

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	File No. EB-TCD-12-00000418 ¹
)	
Net One International, Inc.)	NAL/Acct. No. 201232170002
Net One, LLC)	
Farrahtel International, LLC)	FRN: 0004337556
)	

MEMORANDUM OPINION and ORDER

Adopted: February 3, 2015
2015

Released: February 3,

By the Chief, Telecommunications Consumers Division, Enforcement Bureau:

I. INTRODUCTION

1. We deny the petition for reconsideration filed by Net One International, Inc., Net One, LLC, and Farrahtel International, LLC, (collectively, Net One or the Company) seeking reconsideration of a forfeiture of \$25,000 for failure to respond to a Federal Communications Commission (FCC or Commission) order. The Enforcement Bureau's (Bureau) finding of a violation was supported by sufficient evidence and we affirm the forfeiture of \$25,000.

II. BACKGROUND

2. The Bureau issued an *Order of Forfeiture* to Net One on January 15, 2014, (*Order of Forfeiture*) finding that the Company failed to respond to a letter of inquiry sent to the Company on December 9, 2011.² Specifically, the *Order of Forfeiture* imposed a monetary forfeiture of \$25,000 against Net One for willfully or repeatedly failing to comply with a Commission order issued by the Bureau to produce certain information and documents relating to a Bureau investigation.³ On February 13, 2014, Net One sent the Bureau an e-mail (Petition for Reconsideration) asking that it reconsider the *Order of Forfeiture*.⁴

¹ This case was formerly assigned the file number EB-11-TC-063. In January 2012, the Telecommunications Consumers Division assigned the case a new file number.

² *Net One International, et al*, Order of Forfeiture, 29 FCC Rcd 264 (Enf. Bur. 2014) (*Order of Forfeiture*).

³ *Id.*

⁴ See e-mail from Thomas Gainor, Net One Counsel, Moffa, Gainor & Sutton PA, to Mika Savir, Attorney, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 13, 2014, 6:56 PM) (on file in EB-TCD-12-00000418) (Petition for Reconsideration).

III. DISCUSSION

3. Section 1.106(i) of the Commission's rules requires petitions for reconsideration to be submitted to the Secretary of the Commission.⁵ That rule states that "[p]etitions submitted only by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed."⁶ Additionally, the Commission grants petitions for reconsideration only in limited circumstances. Section 405 of the Communications Act, as amended, provides in relevant part that "[r]econsiderations shall be governed by such general rules as the Commission may establish, except that no evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence . . . shall be taken on any reconsideration."⁷ Absent "a material error or omission in the underlying order," or unless a petitioner raises "additional facts not known or not existing until after the petitioner's last opportunity to present such matters," reconsideration is not warranted.⁸ Further, the petition must "state with particularity the respects in which petitioner believes the action taken . . . should be changed" and the specific form of relief sought.⁹

4. Net One failed to file the Petition for Reconsideration with the Commission's Secretary, and failed to satisfy the requirements of Section 405 of the Act. Specifically, there is no evidence that copy of the Petition for Reconsideration was ever received by the Commission's Secretary. Additionally, Net One failed to: (1) identify any error or omission in the *Order of Forfeiture*; in fact, Net One does not even assert that there was an error or omission; (2) assert any additional facts that were not known or existing during the relevant time for filing responses to the *Notice of Apparent Liability for Forfeiture*¹⁰ affirmed by the *Order of Forfeiture*; and (3) identify or even request any change in the *Order of Forfeiture* or state what relief it seeks other than a general plea "for reconsideration regarding the Order."¹¹ Accordingly, we find Net One's petition for reconsideration wholly deficient and providing no basis for reconsidering our decision in the *Order of Forfeiture*.¹²

⁵ 47 C.F.R. § 1.106(i).

⁶ *Id.*

⁷ 47 U.S.C. § 405.

⁸ *USA Teleport, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 6431, 6433, para. 8 (Enf. Bur. 2011) (*USA Teleport*); *Christian Family Network, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 18369, 18371, para. 8 (Enf. Bur. 2008) (*Christian Family Network*).

⁹ 47 C.F.R. § 1.106(d)(1).

¹⁰ *Net One International, et al.*, Notice of Apparent Liability for Forfeiture and Order, 26 FCC Rcd 16493 (Enf. Bur. 2011).

¹¹ See e-mail from Thomas Gainor to Mika Savir, Attorney, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 13, 2014, 6:56 PM).

¹² In its petition Net One references a separate pending investigation against the Company asserting that it had filed "tax returns and financial statements in that matter that demonstrate the severe financial constraints" of the Company. See e-mail from Thomas Gainor to Mika Savir, Attorney, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 13, 2014, 6:56 PM). Other than this general reference; however, Net One never asks that we reconsider our decision based on an inability to pay. Notwithstanding this deficiency, we decline to reconsider our conclusion in the *Order of Forfeiture* not "to reduce or cancel the forfeiture based on Net One's (continued....)

IV. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED**, pursuant to Section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405 and Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, the Net One International, Inc., Net One, LLC, and Farrahtel International, LLC Petition for Reconsideration **IS DENIED**.

6. It is **FURTHER ORDERED** that the *Order of Forfeiture* **IS AFFIRMED** and that pursuant to Section 503(b) of the Act, Net One International, Inc., Net One, LLC, and Farrahtel International, LLC **SHALL FORFEIT** to the U.S. Government the sum of \$25,000.

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Memorandum Opinion and Order.¹³ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.¹⁴ Net One International, Inc., Net One, LLC, and Farrahtel International, LLC shall send electronic notification of payment to Johnny Drake at Johnny.Drake@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.¹⁵ When completing the FCC Form 159, Net One International, Inc., Net One, LLC, and Farrahtel International, LLC shall 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:

- Payment by check or money order must be made payable 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.

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ability to pay. *Net One Forfeiture Order*, 29 FCC Rcd at 267, para. 8. As we said in the *Order of Forfeiture*, the "*Net One NAL* was clear on the standard of review for considering a reduction or cancellation of the proposed forfeiture based on an inability to pay" and Net One failed to meet that standard. Reference in Net One's petition for reconsideration to a separate enforcement investigation where Net One filed tax returns (1) is not newly discovered information that would qualify for consideration here, (*see* 47 U.S.C. § 405(a); *see also* 47 C.F.R. § 1.106(c)(1)), and (2) we decline to exercise our discretion here to reconsider Net One's ability to pay on our own motion.

¹³ 47 C.F.R. § 1.80.

¹⁴ 47 U.S.C. § 504(a).

¹⁵ 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 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.

Any request for full payment under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.¹⁶ If Net One International, Inc., Net One, LLC, or Farrahtel International, LLC have 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 See 47 C.F.R. § 1.1914.

8. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order shall be sent by Certified Mail Return Receipt Requested and First Class Mail to Net One International, Inc., Net One, LLC, and Farrahtel International, LLC, Attention: Thomas Gainor, Moffa, Gainor, and Sutton, PA, One Financial Plaza, Suite 2202, 100 Southeast Third Ave., Fort Lauderdale, FL 33394.

FEDERAL COMMUNICATIONS COMMISSION

Richard A. Hindman
Chief
Telecommunications Consumers Division
Enforcement Bureau