

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

In the Matter of)	File No. EB-04-IH-0517
)	
)	
Unicom Communications, L.L.C.)	NAL/Acct. No. 200632080154
)	
)	
Apparent Liability for Forfeiture)	FRN No. 0014994602
)	

ORDER

Adopted: June 9, 2008

Released: June 11, 2008

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Unicom Communications, L.L.C. (“Unicom”). The Consent Decree cancels a Notice of Apparent Liability for Forfeiture (“NAL”) by the Bureau against Unicom for its apparent violation of a Commission order by willfully and repeatedly failing to respond to a Bureau directive, issued pursuant to sections 4(i), 4(j), 218, and 403 of the Communications Act of 1934, as amended (“the Act”),¹ to provide certain information and documents. In addition, the Consent Decree terminates an investigation of Unicom for possible violations of sections 9, 225, 251, and 254 of the Act,² relating to universal service and other programs, and, among others, sections 1.1154, 1.1157, 52.17, 54.706, 54.711, 64.604, and 64.1195 of the Commission’s rules,³ relating to regulatory fees, the North American Numbering Plan (“NANP”) cost recovery mechanism, the Universal Service Fund (“USF”), the Telecommunications Relay Service (“TRS”) Fund, and carrier registration.

2. The Bureau and Unicom 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 which terminates the investigation and cancels the NAL.

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 Unicom possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

¹ 47 U.S.C. §§ 154(i), 1544(j), 218, 403.

² 47 U.S.C. §§ 9, 225, 251, 254.

³ 47 C.F.R. §§ 1.1154, 1.1157, 52.17, 54.706, 54.711, 64.604, 64.1195.

5. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 503(b) of the Communications Act of 1934, as amended,⁴ and sections 0.111 and 0.311 of the Commission's Rules,⁵ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED** and the Notice of Apparent Liability for Forfeiture **IS CANCELLED**.

7. **IT IS FURTHER ORDERED** that Unicom Communications, L.L.C. shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by mailing a check or similar instrument 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 by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, 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).

8. **IT IS FURTHER ORDERED** that Unicom Communications, L.L.C. will file reports with the Commission ninety days after the Effective Date, twelve months after the Effective Date, and twenty-four months after the Effective Date. Each report shall include a compliance certificate from an officer, as an agent of Unicom Communications, L.L.C., stating that the officer has personal knowledge that Unicom Communications, L.L.C. 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.

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 Tony S. Lee, Venable LLP, Counsel for Unicom Communications, L.L.C., 575 7th Street, Washington, DC 20004.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

⁴ 47 U.S.C. § 154(i), 503(b).

⁵ 47 C.F.R. §§ 0.111, 0.311.

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

In the Matter of)	File No. EB-04-IH-0517
)	
)	
Unicom Communications, L.L.C.)	NAL/Acct. No. 200632080154
)	
)	
Apparent Liability for Forfeiture)	FRN No. 0014994602
)	

CONSENT DECREE

1. The Enforcement Bureau (“Bureau”) and Unicom Communications, L.L.C. (“Unicom”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of cancelling the NAL issued for Unicom’s apparent violation of a Commission order by willfully and repeatedly failing to respond to a Bureau directive, issued pursuant to sections 4(i), 4(j), 218, and 403 of the Communications Act of 1934, as amended (“the Act”),¹ to provide certain information and documents. This Consent Decree also terminates the Enforcement Bureau’s investigation into whether Unicom violated sections 9, 225, 251, and 254 of the Act,² relating to universal service and other programs, and, among others, sections 1.1154, 1.1157, 52.17, 54.706, 54.711, 64.604, and 64.1195 of the Commission’s rules,³ relating to regulatory fees, the North American Numbering Plan (“NANP”) cost recovery mechanism, the Universal Service Fund (“USF”), the Telecommunications Relay Service (“TRS”) Fund, and carrier registration.

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) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (d) “Compliance Plan” means the program described in this Consent Decree at paragraph 13.
 - (e) “Effective Date” means the date on which the Bureau releases the Adopting Order.

