

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

In the Matter of)	File No. EB-08-TC-5507
)	
TCO Network, Inc.)	NAL/Acct. No. 200932170783
)	
Apparent Liability for Forfeiture)	FRN: 0005024641
)	
)	

ORDER

Adopted: July 29, 2009

Released: July 30, 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 TCO Network, Inc. (“TCO Network”) 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 September 5, 2008, the Bureau issued a Letter of Inquiry (“LOI”) to TCO Network asking TCO Network whether it had filed a CPNI compliance certificate for the calendar year 2007 on or before March 1, 2008 and if so, to provide a copy of the filing.⁴ TCO Network responded to the LOI on September 8, 2008, including a copy of the CPNI compliance certificate timely filed for calendar year 2007. On February 24, 2009, the Bureau issued to TCO Network a *Notice of Apparent Liability for Forfeiture* (“*Omnibus NAL*”)⁵ proposing a forfeiture in the amount of twenty thousand dollars (\$20,000) based on TCO Network’s apparent violation of section 222 of the Act,⁶ section 64.2009(e) of the

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 Letter from Marcy Greene, Deputy Division Chief, Telecommunications Consumers Division, Enforcement Bureau to TCO Network (September 5, 2008) (“LOI”). See 47 C.F.R. § 64.2009(e).

⁵ *Annual CPNI Certification Omnibus Notice of Apparent Liability for Forfeiture*, 24 FCC Rcd 2299 (Enf. Bur. 2009) (“*Omnibus NAL*”).

⁶ 47 U.S.C. § 222.

Commission's rules,⁷ and the Commission's *EPIC CPNI Order*, by failing to timely file an annual compliance certification with the Bureau.

II. DISCUSSION

3. Upon review of the record and based on additional information provided by TCO Network, we agree with TCO Network that it has timely filed its CPNI certification for calendar year 2007. Accordingly, based on the record, we find that TCO Network did not willfully and repeatedly violate section 222 of the Act,⁸ section 64.2009(e) of the Commission's rules,⁹ 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 TCO Network, Inc. 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 TCO Network, Inc. at its address of record, attn: William Linsmeier, President, TCO Network, Inc., 12970 W. Bluemound Road, Suite 301, Elm Grove, Wisconsin 53122.

FEDERAL COMMUNICATIONS COMMISSION

Kris A. Monteith
Chief, Enforcement Bureau

⁷ 47 C.F.R. § 64.2009(e).

⁸ 47 U.S.C. § 222.

⁹ 47 C.F.R. § 64.2009(e).