

Consent Decree

I. Introduction

1. This Consent Decree is entered into by the Enforcement Bureau of the Federal Communications Commission ("Bureau"), Enogex Inc. ("Enogex"), and Transok, LLC ("Transok").

II. Background

2. This Consent Decree addresses the transfer of control of private land mobile and operational fixed microwave licenses (the "Licenses") now held by Transok. In 1998, Transok, Inc. -- a wholly owned subsidiary of Tejas Gas, L.L.C. ("Tejas") -- reformulated as a limited liability company by establishing Transok and merging Transok, Inc. into Transok. Following this reformulation, Transok, Inc. ceased to exist and Transok continued as a wholly-owned subsidiary of Tejas with identical management personnel to Transok, Inc. Neither Tejas nor its subsidiaries sought prior FCC consent for the Transok transaction. On July 1, 1999, there was a substantial transfer of control of Transok from Tejas to Enogex. Enogex and Tejas did not file applications for Commission consent to the transfers of control of the Licenses held by Transok prior to July 1, 1999. Enogex was unaware that it was acquiring interests in radio station licenses for which prior Commission approval was required. Enogex states that it relied upon Tejas' representation in the transactional documents that no prior Commission approval was required.
3. After gaining access to Transok's records, Enogex became aware that prior Commission approval should have been obtained for the Enogex transactions. On September 2, 1999, Enogex filed requests for special temporary authorization ("STA") to operate the stations. Staff from the Commission's Wireless Telecommunications Bureau informed counsel for Enogex that the STA request could not be granted because three of the call signs operated by Transok were listed in the Commission's data base as being held by ANR Pipeline Company ("ANR"), a company that previously owned certain assets acquired by wholly owned subsidiaries of Transok. On October 12, 1999, ANR and Transok filed applications requesting Commission approval to assign those three licenses from ANR to Transok. On September 3, 1999, Transok filed applications for the Commission's consent to transfer control of Transok's licenses from Tejas to Enogex. The Wireless Telecommunications Bureau granted these applications on May 12, 2000.

III. Definitions

4. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Commission" means the Federal Communications Commission.
 - (b) "Bureau" means the Commission's Enforcement Bureau.
 - (c) "Enogex" means Enogex Inc.

- (d) “Transok” means Transok, LLC
- (e) “ANR” means ANR Pipeline Company.
- (f) “Transok transaction” means the *pro forma* transaction under which Transok, Inc. and Transok merged, with Transok as the surviving entity.
- (g) “Enogex transaction” means the substantial transaction under which Enogex acquired control of Transok.
- (h) “ANR transaction” means the substantial transaction under which wholly owned subsidiaries of Transok acquired control of certain assets previously owned by ANR.
- (i) "Order" means an order of the Enforcement Bureau adopting this Consent Decree.
- (j) “Final Order” means an Order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay.
- (k) “Licenses” means the private land mobile and operational fixed microwave licenses transferred through the Enogex transaction.

IV. Agreement

- 5. Enogex, Transok and the Bureau agree that this Consent Decree does not constitute an adjudication of the merits, or any finding on the facts or law regarding any violations committed by Enogex or Transok arising out of the Transok, Enogex or ANR transactions.
- 6. Enogex shall make a voluntary contribution to the United States Treasury in the amount of ten thousand dollars (\$10,000) within 10 calendar days after the Bureau releases an Order adopting this Consent Decree.
- 7. Enogex and Transok agree to implement a comprehensive Compliance Program to ensure compliance with the Communications Act and the Commission’s rules and policies. A summary of the Compliance Program is attached to this Consent Decree.
- 8. In express reliance upon the covenants and representations contained herein, the Bureau agrees to terminate the investigation into the Transok, Enogex and ANR transactions upon the Order adopting this Consent Decree becoming a Final Order.
- 9. In consideration for the termination of these proceedings in accordance with the terms of this Consent Decree, Enogex and Transok agree to the terms, conditions and procedures contained herein.
- 10. The Bureau agrees not to institute, on its own motion, any new proceeding, formal or informal, of any kind against Licensees for violations of Section 310(d) of the Communications Act or Section 1.903(a) of the Commission’s rules regarding the Transok, Enogex or ANR transactions that are the subject of this Consent Decree.

11. In the event that Enogex or Transok is found by the Commission or its delegated authority to have engaged in a violation of Section 310(d) of the Act or Section 1.948(a) of the Commission's rules based upon actions taken by Enogex or Transok subsequent to the release of the Order adopting this Consent Decree, Enogex and Transok agree that the conduct described in paragraphs 2 and 3, above, may be considered by the Commission or its delegated authority in determining an appropriate sanction.
12. Enogex and Transok admit the jurisdiction of the Bureau to adopt this Consent Decree.
13. Enogex and Transok waive any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Order adopts the Consent Decree without change, addition, or modification.
14. Enogex and Transok and the Bureau agree that the effectiveness of this Consent Decree is expressly contingent upon issuance of the Order, provided the Order adopts the Consent Decree without change, addition, or modification.
15. Enogex, Transok and the Bureau recognize that if any court of competent jurisdiction renders this Consent Decree invalid, it shall become null and void and may not be used in any manner in any legal proceeding.
16. Enogex, Transok and the Bureau agree that if Enogex, Transok, the Commission, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Order adopting this Consent Decree, neither Enogex, Transok, nor the Commission shall contest the validity of the Consent Decree or Order, and Enogex, Transok and the Commission shall waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based, and shall consent to a judgment incorporating the terms of this Consent Decree.
17. Enogex and Transok agree to waive any claims they may otherwise have under the Equal Access to Justice Act, Title 5 U.S.C. § 504 and 47 C.F. R. § 1.1501 *et seq.*
18. Enogex and Transok agree that any violation of the Order adopting this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

19. This Consent Decree may be signed in counterparts.

FEDERAL COMMUNICATIONS COMMISSION, ENFORCEMENT BUREAU

By: _____
David H. Solomon
Bureau Chief

Date

ENOGEX INC.

By: _____

Date

TRANSOK, LLC

By: _____

Date