

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

In the Matter of	)	File No. EB-07-IH-5119
	)	
CapRock Communications, Inc.	)	NAL/Acct. No. 200832080087
	)	
	)	FRN No. 0001-6437-66

**ORDER**

**Adopted:** June 10, 2008

**Released:** June 10, 2008

By the Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and CapRock Communications, Inc. (“CapRock”). The Consent Decree terminates an investigation by the Bureau against CapRock for possible violation of, among other things, section 254 of the Communications Act of 1934, as amended (the “Act”),<sup>1</sup> and sections 54.706, 54.711, and 64.1195 of the Commission’s rules relating to registration, regulatory filings and the universal service fund.<sup>2</sup>

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

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether CapRock possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

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

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

7. **IT IS FURTHER ORDERED** that CapRock shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by mailing a check or similar instrument

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<sup>1</sup> 47 U.S.C. § 254.

<sup>2</sup> 47 C.F.R. §§ 54.706, 54.711, and 64.1195.

<sup>3</sup> 47 U.S.C. § 154(i).

<sup>4</sup> 47 C.F.R. §§ 0.111, 0.311.

payable to the Order of the Federal Communications Commission, to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment[s] by wire transfer may be made to ABA Number 021030004, receiving bank Federal Reserve Bank of New York, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). CapRock shall also send electronic notification of payment of the voluntary contribution on the date said payment is made to michele.berlove@fcc.gov.

8. **IT IS FURTHER ORDERED** that CapRock will file reports with the Commission ninety days after the effective date of the Consent Decree, as defined therein (“Effective Date”) and twelve months after the Effective Date. Each report shall include a compliance certificate from an officer, as an agent of CapRock, stating that the officer has personal knowledge that CapRock has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer’s compliance certification. All reports shall be submitted to Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. The Company shall also transmit a copy of the reports via email to hillary.denigro@fcc.gov.

9. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to C. Douglas Jarrett, Keller & Heckman LLP, 1001 G Street, N.W., Suite 500 West, Washington, D.C. 20001.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Chief, Enforcement Bureau

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In the Matter of	)	File No. EB-07-IH-5119
	)	
CapRock Communications, Inc.	)	NAL/Acct. No. 200832080087
	)	
	)	FRN No. 0001-6437-66

**CONSENT DECREE**

1. The Enforcement Bureau (“Bureau”) and CapRock Communications, Inc. (“CapRock”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether CapRock violated, among other things, section 254 of the Communications Act of 1934, as amended (the “Act”)<sup>5</sup> and sections 54.706, 54.711, and 64.1195 of the Commission’s rules<sup>6</sup> relating to registration, regulatory filings and the universal service fund (“USF”).

**I. DEFINITIONS**

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

- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
- (b) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (c) “CapRock” means CapRock Communications, Inc. and its predecessors-in-interest and successors-in-interest.
- (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 10.
- (f) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (g) “Investigation” means the investigation commenced by the Bureau’s May 24, 2007 Letter of Inquiry<sup>7</sup> regarding whether CapRock violated, among other things, section 254(d) of the Communications Act of 1934, as amended (the “Act”) and sections

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<sup>5</sup> 47 U.S.C. § 254.

<sup>6</sup> 47 C.F.R. §§ 54.706, 54.711, and 64.1195.

<sup>7</sup> See Letter from Trent B. Harkrader, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, dated May 24, 2007 (“May 24, 2007 LOI”).

54.706, 54.711, and 64.1195 of the Commission's rules relating to registration, regulatory filings and the universal service fund.<sup>8</sup>

- (h) "Order" or "Adopting Order" means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (i) "Parties" means CapRock and the Bureau.
- (j) "Rules" means the Commission's regulations found in Title 47 of the Federal Regulations.

## II. BACKGROUND

3. Pursuant to section 64.1195(a) of the Commission's rules and pursuant to Commission orders, all carriers that provide interstate telecommunications service and certain other providers of interstate telecommunications must register with the Commission through submission of FCC Form 499-A.<sup>9</sup> In addition, section 254(d) of the Act and sections 54.706 and 54.711 of the rules require telecommunications carriers that provide interstate telecommunications services to file annual and quarterly Telecommunications Reporting Worksheets (FCC Form 499-A and FCC Form 499-Q) and contribute to the USF on the basis of their interstate and international end-user telecommunications revenues.

4. CapRock, a Texas-based company, is a niche provider of telecommunications, offering primarily international satellite services worldwide to the energy, maritime, construction and mining industries, as well as for disaster relief and government applications, but also providing interstate telecommunications in the United States. CapRock thus is subject to the requirements discussed in paragraph 3 above.

5. On March 23, 2007, through counsel, CapRock self-disclosed to the Bureau that it had discovered that it had failed to comply with certain regulations pertaining to universal service and other associated reporting and contribution obligations. CapRock also indicated that it would be submitting its registration, annual and quarterly Telecommunications Reporting Worksheets for prior reporting periods, all of which were submitted on April 2, 2007. On May 24, 2007, the Bureau issued a letter of inquiry ("LOI") to CapRock directing it to provide certain documents and information.<sup>10</sup> CapRock submitted its

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<sup>8</sup> 47 U.S.C. § 254(d); 47 C.F.R. §§ 54.706, 54.711, and 64.1195.