¹ 47 U.S.C. §§ 154(i), 154(j), 218, 403.

² 47 U.S.C. §§ 9, 225, 251, 254.

³ 47 C.F.R. 47 C.F.R. §§ 1.1154, 1.1157, 52.17, 54.706, 54.711, 64.604, 64.1195.

- (f) “Investigation” means the investigation commenced by the Bureau’s October 28, 2004 Letter of Inquiry (“LOI”) to Unicom⁴ regarding possible violations of the requirements of sections 9, 225, 251, and 254 of the Act⁵ and sections 1.1154, 1.1157, 52.17, 54.706, 54.711, 64.604, and 64.1195 of the Commission’s rules,⁶ relating to regulatory fees, the North American Numbering Plan (“NANP”) cost recovery mechanism, the Universal Service Fund (“USF”), the Telecommunications Relay Service (“TRS”) Fund, and carrier registration.
- (g) “Unicom” means Unicom Communications, L.L.C. and its predecessors-in-interest and successors-in-interest.
- (h) “NAL” means the Notice of Apparent Liability for Forfeiture and Order that the Bureau issued on April 27, 2006.⁷
- (i) “Order” or “Adopting Order” means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (j) “Parties” means Unicom Communications, L.L.C. and the Bureau.
- (k) “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 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.⁸ In addition, section 254(d) of the Act and sections 54.706, 54.711, and 54.713 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 Universal Service Fund (“USF”) on the basis of their interstate and international end-user telecommunications revenues.

⁴ See Letter from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, to Charles D. D’Ascoli, Managing Partner, Unicom Communications, L.L.C., dated October 28, 2004 (“October 28, 2004 LOI”).

⁵ 47 U.S.C. §§ 159, 225, 251, 254(d).

⁶ 47 C.F.R. 47 C.F.R. §§ 1.1154, 1.1157, 52.17, 54.706, 54.711, 64.604, 64.1195.

⁷ See *Unicom Communications, L.L.C.*, Notice of Apparent Liability for Forfeiture and Order, 21 FCC Rcd 4361 (Enf. Bur. 2006) (“NAL”).

⁸ See *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).

4. Pursuant to section 251(e) of the Act and section 52.17 of the rules, all telecommunications carriers are required to contribute to the costs of establishing administration for the North American Numbering Plan (“NANP”) based on information contained in FCC Form 499-A and FCC Form 499-Q.

5. Pursuant to section 225(b)(1) of the Act and section 64.604 of the rules, telecommunications carriers that provide interstate telecommunications services are required to contribute to the Telecommunications Relay Service (“TRS”) Fund, based on information contained in FCC Form 499-A and FCC Form 499-Q.

6. Pursuant to section 9(a)(1) of the Act and sections 1.1151, 1.1154, and 1.1157(b)(1) of the Commissions rules, interstate telecommunications carriers are required to pay regulatory fees.

7. Pursuant to sections 4(i), 4(j), 218, and 403 of the Act, interstate telecommunications carriers are required to respond to directives by the Commission to provide information to enable it to perform its duties under the Act.

8. Unicom is a division of Smoky Mountains Systems, Inc., a North Carolina firm offering a variety of regulated telecommunications services. Unicom itself is a local and long distance carrier that has been providing interstate telecommunications service in North Carolina and Florida since 1998.⁹ On April 27, 2006, the Bureau issued a Notice of Apparent Liability for Forfeiture and Order¹⁰ finding that Unicom apparently violated a Commission order and directive by failing, after multiple opportunities, to respond fully to Bureau Letters of Inquiry pertaining to Unicom’s compliance with its universal service and related obligations. The NAL proposed that Unicom be held liable for a forfeiture of \$20,000 under section 503(b)(1)(B) of the Act¹¹ and ordered Unicom to respond fully to the Bureau inquiry letters.¹² Unicom registered with the Commission by filing an initial Form 499-A on May 16, 2006, and, as of the Effective Date, it has made all necessary filings and paid all invoiced amounts relating to the USF, TRS Fund, NANPA cost recovery mechanism, and regulatory fees. Moreover, Unicom responded to the NAL on May 26, 2006.¹³ At the same time, Unicom also requested that the Bureau agree to a Consent Decree with a Compliance Plan resolving the investigation. On June 30, 2006, Unicom filed a supplemental response to the NAL and a response to the Bureau inquiry letters.¹⁴

III. TERMS OF AGREEMENT

9. 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.

10. Unicom 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.

⁹ See www.unicomcommunications.com (June 5, 2008).

¹⁰ See NAL, note 7, *supra*.

¹¹ See 47 U.S.C. § 503(b)(1)(B).

¹² See *id.*, 21 FCC Rcd at 4366, ¶¶ 16, 18.

¹³ Unicom Communications, L.L.C. Request for Cancellation or Reduction of Proposed Forfeiture, filed May 26, 2006 (“May 26, 2006 NAL Response”).

¹⁴ See Unicom Communications, L.L.C. Supplement to Request for Cancellation or Reduction of Proposed Forfeiture, filed June 30, 2006.

11. The Parties agree that this Consent Decree shall become binding on the Parties on the Effective Date. 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 violation of a Bureau order.

12. 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 and to cancel the NAL. In consideration for the termination of said investigation and cancellation of the NAL, Unicom 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, or recommend to the Commission, any new proceeding, formal or informal, or take any action on its own motion against Unicom 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, or recommend to the Commission, any proceeding, formal or informal, or, on its own motion, or recommend that the Commission, take any action against Unicom with respect to Unicom's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier.

13. For purposes of settling the matters set forth herein, Unicom agrees to maintain a Compliance Plan related to future compliance with the Act, the Commission's rules, and the Commission's orders. The Compliance Plan shall be comprised of the following components:

- (a) Compliance Training Program. Unicom will establish an FCC compliance training program for any employee who engages in activities related to FCC regulation of Unicom. Training sessions will be conducted annually for such employees to ensure compliance with the Act and the FCC's regulations and policies and, for new employees who are engaged in such activities, within the first thirty (30) days of employment.
- (b) Designated Contact. Unicom will designate one employee or consultant as the point of contact for all telecommunications compliance matters.
- (c) Review and Monitoring. Unicom will review its FCC Compliance Training Program annually to ensure it is maintained in a proper manner and continues to address the objectives set forth therein.
- (d) Termination. Unicom's obligations under this Paragraph 13 shall expire twenty-four (24) months after the Effective Date.

14. Unicom will file compliance reports with the Commission ninety days after the Effective Date, twelve months after the Effective Date, and twenty-four months after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of Unicom, stating that the officer has personal knowledge that Unicom 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 compliance reports shall be submitted to Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554.

15. Unless stated otherwise, the requirements of this Consent Decree will expire on the later of twenty-four months after the Effective Date or the date Unicom makes its final Voluntary Contribution installment payment.

16. Unicom agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$25,000 in 48 installments of \$520.83 each. The first payment will be made within thirty (30) days after the Effective Date of the Adopting Order with subsequent payments made monthly thereafter by the 15th day of each month. Each payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/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 TREAS/NYC, 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).

17. The Parties waive any and all rights they 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. Unicom 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 Unicom nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Unicom shall waive any statutory right to a trial *de novo*. Unicom 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. 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.

19. 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 Unicom does not expressly consent) that provision will be superseded by such Commission rule or order.

20. Except as set forth herein, Unicom agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

21. 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 agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent

Decree, Unicom does not admit or deny liability for violating any statute, regulation, or administrative rule in connection with the matters that are the subject of this Consent Decree.

22. This Consent Decree cannot be modified without the advance written consent of both Parties.

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

24. 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.

Kris Anne Monteith
Chief
Enforcement Bureau

Date

Charles D. D'Ascoli
Managing Partner
Unicom Communications, L.L.C.

Date