

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

AT&T Corp. and
AT&T of the Virgin Islands
Complainants,
v.
Virgin Islands Telephone
Corporation d/b/a/
Innovative Telephone
Defendant.
File No. EB-01-MDIC-0552

ORDER

Adopted: January 6, 2004

Released: January 7, 2004

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

1. On September 10, 2001, pursuant to section 1.716 of the Commission's rules, AT&T Corp. and its wholly-owned subsidiary, AT&T of the Virgin Islands ("AT&T" or "Complainants"), filed an informal complaint ("Complaint") alleging that Virgin Islands Telephone Corporation d/b/a Innovative Telephone ("Vitelco") had unlawful earnings during 1997 and 1998, and requesting that Vitelco be ordered to return a portion of the overearnings. Vitelco replied to AT&T's Complaint on July 11, 2003. Pursuant to section 1.718 of the Commission's rules, the

1 47 C.F.R. § 1.716.

2 Consent Motion of Complainants for Extension of Time in Which to Convert Informal Complaint and Toll Limitations Period, File No. EB-01-MDIC-0552 (December 30, 2003) ("Motion").

3 Id. at 1. The Enforcement Bureau previously directed Vitelco not to respond to AT&T's Complaint until 90 days after issuance of a final decision on the merits in a case then under review by the U.S. Court of Appeals for the District of Columbia, the outcome of which was likely to affect the resolution of the Complaint. Order, File No. EB-01-MDIC-0552 (Enf. Bur. Nov. 21, 2001). See ACS of Anchorage v. FCC, 290 F.3d 403 (D.C. Cir. May 21, 2002); Rehearing and Rehearing En Banc Denied Aug. 12, 2002.

4 47 C.F.R. § 1.718.

Complainants are required to convert their informal complaint into a formal complaint within six months of the date that the Defendant replies to the informal complaint or such informal complaint will be deemed to be abandoned. In this case, the Complainants are required to convert their informal complaint into a formal complaint by January 12, 2004.⁵

2. Since the filing of Vitelco's Answer, the parties have engaged in negotiations to resolve this dispute.⁶ On December 22, 2003, AT&T and Vitelco further attempted to reach a negotiated settlement by participating in a mediation session conducted by the Enforcement Bureau.⁷ On December 30, 2003, the parties requested an extension of time for AT&T to file a formal complaint in this matter.⁸ The parties seek a temporary waiver of section 1.718 of the Commission's rules, and, in particular, request an extension of the deadline for filing a formal complaint from January 12, 2004 to January 30, 2004.⁹ The Motion explains that the parties are continuing to attempt to resolve this dispute without further litigation, and that an extension is necessary to continue negotiations and work toward settling this matter.¹⁰

3. We are satisfied that granting the 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 the Request for Extension of Time to File Complainants' Formal Complaint IS GRANTED.

5. 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 that AT&T Corp. and AT&T of the Virgin Islands must convert their informal

⁵ Because January 11, 2004, is a Sunday, AT&T's formal complaint would have to be filed not later than Monday, January 12, 2004. See Section 1.4 of the Commission's Rules, 47 C.F.R. § 1.4.

⁶ Motion at 2.

⁷ *Id.*

⁸ *Id.*; Letter from Rebekah P. Goodheart, attorney for Vitelco, to Marlene H. Dortch, Secretary, Federal Communications Commission (December 30, 2003) ("Concurrence"). In its Concurrence, Vitelco emphasizes that its support for AT&T's Motion is limited to that Motion, and that Vitelco does not support a blanket extension of time for all interested parties. *Id.* at 1.

⁹ Motion at 2.

¹⁰ *Id.*

complaint against Virgin Islands Telephone Corporation d/b/a Innovative Telephone to a formal complaint pursuant to section 1.718 of our rules, 47 C.F.R. § 1.718, is extended to January 30, 2004.

FEDERAL COMMUNICATIONS COMMISSION

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