

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

In the Matter of	)	File No.: EB-SED-12-00001038
	)	
EnerTrac, Inc.	)	Acct. No.: 201432100007
	)	
	)	FRN: 0022398549
	)	

**ORDER**

**Adopted: February 7, 2014**

**Released: February 7, 2014**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and EnerTrac, Inc., (EnerTrac). The Consent Decree resolves and terminates the Bureau's investigation into EnerTrac's compliance with Section 302(b) of the Communications Act of 1934, as amended (Act),<sup>1</sup> and Sections 2.803 and 15.231 of the Commission's rules<sup>2</sup> (Rules) pertaining to the marketing of a radio frequency device.

2. The Bureau and EnerTrac have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein 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 EnerTrac possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act,<sup>3</sup> and Sections 0.111 and 0.311 of the Rules,<sup>4</sup> the Consent Decree attached to this Order **IS ADOPTED**.

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<sup>1</sup> 47 U.S.C. § 302a(b).

<sup>2</sup> 47 C.F.R. §§ 2.803, 15.231.

<sup>3</sup> 47 U.S.C. §§ 154(i), 154(j), 503(b).

<sup>4</sup> 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 George Dannecker, CEO, EnerTrac, Inc., 94 River Road, Suite 101, Hudson, NH 03051, and to E. Ashton Johnston, Esq., Communications Law Counsel, P.C., Counsel for EnerTrac, Inc., 1776 K Street NW, Suite 700, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison  
Chief, Enforcement Bureau

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

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EnerTrac, Inc.	)	Acct. No.: 201432100007
	)	
	)	FRN: 0022398549

**CONSENT DECREE**

The Enforcement Bureau of the Federal Communications Commission and EnerTrac, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into possible violations of Section 302(b) of the Communications Act of 1934, as amended,<sup>1</sup> and Sections 2.803(b) and 15.231 of the Commission's rules<sup>2</sup> pertaining to the marketing of a radio frequency device.

**I. DEFINITIONS**

1. 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) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
  - (d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
  - (e) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which EnerTrac is subject by virtue of its business activities, including but not limited to, the Equipment Marketing Rules.
  - (f) "Compliance Plan" means the compliance obligations and compliance program described in this Consent Decree at paragraph 11.

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<sup>1</sup> 47 U.S.C. § 302a(b).

<sup>2</sup> 47 C.F.R. §§ 2.803(b), 15.231.

- (g) “Covered Employees” means all employees and agents of EnerTrac who perform, or supervise, oversee, or manage the performance of, duties that relate to EnerTrac’s responsibilities under the Equipment Marketing Rules.
- (h) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (i) “EnerTrac” means EnerTrac, Inc. and its predecessors-in-interest and its successors-in-interest.
- (j) “Equipment Marketing Rules” means Section 302(b) of the Act;<sup>3</sup> Sections 2.803 and 15.231 of the Rules;<sup>4</sup> and other Communications Laws governing the marketing of radio frequency devices within the United States and its territories.
- (k) “Investigation” means the investigation commenced by the Bureau’s July 20, 2012 letter of inquiry regarding whether the marketing of a propane monitoring device by EnerTrac complies with the Equipment Marketing Rules.<sup>5</sup>
- (l) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by EnerTrac to implement the Compliance Plan.
- (m) “Parties” means EnerTrac and the Bureau, each of which is a “Party.”
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

## II. BACKGROUND

2. Pursuant to Section 302(b) of the Act<sup>6</sup> and Section 2.803 of the Rules,<sup>7</sup> radio frequency devices may not be marketed in the United States unless they comply with the applicable technical standards and administrative requirements of the Rules. Section 2.803(a) of the Rules defines “marketing” as the “sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.”<sup>8</sup> EnerTrac designed, manufactured, and marketed a propane tank remote monitoring system that incorporates an intentional radiator<sup>9</sup> that transmits in the 433 MHz frequency band, the “433 MHz Big Drops System.”

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<sup>3</sup> 47 U.S.C. § 302a(b).

<sup>4</sup> 47 C.F.R. §§ 2.803, 15.231.

<sup>5</sup> See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Steve Owens, Chief Executive Officer, EnerTrac, Inc. (July 20, 2012) (on file in EB-SED-12-00001038).

<sup>6</sup> 47 U.S.C. § 302a(b).

<sup>7</sup> 47 C.F.R. § 2.803.

<sup>8</sup> *Id.* § 2.803(a) (formerly codified at 47 C.F.R. § 2.803(e)(4) (2012)); see 78 Fed. Reg. 21561 (Apr. 29, 2013).

<sup>9</sup> An intentional radiator is a “device that intentionally generates and emits radio frequency energy by radiation or induction.” 47 C.F.R. § 15.3(o).

3. Intentional radiators must be authorized in accordance with the Commission's certification procedures described in Sections 2.1031–2.1060 of the Rules prior to the initiation of marketing in the United States.<sup>10</sup> In addition, Section 15.231(e) of the Rules prescribes maximum field strength emission limits for periodic operation of intentional radiators that transmit at certain frequencies, including frequencies in the 433 MHz band.<sup>11</sup>

4. On July 20, 2012, after receiving a complaint alleging that the 433 MHz Big Drops System does not comply with the terms of its authorization, the Bureau's Spectrum Enforcement Division (Division) issued a letter of inquiry (LOI) to EnerTrac,<sup>12</sup> directing EnerTrac to submit a sworn written response to a series of questions relating to the 433 MHz Big Drops System's compliance with Section 15.231(e) of the Rules. EnerTrac responded to the LOI on August 20, 2012.<sup>13</sup> In its LOI response, EnerTrac stated that the 433 MHz Big Drops System was tested for compliance with Section 15.231(e) of the Rules, and that the device was certified under FCC ID X94-0003822.<sup>14</sup> Tests performed by the FCC's Office of Engineering and Technology (OET) indicated that the 433 MHz Big Drops System device exceeded the emission limits specified in Section 15.231(e) of the Rules.

5. The Bureau issued a supplemental LOI to EnerTrac on July 1, 2013,<sup>15</sup> to which EnerTrac responded on July 31, 2013.<sup>16</sup> In its Supplemental LOI Response, EnerTrac stated that the 433 MHz Big Drops System devices marketed by EnerTrac had the same radiofrequency characteristics as the device certified under FCC ID X94-0003822 and the device tested by OET.<sup>17</sup> EnerTrac also reported that it ceased marketing the 433 MHz Big Drops System on November 16, 2012, and that the company

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<sup>10</sup> *Id.* §§ 2.1031–2.1060.

<sup>11</sup> *Id.* § 15.231(e).

<sup>12</sup> See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Steve Owens, Chief Executive Officer, EnerTrac, Inc. (July 20, 2012) (on file in EB-SED-12-00001038).

<sup>13</sup> See Letter from E. Ashton Johnston, Lampert, O'Connor & Johnston, P.C., Counsel for EnerTrac, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, and Neil McNeil, Assistant Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (Aug. 20, 2012) (on file in EB-SED-12-00001038) (LOI Response).

<sup>14</sup> *Id.* at 1.

<sup>15</sup> See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Steve Owens, Chief Executive Officer, EnerTrac, Inc. (July 1, 2013) (on file in EB-SED-12-00001038).

<sup>16</sup> See Letter from E. Ashton Johnston, Communications Law Counsel, Counsel for EnerTrac, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, and Neil McNeil, Assistant Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (July 31, 2013) (on file in EB-SED-12-00001038) (Supplemental LOI Response).

<sup>17</sup> *Id.* at 2–3.

subsequently commenced marketing a new Part 90<sup>18</sup> device as a replacement for the 433 MHz Big Drops System.<sup>19</sup> The Bureau and EnerTrac entered into a Tolling Agreement to toll the statute of limitations.<sup>20</sup>

### III. TERMS OF AGREEMENT

6. **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.

7. **Jurisdiction.** EnerTrac agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

9. **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 the Investigation. In consideration for the termination of the Investigation, EnerTrac 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 the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against EnerTrac concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against EnerTrac with respect to EnerTrac's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

10. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, EnerTrac shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that EnerTrac complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to

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<sup>18</sup> 47 C.F.R. Part 90 (rules applicable to private land mobile radio services).

<sup>19</sup> Supplemental LOI Response at 2.

<sup>20</sup> Tolling Agreement, executed by and between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and E. Ashton Johnston, Esq., Communications Law Counsel, P.C., Counsel for EnerTrac, Inc. (Sept. 27, 2013) (on file in EB-SED-12-00001038).

discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Equipment Marketing Rules prior to assuming his/her duties.

11. **Compliance Plan.** For purposes of settling the matters set forth herein, EnerTrac agrees that it shall within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Equipment Marketing Rules, EnerTrac shall implement the following procedures:

- (a) **Operating Procedures on Equipment Marketing.** Within sixty (60) calendar days after the Effective Date, EnerTrac shall establish Operating Procedures that all Covered Employees must follow to help ensure EnerTrac's compliance with the Equipment Marketing Rules. EnerTrac's Operating Procedures shall include internal procedures and policies specifically designed to ensure that prior to the initiation of marketing (as such term is defined in Section 2.803 of the Rules<sup>21</sup>), all radio frequency devices to be marketed by EnerTrac comply with applicable technical standards, have been properly authorized (via the certification, verification, or declaration of conformity procedures, as applicable) and comply with the applicable administrative requirements.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Equipment Marketing Rules, including the obligations to secure an equipment authorization from the FCC prior to marketing a radio frequency device and to comply with the applicable administrative requirements, and shall set forth the Operating Procedures that Covered Employees shall follow to help ensure EnerTrac's compliance with the Equipment Marketing Rules. EnerTrac shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. EnerTrac shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** EnerTrac shall establish and implement a Compliance Training Program on compliance with the Equipment Marketing Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of EnerTrac's obligation to report any noncompliance with the Equipment Marketing Rules under paragraph 12 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. EnerTrac shall repeat the compliance training on an annual basis and shall periodically review and revise

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<sup>21</sup> See *supra* note 8 and accompanying text.

the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

- (d) **Withdrawal of 433 MHz Big Drops System Devices.** EnerTrac shall continue its ongoing effort to withdraw its 433 MHz Big Drops System devices from service, and shall immediately withdraw any 433MHz Big Drops System device for which a complaint of unlawful interference is received. In addition, EnerTrac shall in good faith implement its accelerated program for the replacement of its 433 MHz Big Drops System devices with new, compliant Part 90 devices (or other devices compliant with the Communications Laws) consistent with its proposal and presentation to the Bureau on October 30, 2013, which is incorporated herein by reference.<sup>22</sup> EnerTrac shall complete the replacement of all 433 MHz Big Drops System devices by no later than December 31, 2017.
- (e) **Notification of Changed Circumstances.** EnerTrac shall immediately report any change in circumstances that may materially affect the pace of EnerTrac's implementation of the accelerated program for the replacement of its 433 MHz Big Drops System devices, as described in paragraph 11(d) of this Consent Decree. EnerTrac's report shall explain in detail the nature of the changed circumstances and its potential impact on EnerTrac's ongoing effort to withdraw such devices from service. Any such notification shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W. Washington, DC 20554, with a copy submitted electronically to Kevin Pittman at Kevin.Pittman@fcc.gov and to Ricardo Durham at Ricardo.Durham@fcc.gov.

12. **Reporting Noncompliance.** EnerTrac shall report any noncompliance with the Equipment Marketing Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that EnerTrac has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that EnerTrac has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W. Washington, DC 20554, with a copy submitted electronically to Kevin Pittman at Kevin.Pittman@fcc.gov and to Ricardo Durham at Ricardo.Durham@fcc.gov.

13. **Compliance Reports.** EnerTrac shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, thirty-six (36) months after the Effective Date, and forty-eight (48) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of EnerTrac's efforts during the relevant period to comply with the terms and conditions of this

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<sup>22</sup> EnerTrac, *433MHz Replacement Plan Operating Plan 2013-2017* (on file in EB-SED-12-00001038) (confidential treatment requested) (setting forth EnerTrac's existing and proposed accelerated timetable for the full replacement of 433 MHz Big Drops System devices with new Part 90 devices).

Consent Decree and the Equipment Marketing Rules, as well as a progress report with respect to the withdrawal from service of its 433 MHz Big Drops System devices. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of EnerTrac, stating that the Compliance Officer has personal knowledge that EnerTrac (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 12.

- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>23</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of EnerTrac, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that EnerTrac has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that EnerTrac has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to Kevin Pittman at Kevin.Pittman@fcc.gov and to Ricardo Durham at Ricardo.Durham@fcc.gov.

14. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 10 through 13 of this Consent Decree shall expire forty-eight (48) months after the Effective Date.

15. **Voluntary Contribution.** EnerTrac agrees that it will make a voluntary contribution to the United States Treasury in the amount of thirteen thousand dollars (\$13,000) within thirty (30) calendar days after the Effective Date. EnerTrac shall send electronic notification of payment to Kevin Pittman at Kevin.Pittman@fcc.gov, Ricardo Durham at Ricardo.Durham@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>24</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that EnerTrac should follow based on the form of payment it selects:

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<sup>23</sup> 47 C.F.R. § 1.16.

<sup>24</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by check or money order must be made payable in United States Dollars to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If EnerTrac has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

16. **Waivers.** EnerTrac 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 Adopting Order, provided the Bureau issues an Adopting Order as defined herein. EnerTrac shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. 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 EnerTrac nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and EnerTrac shall waive any statutory right to a trial *de novo*. EnerTrac hereby agrees to waive any claims it may have under the Equal Access to Justice Act<sup>25</sup> relating to the matters addressed in this Consent Decree.

17. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

18. **Subsequent Rule or Order.** The Parties agree that if any provision of this 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 EnerTrac does not expressly consent) that provision will be superseded by such Rule or Commission order.

19. **Successors and Assigns.** EnerTrac agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

20. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. 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 Communications Laws.

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<sup>25</sup> Equal Access to Justice Act, Pub L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501–1.1530.

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

22. **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.

23. **Authorized Representative.** The individual signing this Consent Decree on behalf of EnerTrac represents and warrants that he is authorized by EnerTrac to execute this Consent Decree and to bind EnerTrac to the obligations set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

24. **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.

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P. Michele Ellison  
Chief, Enforcement Bureau

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Date

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George Dannecker  
Chief Executive Officer  
EnerTrac, Inc.

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Date