

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

Ketchikan Internet Services
Complainant,
v.
City of Ketchikan, d/b/a Ketchikan Public Utilities
Defendant.
File No. EB-03-MDIC-0015

ORDER

Adopted: December 23, 2003

Released: December 23, 2003

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

1. On April 21, 2003, pursuant to section 1.716 of the Commission rules, Ketchikan Internet Services ("KIS") filed an informal complaint against defendant City of Ketchikan, d/b/a Ketchikan Public Utilities ("KPU") in the above-captioned matter. On May 16, 2003, KPU filed a report pursuant to section 1.717 of the Commission's rules denying the allegations in KIS' Informal Complaint. Pursuant to section 1.718 of the Commission's rules, KIS must convert its Informal Complaint into a formal complaint within six months of the date of KPU's report to ensure that the formal complaint relates back to the April 21, 2003 filing date of the Informal Complaint for statute of limitations purposes.

2. In a letter dated July 28, 2003, Commission staff informed the parties that the case would be closed, and that KIS may file a formal complaint. In addition, the Staff letter indicated that KIS could also consider filing a petition for declaratory ruling. Since the issuance of the July 28, 2003 letter,

1 47 C.F.R. § 1.716.

2 Letter from Gregory w. Lessmeier, counsel for KIS, to Alexander Starr, Chief, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0015 (Apr. 21, 2003) ("Informal Complaint").

3 47 C.F.R. § 1.717.

4 Letter from Robert P. Blasco, counsel for KPU, to Christopher N. Olsen, Assistant Chief, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0015 (May 16, 2003).

5 47 C.F.R. § 1.718.

6 Letter from Christopher N. Olsen, Assistant Chief, Market Disputes Resolution Division, Enforcement Bureau, FCC, to Gregory W. Lessmeier, counsel for KIS, File No. EB-03-MDIC-0015 (July 28, 2003) ("Staff Letter").

7 Staff Letter at 2.

Complainant KIS has convened discussions with defendant KPU and Commission staff exploring the various means of proceeding with its complaint before the Commission. On November 17, 2003, Complainant KIS requested a waiver of section 1.718 of the Commission's rules and a 30-day extension of time to convert its Informal Complaint against KPU into a formal complaint.<sup>8</sup> Then, on December 10, 2003, KIS requested a further waiver of section 1.718 of the Commission's rules and an extension of time until January 7, 2004, to convert its Informal complaint against KPU into a formal complaint.<sup>9</sup> Defendant KPU took no position regarding KIS' requests.

3. We are satisfied that granting KIS' motions will serve the public interest by promoting the private resolution of disputes and by postponing the need for further litigation and expenditure of further time and resources of the parties and of this Commission until such time as may actually be necessary. In addition, the public interest will be served by affording KIS sufficient time to construct a formal complaint that complies with the Commission's rigorous rules, 47 C.F.R. §§ 1.720-1.736, should such a complaint be necessary.

4. 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 and 1.718 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.718, 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 requests for extension ARE GRANTED.

5. 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 and 1.718 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.718, 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, unless otherwise extended by order, the deadlines that would otherwise apply under section 1.718 of our rules, 47 C.F.R. § 1.718, are hereby waived, and the date on which KIS must convert its Informal Complaint against KPU into a formal complaint pursuant to section 1.718 of our rules, 47 C.F.R. § 1.718, is extended to **January 7, 2004**.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr  
Chief, Market Disputes Resolution Division  
Enforcement Bureau

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<sup>8</sup> Letter from Gregory W. Lessmeier, counsel for KIS, to Rosemary H. McEnery, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0015 (Nov. 17, 2003).

<sup>9</sup> Letter from Gregory W. Lessmeier, counsel for KIS, to Rosemary H. McEnery, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0015 (Dec. 10, 2003)