

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

Qwest Corporation,)	
)	
Complainant,)	
)	
v.)	File No. EB-02-MDIC-0038
)	
Cable & Wireless USA, Inc., and)	
U.S. South Communications, Inc.,)	
)	
Defendants.)	

ORDER

Adopted: January 10, 2003

Released: January 13, 2003

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

1. On June 11, 2002, pursuant to section 1.716 of the Commission rules,¹ Qwest Corporation (“Qwest”) filed an informal complaint against defendants Cable & Wireless USA, Inc. (“C&W”) and U.S. South Communications, Inc. (“U.S. South”) in the above-captioned matter.² U.S. South and C&W filed reports pursuant to section 1.717 of the Commission’s rules³ on July 12, 2002 and July 15, 2002, respectively, denying the allegations in Qwest’s Informal Complaint.⁴ Pursuant to section 1.718 of the Commission’s rules,⁵ Qwest must convert its Informal Complaint into a formal complaint within six months of the date of U.S. South’s and C&W’s reports to ensure that the formal complaint relates back to the June 11, 2002 filing date of the Informal Complaint for statute of limitations purposes.

¹ 47 C.F.R. § 1.716.

² Letter from Aimee Jimenez, Counsel for Qwest Corporation, to David Solomon, Chief, Enforcement Bureau, FCC (filed June 11, 2002) (“Informal Complaint”).

³ 47 C.F.R. § 1.717.

⁴ Letter from Neil S. Ende, Counsel for U.S. South Communications, Inc., to David Solomon, Chief, Enforcement Bureau, FCC, File No. EB-02-MDIC-0038 (filed July 12, 2002). Letter from Keith U. Kuder, Counsel for Cable & Wireless USA, Inc., to Faye Jeter-Bragg, Paralegal Specialist, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-02-MDIC-0038 (filed July 15, 2002).

⁵ 47 C.F.R. § 1.718.

2. Since the filing of the Informal Complaint, Qwest has sought to resolve the outstanding issues with C&W and U.S. South.⁶ Both defendants have expressed an interest in resolving this dispute outside the context of formal litigation, and Qwest requested that Commission staff assist the parties through staff supervised mediation.⁷ Although the parties have been unable to schedule a mediation session, Qwest believes that a tentative agreement resolving this matter could be achieved within 30 days without filing a formal complaint.⁸ Accordingly, Qwest requests a waiver of section 1.718 of the Commission's rules and an extension of time until February 14, 2003 to convert its Informal Complaint against C&W and U.S. South into formal complaints, if necessary.⁹ Counsel for U.S. South has consented to Qwest's request.¹⁰

3. We are satisfied that granting Qwest's consent motion will serve the public interest by promoting the private resolution of 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.

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 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 Qwest Corporation's Request for waiver of Rule 1.718 and for Extension of Time 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 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, 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

⁶ Letter from Aimee Jimenez, Counsel for Qwest Corporation, to Faye Jeter-Bragg, Paralegal Specialist, Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-02-MDIC-038 (filed Jan. 8, 2003) ("Letter Extension Request") at 2.

⁷ *Id.* Declaration of Aimee Jimenez in Support of Request for Waiver and Extension of Time, File No. EB-02-MDIC-038 (filed Jan. 8, 2003) ("Jimenez Declaration") at ¶¶ 4, 5.

⁸ Jimenez Declaration at ¶ 6.

⁹ Letter Extension Request at 2-3.

¹⁰ *Id.* Jimenez Declaration at ¶ 5.

waived, and the date on which Qwest Corporation must convert its Informal Complaint against Cable & Wireless USA, Inc. and U.S. South Communications, Inc. into a formal complaint pursuant to section 1.718 of the Commission's rules, 47 C.F.R. § 1.718, is extended to **February 14, 2003**.

FEDERAL COMMUNICATIONS COMMISSION

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