<sup>9</sup> 47 U.S.C. § 254(d), 47 C.F.R. § 64.1195(a); *Universal Service Contribution Methodology, Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-In-Billing and Billing Format, IP-Enabled Services*, Report and Order and Notice of Proposed Rulemaking, WC Docket Nos. 06-122 and 04-36, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, and 98-170, 21 FCC Rcd 7518, 7548-49, para. 61 (2006).

<sup>10</sup> See LOI.

response on June 13, 2007.<sup>11</sup> On August 6, 2007, the Bureau sent a follow-up letter of inquiry to CapRock,<sup>12</sup> to which CapRock responded on August 27, 2007 and September 12, 2007.<sup>13</sup>

### III. TERMS OF AGREEMENT

6. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

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

8. **Effective Date: Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the FCC releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its investigation. In consideration for the termination of said investigation, CapRock agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau 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 CapRock concerning the matters that were the subject of the investigation, nor will the Bureau recommend any such action to the Commission. 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 CapRock with respect to CapRock's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier or hold Commission authorizations, nor will the Bureau recommend any such action to the Commission.

10. **Compliance Plan.** CapRock agrees that it will develop, within sixty (60) calendar days from the Effective Date, an internal Compliance Plan to ensure CapRock's future compliance with the Act, the Commission's rules, and the Commission's orders governing reporting and USF contribution requirements for providers of telecommunications. The Compliance Plan includes the following components:

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<sup>11</sup> See LOI Response, dated June 12, 2007 but forwarded to the Commission under cover letter from C. Douglas Jarrett, Keller and Heckman LLP, to Vickie S. Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, dated June 13, 2007.

<sup>12</sup> Letter from Trent B. Harkrader, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, to C. Douglas Jarrett, Keller and Heckman LLP, dated August 6, 2007 ("Supplemental LOI").

<sup>13</sup> Letters from C. Douglas Jarrett, Keller and Heckman LLP, to Michele Levy Berlove, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, FCC, dated August 27 and September 12, 2007 ("Supplemental LOI Responses").

- (a) Compliance Manual. CapRock shall create, maintain and update a USF Compliance Manual. CapRock personnel who engage in activities related to USF compliance and reporting obligations of CapRock will have ready access to the Compliance Manual and are to follow the procedures contained therein. The Compliance Manual will, among other things, describe the rules and requirements as they apply to CapRock regarding USF compliance and reporting obligations. The Compliance Manual will set forth a schedule of filing and payment dates associated with the USF, and CapRock will create compliance notifications that alert CapRock to upcoming filing and payment dates. The Compliance Manual will encourage personnel to contact CapRock's Designated Contact and Regulatory Legal Counsel with any questions or concerns that arise with respect to CapRock's USF compliance and reporting obligations.
- (b) Compliance Training Program. CapRock will establish an USF compliance training program for any employee who engages in activities related to CapRock's USF compliance and reporting obligations. Training sessions will be conducted for such employees to ensure such employees are informed regarding all applicable USF obligations, and, for new employees who are engaged in such activities, within the first sixty (60) days of employment.
- (c) Designated Contact. CapRock will designate one employee as the point of contact for all USF compliance obligations.
- (d) Review and Monitoring. CapRock will review the USF Compliance Manual and USF Compliance Training Program to ensure that they are maintained in a proper manner and continue to address the objectives set forth therein.
- (e) Audits. CapRock will ensure that any internal reviews of this Compliance Plan, if conducted, specifically consider compliance with the pertinent USF requirements.
- (f) Compliance Reports. CapRock will file compliance reports with the Commission ninety days after the Effective Date and twelve (12) months after the Effective Date. Each compliance report shall include a compliance certificate from an officer or responsible official, as an agent of CapRock, stating that the individual has personal knowledge that CapRock has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's or responsible official's compliance certification. All compliance reports shall be submitted to Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. The Company shall also transmit a copy of the reports via email to [hillary.denigro@fcc.gov](mailto:hillary.denigro@fcc.gov).
- (g) Termination Date: Unless stated otherwise, the compliance requirements under this Consent Decree will expire twelve (12) months after the Effective Date.

11. **Voluntary Contribution**. CapRock agrees that it will make a voluntary contribution to the United States Treasury in the amount of one-hundred nine thousand and four hundred dollars (\$109,400), to be paid in three equal installments on July 1, 2008, October 1, 2008 and January 2, 2009. Each payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by



overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payments by wire transfer may be made to ABA Number 021030004, receiving bank Federal Reserve Bank of New York, and account number 27000001. CapRock will also send electronic notification within forty-eight (48) hours of the date said payment is made to michele.berlove@fcc.gov.

12. **Waivers.** CapRock 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 Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. CapRock shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. 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 CapRock nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and CapRock shall waive any statutory right to a trial *de novo*. CapRock 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.

13. **Severability.** The Parties agree that if any of the provisions of the Adopting Order or the Consent Decree shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety 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. **Subsequent Rule or Order.** The Parties 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 CapRock does not expressly consent) that provision will be superseded by such Commission rule or Order.

15. **Successors and Assigns.** CapRock agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

16. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further 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 further agree that this Consent Decree is for settlement purposes only and that by agreeing to the Consent Decree, CapRock does not admit any liability for violating the Act or the Commission rules or orders in connection with the matters that are the subject of this Consent Decree.

17. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

18. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

19. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

20. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

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Kris Anne Monteith  
Chief  
Enforcement Bureau

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Date

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Alan B. Aronowitz  
General Counsel  
CapRock Communications, Inc.

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Date