

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

In the Matter of	)	
	)	
DICOMM Cellular, L. P.,	)	
Complainant,	)	
v.	)	File No. WB/ENF-F-96-009
	)	(E-93-86)
Genesee Telephone Co.,	)	
Defendant.	)	

**ORDER**

**Adopted:** November 13, 1997

**Released:** November 18, 1997

By the Chief, Enforcement and Consumer Information Division, Wireless Telecommunications Bureau.

1. This proceeding was initiated on March 13, 1993, with a filing of a formal complaint by DICOMM Cellular, L.P. ("complainant") against Genesee Telephone Company ("defendant"). At that time, complainant was the non-wireline cellular radiotelephone licensee in the New York -3 Rural Service Area (RSA) and defendant was the non-wireline licensee in the adjacent Rochester, New York Metropolitan Service Area (MSA). Complainant alleged that, during a period of several months in late 1992 and early 1993, defendant had programmed the mobile units assigned to some of its customers to block them from using complainant's roaming services when travelling in the New York - 3 RSA. Complainant contended that defendant had thereby violated Sections 201(a), 201(b), 202(a) and 332 of the Communications Act of 1934, as amended, and Sections 22.100(a), 22.902(d), 22.911(b) and 22.915 of the Commission's Rules. An answer and a motion to dismiss were filed by the defendant. Discovery motions and oppositions thereto have also been filed by the parties. The record file indicates that there has been no activity in this proceeding since the end of 1993.

2. After the responsibility for this proceeding was transferred to the Wireless Telecommunications Bureau, the attorneys last named in the record as representing both the complainant and the defendant were contacted by an attorney on the staff of the Enforcement and Consumer Information Division. Both of the attorneys stated that they were no longer employed by the parties and no longer had authority to act for them in this proceeding. They reported that the ownership of both the complainant and defendant had changed since the complaint had been filed. They believed that the dispute giving rise to this complaint may have been settled by the successor corporations. The Commission's licensing files confirm that the block A license for the New York -3 RSA is no longer held by the complainant and has been transferred twice since this proceeding was initiated. The Commission's records also confirm that the ownership and control

of defendant has subsequently been acquired by Southwestern Bell Mobile Systems, Inc. However, the record herein does not indicate that the parties had filed a motion to dismiss or had otherwise had made a submission in this proceeding to advise the Commission of these events, as they were required to do by Section 1.720(g) of the Commission's Rules

3. On October 8, 1997, we mailed a written notice to potentially interested parties that, in light of the apparent abandonment of this proceeding by the parties, we intended to dismiss DICOMM Cellular, L.P.'s complaint with prejudice and terminate the proceeding. The notice was sent to the following: the complainant at the address set forth in the record; the defendant at its current address, as indicated in the Commission's license files; the complainant's attorney of record; the defendant's attorney of record; the immediate transferee of complaint's cellular license for the New York -3 RSA; the present holder of that license; and Southwestern Bell Mobile Systems, Inc. The notice advised that any party objecting to the proposed dismissal of the complaint and termination of proceeding must submit its opposition thereto in writing by October 24, 1997. No oppositions have been received by the Commission. Only one response to the notice was received. This was submitted by the defendant and stated that it did not oppose the dismissal of the complaint or the termination of the proceeding.

4. In light of the foregoing, it appears that this proceeding has been effectively abandoned by the parties and that, accordingly, the complaint, herein, should be dismissed and this proceeding should be terminated.

5. WHEREFORE, 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), 208, and Section 0.321 of the Commission's Rules, 47 C.F.R. § 0.321, that the above-captioned complaint IS DISMISSED WITH PREJUDICE and that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



Howard C. Davenport  
Chief, Enforcement and Consumer Information Division  
Wireless Telecommunications Bureau