company d/b/a Citizens Telecom, et al.*, Memorandum Opinion and Order, 17 FCC Rcd 24201 (2002) ("*Liability Order*").

<sup>8</sup> *Communications Vending Corporation of Arizona, Inc., et al. v. Federal Communications Commission, et al.*, No. 02-1364, consolidated with No. 03-1010, 03-1012 (D.C. Cir. filed Nov. 26, 2002, Jan. 14, 2003, Jan. 17, 2003).