

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

In the Matter of)	
)	File No. EB-07-SE-272
Cable & Communications Corporation)	NAL/Acct. No. 200832100015
dba Mid-Rivers Cellular)	FRN # 0001634443

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: February 8, 2008

Released: February 11, 2008

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Cable & Communications Corporation dba Mid-Rivers Cellular (“Mid-Rivers Cellular”) apparently willfully and repeatedly violated Section 20.19(d)(2)¹ of the Commission’s Rules (“Rules”) by failing to include in its digital wireless handset offerings at least two models that meet the inductive coupling standards for hearing aid compatibility by September 18, 2006. For Mid-Rivers Cellular’s apparent violations, and for the reasons discussed below, we propose a forfeiture in the amount of fifteen thousand dollars (\$15,000).

II. BACKGROUND

2. In the 2003 *Hearing Aid Compatibility Order*, the Commission adopted several measures to enhance the ability of individuals with hearing disabilities to access digital wireless telecommunications.² The Commission established technical standards that digital wireless handsets must meet to be considered compatible with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes.³ Specifically, the Commission adopted a standard for radio frequency interference (the

¹ 47 C.F.R. § 20.19(d)(2).

² *Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones*, Report and Order, 18 FCC Rcd 16753 (2003); Erratum, 18 FCC Rcd 18047 (2003) (“*Hearing Aid Compatibility Order*”); Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11221 (2005) (“*Hearing Aid Compatibility Reconsideration Order*”). The Commission adopted these requirements for digital wireless telephones under the authority of the Hearing Aid Compatibility Act of 1988, codified at Section 710(b)(2)(C) of the Communications Act of 1934, as amended, 47 U.S.C. § 610(b)(2)(C).

³ See *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16777 ¶ 56; 47 C.F.R. § 20.19(b)(1), (2). The *Hearing Aid Compatibility Order* described the acoustic coupling and the inductive (telecoil) coupling modes as follows:

In acoustic coupling mode, the microphone picks up surrounding sounds, desired and undesired, and converts them into electrical signals. The electrical signals are amplified as needed and then converted back into electrical signals. In telecoil mode, with the microphone turned off, the telecoil picks up the audio signal-based magnetic field generated by the voice coil of a dynamic speaker in hearing aid-compatible telephones, audio loop systems, or powered neck loops. The hearing aid converts the magnetic field into electrical signals, amplifies them as needed, and converts them back into sound via the speaker. Using a telecoil avoids the feedback that often results from putting a hearing aid up against a telephone earpiece, can help prevent exposure to over amplification, and eliminates background noise, providing improved access to the telephone.

“U3” or “M3” rating) to enable acoustic coupling between digital wireless phones and hearing aids operating in acoustic coupling mode, and a separate standard (the “U3T” or “T3” rating) to enable inductive coupling with hearing aids operating in telecoil mode.⁴ The Commission further established, for each standard, deadlines by which manufacturers and service providers were required to offer specified numbers or percentages of digital wireless handsets per air interface⁵ that are compliant with the relevant standard if they did not come under the *de minimis* exception.⁶ The Commission required that manufacturers and service providers begin making commercially available at least two handset models per air interface that meet the U3 or M3 rating for radio frequency interference by September 16, 2005.⁷ The Commission also required that manufacturers and service providers make commercially available at least two handset models per air interface that meet the U3T or T3 rating for inductive coupling by September 18, 2006.⁸ In connection with the offer of hearing aid-compatible handset models, the Commission further required entities to label the handsets with the appropriate technical rating, and to explain the technical rating system in the owner’s manual or as part of the packaging material for the handset.⁹

3. In order to monitor the availability of these handsets, the Commission required manufacturers and digital wireless service providers to report every six months on efforts toward

