

FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Market Disputes Resolution Division
445 12th St., S.W.
Washington, D.C. 20554

APCC Services, Inc.; Data Net Systems, LLC, Davel Communications, Inc.; Jaroth, Inc. d/b/a Pacific Telemanagement Services; and Intera Communications Corp.,

Complainants,

v.

File No. EB-03-MD-018

ATX Telecommunications Services; Michael Karp d/b/a/ ATX Telecommunications Services; University City Housing Company; ATX Telecommunications Services, Ltd.; CCL Historical, Inc.; ATX Licensing, Inc.; And ATX Communications, Inc.

Defendants.

ORDER

Adopted: March 19, 2004

Released: March 22, 2004

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

1. On October 10, 2003, APCC Services, Inc., Data Net Systems, LLC, Davel Communications, Inc. Jaroth, Inc. d/b/a Pacific Telemanagement Services, and Intera Communications Corp. ("Complainants) filed with this Commission a formal complaint ("Complaint") against ATX Telecommunications Services; Michael Karp d/b/a/ ATX Telecommunications Services; University City Housing Company; ATX Telecommunications Services, Ltd.; CCL Historical, Inc.; ATX Licensing, Inc. and ATX Communications, Inc. ("Defendants") pursuant to section 208 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 208. On January 15, 2004, counsel for the Defendants notified the

Commission that ATX Communications, Inc. and certain associated entities filed petitions in the United States District Court for the Southern District of New York for protection under Chapter 11 of the United States Bankruptcy Code.¹ The Notification further stated that, pursuant to Section 362 of the Bankruptcy Act, such filing results in the automatic stay of the above-captioned matter.²

2. On March 5, 2004, the Complainants and certain Defendants filed a joint motion.³ The Joint Motion explains that, of the Defendants, only the following are subject to the automatic stay: CCL Historical, Inc., ATX Licensing, Inc., and ATX Communications, Inc. (“Defendants in Bankruptcy”).⁴ The Joint Motion further explains that, to save both the Complainants and the Movant Defendants the substantial legal expense of continuing the proceeding, the “Complainants and Movant Defendants request that the Commission dismiss the complaint with respect to the Movant Defendants without prejudice to the Complainants re-filing a complaint at some future date.”⁵ We are satisfied that granting the parties’ Joint Motion will serve the public interest 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.

3. Regarding the Defendants in Bankruptcy, for administrative purposes only, we revise the status of the formal complaint to an informal complaint.⁶ As we have informed the parties, we do this for purposes of internal docket organization only, and we do not intend this action to affect the rights and obligations of any party.⁷ When the proceeding resumes, it will do so under its current designation, File No. EB-03-MD-018. The relation of this formal complaint to prior informal complaints, including the relation-back provision of section 1.718 of the Commission’s rules, will be unaffected by this purely organizational action. While the

¹ Letter from Eric J. Branfman and Kathleen Greenan Ramsey, attorneys for Defendants, to Marlene H. Dortch, Secretary, Federal Communications Commission (Jan. 15, 2004) (“Notification”).

² Notification at 1.

³ Letter from Kathy L. Cooper, attorney for Movant Defendants, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 5, 2004) (“Joint Motion”). All of the Defendants except those in bankruptcy participated in the Joint Motion. They are: ATX Telecommunications Services; Michael Karp d/b/a/ ATX Telecommunications Services; University City Housing Company; and ATX Telecommunications Services, Ltd. (“Movant Defendants”); *see* Joint Motion at 1-2.

⁴ Joint Motion at 2.

⁵ Joint Motion at 3-4.

⁶ 47 U.S.C. §§ 4(i) and (j). The temporary informal complaint that will substitute for File. No. EB-03-MD-018 is File No. EB-04-MDIC-0001.

⁷ Conference call between Radhika V. Karmarkar, Deputy Chief Market Disputes Resolution Division, Enforcement Bureau, Federal Communications Commission, Allan C. Hubbard, Attorney for Complainants, and Eric J. Branfman, attorney for Defendants (Mar. 12, 2004).

Defendants in Bankruptcy remain in bankruptcy the Complainants must file a report on the status of the bankruptcy proceedings every four months. Failure to file such a status report will result in dismissal of the complaint for failure to prosecute.⁸

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 1.720-1.736 of the Commission’s rules, 47 C.F.R. §§ 1.720-36, 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 Joint Motion to Dismiss Without Prejudice the Complaint against the Remaining Defendants 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, 1.716-18, and 1.720-1.736 of the Commission’s rules, 47 C.F.R. §§ 1.3, 1.716-18, 1.720-36, 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 Complainants’ formal complaint is converted to an informal complaint, and that the formal complaint and answer filed in the above-captioned proceeding satisfy sections 1.716-17 of the Commission’s rules, 47 C.F.R. §§ 1.716-17.

6. 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, 1.716-18, and 1.720-1.736 of the Commission’s rules, 47 C.F.R. §§ 1.3, 1.716-18, 1.720-36, 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 file number for the informal complaint is EB-04-MDIC-0001.

FEDERAL COMMUNICATIONS COMMISSION

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

⁸ 47 C.F.R. § 1.720(g). During the bankruptcy, the Complainants should file the required 4-monthly status report in informal complaint File. No. EB-04-MDIC-0001.