

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

In the Matter of)
)
PHILIPPINE LONG DISTANCE TELEPHONE) File No. EB-01-IH-0470
COMPANY)
Complainant)
v.)
)
WORLD COMMUNICATIONS, INC.)
Respondent)
)
)
In the Matter of)
)
WORLD COMMUNICATIONS, INC.) NAL/Acct. No. 216E10001
)
And)
)
MANILA PENINSULA HOTEL) NAL/Acct. No. 216E10002
Apparent Liability for Forfeiture)

ORDER ON RECONSIDERATION

Adopted: September 6, 2001

Released: September 11, 2001

By the Commission:

1. In this Order, we deny the Philippine Long Distance Telephone Company's (PLDT) petition for reconsideration of our Order canceling forfeitures against World Communications, Inc. (WorldCom) and the Manila Peninsula Hotel (Hotel).1 The Commission found WorldCom and the Hotel apparently liable for the forfeitures on January 23, 1993, following its investigation of an informal complaint filed by PLDT pursuant to section 1.716 of our rules.2 The Commission determined that, as alleged in the complaint, the Hotel apparently had charged one of its guests for making two telephone calls to the United States over international private lines (IPLs) provided to the Hotel by Globe-Mackay Cable and Radio Corporation on the Philippine end, and WorldCom on the United States end. The Commission further determined that the Hotel continued to resell IPL service without the authorization required by section 214 of the Communications Act of 1943, as amended (the Act).3 The Commission designated forfeitures of \$200,000 against both WorldCom and the Hotel for the apparent violations, and an additional \$6,000 against WorldCom for apparently failing to adhere to restrictions in its tariff on the

1 Philippine Long Distance Telephone Company v. World Communications Inc. and Manila Peninsula Hotel, 13 FCC Rcd 21520 (1998) (Cancellation Order).

2 47 C.F.R. § 1.716; Philippine Long Distance Telephone Company v. World Communications Inc. and Manila Peninsula Hotel, 8 FCC Rcd 755, 757 (1993) (Notice of Apparent Liability).

3 47 U.S.C. § 214; Notice of Apparent Liability, 8 FCC Rcd at 757.

use of IPLs in violation of section 203(c) of the Act.⁴ We issued our *Cancellation Order* on October 6, 1998, after concluding based on our review of the record in this case, that there was insufficient evidence to sustain the *Notice of Apparent Liability* against either WorldCom or the Hotel.⁵ PLDT argues that we failed to provide sufficient reasons for canceling the forfeiture against WorldCom, and that WorldCom should be required to pay the forfeiture.⁶ We disagree.

2. It is well settled that an agency has broad discretion to prosecute or terminate an enforcement proceeding and such decisions are not reviewable by the courts.⁷ Our decision to cancel the proposed forfeiture against WorldCom for insufficient evidence is a proper exercise of this broad discretion, and PLDT raises no arguments in its petition that would persuade us to reconsider our decision.

3. Accordingly, IT IS ORDERED, pursuant to sections 4(i) and 503 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 503, that the petition for reconsideration filed by PLDT IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

⁴ *Id.*

⁵ *Cancellation Order*, 13 FCC Rcd at 21520.

⁶ PLDT petition at 3. PLDT withdrew, without prejudice, its petition for reconsideration of the Commission's *Cancellation Order* as it relates to the Hotel. Letter from Albert Halprin and Stephen L. Goodman, Counsel for Philippine Long Distance Telephone Company, to Magalie Roman Salas, Secretary, FCC (Jan. 21, 1999).

⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985); *NY State Dept. of Law v. FCC*, 984 F.2d 1209, 1213 (D.C. Cir. 1993) ("the FCC is best positioned to weigh the benefits of pursuing an adjudication against the costs to the agency (including financial and opportunity costs) and the likelihood of success").