

Consent Decree

I. Introduction

1. This Consent Decree is entered into by the Enforcement Bureau of the Federal Communications Commission ("Bureau") and North County Communications Corp. ("NCC").

II. Background

2. NCC operates as a facilities-based competitive local exchange carrier in California, Oregon, Washington and Arizona, providing telecommunications services to its customers. NCC competes directly in major local markets in these states with large incumbent local exchange carriers such as U.S. West for local service customers, as well as with interexchange carriers such as AT&T, Sprint and MCI for long distance telecommunications service customers.

3. Section 52.15(f) of the Commission's rules requires U.S. carriers receiving numbering resources from the North American Numbering Plan Administrator ("NANPA"), a Pooling Administrator or another telecommunications carrier, to report semiannually on their actual and forecast number usage. These data are to be reported on FCC Form 502, the North American Numbering Plan Numbering Resource Utilization/Forecast ("NRUF") Report. Carriers and their affiliates and subsidiaries are assigned Operating Company Numbers ("OCNs") for which NRUF reports must be filed.

4. Pursuant to section 52.15(f)(6), NRUF reports are due on or before February 1 and on or before August 1 of each year.¹ The deadline for filing reports due on August 1, 2000 was extended to September 15, 2000.² The Bureau received information indicating that NCC failed to file the NRUF reports due on September 15, 2000 for OCN numbers 7894, 8293, and 8294.

5. The Bureau initiated an investigation of NCC's apparent failure to comply with the mandatory reporting requirements of section 52.15(f). As a result of the investigation, the Bureau issued a *Notice of Apparent Liability for Forfeiture* ("NAL"). In the NAL, the Bureau made a preliminary finding that NCC apparently had willfully violated section 52.15(f) and proposed a forfeiture in the amount of \$6,000 for this apparent violation.³

III. Definitions

6. 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) "NCC" means North County Communications Corp.

¹ 47 C.F.R. § 52.15(f)(6).

² The extension for the August 1, 2000 report was implemented by the Commission in *Number Resource Optimization*, CC Docket No. 99-200, 15 FCC Rcd 17005 (2000).

³ *North County Communications Corp.*, 16 FCC Rcd 8650 (EB 2001).

- (d) "Order" means the order of the Enforcement Bureau adopting this Consent Decree.
- (e) "Final Order" means the Order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay.
- (f) "Act" means the Communications Act of 1934, as amended, Title 47 of the United States Code.
- (g) "NAL" means Notice of Apparent Liability for Forfeiture.

IV. Agreement

7. NCC agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

8. The Bureau and NCC agree that this Consent Decree does not constitute an adjudication on the merits or any finding on the facts or law regarding any violations of the Act or the Commission's rules committed by NCC.

9. NCC agrees to implement, within 10 calendar days after the Bureau releases the Order adopting this Consent Decree, a comprehensive internal program, a summary of which is attached hereto, to ensure NCC's future compliance with the Commission's rules governing mandatory reporting of actual and forecast number usage.

10. NCC agrees that it shall make a voluntary contribution to the United States Treasury in the amount of \$4,800 within 10 calendar days after the Bureau releases the Order adopting this Consent Decree.

11. In express reliance upon the representations contained herein, the Bureau agrees to terminate its investigation into the matters discussed in paragraphs 3-5, above, and to cancel the NAL issued to NCC in connection with that investigation.

12. The Bureau agrees not to institute on its own motion any new proceeding, formal or informal, of any kind against NCC for apparent violations of section 52.15(f) of the Commission's rules arising from the matters discussed in paragraphs 3-5, above, for behavior during the time period preceding the date of this consent decree.

13. In the event that NCC is found by the Commission or its delegated authority to have engaged in a violation of section 52.15(f) subsequent to the release of the Order adopting this Consent Decree, NCC agrees that the conduct described in paragraphs 3-5, above, may be considered by the Commission or its delegated authority in determining an appropriate sanction.

14. NCC waives 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 is limited to adopting the Consent Decree without change, addition, or modification.

15. NCC 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.

16. NCC and the Bureau agree that in the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

17. NCC and the Bureau agree that if NCC, 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 NCC nor the Commission shall contest the validity of the Consent Decree or Order, and NCC and the Commission shall waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and shall consent to a judgment incorporating the terms of this Consent Decree.

18. NCC agrees to waive any claims it 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.*, relating to the matters discussed in paragraphs 3-5, above.

19. NCC agrees that any violation of the Order adopting this Consent Decree shall constitute a separate violation and subject NCC to appropriate administrative sanctions.

20. NCC and the Bureau agree to be bound by the terms and conditions stated herein.

21. NCC and the Bureau agree that this Consent Decree may be signed in counterparts.

**ENFORCEMENT BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
David H. Solomon
Chief, Enforcement Bureau

Date

North County Communications Corp.

By: _____
Todd Lesser
President

Date

**SUMMARY OF COMPLIANCE PROGRAM
OF
NORTH COUNTY COMMUNICATIONS CORP.**

North County Communications Corp. (“NCC”) proposes the following compliance plan and will implement the following measures in order to ensure compliance with the Commission’s mandatory reporting requirements of Section 52.15(f) of the Commission’s rules:

1. The President of NCC (“President”) will post a copy of Section 52.15(f) of the Commission’s rules, the NANPA Job Aid, and the FCC Form 502 in a public place within NCC’s offices. The President will ensure that an NCC employee consults the NANPA’s website, www.nanpa.com, on a regular basis – and at least two months before each filing deadline for FCC Form 502 – to obtain information about revisions to the FCC’s reporting requirements of FCC Form 502.
2. The President will ensure that procedures are in place to gather detailed number utilization and forecast data on December 31st and June 30th of each year as required by Section 52.15(f) of the Commission’s rules.
3. The President will ensure that an NCC employee who is familiar with the mandatory reporting requirements under Section 52.15(f) of the Commission’s rules has sufficient time to complete and proof FCC Form 502 before February 1st and August 1st of each year.
4. The President will ensure that the completed and proofed FCC Form 502 is properly filed with NANPA by February 1st and August 1st of each year as required by Section 52.15(f) of the Commission’s rules.
5. The President will maintain dated copies of each FCC Form 502 filed with NANPA pursuant to Section 52.15(f) of the Commission’s rules.