

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

In the Matter of

OK-5 Licensee Co., LLC

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File No. EB-10-SE-101
NAL/Acct. No. 201032100041
FRN # 0017697053

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: August 30, 2010**Released: August 30, 2010**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we propose a forfeiture of fifteen thousand dollars (\$15,000) against OK-5 Licensee Co., LLC (“OK-5 Licensee”), a Global System for Mobile Communications-based (“GSM-based”) Tier III carrier,¹ serving parts of Oklahoma. As detailed herein, we find that OK-5 Licensee apparently willfully and repeatedly violated Section 20.19(c)(3)(ii) of the Commission’s rules (“Rules”),² by failing to offer to consumers the required number or percentage of digital wireless handsets that met or exceeded the radio frequency interference standards for hearing aid compatibility set forth in Section 20.19(b)(1).³

II. BACKGROUND

2. In the 2003 *Hearing Aid Compatibility Order*, the Commission adopted several measures to enhance the ability of consumers with hearing loss to access digital wireless telecommunications.⁴ The Commission established technical standards that digital wireless handsets must meet to be considered compatible with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes.⁵ Specifically, the Commission adopted a standard for radio frequency interference (the “M3”

¹ Tier III carriers are non-Nationwide wireless radio service providers with 500,000 or fewer subscribers as of the end of September 2001. See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers*, Order to Stay, 17 FCC Rcd 14841, 14847-48 ¶¶ 22-24 (2002).

² 47 C.F.R. § 20.19(c)(3)(ii).

³ 47 C.F.R. § 20.19(b)(1).

⁴ *Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones*, Report and Order, 18 FCC Rcd 16753 (2003); Erratum, 18 FCC Rcd 18047 (2003) (“*Hearing Aid Compatibility Order*”); Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11221 (2005). The Commission adopted these requirements for digital wireless telephones under the authority of the Hearing Aid Compatibility Act of 1988, codified at Section 710(b)(2)(C) of the Communications Act of 1934, as amended, 47 U.S.C. § 610(b)(2)(C).

⁵ See *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16777 ¶ 56; 47 C.F.R. § 20.19(b)(1), (2). The *Hearing Aid Compatibility Order* described the acoustic coupling and the inductive (telecoil) coupling modes as follows:

In acoustic coupling mode, the microphone picks up surrounding sounds, desired and undesired, and converts them into electrical signals. The electrical signals are amplified as needed and then converted back into electrical signals. In telecoil mode, with the microphone turned off, the telecoil picks up the audio signal-based magnetic field generated by the voice coil of a dynamic speaker in hearing aid-compatible telephones, audio loop systems, or powered neck loops. The

rating) to enable acoustic coupling between digital wireless phones and hearing aids operating in acoustic coupling mode, and a separate standard (the “T3” rating) to enable inductive coupling with hearing aids operating in telecoil mode.⁶

3. In the 2008 *Hearing Aid Compatibility First Report and Order*, the Commission established several deadlines between 2008 and 2011 by which manufacturers and service providers⁷ are required to offer specified numbers or percentages of digital wireless handset models. The number or percentage of digital wireless handset models required by each deadline is based on several factors, including the applicable interference standard and air interface,⁸ as well as the category of carrier. For example, between May 15, 2009 and May 14, 2010, non-Tier I service providers were required to ensure that at least nine handset models per digital air interface, or at least 50% of the models offered per digital air interface, met or exceeded the M3 rating,⁹ and that at least five handset models per digital air interface, or at least one-third of the models offered per digital air interface, met or exceeded the T3 rating.¹⁰ To ensure that the Commission can accurately monitor the availability of these handsets, and to provide valuable information to the public concerning the technical testing and commercial availability

hearing aid converts the magnetic field into electrical signals, amplifies them as needed, and converts them back into sound via the speaker. Using a telecoil avoids the feedback that often results from putting a hearing aid up against a telephone earpiece, can help prevent exposure to over amplification, and eliminates background noise, providing improved access to the telephone.

