

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

In the Matter of)	
)	
Qwest Corporation,)	
)	
Complainant,)	
)	File No. EB-03-MD-004
v.)	
)	
Cable & Wireless USA, Inc., and)	
U.S. South Communications, Inc.,)	
)	
Defendants.)	

ORDER

Adopted: June 23, 2004

Released: June 24, 2004

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

1. On February 28, 2003, Qwest Corporation (“Qwest”) filed with this Commission a formal complaint against Cable & Wireless USA, Inc. (“Cable & Wireless”) and U.S. South Communications, Inc. (“U.S. South”) pursuant to section 208 of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 208.¹ The Complaint alleged, *inter alia*, that Cable & Wireless and U.S. South violated sections 276 and 201(b) of the Communications Act² and the Commission’s rules³ by failing to pay compensation for each completed “dial-around” call carried by Cable & Wireless and U.S. South that originated on Qwest’s payphones.

2. On December 15, 2003, counsel for Cable & Wireless notified the Commission that Cable & Wireless had filed a petition in the United States Bankruptcy Court for the District of Delaware for protection under Chapter 11 of the United States Bankruptcy Code.⁴ Cable & Wireless’ bankruptcy notification further stated that, pursuant to section 362 of the Bankruptcy Code,⁵ such filing resulted in the automatic stay of the above-captioned matter with respect to Cable & Wireless.⁶ Qwest did not object to Cable & Wireless’ invocation of the automatic stay.

¹ Formal Complaint, File No. EB-03-MD-004 (Filed Feb. 28, 2003) (“Complaint”).

² 47 U.S.C. §§ 276, 201(b).

³ 47 C.F.R. §§ 64.1300, *et seq.*

⁴ Letter from Jennifer M. Kashatus, Counsel for Cable & Wireless, to Anthony J. DeLaurentis, Attorney, MDRD, File No. EB-03-MD-004 (filed Dec. 15, 2003) (“Stay Letter”).

⁵ 11 U.S.C. § 362.

⁶ *Id.*; Stay Letter.

Consequently, Qwest did not continue to prosecute its claims against Cable & Wireless in this proceeding.

3. On April 2, 2004, Qwest and U.S. South notified the Commission that they had resolved their dispute.⁷ On June 21, 2004, Qwest and U.S. South filed a joint request to dismiss the Complaint as to U.S. South.⁸ The Joint Request states that Qwest and U.S. South have entered into a settlement agreement as to the claims against U.S. South, and requests that the Commission dismiss with prejudice all claims against U.S. South.⁹

4. We are satisfied that dismissing the Complaint as to U.S. South will serve the public interest by promoting the private resolution of disputes and by eliminating the need for further litigation and expenditure of further time and resources of the parties and this Commission.

5. With respect to the remaining claims in the Complaint against Cable & Wireless, we convert the formal complaint to an informal complaint until the automatic stay in Cable & Wireless' bankruptcy proceedings terminates and/or expires.¹⁰ This conversion is done for internal administrative purposes only, and does not affect the rights and obligations of any party.¹¹ Either party may convert the informal complaint back to a formal complaint by filing and serving a motion requesting such action within sixty (60) days after notice of termination or expiration of the automatic stay in Cable & Wireless' bankruptcy proceedings, rather than filing an entirely new formal complaint.¹²

6. 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 1.3, 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 Qwest's and U.S. South's Joint Request for Dismissal With Prejudice as to U.S. South IS GRANTED.

7. 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. §§

⁷ Joint Request of Qwest and U.S. South to Extend Briefing Schedule Due to Settlement, File No. EB-03-MD-004 (filed Apr. 2, 2004).

⁸ Joint Request For Dismissal With Prejudice As To U.S. South, File No. EB-03-MD-004 (filed June 21, 2004) ("Joint Request").

⁹ *Id.*

¹⁰ On June 22, 2004, Commission staff advised counsel for Qwest and counsel-of-record for Cable & Wireless by telephone that the Commission would be taking this action, and neither party filed any objections with the Commission to this approach.

¹¹ This action also does not affect the relation-back provision of section 1.718 of the Commission's rules with respect to Qwest's prior informal complaint in this matter.

¹² In the event that the informal complaint is converted back to a formal complaint, it will proceed under its current file number, File No. EB-03-MD-004.

0.111, 0.311, that Qwest's claims against U.S. South ARE DISMISSED WITH PREJUDICE.

8. 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 Qwest's formal complaint against Cable & Wireless 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.

9. 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-02-MDIC-0038.¹³

10. 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 period within which the informal complaint may be converted back to a formal complaint under sections 1.717-18 of the Commission's rules, 47 C.F.R. §§ 1.717-18, shall end sixty (60) days after notice of termination or expiration of the automatic stay in Cable & Wireless' bankruptcy proceedings, unless extended by further order.

11. 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 docket established in the above-captioned formal complaint proceeding shall be transferred in its entirety to the newly established informal complaint docket.

12. 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 either party, or the Commission on its own motion, may, upon a showing of good cause, move for an extension of the re-conversion date

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr
Chief, Market Disputes Resolution Division

¹³ This informal complaint file number is the same number assigned to Qwest's original informal complaint, which Qwest timely converted to a formal complaint in this proceeding.

Enforcement Bureau