

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

Salsgiver Telecom, Inc.,)	
)	
Petitioner,)	
)	
v.)	File No.: EB-09-MD-001
)	
Consolidated Communications of)	
Pennsylvania Co.,)	
)	
Respondent.)	

ORDER OF DISMISSAL

Adopted: December 4, 2012

Released: December 4, 2012

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

I. INTRODUCTION

1. On January 29, 2009, Salsgiver Telecom, Inc. (Salsgiver) filed a petition pursuant to section 1.1403(d) of the Commission's rules¹ seeking to stay the operation of a notice of removal of pole attachments that Consolidated Communications of Pennsylvania Company (Consolidated) sent to Salsgiver on January 15, 2009.² The Notice of Removal indicated that Consolidated planned to remove Salsgiver's attachments from Consolidated's poles no earlier than 60 days after Salsgiver's receipt of the Notice unless Salsgiver submitted pole attachment applications and paid make-ready costs and pole attachment fees.³ Consolidated filed an opposition to the Petition for Stay on February 5, 2009.⁴

2. On February 19, 2009, Salsgiver and Consolidated jointly filed a letter in this proceeding stating that, during the February 13, 2009 status conference, they reached an agreement that would "at a minimum delay, if not entirely alleviate, the need for Commission action in this proceeding."⁵ The parties memorialized their agreement in a Memorandum of Agreement, which they attached to their February 19, 2009 Joint Letter.⁶

¹ Petition for Stay to Prevent the Removal of Telecommunications Facilities of Salsgiver Telecom, Inc., File No. EB-09-MD-001 (filed Jan. 29, 2009) (Petition for Stay or Petition). *See* 47 C.F.R. § 1.1403(d).

² *See* Notice of Removal of Pole Attachments (Notice of Removal or Notice), attached as Exhibit B to the Petition for Stay.

³ Notice of Removal at 1-2.

⁴ Opposition of Consolidated Communications of Pennsylvania Company to Salsgiver Telecom, Inc.'s Petition for Stay, File No. EB-09-MD-001 (filed Feb. 5, 2009).

⁵ Letter from Russell M. Blau et al., counsel for Consolidated, and John D. Thomas et al., counsel for Salsgiver, File No. EB-09-MD-001 (filed Feb. 19, 2009) (February 19, 2009 Joint Letter) at 1.

⁶ *See* February 19, 2009 Joint Letter at 1 and Memorandum of Agreement (attached).

3. On February 20, 2009, Salsgiver asked the Commission to hold the Petition for Stay in abeyance while the parties worked to resolve their outstanding issues pursuant to processes set forth in their Memorandum of Agreement.⁷ Salsgiver stated that it reserved its “right to seek reactivation of the Petition should Consolidated indicate an intent to move forward with removal of [Salsgiver’s] attachments.”⁸

4. Salsgiver has not moved to reactivate its Petition for Stay in the nearly four years since it filed the Petition. Moreover, the facts alleged in the Petition, and the Notice of Removal that prompted it, are now outdated in light of intervening events, including the parties’ execution of the Memorandum of Agreement and their efforts to implement that Agreement. For these reasons, we deem it appropriate to dismiss the Petition for Stay without prejudice.

5. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 224 of the Act, as amended, 47 U.S.C. §§ 154(i), 154(j), 224, and sections 1.1401-1.1418 of the Commission’s rules, 47 C.F.R. §§ 1.1401-1.1418, 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 Salsgiver’s Petition for Stay IS DISMISSED WITHOUT PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION

Lisa J. Saks
Deputy Chief, Market Disputes Resolution Division
Enforcement Bureau

⁷ Letter from Dominic F. Perella, counsel for Salsgiver, File No. EB-09-MD-001 (filed Feb. 20, 2009) (February 20, 2009 Letter) at 1.

⁸ February 20, 2009 Letter at 1 (citing paragraph 10 of the Memorandum of Agreement).