Id. at 16763 ¶ 22.

⁶ As subsequently amended, Section 20.19(b)(1) provides that, for the period beginning June 6, 2008 and ending January 1, 2010, a wireless handset is deemed hearing aid-compatible for radio frequency interference if, at minimum, it meets the M3 rating associated with the technical standard set forth in either the standard document “American National Standard Methods of Measurement of Compatibility between Wireless Communication Devices and Hearing Aids,” ANSI C63.19-2006 (June 12, 2006) or ANSI 63.19-2007 (June 8, 2007). 47 C.F.R. § 20.19(b)(1). Section 20.19(b)(2) provides that, for the period beginning June 6, 2008 and ending January 1, 2010, a wireless handset is deemed hearing aid-compatible for inductive coupling if, at minimum, it meets the T3 rating associated with the technical standard as set forth in either the standard document “American National Standard Methods of Measurement of Compatibility between Wireless Communication Devices and Hearing Aids,” ANSI C63.19-2006 (June 12, 2006) or ANSI 63.19-2007 (June 8, 2007). 47 C.F.R. § 20.19(b)(2).

⁷ This requirement does not apply to service providers and manufacturers that meet the *de minimis* exception. See *Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406, 3418-24 ¶¶ 34-46 (2008) (“*Hearing Aid Compatibility First Report and Order*”), Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008); 47 C.F.R. §§ 20.19(c), (d). The *de minimis* exception provides that manufacturers or mobile service providers that offer two or fewer digital wireless handset models per air interface are exempt from the hearing aid compatibility requirements and manufacturers or service providers that offer three digital wireless handset models per air interface must offer at least one compliant model. 47 C.F.R. § 20.19(e). We note that the Commission recently limited the *de minimis* exception to exclude service providers that are not small entities after an initial two-year period. See *Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, Policy Statement and Second Report and Order and Further Notice of Proposed Rulemaking, FCC 10-145 ¶¶ 35-59 (rel. Aug. 5, 2010).

⁸ The term “air interface” refers to the technical protocol that ensures compatibility between mobile radio service equipment, such as handsets, and the service provider’s base stations. Currently, the leading air interfaces include Code Division Multiple Access (CDMA), Global System for Mobile Communications (GSM), Integrated Digital Enhanced Network (iDEN), and Wideband Code Division Multiple Access (WCDMA) a/k/a Universal Mobile Telecommunications System (UMTS).

⁹ See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3419 ¶ 35; 47 C.F.R. § 20.19(c)(3)(ii).

¹⁰ See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3419 ¶ 36; 47 C.F.R. § 20.19(d)(3)(ii).

of hearing aid-compatible handsets (including on the Internet)¹¹ The FCC also requires annual reports from service providers and manufacturers on their efforts towards compliance.

4. On January 15, 2010, OK-5 Licensee submitted its hearing aid compatibility status report for the 2009 reporting period.¹² OK-5 Licensee's 2009 Report reveals that between May 15, 2009 and May 30, 2009, only eight of the 24 handset models it offered to consumers met or exceeded the M3 rating; between June 1, 2009 and July 31, 2009, only eight of the 25 handset models it offered to consumers met or exceeded the M3 rating; and between August 1, 2009 and August 31, 2009, only eight of the 26 handset models it offered to consumers met or exceeded the M3 rating.¹³

5. The Wireless Telecommunications Bureau subsequently referred OK-5 Licensee's apparent violation of the hearing aid compatibility handset requirements to the Enforcement Bureau for possible enforcement action.