⁴ Section 20.19(b)(1) provides that a wireless handset is deemed hearing aid-compatible for radio frequency interference if, at minimum, it receives a U3 rating as set forth in “American National Standard for Methods of Measurement of Compatibility between Wireless Communications Devices and Hearing Aids, ANSI C63.19-2001.” 47 C.F.R. § 20.19(b)(1). Section 20.19(b)(2) provides that a wireless handset is deemed hearing aid-compatible for inductive coupling if, at minimum, it receives a U3T rating as set forth in ANSI C63.19-2001. 47 C.F.R. § 20.19(b)(2). On April 25, 2005, the Commission’s Office of Engineering and Technology announced that it would also certify handsets as hearing aid-compatible based on the revised version of the standard, ANSI C63.19-2005. *See OET Clarifies Use of Revised Wireless Phone Hearing Aid Compatibility Standard Measurement Procedures and Rating Nomenclature*, Public Notice, 20 FCC Rcd 8188 (OET 2005). On June 6, 2006, the Commission’s Wireless Telecommunications Bureau and Office of Engineering and Technology announced that the Commission would also certify handsets as hearing aid-compatible based on the revised version of the standard, ANSI C63.19-2006. Thus, applicants for certification may rely on either the 2001 version, the 2005 version, or the 2006 version of the ANSI C63.19 standard. *See Wireless Telecommunications Bureau and Office of Engineering and Technology Clarify Use of Revised Wireless Phone Hearing Aid Compatibility Standard*, Public Notice, 21 FCC Rcd 6384 (WTB/OET 2006). In addition, since the 2005 version, the ANSI C63.19 technical standard has used an “M” nomenclature for the radio frequency interference rating rather than a “U,” and a “T” nomenclature for the handset’s inductive coupling rating, rather than a “UT.” The Commission has approved the use of the “M” and “T” nomenclature and considers the M/T and U/UT nomenclatures as synonymous. *See Hearing Aid Compatibility Reconsideration Order*, 20 FCC Rcd at 11238 ¶ 33.

⁵ The term “air interface” refers to the technical protocol that ensures compatibility between mobile radio service equipment, such as handsets, and the service provider’s base stations. Currently, the leading air interfaces include Code Division Multiple Access (CDMA), Global System for Mobile Communications (GSM), Integrated Dispatch Enhanced Network (iDEN), Time Division Multiple Access (TDMA) and Wideband Code Division Multiple Access (WCDMA) a/k/a Universal Mobile Telecommunications System (UMTS).

⁶ *See Hearing Aid Compatibility Order*, 18 FCC Rcd at 16780 ¶ 65; 47 C.F.R. §§ 20.19(c), (d). The *de minimis* exception provides that manufacturers or mobile service providers that offer two or fewer digital wireless handset models per air interface are exempt from the hearing aid compatibility requirements, and manufacturers or service providers that offer three digital wireless handset models per air interface must offer at least one compliant model. 47 C.F.R. § 20.19(e).

⁷ *See Hearing Aid Compatibility Order*, 18 FCC Rcd at 16780 ¶ 65; *see also* 47 C.F.R. § 20.19(c).

⁸ *See Hearing Aid Compatibility Order*, 18 FCC Rcd at 16780 ¶ 65; *see also* 47 C.F.R. § 20.19(d).

⁹ *See Hearing Aid Compatibility Order*, 18 FCC Rcd at 16785 ¶¶ 83, 85-86; *see also* 47 C.F.R. § 20.19(f).

compliance with the hearing aid compatibility requirements for the first three years of implementation, and then annually thereafter through the fifth year of implementation.¹⁰

4. In its November 17, 2006 report, Mid-Rivers Cellular indicated that it had available for sale in each of its retail outlets two handset models that comply with the standard for radio frequency interference set forth in Section 20.19(b)(1) of the Rules.¹¹ Mid-Rivers Cellular did not address its compliance with the inductive coupling compatibility requirements in the report. Subsequently, the Wireless Telecommunications Bureau referred the matter to the Enforcement Bureau for investigation into whether Mid-Rivers Cellular was in compliance with the inductive coupling compatibility requirements.

5. On August 13, 2007, the Spectrum Enforcement Division (“Division”) of the Enforcement Bureau issued a Letter of Inquiry (“LOI”) to Mid-Rivers Cellular.¹² In its response, Mid-Rivers Cellular asserted that it began offering for sale one inductive coupling-compliant handset, the Motorola V3c RAZR, on or about August 9, 2006.¹³ Mid-Rivers Cellular further asserted that it began offering for sale an additional inductive coupling-compliant handset, the V3m RAZR, on or about February 21, 2007.¹⁴ According to Mid-Rivers Cellular, an internal review prompted by the Division’s LOI revealed Mid-Rivers Cellular’s misunderstanding that its handset compliance obligations were satisfied solely by a stock of a sufficient number of models with the appropriate “M” ratings.¹⁵ Mid-Rivers Cellular maintained that while its stock did contain one inductive coupling-compliant phone model as of the September 18, 2006 deadline and was fully compliant on or about February 21, 2007, Mid-Rivers Cellular only recently understood that a separate requirement regarding the inductive coupling standard applied.¹⁶ Mid-Rivers Cellular noted that its error was inadvertent and existed for a very short period of time.¹⁷ Finally, Mid-Rivers Cellular stated that it believed that the public suffered no adverse effects as a result of this mistake.¹⁸

¹⁰ *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16787 ¶ 89; see also *Wireless Telecommunications Bureau Announces Hearing Aid Compatibility Reporting Dates for Wireless Carriers and Handset Manufacturers*, Public Notice, 19 FCC Rcd 4097 (Wireless Tel. Bur. 2004).

¹¹ Cable & Communications Corporation dba Mid-Rivers Cellular Hearing Aid Compatibility Report, WT Docket No. 01-309, November 17, 2006 (“November 17, 2006 Report”), at 2. Specifically, Mid-Rivers Cellular indicated that it was offering the following two handset models: the Motorola V266 and the Motorola V3c RAZR. *Id.*

¹² Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Gerry Anderson, Cable & Communications Corporation dba Mid-Rivers Cellular (August 13, 2007).

¹³ Letter from Sylvia Lesse, Esq., Communications Advisory Counsel LLC, to Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (August 28, 2007) (“LOI Response”), at 3. Mid-Rivers Cellular states that it purchased this model on August 2, 2006, and that it typically makes models available for sale to the public one week after the date of purchase. *Id.* at 3 n. 2 and accompanying text.

¹⁴ *Id.* at 3. Mid-Rivers Cellular purchased this handset on February 14, 2007. Mid-Rivers Cellular thereafter purchased and made available for sale three additional inductive coupling-compliant handsets, the Motorola E815 (purchased March 14, 2007); the Motorola K1m KRZR (purchased June 6, 2007); and the Motorola L7c Slvr (purchased June 12, 2007). *Id.*

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

III. DISCUSSION

A. Failure to Comply with the Hearing Aid Compatibility Handset Requirements

6. Section 20.19(d)(2) of the Rules requires digital wireless service providers to begin offering for sale at least two handset models for each air interface that meet at least a T3 rating for inductive coupling by September 18, 2006. Mid-Rivers Cellular began offering for sale one inductive coupling-compliant handset prior to the September 18, 2006 deadline.¹⁹ Mid-Rivers Cellular admits that it did not offer for sale a second inductive coupling-compliant handset until approximately February 21, 2007. Accordingly, we conclude that Mid-Rivers Cellular apparently willfully²⁰ and repeatedly²¹ failed to comply with Section 20.19(d)(2) of the Rules.

B. Proposed Forfeiture

7. Under Section 503(b)(1)(b) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.²² To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.²³ The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.²⁴ We conclude under this standard that Mid-Rivers Cellular is apparently liable for forfeiture for its apparent willful and repeated violation of Section 20.19(d)(2) of the Rules.

8. Under Section 503(b)(2)(B) of the Act,²⁵ we may assess a common carrier a forfeiture of up to \$130,000 for each violation, or for each day of a continuing violation up to a maximum of

¹⁹ Mid-Rivers Cellular stated that it purchased the Motorola V3c RAZR on August 2, 2006, and that it typically makes models available for sale to the public one week after the date of purchase. Motorola obtained an equipment certification for the Motorola V3c RAZR under FCC ID IHDT56FT1 on September 1, 2005. At that time, the V3c was certified as meeting an M3 rating for radio frequency interference. On August 31, 2006, Motorola was granted a Class II permissive change for the V3c which updated the hearing aid compatibility rating for the V3c to M4 for radio frequency interference and T4 for inductive coupling. We note that under the Commission's rules, a handset model must have completed testing and certification for hearing aid compatibility before it can be considered compatible. See 47 C.F.R. § 20.19(b)(3).

²⁰ Section 312(f)(1) of the Act defines "willful" as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the Section 503(b) context. See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 ¶ 5 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) ("*Southern California*").

²¹ Section 312(f)(2) of the Act, which also applies to forfeitures assessed pursuant to Section 503(b) of the Act, provides that "[t]he term 'repeated,' ... means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2). See *Callais Cablevision, Inc.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 1359, 1362 ¶ 9 (2001); *Southern California*, 6 FCC Rcd at 4388 ¶ 5.

²² 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

²³ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

²⁴ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 ¶ 4 (2002).

²⁵ 47 U.S.C. § 503(b)(2)(B). The Commission twice amended Section 1.80(b)(3) of the Rules, 47 C.F.R. § 1.80(b)(3), to increase the maxima forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. See *Amendment of Section 1.80 of* (continued ...)

\$1,325,000 for a single act or failure to act. In exercising such authority, we are required to 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 such other matters as justice may require.”²⁶

9. The Commission’s *Forfeiture Policy Statement*²⁷ and Section 1.80 of the Rules do not establish a base forfeiture amount for violations of the hearing aid-compatible handset requirements set forth in Section 20.19 of the Rules. The fact that the *Forfeiture Policy Statement* does not specify a base amount does not indicate that no forfeiture should be imposed. The *Forfeiture Policy Statement* states that “... any omission of a specific rule violation from the ... [forfeiture guidelines] ... should not signal that the Commission considers any unlisted violation as nonexistent or unimportant.”²⁸ The Commission retains the discretion, moreover, to depart from the *Forfeiture Policy Statement* and issue forfeitures on a case-by-case basis, under its general forfeiture authority contained in Section 503 of the Act.²⁹

10. In determining the appropriate forfeiture amount for violation of the hearing aid compatibility handset requirements, we take into account that these requirements serve to ensure that individuals with hearing disabilities have access to digital wireless telecommunications services. In adopting the hearing aid compatibility rules, the Commission underscored the strong and immediate need for such access, stressing that individuals with hearing impairments should not be denied the public safety and convenience benefits of digital wireless telephony.³⁰ Moreover, as the Commission has noted, the demand for hearing aid-compatible handsets is likely to increase with the growing reliance on wireless technology and with the increasing median age of our population.³¹

11. We note that the Enforcement Bureau has established a base forfeiture amount of \$8,000 for violation of the labeling requirements for wireless hearing aid-compatible handsets.³² We find that a

(Continued from previous page ...) —————
the Commission’s Rules and Adjustment of Forfeiture Maxima to Reflect Inflation, Order, 15 FCC Rcd 18221 (2000) (adjusting the maximum statutory amounts from \$100,000/\$1,000,000 to \$120,000/\$1,200,000); *Amendment of Section 1.80 of the Commission’s Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 19 FCC Rcd 10945 (2004) (adjusting the maximum statutory amounts from \$120,000/\$1,200,000 to \$130,000/\$1,325,000); see also 47 C.F.R. § 1.80(c).

²⁶ 47 U.S.C. § 503(b)(2)(E). See also 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures.

²⁷ See *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 Policy Statement*”).

²⁸ *Forfeiture Policy Statement*, 12 FCC Rcd at 17099 ¶ 22.

²⁹ See *id.*

³⁰ *Id.* at 16755 ¶ 4.

³¹ *Id.* at 16786 ¶ 5 (noting that approximately one in ten Americans, 28 million, have some level of hearing loss, that the proportion increases with age, and that the number of those affected will likely grow as the median age increases). See also *Report on the Status of Implementation of the Commission’s Hearing Aid Compatibility Requirements*, Report, 22 FCC Rcd 17709, 17719 ¶ 20 (2007) (noting, just four years later, that the number of individuals with hearing loss in the United States was “at an all time high of 31 million – with that number expected to reach approximately 40 million at the end of this decade”).

³² See e.g., *South Central Utah Telephone Association, Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 19251 ¶ 10 (Enf. Bur., Spectrum Enf. Div. 2007), *response pending*; *Pine Telephone Company, Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 9205, 9210 ¶ 11 (Enf. Bur., Spectrum Enf. Div. 2007), *response pending*; *IT&E Overseas, Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 7660, 7665 ¶ 10 (Enf. Bur., Spectrum Enf. Div. 2007), *response pending*.

violation of the labeling requirements, while serious because it deprives hearing aid users from making informed choices, is less egregious than a violation of the handset requirements because failure to make compliant handsets available actually deprives hearing aid users from accessing digital wireless communications. Therefore, we believe that a significantly higher base forfeiture amount is warranted for violations of the hearing aid compatibility handset requirements. Further, because providers were required to offer at least two handset models that meet at least a T3 rating for inductive coupling, we think that a proposed forfeiture for violation of these requirements should be applied on a per handset basis. We recently found that a base forfeiture amount of \$15,000 per handset is appropriate for violation of the hearing aid compatibility handset requirements.³³

12. Mid-Rivers Cellular offered only one handset that met a T3 rating for inductive coupling by September 18, 2006. Mid-Rivers Cellular did not come into compliance with the inductive coupling compatibility requirements by offering a second compliant handset until approximately February 21, 2007. Moreover, Mid-Rivers Cellular did not seek a waiver of the September 18, 2006 deadline, nor did it make a showing of good faith, diligent efforts to come into compliance. Although Mid-Rivers Cellular's failure to offer two handsets that meet the FCC's inductive coupling compatibility requirements is a continuing violation for purposes of determining an appropriate forfeiture, we exercise our prosecutorial discretion in light of the relatively short duration of the violation and decline to assess a forfeiture on a continuing violation basis in this case.³⁴ We also note that Mid-Rivers Cellular is a Tier III carrier, i.e., a non-nationwide wireless radio service provider with 500,000 or fewer subscribers.³⁵ Accordingly, Mid-Rivers Cellular is apparently liable for a \$15,000 forfeiture for failing to comply with the inductive coupling compatibility requirements in willful and repeated violation of Section 20.19(d)(2).³⁶

13. Mid-Rivers Cellular asserted that its error was based on its misunderstanding that its handset compliance obligations were satisfied solely by a stock of a sufficient number of models with the appropriate "M" ratings and therefore was inadvertent. As a Commission licensee, however, Mid-Rivers Cellular is charged with the responsibility of knowing and complying with the Act and the Rules.³⁷ The

³³ See *South Canaan, Inc.*, Notice of Apparent Liability for Forfeiture, DA 08-14 ¶ 11 (Enf. Bur., Spectrum Enf. Div., rel. January 3, 2008).

³⁴ We caution Mid-Rivers Cellular and other carriers that future enforcement actions may consider all failures to comply with our hearing aid compatibility rules, including the inductive coupling requirements, as continuing violations for purposes of calculating appropriate forfeiture amounts.

³⁵ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers, *Order to Stay*, 17 FCC Rcd 14841, 14847 ¶¶ 22-24 (2002).

³⁶ Under Section 503(b)(6) of the Act, 47 U.S.C. § 503(b)(6), we are prohibited from assessing a forfeiture for a violation that occurred more than a year before the issuance of a notice of apparent liability for forfeiture. Section 503(b)(6) does not, however, bar us from considering Mid-Rivers Cellular's prior conduct in determining the appropriate forfeiture amount for violations that occurred within the one-year statutory period. See *Behringer USA, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 21 FCC Rcd 1820, 1827 ¶ 20 (2006), *forfeiture ordered*, 22 FCC Rcd 10451 (2007) (forfeiture paid); *Globcom, Inc. dba Globcom Global Communications*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 19893, 19903 ¶ 23(2003), *forfeiture ordered*, Forfeiture Order, 21 FCC Rcd 4710 (2006); *Roadrunner Transportation, Inc.*, Forfeiture Order, 15 FCC Rcd 9669, 9671-71 ¶ 8 (2000); *Cate Communications Corp.*, Memorandum Opinion and Order, 60 RR 2d 1386, 1388 ¶ 7 (1986); *Eastern Broadcasting Corp.*, Memorandum Opinion and Order, 10 FCC 2d 37, 37-38 ¶ 3 (1967) *recon. denied*, 11 FCC 2d 193, 195 ¶ 6 (1967). Accordingly, while we take into account the continuous nature of the violations in determining the appropriate forfeiture amount, our proposed forfeiture relates only to Mid-Rivers Cellular's apparent violations that have occurred within the past year.

³⁷ See *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7437 ¶ 12 (2004).

Commission has long held that mitigation of a forfeiture is not justified where violators claim their actions or omissions were due to inadvertent errors or unfamiliarity with the statutory or regulatory requirements.³⁸ Mid-Rivers Cellular also asserted that it believed that the public suffered no adverse effects as a result of its mistake. It is well-established, however, that the absence of harm is not a mitigating factor and does not warrant a downward adjustment of a forfeiture.³⁹ Accordingly, we find no basis for mitigation of the proposed \$15,000 forfeiture.

IV. ORDERING CLAUSES

14. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Section 1.80 of the Rules, Cable & Communications Corporation dba Mid-Rivers Cellular **IS NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of fifteen thousand dollars (\$15,000) for willful and repeated violation of Section 20.19(d)(2) of the Rules.

15. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Cable & Communications Corporation dba Mid-Rivers Cellular **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

16. Payment of the forfeiture must be made by credit card through the Commission's Debt and Credit Management Center at (202) 418-1995, or by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. 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.

17. The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption.

18. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

19. Requests for payment of the full amount of the NAL under an installment plan should be sent to: Associate Managing Director – Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.⁴⁰

³⁸ See e.g., *Emery Telephone*, Notice of Apparent Liability for Forfeiture, 13 FCC Rcd 23854, 23859 ¶ 12 (1998), *recon. dismissed in part and denied in part*, Memorandum Opinion and Order, 15 FCC Rcd 7181 (1999); *Profit Enterprises, Inc.*, Forfeiture Order, 8 FCC Rcd 2846, 2846 ¶ 5 (1993); *Southern California*, 6 FCC Rcd at 4387 ¶ 3; *Lakewood Broadcasting Service, Inc.*, Memorandum Opinion and Order, 37 FCC 2d 437, 438 ¶ 6 (1972).

³⁹ See, e.g., *Liberty Cable Co.*, Memorandum Opinion and Order, 16 FCC Rcd 16105, 16113 ¶ 25 (2001); *Pacific Western Broadcasters, Inc.*, Memorandum Opinion and Order, 50 FCC 2d 819 ¶ 4 (1975); *Abocom Systems, Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 7448, 7451 ¶ 9 (Enf. Bur., 2007).

⁴⁰ See 47 C.F.R. § 1.1914.

20. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail return receipt requested to Gerry Anderson, Cable & Communications Corporation dba Mid-Rivers Cellular, 904 C Avenue, P.O. Box 280, Circle, MT 59215, and to its counsel, Sylvia Lesse, Esq., Communications Advisory Counsel, LLC, 2154 Wisconsin Avenue N.W., Washington, DC 20007.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau