

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

In the Matter of)	File No. EB-08-SE-004
)	
Panhandle Telecommunication Systems, Inc.)	Acct. No. 200932100055
)	
)	FRN No. 0001704246

ORDER

Adopted: May 11, 2009

Released: May 13, 2009

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Panhandle Telecommunication Systems, Inc. (“PTSI”). The Consent Decree terminates an investigation by the Bureau against PTSI for possible violation of former Section 20.19(d)(2) of the Commission’s Rules (“Rules”)¹ regarding the inductive coupling standards for hearing aid compatibility.
2. The Bureau and PTSI 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.
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 PTSI 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,² and sections 0.111 and 0.311 of the Rules,³ the Consent Decree attached to this Order **IS ADOPTED**.
6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

¹ 47 C.F.R. § 20.19(d)(2) (2007). In February 2008, as part of a comprehensive reconsideration of the effectiveness of the hearing aid compatibility rules, the Commission made several changes to these rules. *See Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406 (2008) (“*Hearing Aid Compatibility First Report and Order*”), Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008).

² 47 U.S.C. §§ 154(i).

³ 47 C.F.R. §§ 0.111, 0.311.

7. **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 Ron Strecker, Chief Executive Officer, Panhandle Telecommunication Systems, Inc., 2224 N Highway 64, Guymon, Oklahoma 73942 and to its counsel, Kenneth C. Johnson, Bennet & Bennet, PLLC, 4350 East West Highway, Bethesda, Maryland 20814.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

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Panhandle Telecommunication Systems, Inc.)	
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CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Panhandle Telecommunication Systems, Inc. (“PTSI”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether PTSI violated former Section 20.19(d)(2) of the Commission’s Rules¹ regarding the inductive coupling hearing aid compatibility requirements.

I. DEFINITIONS

1. 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) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (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 9.
 - (f) “Effective Date” means the date the Bureau releases the Adopting Order.
 - (g) “Investigation” means any investigation initiated by the Bureau regarding whether PTSI violated the inductive coupling hearing aid compatibility requirements of former Section 20.19(d)(2) of the Rules.
 - (h) “Parties” means PTSI and the Bureau.
 - (i) “PTSI” means Panhandle Telecommunication Systems, Inc., and its predecessors-in-interest and successors-in-interest.

¹ 47 C.F.R. § 20.19(d)(2) (2007). In February 2008, as part of a comprehensive reconsideration of the effectiveness of the hearing aid compatibility rules, the Commission made several changes to these rules. *See Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406 (2008) (“*Hearing Aid Compatibility First Report and Order*”), Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008).

(j) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Pursuant to former Section 20.19(d)(2) of the Rules, carriers were required to offer at least two handset models for each air interface that meet the inductive coupling standards for hearing aid compatibility (*i.e.*, achieve a rating of T3 or better) by September 18, 2006.

3. On September 14, 2006, PTSI filed a Petition for Temporary and Limited Waiver of the requirements in Section 20.19(d)(2) of the Commission’s Rules.² The PTSI Petition requested additional time to obtain the required handsets until January 1, 2007.

4. On June 1, 2007, PTSI notified the Commission that as of January 29, 2007, it had been offering for sale two handset models rated T3 or better (the Motorola L7c and the Motorola K1m).³ On September 20, 2007, PTSI filed an Amendment to its Petition requesting extended relief from the deadline until January 29, 2007.⁴ On February 27, 2008, the Commission issued a Memorandum Opinion and Order that, *inter alia*, denied PTSI’s Petition as amended and referred PTSI’s apparent violation to the Bureau.⁵ On June 9, 2008, PTSI notified the Commission that it discovered that it had offered for sale one additional compatible model, the T3-rated version of the Motorola V3c, since October 23, 2006.⁶

III. TERMS OF AGREEMENT

5. **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.

6. **Jurisdiction.** PTSI 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.

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau 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.

8. **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, PTSI agrees to the

² See Panhandle Telecommunication Systems, Inc. Petition for Temporary and Limited Waiver of Section 20.19(d)(2) of the Commission’s Rules, WT Docket No. 01-309 (September 14, 2006).

³ Letter from Michael Bennet, Esq. and Kenneth Johnson, Esq., Bennet & Bennet, Counsel for Panhandle Telecommunication Systems, Inc. to Ms. Marlene Dortch, Secretary (June 1, 2007).

⁴ See Panhandle Telecommunication Systems, Inc. Amendment to Petition for Temporary and Limited Waiver of Section 20.19(d)(2) of the Commission’s Rules, WT Docket No. 01-309 (September 20, 2007).

⁵ See Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, *Petitions for Waiver of Section 20.19 of the Commission’s Rules*, Memorandum Opinion and Order, 23 FCC Rcd 3352, 3365 (2008).

⁶ Letter from Kenneth Johnson, Esq., Bennet & Bennet, Counsel for Panhandle Telecommunication Systems, Inc., to Ms. Marlene Dortch, Secretary (June 9, 2008).

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 PTSI 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 any proceeding, formal or informal, or take any action on its own motion against PTSI with respect to PTSI's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, PTSI agrees to maintain a Compliance Plan related to future compliance with the Act, the Commission's Rules, and the Commission's Orders. The Plan will include, at a minimum, the following components:

- (a) **Compliance Officer.** PTSI has designated its Chief Executive Officer as its hearing aid compatibility compliance officer. The designated hearing aid compatibility compliance officer will be familiar with the Commission's hearing aid compatibility regulations and associated selling and labeling benchmarks. The designated hearing aid compatibility compliance officer will also review the Commission's hearing aid compatibility regulations on a monthly basis in order to stay abreast of pending benchmarks and any new hearing aid compatibility requirements.
- (b) **Training.** The designated hearing aid compatibility compliance officer will be responsible for ensuring that all PTSI retail staff receives training regarding the hearing aid compatibility capabilities of the handsets PTSI offers for sale. Such training will be completed within ninety days of the Effective Date and any new employees will receive training within sixty days of their employment.
- (c) **Consumer Outreach.** PTSI will advertise the availability of hearing aid-compatible handsets to ensure that all of its retail customers are aware that hearing aid-compatible handsets are available.
- (d) **Compliance Reports.** PTSI will file compliance reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of PTSI, stating that the officer has personal knowledge that PTSI 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 Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. All compliance reports shall also be submitted electronically to Nissa Laughner at Nissa.Laughner@fcc.gov, and Ricardo Durham at Ricardo.Durham@fcc.gov.
- (e) **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twenty-four (24) months from the Effective Date.

10. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act against PTSI or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as

expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by PTSI with the Act, the Rules, or the Order.

11. **Voluntary Contribution.** PTSI agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$9,000. The payment will be made within 30 days after the Effective Date of the Adopting Order. The 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. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 270000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). PTSI will also send electronic notification on the date said payment is made to Nissa Laughner at Nissa.Laughner@fcc.gov and Ricardo.Durham@fcc.gov.

12. **Waivers.** PTSI 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 Bureau issues an Order adopting the Consent Decree without change, addition, modification, or deletion. PTSI 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 PTSI nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and PTSI shall waive any statutory right to a trial *de novo*. PTSI 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. **Invalidity.** 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 PTSI does not expressly consent) that provision will be superseded by such Commission rule or Order.

15. **Successors and Assigns.** PTSI 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.

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.

Kathryn S. Berthot
Division Chief
Enforcement Bureau

Date

Ron Strecker
Chief Executive Officer
Panhandle Telecommunication Systems, Inc.

Date