

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

In the Matter of)	File No. EB-08-TC-3439
)	
City of Naperville)	NAL/Acct. No. 200932170299
)	
Apparent Liability for Forfeiture)	FRN: 0002381873
)	
)	

ORDER

Adopted: August 4, 2009

Released: August 6, 2009

By the Chief, Enforcement Bureau:

I. INTRODUCTION AND BACKGROUND

1. In this Order, we cancel a proposed forfeiture in the amount of twenty thousand dollars (\$20,000) issued to the City of Naperville (“Naperville”) for apparent violation of section 222 of the Communications Act of 1934, as amended (the “Act”),¹ section 64.2009(e) of the Commission’s rules,² and the Commission’s *EPIC CPNI Order*,³ by failing to timely file an annual customer proprietary network information (“CPNI”) compliance certification with the Commission on or before March 1, 2008.

2. On February 24, 2009, the Bureau issued to Naperville a *Notice of Apparent Liability for Forfeiture* (“*Omnibus NAL*”)⁴ proposing a forfeiture in the amount of twenty thousand dollars (\$20,000) based on Naperville’s apparent violation of section 222 of the Act,⁵ section 64.2009(e) of the Commission’s rules,⁶ and the Commission’s *EPIC CPNI Order*, by failing to timely file an annual compliance certification with the Bureau.

¹ 47 U.S.C. § 222.

² 47 C.F.R. § 64.2009(e).

³ *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; IP-Enabled Services*, CC Docket No. 96-115; WC Docket No. 04-36, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 6927, 6953 (2007) (“*EPIC CPNI Order*”); *aff’d sub nom. Nat’l Cable & Telecom. Assoc. v. FCC*, No. 07-132, (D.C. Cir. decided Feb. 13, 2009).

⁴ *Annual CPNI Certification Omnibus Notice of Apparent Liability for Forfeiture*, 24 FCC Rcd 2299 (Enf. Bur. 2009) (“*Omnibus NAL*”).

⁵ 47 U.S.C. § 222.

⁶ 47 C.F.R. § 64.2009(e).

II. DISCUSSION

3. Upon review of the record and based on additional information provided by Naperville, we agree with Naperville that it should not have been included in our *Omnibus NAL* because Naperville had no telecommunications customers during calendar year 2007. Accordingly, based on the record, we find that Naperville did not willfully and repeatedly violate section 222 of the Act,⁷ section 64.2009(e) of the Commission's rules,⁸ and the Commission's *EPIC CPNI Order*. Consequently, we conclude that no forfeiture should be imposed.

4. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended ("Act"), and sections 0.111, 0.311 and 1.80(f) (4) of the Commission's rules, that the proposed forfeiture in the amount of twenty thousand dollars (\$20,000) issued to the City of Naperville in the February 24, 2009 *Omnibus Notice of Apparent Liability for Forfeiture* for willful and repeated violations of a Commission rule **IS CANCELLED**.

5. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by First Class Mail and Certified Mail Return Receipt Requested to the City of Naperville, at its address of record, attn: Donald Carlsen, 400 South Eagle Street, Naperville, IL 60540.

FEDERAL COMMUNICATIONS COMMISSION

Kris A. Monteith
Chief, Enforcement Bureau

⁷ 47 U.S.C. § 222.

⁸ 47 C.F.R. § 64.2009(e).