

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

In the Matter of)	
)	
Burke's Garden Telephone Company, Inc.)	File No. EB-06-TC-4512
)	NAL/Acct. No. 20073217 0056
Apparent Liability for Forfeiture)	FRN: 0004942819
)	
)	

ORDER

Adopted: June 4, 2007

Released: June 4, 2007

By the Chief, Enforcement Bureau:

I. INTRODUCTION AND BACKGROUND

1. In this *Order*, we cancel a proposed forfeiture in the amount of four thousand dollars (\$4,000) issued to Burke's Garden Telephone Company, Inc. ("Burke's Garden") for apparent willful and repeated violation of a Commission order for failure to respond to a directive of the Enforcement Bureau ("Bureau") to provide certain information and documents related to the Bureau's investigations into carrier protection of customer proprietary network information ("CPNI").

2. On January 27, 2007, the Bureau issued a Letter of Inquiry ("LOI") to Burke's Garden directing Burke's Garden to provide the company's CPNI compliance certificates for the previous five years, prepared pursuant to section 64.2009(e) of the Commission's rules.¹ On March 30, 2007, the Bureau issued a *Notice of Apparent Liability for Forfeiture* ("NAL") in the amount of \$4,000 to Burke's Garden for failing to respond to a directive of the Bureau to provide certain information and documents related to the Bureau's investigation into carrier protection of CPNI.² Burke's Garden filed a response to the NAL on April 3, 2007 ("Response").

II. DISCUSSION

3. Burke's Garden's April 3, 2007 response to the NAL includes a one-page policy document from the company, as well as a certified mail receipt showing that the document was received by the Commission on February 12, 2007. However, the document does not include any identifying case number or cover letter indicating to what it is responding. Pursuant to the January 30, 2007 LOI sent to Burke's Garden, the company was required to direct the original of its response to Marcy Greene, Deputy Division Chief, Telecommunications Consumers Division, Enforcement Bureau and submit its response via hand-delivery and *via email with all attachments to christopher.olsen@fcc.gov and marcy.greene@fcc.gov*. Burke's Garden failed to submit its response in accordance with the requirements of the LOI. Companies such as Burke's Garden have a duty to follow all instructions

¹ Letter from Marcy Greene, Deputy Division Chief, Telecommunications Consumers Division, Enforcement Bureau to Ms. Sue B. Moss, Mr. Stephen H. Peery, Richard Snapp, and Mr. Ralph L. Frye, Burke's Garden Telephone Company, Inc. (January 27, 2007) ("LOI"). See 47 C.F.R. § 64.2009(e).

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732170056 (E.B., rel. March 30, 2007).

contained in the LOI to ensure that their responses are addressed to the appropriate individuals and received. Despite Burke's Garden's failure to carefully adhere to the instructions in the LOI, we exercise our discretion to cancel the proposed forfeiture against the company in this case, because it has provided evidence that it did file a timely response, and does not make frequent filings with the Commission. We strongly caution Burke's Garden to carefully follow all relevant instructions in Commission directives when dealing with the Commission in the future.

4. Based on our review of Burke's Garden's Response and the record, we find that Burke's Garden did not willfully and repeatedly violate a Commission order by failing to respond to a directive of the Bureau. Consequently, we conclude that no forfeiture should be imposed.

5. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended ("Act"), and sections 0.111, 0.311 and 1.80(f) (4) of the Commission's rules, that the proposed forfeiture in the amount of four thousand dollars (\$4,000) issued to Burke's Garden Telephone Company, Inc., in the March 30, 2007, Notice of Apparent Liability for Forfeiture for willful and repeated violations of a Commission order **IS CANCELLED**.

6. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class Mail and Certified Mail Return Receipt Requested to Burke's Garden Telephone Company, Inc., at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Kris A. Monteith
Chief, Enforcement Bureau