

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

In the Matter of)
Sprint Communications Company, L.P.,)
Complainant,)
v.) File No. EB-13-MD-003
Beehive Telephone Co., Inc.,)
Beehive Telephone Co. of Nevada, Inc., and)
All American Telephone Co., Inc.,)
Defendants.)

ORDER

Adopted: December 4, 2013

Released: December 4, 2013

By the Markets Dispute Resolution Division:

1. On December 3, 2013, All American Telephone Co., Inc. (All American) filed a Motion to Stay Proceeding in the above-captioned litigation. In the Motion, All American requests that this case be stayed pending the Commission’s ruling on All American’s Petition for Reconsideration in a separate matter before this Commission—AT&T Corp. v. All American Telephone Co., Inc. (AT&T v. All American). Sprint Communications Company, L.P. (Sprint) opposed the Motion.

2. We have reviewed the Motion and Opposition and find no basis for granting All American’s request. As the Enforcement Bureau previously has held, this complaint proceeding is a separate matter from AT&T v. All American, and each case will be decided on its own record. Granting the Motion would serve only to unnecessarily delay this matter.

1 Motion to Stay Proceeding, File No. EB-13-MD-003 (Dec. 3, 2013) (Motion). All American mailed its Motion to the FCC on November 26, 2013, but the FCC’s Secretary’s Office did not receive it until December 3, 2013, which is the official filing date. All American served copies of its Motion on November 26, 2013.

2 See Petition for Reconsideration, File No. EB-09-MD-010 (filed Apr. 24, 2013); see also AT&T Corp. v. All American Tel. Co., e-Pinnacle Communications, Inc., ChaseCom, Memorandum Opinion and Order, 28 FCC Red 3477 (2013).

3 Opposition to All American’s Motion to Stay Proceeding, File No. EB-13-MD-003 (filed Dec. 2, 2013) (Opposition).

4 See Sprint Communications Co., L.P. v. Beehive Telephone Co., Inc., et al., Order, File No. EB-13-MD-003 (Enf. Bur. Nov. 19, 2013) at 3 (“In the separate Sprint/Beehive proceeding, Beehive will have ample opportunity, consistent with the terms of the Court’s Referral Order, to mount its defense against Sprint’s claims, and the Commission will then issue a decision based on applicable law and the record in that proceeding”); see also Letter

3. IT IS HEREBY 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. §§ 1.720-1.736, and the authority delegated by Sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, that All American's Motion to Stay Proceeding is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary H. McEnery
Chief, Market Disputes Resolution Division
Enforcement Bureau

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dated June 21, 2013 from Christopher Killion, Associate Chief, FCC, Enforcement Bureau to Russell D. Lukas, Counsel for Beehive, Gary R. Guelker, Counsel for All American, Marc Goldman and William Lawson, Counsel for Sprint, File No. EB-13-MD-003 at 5 (“Beehive will be able to respond to any ‘sham entity’ claim asserted by Sprint in its complaint, and the Commission will decide the issue based on the record in *this case*”).

⁵ See 47 U.S.C. §§ 154(i) (“The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.”), 154(j) (“The Commission also may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice.”), 208 (“[I]t shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.”); *Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to Be Followed When Formal Complaints Are Filed Against Common Carriers*, Report and Order, 12 FCC Rcd 22497, 22501, para. 5 (1997) (“Commission staff retains considerable discretion” to structure complaint proceedings), 22510, para. 29, n.68 (same), Order on Reconsideration, 16 FCC Rcd 5681 (2001).