III. DISCUSSION

A. Failure to Comply with Hearing Aid Compatibility Handset Deployment Requirements.

6. According to its 2009 Report, OK-5 Licensee failed to offer the required number or percentage of compliant handsets. Specifically, OK-5 Licensee offered for sale only eight M3-compliant handset models, which did not constitute at least 50% of the total number of handset models that OK-5 Licensee offered to consumers during the 2009 reporting period. Section 20.19(c)(3)(ii) of the Rules requires non-Tier I digital wireless service providers like OK-5 Licensee to ensure that between May 15, 2009 and May 14, 2010 and for each air interface for which they offered handsets to consumers,¹⁴ at least 50% of the handset models they offered, or at least nine handset models, met or exceeded the M3 rating for radio frequency interference.¹⁵ Accordingly, we conclude that OK-5 Licensee apparently willfully¹⁶ and repeatedly¹⁷ violated Section 20.19(c)(3)(ii) of the Rules.

¹¹ See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3443 ¶ 91. The Commission initially required manufacturers and digital wireless service providers to report every six months on efforts toward compliance with the hearing aid compatibility requirements for the first three years of implementation (May 17, 2004, November 17, 2004, May 17, 2005, November 17, 2005, May 17, 2006 and November 17, 2006), and then annually thereafter through the fifth year of implementation (November 19, 2007 and November 17, 2008). *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16787 ¶ 89; see also *Wireless Telecommunications Bureau Announces Hearing Aid Compatibility Reporting Dates for Wireless Carriers and Handset Manufacturers*, Public Notice, 19 FCC Rcd 4097 (Wireless Tel. Bur. 2004). In its 2008 *Hearing Aid Compatibility First Report and Order*, the Commission extended these reporting requirements with certain modifications on an open ended basis, beginning January 15, 2009. See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3410 ¶ 13. In addition, the Commission made clear that these reporting requirements apply to manufacturers and service providers that fit within the *de minimis* exception. *Id.* at 3446 ¶ 99.

¹² See OK-5 Licensee Co., LLC Hearing Aid Compatibility Status Report (filed January 15, 2010) ("2009 Report") at http://wireless.fcc.gov/hac_documents/100317/OK-5,%20LLC_34.PDF.

¹³ See *id.* OK-5 Licensee's 2009 Report indicates that it offered the required number or percentage of handset models that met or exceeded the M3 rating between January 1, 2009 and May 15, 2009, and between September 1, 2009 and December 31, 2009. OK-5 Licensee's 2009 Report also indicates that it offered the required number or percentage of handset models that met or exceeded the T3 rating during the 2009 reporting period. *Id.*

¹⁴ All of OK-5's handsets for the 2009 reporting period operated over the GSM air interface.

¹⁵ 47 C.F.R. § 20.19(c)(3)(ii).

¹⁶ Section 312(f)(1) of the Act defines "willful" as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act, H.R. Rep. No.

B. Proposed Forfeiture

7. Under Section 503(b)(1)(B) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.¹⁸ To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.¹⁹ The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.²⁰ We conclude under this standard that OK-5 Licensee is apparently liable for forfeiture for its apparent willful and repeated violation of Section 20.19(c)(3)(ii) of the Rules.

8. Section 503(b)(2)(B) of the Act²¹ authorizes a forfeiture assessment against a common carrier up to \$150,000 for each violation, or for each day of a continuing violation, up to a maximum of \$1,500,000 for a single act or failure to act. In exercising such authority, we are required to take into account “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”²²

97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the Section 503(b) context. See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 ¶ 5 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) (“*Southern California*”); see also *Telrite Corporation*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7231, 7237 ¶ 12 (2008); *Regent USA*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 10520, 10523 ¶ 9 (2007); *San Jose Navigation, Inc.*, Forfeiture Order 22 FCC Rcd 1040, 1042 ¶ 9 (2007), *consent decree ordered*, Order and Consent Decree, 25 FCC Rcd 1494 (2010).

¹⁷ Section 312(f)(2) of the Act, which also applies to forfeitures assessed pursuant to Section 503(b) of the Act, provides that “[t]he term ‘repeated,’ ... means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2). See *Callais Cablevision, Inc.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 1359, 1362 (2001); *Southern California*, 6 FCC Rcd at 4388.

