

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

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In the Matter of	)	
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<b>VANGUARD CELLULAR SYSTEMS, INC.</b>	)	File No. EB-01-IH-0017t
	)	NAL/Acct. No. 200132080051
	)	FRN No. 0006798052
	)	
	)	

**FORFEITURE ORDER**

**Adopted:** February 26, 2003

**Released:** February 28, 2003

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Order, we issue a monetary forfeiture against Vanguard Cellular Systems, Inc. (“Vanguard”) for willful violation of 47 C.F.R. § 52.15(f). The noted violation involves Vanguard’s failure to report its number utilization and forecast data. Based upon our review of the facts and circumstances of this case, including the response to our *Notice of Apparent Liability* (“NAL”),<sup>1</sup> we conclude that a reduction of the proposed forfeiture is warranted and that Vanguard is liable for a forfeiture in the amount of \$3,000.

**II. BACKGROUND**

2. On April 24, 2001, the Chief, Enforcement Bureau, acting pursuant to delegated authority, issued an *NAL* to Vanguard, proposing a \$9,000 forfeiture. We issued the *NAL* because it appeared that Vanguard had failed to report on its actual and forecast number usage by filing FCC Form 502, the North American Numbering Plan Numbering Resource Utilization/Forecast (“NRUF”) Report that was due on September 15, 2000.<sup>2</sup> Carriers are required to report for each separate legal entity represented by an Operating Company Number (“OCN”).<sup>3</sup> It appeared that Vanguard failed to file an NRUF report for two OCNs – 6383 and 6384-- which were referenced in our *NAL*. We therefore determined that Vanguard had apparently violated section 52.15(f) of the Commission’s rules, which

<sup>1</sup> See *Vanguard Cellular Systems, Inc.*, 16 FCC Rcd 8679 (EB 2001).

<sup>2</sup> The NRUF reports are due on or before February 1 and on or before August 1 of each year. See 47 C.F.R. § 52.15(f)(6). However, we note that the deadline for filing reports due August 1, 2000 was extended to September 15, 2000. *Numbering Resource Optimization*, CC Docket No. 99-200, 15 FCC Rcd 17005 (2000).

<sup>3</sup> See 47 C.F.R. § 52.15(f)(3)(ii).

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.<sup>4</sup>

3. AT&T Wireless Services, Inc. (“AWS”), which is Vanguard’s parent company, responded to the *NAL*, and requests cancellation of the forfeiture. AWS states that it acquired Vanguard in 1999. In addition, Vanguard remains a wholly-owned subsidiary of AWS. Thereafter, AWS requested the transfer of all numbering resources associated with OCN 6383 and thus did not file a report due September 15, 2000 for this OCN. Instead, AWS asserts that it included utilization and forecast data for all but five of the NXX codes formerly assigned to OCN 6383 in AWS’s NRUF report.<sup>5</sup> AWS argues that the failure to include forecast and utilization data for these codes did not significantly affect the accuracy of its NRUF reports. Additionally, AWS asserts that no NRUF report was filed for OCN 6384 because Vanguard no longer held the numbering resources assigned to this OCN at the time that AWS acquired Vanguard.

### III. DISCUSSION

4. The *NAL* states that the proposed forfeiture was assessed in accordance with applicable statutory provisions, the Commission’s rules and the Commission’s *Forfeiture Guidelines*.<sup>6</sup> Section 503(b) of the Act requires that, in examining the response, we take into account the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>7</sup> Although AWS and Vanguard have not justified cancellation of the forfeiture, we find that a reduction of the forfeiture amount is warranted.

5. Carriers were required to include utilization and forecast data for the period between January 1, 2000 and June 30, 2000 in the semiannual NRUF report due September 15, 2000.<sup>8</sup> We find that AWS was not responsible for reporting numbering resources associated with OCN 6384, which had been acquired by another entity prior to its acquisition of Vanguard. However, even though AWS requested transfer of numbering resources associated with Vanguard’s OCN 6383 prior to the close of the reporting period, the transfer of some of the NXX codes did not become effective until after the relevant reporting period had closed. Nevertheless, with the exception of five NXX codes, AWS reported the numbering resources formerly assigned to Vanguard in its September 15, 2000 NRUF. Under these circumstances, we find that AWS’s submission does demonstrate a good faith attempt to comply with the NRUF filing

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<sup>4</sup> *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 99-200, 15 FCC Rcd 7574 (2000)(“*NRO Order*”); *recon. and clarification in part*, Second Report and Order, Order on Reconsideration in CC Docket 96-98 and CC Docket 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket 99-200, 16 FCC Rcd 306 (2000)(“*NRO Recon. Order*”).

<sup>5</sup> Numbering resources assigned in blocks of 10,000 numbers are referred to as central office codes or NXX codes.

<sup>6</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80; *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999)(“*Forfeiture Guidelines*”)(codified at 47 C.F.R. § 1.80(b)(4) Note).

<sup>7</sup> 47 C.F.R. § 503(b)(2)(D).

<sup>8</sup> 47 C.F.R. § 52.15(f)(6)(i).

requirement. We therefore conclude that a reduction of the forfeiture amount is warranted.<sup>9</sup> We have reviewed the response in light of the statutory factors set forth above, and find that AWS and Vanguard have justified a reduction of the proposed forfeiture penalty from \$9,000 to \$3,000.

#### IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to 47 U.S.C. § 503(b), and 47 C.F.R. § 0.111, 0.311 and 1.80, that Vanguard Cellular Systems, Inc., FORFEIT to the United States the sum of three thousand dollars (\$3,000) for willfully violating the Commission's rules that require U.S. carriers to report actual and forecast number usage.

7. Payment of the forfeiture may be made by mailing a check or money order, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482, within 30 days of the release of this Forfeiture Order.<sup>10</sup> The payment MUST INCLUDE the FCC Registration Number (FRN) referenced above and should note the NAL/Acct. No. referenced above. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to 47 U.S.C. § 504. A request for payment of the full amount of this Forfeiture Order under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>11</sup>

8. IT IS FURTHER ORDERED that a copy of this Forfeiture Order shall be sent by Certified Mail/Return Receipt Requested, to Douglas I. Brandon, Vice President- External Affairs & Law, AT&T Wireless Services, Inc., Fourth Floor, 1150 Connecticut Avenue, N.W., Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>9</sup> See, e.g., *Data Investments, Inc.*, 16 FCC Rcd 7905 (EB 2001).

<sup>10</sup> See 47 C.F.R. § 1.80(h).

<sup>11</sup> See 47 C.F.R. § 1.1914.