

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

In the Matter of)	
)	
Sprint Communications Company, L.P.,)	
)	
Complainant,)	
)	
v.)	Proceeding Number 14-223
)	Bureau ID Number EB-14-MD-014
North County Communications Corporation,)	
)	
Defendant.)	
)	

ORDER OF DISMISSAL

Adopted: December 13, 2018

Released: December 13, 2018

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

1. On November 14, 2014, Sprint Communications Company, L.P. (Sprint) filed a formal complaint¹ in the captioned proceeding against North County Communications Corporation (North County). The Complaint effectuated a primary jurisdiction referral from the United States District Court for the Southern District of California (Court).²

2. On September 11, 2015, the Court issued a decision following the trial of certain claims that were not part of its primary jurisdiction referral, and it entered judgment against North County on September 28, 2015. On December 15, 2015, at North County's request, the Market Disputes Resolution Division of the Enforcement Bureau stayed this proceeding pending final resolution of North County's appeal of the Court's judgment.³

3. On November 13, 2018, Sprint filed a Motion to Dismiss, requesting that the Complaint be dismissed with prejudice because Sprint had obtained a final judgment against North County in the Court and all appeals were exhausted.⁴ North County opposes Sprint's motion.⁵ Specifically, North

¹ Formal Complaint of Sprint Communications Company, L.P., Proceeding Number 12-223, Bureau ID Number EB-14-MD-014 (filed Nov. 14, 2014) (Complaint).

² *North County Communications Corp. v. Sprint Communications Co., L.P.*, Order Staying the Case and Referring Questions to the Federal Communications Commission, No. 09-2685 (S.D. Cal. May 5, 2013).

³ Letter from Lisa B. Griffin, Deputy Division Chief, MDRD, EB, to Keith Buell, Counsel for Sprint, and R. Dale Dixon, Counsel for North County, Proceeding Number 14-223, Bureau ID Number EB-14-MD-014 (Dec. 15, 2015).

⁴ Letter from Keith C. Buell, Counsel for Sprint, to Rosemary McEnery, Chief, MDRD, EB, Proceeding Number 14-223, Bureau ID Number EB-14-MD-014 (filed Nov. 13, 2015) (Motion to Dismiss). The Market Disputes Resolution Division advised the parties that it would treat Sprint's letter request as a motion to dismiss. Email from Anthony J. DeLaurentis, Special Counsel, MDRD, EB, to Keith Buell, Counsel for Sprint, and R. Dale Dixon, Counsel for North County, Proceeding Number 14-223, Bureau ID Number EB-14-MD-014 (Nov. 15, 2018).

⁵ Letter from R. Dale Dixon, Counsel for North County, to Rosemary McEnery, Chief, MDRD, EB, Proceeding Number 14-223, Bureau ID Number EB-14-MD-014 (filed Nov. 21, 2018) (Opposition).

County argues that, in 2013, the Court referred North County's equitable claims against Sprint to the Commission, which Sprint "effectuated . . . by filing its complaint with the Commission."⁶ North County has no proceeding of its own presently pending before the Commission.⁷ Rather, it maintains that it will renew its equitable claims against Sprint in the Court after the Commission decides Sprint's Complaint.⁸

4. Sprint initiated this proceeding at the Commission when it filed its Complaint because of the Court's primary jurisdiction referral. The Commission's task is to address only the matters raised in this Complaint proceeding. Sprint has stated that it no longer wishes to prosecute the Complaint, asserting that the "underlying case is over" and that the Commission "lacks continuing jurisdiction to take action on . . . [the] Complaint."⁹ In light of Sprint's position, we see no reason for the Commission—or the parties—to continue to expend resources resolving the Complaint. If North County disagrees with Sprint's position, its recourse is to raise the issue with the Court.

5. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 208, and Sections 0.111, 0.311, and 1.727 of the Commission's Rules, 47 CFR §§ 0.111, 0.311, and 1.727 that Sprint's Motion to Dismiss is GRANTED and this proceeding is DISMISSED WITH PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary H. McEnery
Chief, Market Disputes Resolution Division
Enforcement Bureau

⁶ Opposition at 1.

⁷ Cf. *All American Telephone Co., Inc. v. AT&T Corp.*, 26 FCC Rcd 723 (2011), *recon dismissed*, 28 FCC Rcd 3469 (2013) and *AT&T Corp. v. All American Telephone Co., Inc.*, 26 FCC Rcd 3477 (2011), *recon dismissed*, 29 FCC 6393 (2013) (parties effectuated primary jurisdiction referral through the filing of two complaints).

⁸ Opposition at 2.

⁹ Letter from Keith C. Buell, Counsel for Sprint, to Marlene H. Dortch, Secretary, FCC, Proceeding Number 14-223, Bureau ID Number EB-14-MD-014 (filed Nov. 30, 2018) at 2.