

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

In the Matter of)	
)	
Petition For Protection From Whipsawing and)	
Stop Settlement Payment Order On the U.S.-)	IB Docket No. 09-10
Tonga Route)	
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ORDER

Adopted: February 9, 2009

Released: February 9, 2009

By the Chief, Policy Division, International Bureau:

1. In this Order, we grant, in part, and deny, in part, the motion for extension of time filed by the Tonga Communications Corporation (TCC) in the above-captioned proceeding. We find that it is in the public interest to extend to February 19, 2009 the deadline for comments or oppositions to the petition and February 26, 2009 for replies.

2. AT&T Inc., on behalf of its affiliates (AT&T), filed a petition requesting that the Commission issue an order stopping U.S. settlement payments to TCC on the U.S.-Tonga route.¹ AT&T's petition states that TCC demanded an increase of termination rates on the U.S.-Tonga route to more than three times the previous negotiated rate of approximately \$0.09 to \$0.30 per minute. AT&T's petition also states that TCC has blocked its circuits to Tonga since November 24, 2008 because of AT&T's refusal to agree to the increased settlement rates.

3. On January 29, 2009 the Commission issued a Public Notice establishing a pleading cycle with comments or oppositions due on February 9, 2009 and replies due on February 17, 2009 pursuant to Section 64.1002(d) of the Commission's rules.² On February 6, 2009, TCC filed a motion to extend the due dates for the comments and oppositions and replies by thirty (30) days. In its motion, TCC states that it had been made aware of the above-captioned petition a few days prior to the filing of its motion.

¹ See *Petition Pursuant to Rule 64.1002(d) Requesting Issuance of Settlements Stop Payment Order on the U.S.-Tonga Route*, IB Docket No. 09-10 (filed Dec. 3, 2008) (AT&T Petition).

² See *Petition for Protection from Whipsawing and Stop Settlement Payment Order on the U.S.-Tonga Route*, Public Notice, DA 09-149, (rel. Jan. 29, 2009). See also 47 C.F.R. § 64.1002(d).

4. Section 64.1002(d) of the Commission's rules establishes an expedited pleading cycle for petitions alleging anticompetitive behavior of ten (10) days from the issuance of the Public Notice for comments and oppositions and seven (7) days for replies for consideration of petitions such as AT&T's.³ The Commission adopted an expedited pleading cycle in its *2004 ISP Reform Order* to enable swift Commission action to address or avert potential harm to U.S. competition and U.S. customers.⁴ The Commission found that it "would regard certain actions as indicia of potential anticompetitive conduct by foreign carriers, including, but not limited to: (1) increasing settlement rates above benchmarks; (2) establishing rate floors, even if below benchmarks, that are above previously negotiated rates; or (3) threatening or carrying out circuit disruptions in order to achieve rate increases or changes to the terms and conditions of termination agreements."⁵ All three indicia of potential anticompetitive conduct have been alleged in the instant case.

5. Extensions of time are not routinely granted. After reviewing the request for extension of time, we conclude that the public interest would be served by granting, in part, TCC's request for an extension of time to allow TCC to file a comment on or opposition to AT&T's petition. However, given the potential for competitive harm while the petition remains pending, we are not persuaded that a thirty (30) day extension would be in the public interest.

6. Consequently, the Bureau shall grant a ten (10) day extension of time for interested parties, including TCC, to file comment or opposition to AT&T's petition and replies will be due seven (7) days thereafter as established in section 64.1002(d) of the Commission's rules. Accordingly, the date for filing comments or oppositions is **February 19, 2009** and the date for filing replies is **February 26, 2009**.

7. IT IS HEREBY ORDERED, that TCC's motion for an extension of time IS GRANTED IN PART, and that the time for filing comments or oppositions to AT&T's Petition IS EXTENDED until **February 19, 2009** and the date to file replies IS EXTENDED until **February 26, 2009**.

FEDERAL COMMUNICATIONS COMMISSION



James L. Ball
Chief, Policy Division
International Bureau

³ See 47 C.F.R. § 64.1002(d).

⁴ See *International Settlements Policy Reform: International Settlement Rates*, IB Docket Nos. 02-324 and 96-21, First Report and Order, 19 FCC Rcd 5709, 5733, ¶ 51 (2004) (*2004 ISP Reform Order*).

⁵ See *2004 ISP Reform Order*, 19 FCC Rcd at 5730-31, ¶ 44 (2004).