

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

In the Matter of)	File No. EB-04-IH-0519
)	
Locus Telecommunications, Inc.)	Acct. No. 200632080001
)	
)	FRN No. 0010-7295-15

ORDER

Adopted: September 30, 2005

Released: October 3, 2005

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and Locus Telecommunications, Inc. (“Locus”). The Consent Decree terminates the enforcement proceeding initiated by the Enforcement Bureau against Locus for possible violations of the universal service reporting and contribution requirements of section 254 of the Communications Act of 1934, as amended (“the Act”)¹ and certain Commission rules relating to universal service, the Telecommunications Relay Service Fund and the North American Numbering Plan Administration, sections 52.17, 54.706, 54.711, 54.713, and 64.604 of the Commission’s rules.²

2. The Enforcement Bureau and Locus have negotiated the terms of a Consent Decree that would resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, and in the absence of material new evidence relating to this matter, we conclude that there are no substantial or material questions of fact as to whether Locus possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,³ and sections 0.111 and 0.311 of the commission’s rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

¹ 47 U.S.C. § 254.

² 47 C.F.R. §§ 52.17, 54.706, 54.711, 54.713, 64.604.

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED.**

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	File No. EB-04-IH-0519
)	
Locus Telecommunications, Inc.)	Acct. No. 200532080146
)	
)	FRN No. 0010-7295-15

CONSENT DECREE

1. The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) and Locus Telecommunications, Inc. (“Locus”) hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether Locus violated the universal service reporting and contribution requirements of section 254 of the Communications Act of 1934, as amended (the “Act”)⁵ and/or certain Commission rules relating to universal service, the Telecommunications Relay Service Fund and the North American Numbering Plan Administration.

2. For the purposes of this Consent Decree, the following definitions shall apply:

- (a) “Commission” and “FCC” mean the Federal Communications Commission.
- (b) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (c) “Locus” means Locus Telecommunications, Inc. and its predecessors-in-interest and successors-in-interest.
- (d) “Parties” means Locus and the Bureau.
- (e) “Order” or “Adopting Order” means an Order of the Commission or the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (f) “Effective Date” means the date on which the Commission or the Bureau releases the Adopting Order.
- (g) “Investigation” means the investigation commenced by the Bureau’s October 28, 2004 Letter of Inquiry⁶ regarding whether Locus violated the requirements of section 254 of the Act and/or sections 1.1157, 52.17, 54.706, 54.711, 54.713, 64.604 and 64.1195 of the Commission’s rules relating to carrier registration, universal service reporting and contribution, number administration, telecommunications relay systems and regulatory fee payment.

⁵ 47 U.S.C. § 254.

⁶ See Letter from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC to Jason W. Chon, President, Locus Telecommunications, Inc. (October 28, 2004).

I. BACKGROUND

3. Pursuant to section 254(d) of the Act and sections 52.17, 54.706, 54.711, 54.713, and 64.604 of the Commission's rules, telecommunications carriers that provide interstate telecommunications services and private service providers that provide interstate telecommunications are required to file annual and quarterly Telecommunications Reporting Worksheets (FCC Forms 499-A and 499-Q) and contribute to the Universal Service Fund, Telecommunications Relay Service Fund and North American Numbering Plan Administration.⁷

4. Locus is a provider of prepaid calling services. On October 28, 2004, the Bureau initiated the Investigation by issuing a Letter of Inquiry ("LOI") directing Locus to provide information about its compliance with, among other matters, the Commission's universal service reporting and contribution requirements. Locus submitted a response to the Bureau's LOI on December 1, 2004.⁸ On July 15, 2005, Locus submitted supplemental information in response to the Bureau's request.⁹

II. AGREEMENT

5. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau, through entry of the Order, which shall immediately resolve and terminate the Investigation.

6. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's rules and orders. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Locus does not admit or deny liability for violating any statute, regulation, or administrative rule in connection with matters that are the subject of this Consent Decree.

7. Locus agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$330,000, in three equal installments of \$110,000 each paid over a three month period, with the first payment due 30 days after the Effective Date and each of the two successive payments due 30 days after the previous payment. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include "Acct. No. 200532080146" and "FRN No. 0010-7295-15." Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

⁷ 47 U.S.C. § 254(d); 47 C.F.R. §§ 52.17, 54.706, 54.711, 54.713, 64.604.

⁸ See Letter from Locus' counsel, Jonathan S. Marashlian, The Helein Law Group, to Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau (Dec. 1, 2004).

⁹ See Letter from Jonathan S. Marashlian, The Helein Law Group, to Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau (July 15, 2005).

8. For purposes of settling the matters set forth herein, Locus agrees to maintain a compliance program related to future compliance with the Act, the Commission's rules, and the Commission's orders. The program will include, at a minimum, the following components:

- (a) **Compliance Manual.** The Company shall maintain and update as necessary its existing Compliance Manual. Company personnel shall have ready access to the Compliance Manual and are to follow the procedures contained in it. The Compliance Manual, among other things, describes the universal service, Telecommunications Relay Service and North American Numbering Plan Administration rules and requirements as they apply to Locus. The Compliance Manual encourages personnel to contact the Company's Designated Contact, President, and/or Chief Financial Officer with any questions or concerns that arise. The Company shall submit to the Bureau a final version of its Compliance Manual 30 days after the Effective Date.
- (b) **Compliance Training Program.** The Company will establish an FCC compliance training program for employees who engage in activities subject to FCC regulation. Training sessions will be conducted at least annually to ensure compliance with the Act and the FCC's regulations and policies and, for new employees, within the first 30 days of employment.
- (c) **Designated Contact.** The Company will designate one employee as the point of contact for all telecommunications compliance matters.
- (d) **Review and Monitoring.** The Company will review the FCC Compliance Training Program annually to ensure that it is maintained in a proper manner and continues to address the objectives set forth therein.
- (e) **Audits.** The Company will ensure that external and internal audit reviews specifically address compliance with FCC regulatory requirements.
- (f) **Termination.** Locus's obligation under this Paragraph 8 shall expire twenty four (24) months after the Effective Date.

9. The Bureau agrees that it will not use the facts developed in this Investigation through the Effective Date of the Consent Decree or the existence of this Consent Decree to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Locus concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in this Investigation through the Effective Date of this Consent Decree or the existence of this Consent Decree to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Locus with respect to Locus's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier.

10. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act against Locus or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Locus of the Act, the rules, or this Order.

11. Locus 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 Bureau issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Locus shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein.

12. Locus's decision to enter into this Consent Decree is expressly contingent upon the Bureau's issuance of an Order that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition, modification, or deletion.

13. 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.

14. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Locus nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Locus shall waive any statutory right to a trial *de novo*.

15. Any violation of the Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights or remedies authorized by law attendant to the enforcement of a Commission order.

16. The Parties also agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Locus does not expressly consent) that provision will be superseded by such Commission rule or order.

17. Locus hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

18. This Consent Decree may be signed in counterparts.

Kris Anne Monteith
Chief, Enforcement Bureau
Federal Communications Commission

Date

Jason W. Chon
President
Locus Telecommunications, Inc.

Date