

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

In the Matter of)	File No. EB-08-TC-3347
)	
Clarks Telecom Long Distance)	NAL/Acct. No. 200932170282
)	
Apparent Liability for Forfeiture)	FRN: 0004942223
)	
)	

ORDER

Adopted: September 1, 2009

Released: September 1, 2009

By the Acting Chief, Enforcement Bureau:

1. In this Order, we cancel a proposed forfeiture in the amount of twenty thousand dollars (\$20,000) issued to Clarks Telecom Long Distance ("Clarks"). On February 24, 2009, the Bureau issued to Clarks a *Notice of Apparent Liability for Forfeiture* ("*Omnibus NAL*")¹ based on Clarks' apparent violation of section 222 of the Communications Act of 1934, as amended,² section 64.2009(e) of the Commission's rules,³ and the Commission's *EPIC CPNI Order*⁴ by failing to timely file an annual compliance certification with the Bureau.

2. Upon review of the record, and based upon additional information provided by Clarks, we agree with Clarks that it was not a telecommunications carrier at the time the CPNI certification filing was due because it ceased offering telecommunications services on October 1, 2007 and its customer database was acquired by another carrier. Accordingly, we find that Clarks did not violate section 222 of the Act,⁵ section 64.2009(e) of the Commission's rules,⁶ or the Commission's *EPIC CPNI Order*. Consequently, we conclude that no forfeiture should be imposed.

3. **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)

¹ *Annual CPNI Certification*, Omnibus Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 2299 (Enf. Bur. Feb. 24, 2009) ("*Omnibus NAL*").

² 47 U.S.C. § 222.

³ 47 C.F.R. § 64.2009(e).

⁴ *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).

⁵ 47 U.S.C. § 222.

⁶ 47 C.F.R. § 64.2009(e).

issued to Clarks Telecom Long Distance in the February 24, 2009 *Omnibus Notice of Apparent Liability for Forfeiture* **IS CANCELLED**.

4. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by First Class Mail and Certified Mail Return Receipt Requested to Clarks, to its attorney of record, attn: Thomas J. Moorman, Woods and Aiken LLP, Suite 200, 2154 Wisconsin Ave, NW, Washington, DC 20007.

FEDERAL COMMUNICATIONS COMMISSION

Suzanne M. Tetreault
Acting Chief, Enforcement Bureau