¹⁸ 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

¹⁹ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

²⁰ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002).

²¹ 47 U.S.C. § 503(b)(2)(B). The Commission has amended Section 1.80(b)(3) of the Rules, 47 C.F.R. § 1.80(b)(3), three times to increase the maximum forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. See *Amendment of Section 1.80 of the Commission’s Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 23 FCC Rcd 9845, 9847 (2008) (adjusting the maximum statutory amounts for common carriers from \$130,000/\$1,300,000 to \$150,000/\$1,500,000); *Amendment of Section 1.80 of the Commission’s Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 19 FCC Rcd 10945, 10947 (2004) (adjusting the maximum statutory amounts for common carriers from \$120,000/\$1,200,000 to \$130,000/\$1,300,000); *Amendment of Section 1.80 of the Commission’s Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 15 FCC Rcd 18221, 18223 (2000) (adjusting the maximum statutory amounts for common carriers from \$100,000/\$1,000,000 to \$120,000/\$1,200,000). The most recent inflation adjustment took effect September 2, 2008 and applies to violations that occur after that date. See 73 Fed. Reg. 44663-5.

²² 47 U.S.C. § 503(b)(2)(E). See also 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures.

9. The Commission's *Forfeiture Policy Statement*²³ and Section 1.80 of the Rules do not establish a base forfeiture amount for violations of the hearing aid-compatible handset requirements set forth in Section 20.19 of the Rules. The fact that the *Forfeiture Policy Statement* does not specify a base amount does not indicate that no forfeiture should be imposed. The *Forfeiture Policy Statement* states that "... any omission of a specific rule violation from the ... [forfeiture guidelines] ... should not signal that the Commission considers any unlisted violation as nonexistent or unimportant."²⁴ The Commission retains the discretion, moreover, to depart from the *Forfeiture Policy Statement* and issue forfeitures on a case-by-case basis, under its general forfeiture authority contained in Section 503 of the Act.²⁵

10. In determining the appropriate forfeiture amount for violation of the hearing aid compatibility handset deployment requirements, we take into account that these requirements serve to ensure that consumers with hearing loss have access to digital wireless telecommunications services. In adopting the hearing aid compatibility rules, the Commission underscored the strong and immediate need for such access, stressing that individuals with hearing loss should not be denied the public safety and convenience benefits of digital wireless telephony.²⁶ Moreover, as the Commission has noted, the demand for hearing aid-compatible handsets is likely to increase with the growing reliance on wireless technology and with the increasing median age of our population.²⁷

11. We have previously determined that violations of the hearing aid compatibility handset deployment requirements are serious in nature because failure to make compliant handsets available actually prevents hearing aid users from accessing digital wireless communications.²⁸ As such, we generally apply a base forfeiture amount of \$15,000 to reflect the gravity of these violations.²⁹ We have

²³ See *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*").

²⁴ *Forfeiture Policy Statement*, 12 FCC Rcd at 17099.

²⁵ *Id.*

²⁶ *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16755 ¶ 4.

²⁷ *Id.* at 16756 ¶ 5 (noting that approximately one in ten Americans, 28 million, have some level of hearing loss, that the proportion increases with age, and that the number of those affected will likely grow as the median age increases). See also *Report on the Status of Implementation of the Commission's Hearing Aid Compatibility Requirements*, Report, 22 FCC Rcd 17709, 17719 ¶ 20 (2007) (noting, just four years later, that the number of individuals with hearing loss in the United States was "at an all time high of 31 million – with that number expected to reach approximately 40 million at the end of this decade").

²⁸ Compare, e.g., *South Central Utah Telephone Association, Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 19251, 19255-56 ¶ 10 (Enf. Bur., Spectrum Enf. Div. 2007), *response pending*; *Pine Telephone Company, Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 9205, 9210 ¶ 11 (Enf. Bur., Spectrum Enf. Div. 2007), *consent decree ordered*, Order and Consent Decree, 23 FCC Rcd 4485 (Enf. Bur. 2008). In contrast to handset deployment requirement violations, we have found that a violation of the labeling requirements (while serious because it prevents hearing aid users from making informed choices) is less egregious than a violation of the deployment requirements. In the past, a base forfeiture amount of \$8,000 has applied to violations of the labeling requirements for wireless hearing aid-compatible handsets.

²⁹ See, e.g., *SLO Cellular, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 3990, 3996-97 ¶ 14 (Enf. Bur. 2008), *response pending*; *NEP Cellcorp, Inc.*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 8, 13 ¶ 11 (Enf. Bur., Spectrum Enf. Div. 2009); *Corr Wireless Communications, LLC*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 11567, 11571 ¶ 11 (Enf. Bur., Spectrum Enf. Div. 2008), *response pending*; *Blanca Telephone Company*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 9398, 9403 ¶ 12 (Enf. Bur., Spectrum Enf. Div. 2008), *response pending*; *Pinpoint Wireless, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 9290, 9295 ¶ 11 (Enf. Bur., Spectrum Enf. Div. 2008); *Iowa Wireless Services, LLC d/b/a i Wireless*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 4735, 4739 ¶ 12 (Enf. Bur., Spectrum Enf. Div. 2008); *South Slope*

also applied the \$15,000 base forfeiture on a per handset basis (*i.e.*, for each handset below the minimum number of hearing aid-compliant handsets required by the rules).³⁰

12. The record establishes that OK-5 Licensee was out of compliance with the handset deployment requirements for three and a half months (between May 15, 2009 and August 31, 2009) during the 2009 reporting period. Thus, OK-5 Licensee did not satisfy the requirement that non-Tier I service providers offer at least nine handset models that meet or exceed the M3 rating, nor did it ensure that at least 50% of the handset models that it offers met or exceeded the M3 rating. Accordingly, OK-5 Licensee is apparently liable for a base forfeiture of \$15,000 for failing to offer to consumers the required number or percentage of handset models in willful and repeated violation of Section 20.19(c)(3)(ii) of the Rules.

13. Based on the record before us, and having considered the statutory factors set forth above, we conclude that no upward or downward adjustment of the forfeiture from the base amount of \$15,000 is warranted under these particular circumstances. We therefore propose a \$15,000 forfeiture against OK-5 Licensee for apparently willfully and repeatedly failing to comply with the hearing aid compatibility handset deployment requirements set forth in Section 20.19(c)(3)(ii) of the Rules.

IV. ORDERING CLAUSES

14. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Section 1.80 of the Rules, OK-5 Licensee Co., LLC **IS NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of fifteen thousand dollars (\$15,000) for willful and repeated violation of Section 20.19(c)(3)(ii) of the Rules.

15. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, OK-5 Licensee Co., LLC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

16. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. 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 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: arinquiries@fcc.gov with any questions regarding payment procedures. OK-5 Licensee Co., LLC will also send electronic notification on the date said payment is made to Jackie Ellington at Jackie.Ellington@fcc.gov and Kathy Berthot at Kathy.Berthot@fcc.gov.

17. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.80(f)(3) and 1.16 of the Rules. The written statement must be mailed to the Office of the

Cooperative Telephone Company d/b/a South Slope Wireless, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 4706, 4711-12 ¶ 12 (Enf. Bur., Spectrum Enf. Div. 2008), *response pending*.

³⁰ See *id.*

Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption. The statement should also be emailed to Jackie Ellington at Jackie.Ellington@fcc.gov and Kathy Berthot at Kathy.Berthot@fcc.gov.

18. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

19. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail return receipt requested to OK-5 Licensee Co., LLC, 170 S. Warner Rd., Suite 104, Wayne, PA 19087, and to its counsel, Todd Slamowitz, Esq., Lukas, Nace, Gutierrez & Sachs, 1650 Tysons Blvd., Suite 1500, McLean, VA 22102.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau