

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

In the Matter of)	File No. EB-08-IH-1237
)	
)	NAL/Acct. No. 200932080033
Yukon-Waltz Communications, Inc.)	
)	FRN No. 0017501289

ORDER

Adopted: March 23, 2009

Released: March 23, 2009

By the Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Yukon-Waltz Communications, Inc. (“Yukon-Waltz” or “the Company”).¹ The Consent Decree terminates an investigation by the Bureau against Yukon-Waltz for possible violations of section 214 of the Communications Act of 1934, as amended,² and sections 63.18 and 64.1195 of the Commission’s Rules,³ which require that an entity obtain an international 214 authorization prior to providing international telecommunications service and register with the Universal Service Administrative Company.

2. The Bureau and Yukon-Waltz 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 and terminating 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 Yukon-Waltz possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization including that required to be an authorized common carrier.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,⁴ and sections 0.111 and 0.311 of the Commission’s Rules,⁵ the Consent Decree attached to this Order **IS ADOPTED**.

¹ Yukon-Waltz Communications, Inc. is a wholly-owned subsidiary of Yukon-Waltz Telephone Company.

² 47 U.S.C. § 214.

³ 47 U.S.C. §§ 63.18, 64.1195.

⁴ 47 U.S.C. § 154(i).

⁵ 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

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 Thomas J. Moorman, Esq., Woods & Aitken LLP, Suite 200, 2154 Wisconsin Avenue, NW, Washington, DC 20007.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

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CONSENT DECREE

1. The Enforcement Bureau (“Bureau”) and Yukon-Waltz Communications, Inc. (“Yukon-Waltz” or “the Company”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether Yukon-Waltz violated section 214 of the Communications Act of 1934, as amended,¹ and sections 63.18 and 64.1195 of the Commission’s Rules,² which, respectively, require that an entity obtain an international 214 authorization prior to providing international telecommunications service and register with the Universal Service Administrative Company.

I. DEFINITIONS

2. 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) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (c) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (d) “Compliance Plan” means the program described in this Consent Decree at paragraph 9.
 - (e) “Effective Date” means the date on which the Commission releases the Adopting Order.
 - (f) “Investigation” means the investigation commenced by the Bureau’s July 7, 2008 Letter of Inquiry³ regarding, among other issues, whether Yukon-Waltz violated sections 63.18 and 64.1195 of the Commission’s Rules, which, respectively, require that an entity obtain

¹ 47 U.S.C. § 214.

² 47 C.F.R. §§ 63.18, 64.1195.

³ See Letter from Trent B. Harkrader, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Thomas J. Moorman, Esq., Woods & Aitken LLP (dated July 7, 2008)(“July 7, 2008 LOI”).

an international 214 authorization prior to providing international telecommunications service and register with the Universal Service Administrative Company.⁴

- (g) “Yukon-Waltz” or the “Company” means Yukon-Waltz Communications, Inc., a wholly-owned subsidiary of Yukon-Waltz Telephone Company, and its predecessors-in-interest and successors-in-interest.
- (h) “Order” or “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (i) “Parties” means Yukon-Waltz and the Bureau.
- (j) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

3. Pursuant to section 214 of the Act⁵ and section 63.18 of the Commission’s rules,⁶ common carriers must obtain an international 214 authorization from the Commission prior to providing international telecommunications service. Moreover, pursuant to section 64.1195 of the Commission’s rules, a telecommunications carrier that will provide interstate service must register with the Universal Service Administrative Company.⁷

4. On March 20, 2008, Yukon-Waltz disclosed to the Commission certain compliance matters related to its interstate and international long distance operations. On July 7, 2008, the Bureau issued a letter of inquiry (“LOI”) to the Company.⁸ The July 7, 2008 LOI directed Yukon-Waltz, among other things, to submit a sworn written response to a series of questions relating to the Company’s compliance with the Commission’s rules. Yukon-Waltz responded to the July 8, 2008 LOI on July 21, 2008.⁹ On August 15, 2008, the Bureau issued a follow-up letter of inquiry to Yukon-Waltz.¹⁰ Yukon-Waltz responded to the August 15, 2008 follow-up LOI on September 2, 2008.¹¹

⁴ 47 C.F.R. §§ 63.18, 64.1195. *See also* 47 U.S.C. § 214.

⁵ 47 U.S.C. § 214.

⁶ 47 C.F.R. § 63.18.

⁷ 47 C.F.R. § 64.1195.

⁸ *See* July 8, 2008 LOI.

⁹ *See* Letter from Thomas J. Moorman, Esq., Woods & Aitken LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated July 21, 2008 (“July 21, 2008 Response”).

¹⁰ *See* Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Thomas J. Moorman, Esq., Woods & Aitken LLP, dated August 15, 2008 (“August 15, 2008 follow-up LOI”).

¹¹ Letter from Thomas J. Moorman, Esq., Woods & Aitken LLP to Marlene H. Dortch, Secretary, Federal Communications Commission, dated September 2, 2008 (“September 2, 2008 Response”); *see also* Letter from Thomas J. Moorman, Esq., Woods & Aitken LLP to Marlene H. Dortch, Secretary, Federal Communications Commission, dated September 9, 2008.

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.** Yukon-Waltz 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 FCC 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, Yukon-Waltz agrees to the 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, or recommend to the Commission any new proceeding, formal or informal, or take any action on its own motion against Yukon-Waltz 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 or in response to third-party submissions any proceeding, formal or informal, or take any action on its own motion against Yukon-Waltz with respect to Yukon-Waltz's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier or hold Commission authorizations.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, Yukon-Waltz 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) **Education Program.** Yukon-Waltz, through its parent company, shall develop a Policy Statement that will be provided to and discussed with Company managers and other parties responsible for and involved in the Company's federal regulatory responsibilities with respect to its on-going compliance responsibility with respect to the rules and requirements applicable to Commission authorizations under section 214 of the Act as implemented by section 63.18 of the Commission's Rules and the rules and requirements applicable to registration with the Universal Service Administrative Company under section 64.1195 of the Commission's Rules.
- (b) **Federal Regulatory Counsel.** Yukon-Waltz will implement a policy of contacting federal regulatory counsel, as necessary, in the event that Yukon-Waltz is unclear with respect to the proper implementation of the Policy Statement identified in paragraph 9(a), above.
- (c) **Compliance Reports.** Yukon-Waltz will file compliance reports with the Commission ninety days after the Effective Date, twelve months after the Effective Date, and twenty-

four months after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of Yukon-Waltz, stating that the officer has personal knowledge that Yukon-Waltz has established operating procedures intended to ensure compliance with this Consent Decree and outlining within that statement the basis for the officer's compliance certification. All compliance reports shall be submitted to Division Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

- (d) **Termination Date.** Unless stated otherwise, the Compliance Plan requirements of this Consent Decree will expire twenty-four (24) months after 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 Yukon-Waltz 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 Yukon-Waltz of the Act, the rules, or the Order.

11. **Voluntary Contribution.** Yukon-Waltz agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$40,000 within ten (10) business 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 Federal Reserve Bank of New York, and account number 27000001. Yukon-Waltz will also send electronic notification within forty-eight (48) hours of the date said payment is made to irene.flannery@fcc.gov.

12. **Waivers.** Yukon-Waltz 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 Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Yukon-Waltz shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein and may present evidence that it has not violated the Consent Decree. 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 Yukon-Waltz nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Yukon-Waltz shall waive any statutory right to a trial *de novo*. Yukon-Waltz 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. **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 Yukon-Waltz does not expressly consent) that provision will be superseded by such Commission rule or Order.

14. **Successors and Assigns.** Yukon-Waltz agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

15. **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.

16. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

17. **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.

18. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

19. **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.

Kris Anne Monteith
Chief
Enforcement Bureau

Date

James J. Kail
President
Yukon-Waltz Communications, Inc.

Date