

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

In the Matter of)	
)	
Informal Complaints Filed By)	
Independent Payphone Service)	File Nos. IC-98-42853, et al.
Providers Against Various)	
Local Exchange Carriers)	
Seeking Refunds Of End User)	
Common Line Charges)	

ORDER

Adopted: May 21, 2004

Released: May 21, 2004

By the Chief, Enforcement Bureau:

1. In this Order, we extend the deadline for converting End User Common Line (“EUCL”) informal complaints that are covered by the Common Carrier Bureau’s Order of September 10, 1999,¹ into formal complaints.² In these informal complaints, independent payphone providers (“IPPs”) allege that the defendant local exchange carriers (“LECs”) improperly assessed EUCL charges, in violation of the Commission’s rules and sections 201(b) and 202(a) of the Communications Act, as amended (the “Act”).³ In the *First Waiver Order*, the Common Carrier Bureau determined that the period for converting the informal complaints to formal complaints would be extended to three months after a final nonappealable order had been entered in a pending complaint proceeding.⁴ For reasons of administrative efficiency and to facilitate ongoing settlement discussions, the staff further extended the deadline for conversion of these informal complaints into formal complaints.⁵ Pursuant to the most recent Enforcement Bureau order,

¹ *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 16 FCC Rcd 3669 (CCB 1999) (“*First Waiver Order*”).

² Ordinarily, section 1.718 requires that a formal complaint must be filed with six months of the carrier’s response to the informal complaint if the formal complaint is to relate back to the filing of the informal complaint. See 47 C.F.R. § 1.718(a).

³ 47 U.S.C. §§ 201(b) and 202(a); 47 C.F.R. §§ 69.1 *et seq.*

⁴ See *First Waiver Order*, 16 FCC Rcd at 3672, ¶ 8. A final nonappealable order has been entered in that proceeding. See *Verizon Telephone Companies, et al. v. FCC*, 269 F.3d 1098 (D.C. Cir. 2001).

⁵ See *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 17 FCC Rcd 2115 (EB 2002) (“*Second Waiver Order*”); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 17 FCC Rcd 14759 (EB 2002) (“*Third Waiver Order*”); *Informal Complaints Filed By Independent Payphone Service Providers Against Various*

informal complaints were required to be converted by June 30, 2004, to benefit from the relation back rule outlined in section 1.718.⁶

2. On November 19, 2002, the Commission ruled on certain liability issues in thirteen formal complaints that raised many issues similar to those raised in the pending informal complaints.⁷ The parties to the thirteen formal complaints petitioned the United States Court of Appeals for the District of Columbia to review the Commission's *Liability Order*,⁸ and on April 30, 2004, the Court issued an opinion affirming in all respects the Commission's *Liability Order*.⁹ In order to give the parties time to review the Court's decision and assess the impact of that decision on settlement, we now extend to October 28, 2004 the filing deadline for the conversion of these EUCL informal complaints into formal complaints.¹⁰ Because this extension will facilitate the possible settlement of these numerous claims, particularly in light of the Court's recent opinion, we are satisfied that our action today serves the public interest.

3. ACCORDINGLY, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that section 1.718(a) of the Commission's rules,

Local Exchange Carriers Seeking Refunds of End User Common Line Charges, Order, 18 FCC Rcd 12047 (EB 2003) ("*Fourth Waiver Order*").

⁶ *Fourth Waiver Order*, 18 FCC Rcd 12047 (EB 2003).

⁷ See *Communications Vending Corporation of Arizona, Inc., et al. v. Citizens Communications Company f/k/a Citizens Utility Company and Citizens Telecommunications Company d/b/a Citizens Telecom, et al.*, Memorandum Opinion and Order, 17 FCC Rcd 24201 (2002) ("*Liability Order*").

⁸ *Communications Vending Corporation of Arizona, Inc., et al. v. FCC, et al.*, No. 02-1364, consolidated with No. 03-1010, 03-1012 (D.C. Cir. filed Nov. 26, 2002, Jan. 14, 2003, Jan. 17, 2003).

⁹ *Communications Vending Corporation of Arizona, Inc., et al. v. Federal Communications Commission, et al.*, No. 02-1364, 2004 WL 911769 (D.C. Cir. Apr. 30, 2004).

¹⁰ On May 12, 2004, Katherine J. Henry, counsel for a number of complainants in these proceedings, submitted a letter to the FCC requesting that we extend the deadline for converting informal complains until December 31, 2004. Because the letter did not indicate that any other parties were served a copy, we did not consider the submission in issuing this order. We are releasing this order well in advance of the June 30th deadline so that parties have sufficient notice that they are not required to file formal complaints with the Commission by that time.

47 C.F.R. § 1.718(a), IS HEREBY WAIVED, with regard to the IPP EUCL informal complaints described herein and the deadline for the conversion and filing of these informal complaints into formal complaints is hereby extended to October 28, 2004. This waiver is effective as of the release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau