

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

In the Matter of)	
)	File No. EB-07-SE-310
Cardinal Broadband LLC,)	NAL/Acct. No. 200832100070
aka Sovereign Telecommunications,)	FRN No. 0018035063
a wholly owned subsidiary of Cardinal)	
Communications, Inc.)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: August 15, 2008

Released: August 15, 2008

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture and Order* (“NAL”), we find Cardinal Broadband, LLC, aka Sovereign Telecommunications, a wholly owned subsidiary of Cardinal Communications, Inc. (hereinafter, “Cardinal”), apparently liable for a forfeiture in the amount of twenty-five thousand dollars (\$25,000) for willful and repeated violation of Section 9.5(b) of the Commission’s Rules (“Rules”)¹ by failing to provide fully compliant E911 service.

II. BACKGROUND

2. On July 13, 2007, the Commission received a complaint alleging that Cardinal, an interconnected Voice over Internet Protocol (“VoIP”) service provider,² was not providing E911 service in a condominium complex called Millstone in Golden, Colorado. Specifically, the complaint alleged that “no one in the complex can call 911 and get our local police department.” The complaint further alleged that the local police department had visited the condominium complex to confirm the situation and had provided residents a flyer advising them that they did not have 911 service and that they should call the police department’s regular number in case of emergency. This complaint was subsequently referred to the Enforcement Bureau’s Spectrum Enforcement Division (“Division”) for investigation. During a follow-up phone call on August 24, 2007, the complainant informed Division staff that he and his neighbors had had a form of E911 service for approximately two weeks. The complainant indicated that the 911 calls now went to a third party, which would forward the call and the 911 caller’s address to the appropriate emergency personnel. The complainant also asserted that conventional landline telephone

¹ 47 C.F.R. § 9.5(b). In a companion decision issued concurrently with this *NAL*, we propose a forfeiture of \$25,000 against Cardinal for willfully providing incorrect material factual information to the Commission without a reasonable basis for believing that the information was correct and accurate in apparent violation of Section 1.17 of the Rules. *Cardinal Broadband LLC*, Notice of Apparent Liability, DA 08-1921 (Enf. Bur., rel. August 15, 2008).

² An interconnected VoIP service is a service that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user’s location; (3) requires Internet Protocol-compatible customer premises equipment; and (4) permits users generally to receive calls that originate on the public switched telephone network (“PSTN”) and to terminate calls to the PSTN. See 47 C.F.R. § 9.3; see also *IP-Enabled Services and E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, 10257-58, ¶ 24 (2005) (“*VoIP 911 Order*”), *aff’d sub nom. Nuvio v. FCC*, 473 F.3d 302 (D.C. Cir. 2006).

service was not available at Millstone because an affiliate company of Cardinal constructed the condominium complex and did not permit it to be wired for conventional landline service.

3. On September 10, 2007, the Division issued a letter of inquiry (“LOI”) to Cardinal directing it to provide certain information concerning its provision of interconnected VoIP service.³ In its response, Cardinal admitted that it “resells” telephone service but claimed that it does not provide an “interconnected VoIP service.”⁴ Specifically, Cardinal argued that “the service Cardinal resells does not require ‘a broadband connection from the user’s location’ ... [or] ... ‘internet protocol-compatible customer premises equipment [“CPE”]” and, thus does not meet two of the four criteria for interconnected VoIP service.⁵ Relying on its claim that the service it provided was not interconnected VoIP service, Cardinal did not respond to the remainder of the LOI.

4. During internet research on the website of Cardinal’s wholly-owned subsidiary, Broadband, the Division found marketing materials that included the following statement: “Our state-of-the-art phone service transports voice data using both regular phone lines and the Internet. Getting connected to our broadband network is easy. You simply connect your telephone to your Digital Telephone adaptor and use your phone service like you do today.”

5. On November 20, 2007, the Division directed a follow-up LOI to Cardinal, attaching the marketing materials found on the Broadband website.⁶ In a preliminary e-mail response, Cardinal stated that:

In my initial response I relied on the information provided to me verbally by the employees of our subsidiary, Cardinal Broadband. Somewhere we had a communication break down because I agree with you that anywhere a customer must use an internet adapter to have telephone service would definitely qualify as Interconnected VoIP.⁷

6. In its response to the follow-up LOI, Cardinal states that, through its wholly-owned subsidiary, Broadband, it resells the interconnected VoIP services of Prime Time Communications (“Prime Time”) and Simple Signal at seven condominium buildings and communities in Colorado.⁸

³ Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Cardinal Communications, Inc. (September 10, 2007) (“LOI”).

⁴ Letter from Edward A. Garneau, Chief Executive Officer, Cardinal Communications, Inc., and Ronald S. Bass, Principal Accounting Officer, Cardinal Communications, Inc., to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, and Thomas D. Fitz-Gibbon, Esq., Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (October 9, 2007) (“LOI Response”) at 3.

⁵ *Id.* at 3 (emphasis in original).

⁶ Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Ronald S. Bass, Principal Accounting Officer, Cardinal Communications, Inc. (November 20, 2007) (“Second LOI”).

⁷ Electronic Mail Message from Ronald S. Bass, Principal Accounting Officer, Cardinal Communications, Inc., to Thomas D. Fitz-Gibbon, Esq., Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (November 30, 2007).

⁸ Letter from Ronald S. Bass, Principal Accounting Officer, Cardinal Communications, Inc., to Thomas D. Fitz-Gibbon, Esq., Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (January 7, 2008) (“Second LOI Response”) at 3-7. Specifically, Cardinal indicates that it provides interconnected VoIP service at the following condominium buildings or communities: Mountain View/Pinnacle/WestFork Village in Greeley, Colorado; Hunter’s Chase in Parker, Colorado; Millstone in Golden, Colorado; Prado in Denver, (continued ...)

Cardinal asserts that since it is only a reseller, it is not an interconnected VoIP service provider within the meaning of the Commission's rules.⁹ Cardinal also claims that it is not an interconnected VoIP service provider within the meaning of the Commission's rules because it resells Qwest analog telephone service at all of the locations at which it provides interconnected VoIP service, and the Qwest analog telephone service does not "require a broadband connection from the user's location" or "require internet protocol-compatible customer premises equipment."¹⁰ Cardinal acknowledges, however, that at five of the locations where it provides interconnected VoIP service, there are "centrally positioned Internet Access Devices" ("IADs").¹¹ Customers that request VoIP service at these five locations are connected to IADs that are connected via T1s to Prime Time's or Simple Signal's Broadsoft Server, which directs the VoIP traffic to the Public Switched Telephone Network ("PSTN").¹² Cardinal indicates that if a customer requests VoIP service at the remaining two locations, CPE -- specifically, a plug-in adapter -- is required in the customer's unit.¹³ At these locations, the plug-in adapter directs traffic that is routed to either Prime Time's or Simple Signal's Broadsoft Server.¹⁴

7. In addition, Cardinal admits that, from March 2007 until at least August 15, 2007, it sold interconnected VoIP service at the Millstone condominium community in Golden, Colorado that did not include fully compliant E911 service.¹⁵ Specifically, Cardinal states that in March 2007 it was reselling VoIP service provided by Prime Time at that location and that "[t]here was an error in giving Prime Time Communications the registered locations of the new Millstone customers."¹⁶ Cardinal states that once it learned of the problem, it tried to work through the issues with Prime Time from March 2007 until July 2007, but in July 2007 decided to switch providers to Simple Signal. Cardinal indicates that Simple Signal began servicing the customers at Millstone on August 15, 2007, and that all of the Millstone VoIP customers were provided "e911 compliant service by or before October 23, 2007."¹⁷ Cardinal asserts that it provided fully compliant E911 service at all other locations where it provided interconnected VoIP service as of the date it began offering interconnected VoIP service at those locations.¹⁸ Finally, Cardinal asserts that other communications providers are permitted to install their own wiring at the properties where Cardinal provides interconnected VoIP service.

III. DISCUSSION

A. Cardinal Apparently Violated the Requirement That Interconnected VoIP Service Providers Provide E911 Service

8. Section 9.5(b)(1) of the Rules provides, in relevant part, that "[i]nterconnected VoIP service providers must, as a condition of providing service to a consumer, provide that consumer with

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Colorado; Beauvallon in Denver, Colorado; Wentworth Apartments in Aurora, Colorado; and Heritage Crossing/Colony Ridge/Prospect in Thornton, Colorado. *Id.* at 3-6.

⁹ *Id.* at 3, 7.

¹⁰ *Id.* at 7.

¹¹ *Id.* at 17-18.

¹² *Id.* at 17.

¹³ *Id.* at 17-18.

¹⁴ *Id.* at 17.

¹⁵ *Id.* at 4, 11 and 21.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 3-6.

E911 service as described in this section.”¹⁹ Cardinal admits that, from March 2007 until at least August 15, 2007, the interconnected VoIP service provided at the Millstone condominium community in Golden, Colorado, did not include fully compliant 911 service. Cardinal, however, claims that it is not subject to Section 9.5(b). Specifically, Cardinal argues that it is not an “interconnected VoIP service provider” as the term is used in Section 9.5 of the Rules, because it only “resells” interconnected VoIP service provided by others.

9. Initially, it is not clear from Cardinal’s response that it is a “reseller” rather than a primary provider of interconnected VoIP service. Cardinal apparently provides the broadband connectivity itself and, in at least some cases, the customer’s CPE,²⁰ while partnering with others to provide access to the PSTN and perhaps some of the VoIP functionality.²¹ We do not need to decide this issue, however, because even assuming that Cardinal only resells interconnected VoIP service, it is nevertheless subject to the requirements in section 9.5 of the Commission’s rules as a provider of interconnected VoIP services. In the *VoIP 911 Order*, the Commission adopted “an immediate E911 requirement that applies to *all* interconnected VoIP services.”²² Specifically, the Commission required “all” providers of interconnected VoIP service to incorporate E911 service into “all” interconnected VoIP service offerings.²³ The Commission made no distinction between providers who own and operate their own facilities, services, or networks, and those who outsource some or all of those functions to others. To the contrary, one of the Commission’s principal concerns in adopting this requirement was the expectation of customers that interconnected VoIP service would include E911 capabilities²⁴ -- an expectation that applies regardless of whether the service is provided directly or through resale.

10. Additional precedent also supports a finding that Cardinal is a provider of interconnected VoIP service subject to our VoIP E911 rules. In extending universal service contribution obligations to providers of interconnected VoIP service, the Commission relied on its authority to require “[a]ny other *provider* of interstate telecommunications” to contribute to universal service.²⁵ The Commission found that common definitions of the term “provide” suggest that it should consider the meaning of “provide”

¹⁹ 47 C.F.R. § 9.5(b)(1); *VoIP 911 Order*, 20 FCC Rcd at 10266 ¶ 37. See also 47 C.F.R. § 9.5(a) (making the E911 service requirements “applicable to providers of interconnected VoIP services”).

²⁰ See ¶ 4, *supra*

²¹ Many interconnected VoIP providers resell at least some portions of the interconnected VoIP service they provide. For instance, interconnected VoIP providers frequently resell the services of telecommunications carriers to provide their interconnected VoIP customers with the capability to terminate calls to, and receive calls from, the PSTN. See *Universal Service Contribution Methodology*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7539-40 ¶ 41 (2006) (“*Interim Contribution Methodology Order*”), *aff’d in part and rev’d in part sub nom. Vonage Holdings Corp. v. FCC*, 489 F.3d 1232 (D.C. Cir. 2007) (“*Vonage Holdings*”). See also *Bright House Networks v. Verizon California*, Memorandum Opinion and Order, 23 FCC Rcd 10704 ¶ 3 (2008) (describing relationship between interconnected VoIP service providers and wholesale telecommunications carriers), *petition for review filed sub nom. Verizon California, Inc. v. FCC*, No. 08-1234 (D.C. Cir. 2008); *Time Warner Request for Declaratory Ruling That Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Prove Wholesale Telecommunications Services to VoIP Providers*, Memorandum Opinion and Order 22 FCC Rcd 3513 (Wireline Comp. Bur. 2007).

²² *VoIP 911 Order*, 20 FCC Rcd at 10246 ¶ 2 (emphasis added).

²³ *Id.* at 10256 ¶ 22.

²⁴ *Id.* at 10248-49 ¶ 6.

²⁵ 47 U.S.C. § 254(d) (emphasis added); *Interim Contribution Methodology Order*, 21 FCC Rcd at 7538-40 ¶¶ 38-42.

from a supply side, *i.e.*, from a provider's point of view.²⁶ In this regard, it noted that *Black's Law Dictionary* defines "provide" as "[t]o make, procure, or furnish for future use, prepare. To supply; to afford; to contribute."²⁷ In fact, the Commission has compared some interconnected VoIP service providers to other resellers of telecommunications.²⁸ It concluded:

Just as the Commission has previously found resellers to be supplying telecommunications to their customers even though they do not own or operate the transmission facilities, ... we find interconnected VoIP providers to be 'providing' telecommunications regardless of whether they own or operate their own transmission facilities or they obtain transmission from third parties. In contrast to services that merely use the PSTN to supply a finished product to end users, interconnected VoIP supplies PSTN transmission *itself* to end users.²⁹

The U.S. Court of Appeals for the D.C. Circuit subsequently affirmed the Commission's interpretation of the statutory term "provide."³⁰ Given this broad interpretation of "provide," we find that so-called "resellers" of interconnected VoIP services are interconnected VoIP service providers subject to the E911 service requirements in Section 9.5 of our rules.

11. Finally, we reject Cardinal's argument that it is not an interconnected VoIP service provider because it also sells Qwest analog telephone service that does not "require a broadband connection from the user's location" or "require internet protocol-compatible customer premises equipment."³¹ Conventional analog telephone service and interconnected VoIP service are distinct services. Cardinal's status as an interconnected VoIP service provider is unaffected by the fact that it also offers conventional analog telephone service.

12. Based on the above conclusions, we find that Cardinal is an interconnected VoIP provider and that it willfully³² and repeatedly³³ apparently violated Section 9.5(b) of the Rules by failing to provide compliant E911 service to the complainant.

²⁶ *Id.* at 7539 ¶ 40.

²⁷ *Id.*

²⁸ *Id.* at 7539 ¶ 41.

²⁹ *Id.* at 7539-40 ¶ 41 (citing *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 9179 ¶ 787 (1997)).

³⁰ *Vonage Holdings*, 489 F.3d at 1240.

³¹ Second LOI Response at 7.

³² Section 312(f)(1) of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', ... means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act" See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991).

³³ 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.

B. Proposed Forfeiture

13. Section 503(b) of the Act³⁴ authorizes the Commission to assess a forfeiture for each willful or repeated violation of the Act or of any rule, regulation, or order issued by the Commission under the 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.”³⁵

14. Section 503(b)(6) of the Act³⁶ bars the Commission from proposing a forfeiture for violations that occurred more than a year prior to the issuance of an *NAL*. Section 503(b)(6) does not, however, bar the Commission from assessing whether Cardinal’s conduct prior to issuance apparently violated the provisions of the Act and Rules and from considering such conduct in determining the appropriate forfeiture amount for violations that occurred within the one-year statutory period.³⁷ Thus, while we may consider the fact that Cardinal’s conduct has continued over a period that began during March 2007, the forfeiture amount we propose herein relates only to Cardinal’s apparent violations that have occurred within the past year.

15. The Commission’s *Forfeiture Policy Statement*³⁸ and Section 1.80 of the Rules do not establish a base forfeiture for violation of Section 9.5(b) of the Rules. The Commission has, nevertheless, found that the “omission of a specific rule violation from the list ... [establishing base forfeiture amounts] should not signal that the Commission considers any unlisted violation as nonexistent or unimportant. The Commission expects, and it is each licensee’s obligation to know and comply with all Commission’s rules.”³⁹ Thus, the Commission retains its discretion to issue forfeitures on a case-by-case basis,⁴⁰ and has assessed forfeiture liability,⁴¹ for rule violations irrespective of whether corresponding base forfeiture amounts have been established.

³⁴ 47 U.S.C. § 503(b).

³⁵ 47 U.S.C. § 503(b)(2)(E).

³⁶ 47 U.S.C. § 503(b)(6).

³⁷ See 47 U.S.C. § 503(b)(2)(D), 47 C.F.R. § 1.80(b)(4); see also *Behringer USA, Inc.*, Notice of Apparent Liability, 21 FCC Rcd 1820, 1825 (2006), *forfeiture ordered*, Forfeiture Order, 22 FCC Rcd 1051 (2007); *Globcom, Inc. d/b/a Globcom Global Communications*, Notice of Apparent Liability, 18 FCC Rcd 19893, 19903 (2003), *forfeiture ordered*, Forfeiture Order, 21 FCC Rcd 4710 (2006); *Roadrunner Transportation, Inc.*, Forfeiture Order, 15 FCC Rcd 9669, 9671-71 (2000); *Cate Communications Corp.*, Memorandum Opinion and Order, 60 RR 2d 1386, 1388 (1986); *Eastern Broadcasting Corp.*, Memorandum Opinion and Order, 10 FCC 2d 37 (1967), *recon. denied*, 11 FCC 2d 193 (1967).

³⁸ *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd 303 (1999).

³⁹ *Forfeiture Policy Statement*, 12 FCC Rcd at 17099 ¶ 22.

⁴⁰ *Id.*

⁴¹ See, e.g., *Sprint Nextel Corporation*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 16414, 16417 ¶ 9 (2007) (proposing a \$1,325,000 forfeiture irrespective of the absence of an established base forfeiture for failure to comply with deadline for 95% location capable handset penetration) (“*Sprint Nextel*”) (forfeiture paid); *A-O Broadcasting Corp.*, Forfeiture Order, 31 Communications Reg. (P&F) 411 ¶ 22 (2003), *affirmed*, Memorandum Opinion and Order, 20 FCC Rcd 756 (2005) (assessing a \$28,000 forfeiture, *inter alia*, irrespective of the absence of an established base forfeiture for violations of radio frequency exposure limits); *Callais Cablevision, Inc.*, Forfeiture Order, 17 FCC Rcd 22626, 22630 ¶¶ 19-20 (2002) (assessing an aggregate \$133,000 forfeiture irrespective of the absence of an established base forfeiture for violations of the cable signal leakage standards); *Midwest Television*, (continued ...)

16. Having considered the statutory factors and recent precedent,⁴² we find that Cardinal's apparent willful and repeated failure to provide the complainant with E911 service in compliance with Section 9.5(b) of the Rules warrants a proposed forfeiture in the amount of \$25,000. We note that the Commission has found that violations of E911 requirements are serious given the critical function these requirements serve in promoting and safeguarding life and property.⁴³ As the Commission has stated, "E911 service saves lives and property by helping emergency services personnel do their jobs more quickly and efficiently."⁴⁴ Moreover, the VoIP E911 requirements have been in place since November 2005. We also take into account the fact that the violation here continued from March 2007 until at least August 15, 2007.

17. We recognize that the proposed \$25,000 forfeiture is proportionally higher than those proposed in recent wireless E911 cases.⁴⁵ Those cases, however, involved failures to provide either Phase I or Phase II location information in response to valid PSAP requests.⁴⁶ By contrast, this case apparently involves a total failure to provide *any* 911 service.⁴⁷ According to the complainant, local emergency officials considered the situation so dire that they distributed flyers warning of the lack of 911 service and directing residents to use the police department's regular number in case of emergency. This is precisely the type of situation the VoIP E911 rules were intended to avoid.⁴⁸ Given the critical importance of providing consumers -- including this complainant -- the ability to call 911, we conclude that a substantially higher proposed forfeiture is warranted here.

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Inc., Notice of Apparent Liability, 20 FCC Rcd 3959 (Enf. Bur. 2005) (proposing a \$20,000 forfeiture irrespective of the absence of an established base forfeiture for failure to broadcast emergency information accessible to hearing impaired viewers).

⁴² See e.g., *Dobson Cellular Systems, Inc. and American Cellular Corporation*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 4684, 4707 ¶ 61 (2006) (proposing a total \$750,000 forfeiture against two commonly-owned wireless carriers for failure to provide E911 Phase I service in response to valid Public Safety Answering Point (PSAP) requests in nine instances and failure to provide E911 Phase II service in response to valid PSAP requests in 41 instances) (subsequent history omitted); *Lamar County Cellular, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 4375, 4378-4380 ¶¶ 14-18 (Enf. Bur., Spectrum Enforcement Division 2006) (proposing a \$12,000 forfeiture against a wireless carrier for failure to provide E911 Phase I service in response to valid PSAP request) (forfeiture paid).

⁴³ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Second Memorandum Opinion and Order, 14 FCC Rcd 20850, 20852 ¶ 2 (1999), *clarified*, 16 FCC Rcd 18982 (2001); see also *Sprint Nextel*, 22 FCC Rcd at 16418 ¶ 10; *T-Mobile USA, Inc.*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 3501, 3504 ¶ 7 (2003) (forfeiture paid).

⁴⁴ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676, 18679 ¶5 (1996) (subsequent history omitted).

⁴⁵ See *supra* n. 42.

⁴⁶ In the *VoIP 911 Order*, the Commission explained the difference between Phase I and Phase II wireless E911 requirements: "The Commission's wireless E911 requirements are comprised of two phases. Pursuant to the Phase I rules, wireless carriers are required to provide a call back number for the handset placing the 911 call and report the location of the cell site or base station that provided the call.... Under the Phase II rules, wireless carriers are required to provide more accurate 911 call location information." *VoIP 911 Order*, 20 FCC Rcd at 10252 n.41.

⁴⁷ "E911 systems route 911 calls through the use of a Selective Router to a geographically appropriate PSAP based on the caller's location. E911 also provides the call taker with the caller's call back number ... and in many cases, location information...." *Id.* at 10251 ¶13 (footnotes omitted).

⁴⁸ See *id.* at 10246 n.2 (citing examples of VoIP customers futilely attempting to call 911 during emergency situations).

C. Other Obligations of Interconnected VoIP Service Providers.

18. As an interconnected VoIP service provider, Cardinal is also subject to the Commission's other requirements pertaining to interconnected VoIP. These include Communications Assistance for Law Enforcement Act ("CALEA") obligations⁴⁹; Customer Proprietary Network Information ("CPNI") obligations⁵⁰; Telecommunications Relay Services ("TRS") obligations⁵¹; disability access obligations⁵²; local number portability requirements⁵³; and obligations to contribute to the universal service,⁵⁴ TRS,⁵⁵ numbering administration,⁵⁶ and local number portability⁵⁷ funds. Furthermore, Cardinal apparently has not filed a Form 499-A in connection with its interconnected VoIP service.⁵⁸ The Enforcement Bureau intends to investigate Cardinal's compliance with these requirements and may take further enforcement action, if warranted.

IV. ORDERING CLAUSES

19. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80 of the Rules,⁵⁹ Cardinal Broadband LLC **IS NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for failing to provide compliant E911 service in willful and repeated violation of Section 9.5(b) of the Rules.

20. **IT IS FURTHER ORDERED** that Cardinal submit a report within 10 days of this NAL certifying that it is providing E911 service to all its VoIP customers, in full compliance with the Commission's Rules. Cardinal's report shall include: the total number of current customers served by Cardinal; the number of customers it serves or served that did not receive E911 service at any point since January 1, 2007; and a detailed explanation of the manner in which Cardinal is fully complying with the Commission's VoIP E911 Rules. Cardinal shall submit the report to Thomas Fitz-Gibbon, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554. Cardinal shall also submit the report electronically to Thomas.Fitz-Gibbon@fcc.gov.

21. **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, Cardinal **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

⁴⁹ See 47 C.F.R. §§ 1.20000 – 1.20008.

⁵⁰ See *id.* §§ 64.2001 – 64.2009.

⁵¹ See *id.* §§ 64.601 – 64.608.

⁵² See *id.* §§ 6.1 – 6.23 and §§ 7.1 – 7.23.

⁵³ See *id.* §§ 52.20 – 52.33

⁵⁴ See *id.* § 54.706.

⁵⁵ See *id.* § 64.604.

⁵⁶ See *id.* § 52.17.

⁵⁷ See *id.* § 52.32.

⁵⁸ See *id.* § 64.1195.

⁵⁹ *Id.* §§ 0.111, 0.311 and 1.80.

22. Payment of the forfeiture 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 above. 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. 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). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. Cardinal will also send electronic notification on the date said payment is made to Thomas.Fitz-Gibbon@fcc.gov and Ricardo.Durham@fcc.gov.

23. 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.

24. 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.

25. **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 Ronald S. Bass, Principal Accounting Officer, Cardinal Communications, Inc., 11101 120th Avenue, Suite 220, Broomfield, CO 80021.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau