

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

In the Matter of

Amarillo CellTelCo,  
Complainant,

v. File No. WB/ENF-F-95-004  
(No. E-91-16)

Texas RSA 1, L. P.,  
Defendant

In the Matter of

Amarillo CellTelCo,  
Complainant,

v. File No. WB/ENF-F-95-008  
(No. E-91-106)

Texas RSA 1, L. P.,  
Defendant

**ORDER**

Adopted: January 26, 1996; Released: February 1, 1996

By the Chief, Enforcement Division, Wireless Telecommunications Bureau:

1. The proceeding in WB/ENF-F-95-004 was initiated on October 3, 1990, with the filing of a formal complaint, pursuant to Section 208 of the Communications Act, by Amarillo CellTelCo, which provides cellular radio telephone services in the Amarillo, Texas MSA, against Texas RSA 1 Limited Partnership (hereinafter, "Texas RSA"), which is the wireline licensee for the adjacent Texas 1-Dallam RSA. In this complaint and in a supplemental complaint filed on July 21, 1991 Amarillo CellTelCo alleges that Texas RSA has failed to offer its services to Amarillo CellTelCo for resale under non-discriminatory rates, terms and conditions, in violation of Section 202(a) of the Communications Act and the Commission's policies mandating resale of cellular radio telephone services. The proceeding in WB/ENF-F-008 was initiated by Amarillo CellTelCo's filing of a separate formal complaint against Texas RSA on July 28, 1991, in which it alleges that Texas RSA had unreasonably refused, in violation of Sections 201(a) and 202(a) of the Communications Act, to enter into an automatic roamer agreement with it.

2. Both proceedings have been characterized by intermittent periods of procedural activity and periods when proceedings were stayed to facilitate settlement negotiations. In January 1995 the responsibility for these proceedings was transferred from the Common Carrier Bureau to the Wireless Telecommunications Bureau. Thereafter, in a status conference held on March 30, 1995, we granted the request

of both parties that proceedings continue to be stayed to accommodate settlement negotiations. However, by November 7, 1995 it became apparent that it was unlikely that the parties would reach a settlement and, accordingly, we established future filing dates for the submission of pleadings by the parties in both proceedings.

3. By separate letters, dated December 13, 1995, Amarillo CellTelCo now requests the dismissal of its complaints in both proceedings against Texas RSA. Defendant has not submitted a response to these requests.

4. We find that the dismissal of the complaints and the termination of these proceedings will serve the public interest by eliminating the need for further litigation and expenditure of further time and resources of the parties and the Commission.

5. WHEREFORE, 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 0.321 of the Commission's Rules, 47 C.F.R. §§ 0.321, that Amarillo CellTelCo's requests ARE GRANTED.

6. IT IS FURTHER ORDERED that the above-captioned complaints ARE DISMISSED and that these proceedings ARE TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Howard C. Davenport  
Chief, Enforcement Division  
Wireless Telecommunications Bureau