

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

In the Matter of	)	File No.: EB-IHD-14-00014134
	)	
Rio Verde Wireless, LLC	)	NAL/Acct. No.: 201532080009
	)	
	)	FRN: 0023419955

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: March 11, 2015**

**Released: March 11, 2015**

By the Acting Chief, Investigations and Hearings Division:

**I. INTRODUCTION**

1. The Commission relies heavily on data reported by broadband service providers, especially those serving rural areas, to assess the state of broadband availability throughout the country and to craft policies that help make affordable Internet access available to all Americans. To ensure that it has such data, the Commission requires broadband services providers, including Wireless Internet Services Providers (WISPs) such as Rio Verde Wireless, LLC (Rio Verde or Company), to file data on their broadband services. We propose penalties totaling \$20,000 against Rio Verde for apparently failing to timely file its broadband data and for apparently failing to answer Enforcement Bureau (Bureau) questions regarding that failure. Failing to timely file broadband data and failing to appropriately respond to Bureau inquiries are serious offenses that impede the Commission's efforts to meet its statutory mandates regarding broadband deployment and to conduct inquiries into possible rule violations.

**II. BACKGROUND**

2. To accomplish its broadband goals, the Commission requires broadband service providers to file FCC Form 477 twice each year. Form 477 contains service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability. The data collected also enable the Commission to appropriately target universal service funds to unserved and underserved regions and to meet public safety obligations. Federal and state agencies and the general public also benefit from the data reported on Form 477.

3. Rio Verde is a WISP that uses unlicensed spectrum to provide broadband Internet service to fixed locations in Arizona.<sup>1</sup> In 2013, the Bureau learned that Rio Verde had not filed seven Form 477s since 2010. On December 19, 2013, the Bureau sent the Company a Letter of Inquiry (LOI) directing it to provide certain information and documents regarding its compliance with the Commission's Form 477 filing rules.<sup>2</sup> Glenn Alan Burgess, Rio Verde's Managing Member, acknowledged that he had received

<sup>1</sup> See Rio Verde Wireless Home Page, <http://www.rioverdewireless.com> (last visited Feb. 10, 2015); see also *Our System*, Rio Verde Wireless, [http://rioverdewireless.com/aboutus\\_system.php](http://rioverdewireless.com/aboutus_system.php) (last visited Feb. 10, 2015).

<sup>2</sup> See Letter from Theresa Z. Cavanaugh, Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Rio Verde Wireless, LLC at 1 (Dec. 19, 2013) (on file in EB-IHD-14-00014134) (Rio Verde LOI).

the LOI,<sup>3</sup> but the Company never answered or provided any documents in response to the LOI. On April 10, 2014, Rio Verde filed the Form 477 that had been due on March 3, 2014, more than five weeks late.<sup>4</sup>

### III. DISCUSSION

4. We find that Rio Verde apparently willfully or repeatedly violated the Form 477 filing requirements in Sections 1.7001 and 1.7002 of the Commission's rules (Rules), as well as a Commission order.<sup>5</sup> The Commission created Form 477 in 2000 to collect uniform data about local telephone competition, mobile telephony, and broadband services.<sup>6</sup> The form has been updated several times in the ensuing years as the Commission's work increasingly has turned to broadband.<sup>7</sup> As information about broadband availability, particularly in rural areas, has become increasingly important, filing requirements have expanded to include smaller entities such as Rio Verde.<sup>8</sup>

5. WISPs generally use unlicensed spectrum to provide broadband services to residential and business consumers, though some WISPs such as Rio Verde also hold Commission licenses.<sup>9</sup> WISPs

---

<sup>3</sup> See E-mail from Glenn Alan Burgess, Managing Member, Rio Verde Wireless, LLC, to Valerie Hill, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Feb. 17, 2014) (on file in EB-IHD-14-00014134) (Rio Verde February 17, 2014 E-mail).

<sup>4</sup> See E-mail from Michelle Santacruz, Accountant, Rio Verde Wireless, LLC, to Suzanne Mendez, Program Analyst, Industry Analysis and Technology Division, FCC Wireline Competition Bureau (Apr. 10, 2014) (on file in EB-IHD-14-00014134) (Rio Verde April 10, 2014 E-mail).

<sup>5</sup> See 47 C.F.R. § 1.7001, 1.7002; see also *infra* paras. 9–10.

<sup>6</sup> See *Modernizing the FCC Form 477 Data Program*, Report and Order, 28 FCC Rcd 9887, 9889, para. 6 (2013) (*2013 Data Gathering Order*); *Local Competition and Broadband Reporting*, Report and Order, 15 FCC Rcd 7717 (2000).

<sup>7</sup> See *2013 Data Gathering Order*, 28 FCC Rcd at 9888–92, paras. 3–13. Until 2013, data on broadband subscription (actual use) and deployment (availability) were collected separately. See *id.* at 9893–97, paras. 15–23. Providers were required to file Form 477 with subscription data. See *id.* at 9913, para. 56. NTIA's State Broadband Initiative (SBI) program encouraged providers to voluntarily submit deployment data to the states where they operated. See *id.* at 9897–99, paras 24–25. The *2013 Data Gathering Order* sought to streamline the reporting process by reducing these two reporting systems to a single, nationwide Form 477 covering both deployment and subscription data. See *id.* The first collection under the new Form 477 was scheduled for September 2014, but the implementation was delayed until December 11, 2014. See *id.* at 9899, para. 25; *Form 477 Filing Interface Reopened; Filings of Data as of June 30, 2014 Due December 11, 2014*, Public Notice, DA 14-1668 (Wireline Comp. Bur. Nov. 20, 2014).

<sup>8</sup> See *Local Competition and Broadband Reporting*, Report and Order, 19 FCC Rcd 22340, 22345, para. 8 (2004); see also *Development of Nationwide Broadband data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband and Subscribership Data, and Development of Data on Interconnected Voice Over Internet Protocol (VOIP) Subscribership*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 9691, 9708, para. 32 (2008) (*2008 Broadband Data Gathering Order and Further Notice*) (declining to exempt small service providers from filing Form 477 because doing so would “undercut the benefits of . . . information collection by depriving the Commission and other parties of adequate information on broadband deployment and adoption in rural, unserved, and underserved areas of the nation, the areas where additional information is most needed and would likely have the greatest impact”).

<sup>9</sup> See *Technology Transitions*, GN Docket No. 13-5, Comments of the Wireless Internet Service Providers Association at 2 (Mar. 31, 2014) (WISPA Docket No. 13-5 Comments). Rio Verde applied for two Commission licenses on March 21, 2014. The Commission granted these licenses on April 28, 2014. See *Microwave Industrial/Business Pool License – WQTW703 – Rio Verde Wireless, LLC*, FCC Universal Licensing System, <http://wireless2.fcc.gov/UlsApp/UlsSearch/license.jsp?licKey=3588739> (last visited Feb. 11, 2015); *Microwave Industrial/Business Pool License – WQTW705 – Rio Verde Wireless, LLC*, FCC Universal Licensing System, <http://wireless2.fcc.gov/UlsApp/UlsSearch/license.jsp?licKey=3588741> (last visited Feb. 11, 2015).

often serve rural areas where other broadband services are not available.<sup>10</sup> The data WISPs report on Form 477 therefore are especially relevant for Commission efforts to understand broadband availability and subscribership in those regions.<sup>11</sup> Accordingly, failing to file timely broadband data with the Commission and refusing to cooperate with Bureau investigations regarding such filing deficiencies are serious matters.

**A. Rio Verde Apparently Violated the Form 477 Filing Rules**

6. We conclude that Rio Verde apparently violated Section 1.7001 and 1.7002 of the Rules by willfully or repeatedly failing to timely file its Form 477 due in March 2014. These Rules require facilities-based providers of broadband Internet service, including WISPs, to file Form 477 twice each year by the first business day in March and September.<sup>12</sup> Form 477 contains important information that assists the Commission in carrying out its statutory mandates, including the requirement that the Commission “shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans.”<sup>13</sup>

7. Rio Verde filed Form 477s in September 2009 and March 2010, and did not file again until after it became aware of the Bureau’s investigation. The Company missed a total of seven filing deadlines between 2010 and 2013, and filed the Form 477 due in March 2014 late.<sup>14</sup> This lack of compliance persisted despite repeated Commission efforts to have Rio Verde meet its Form 477 filing obligations. In 2011, for example, the Bureau issued an Enforcement Advisory warning broadband providers, including Rio Verde, that they could be liable for monetary forfeitures if they did not comply with the reporting rules.<sup>15</sup> In April 2013, the Wireline Competition Bureau (WCB) informed the Company that the Commission had not received Form 477s due in 2012 and March 2013. Mr. Burgess then objected to the filing requirement because he believed that competitors would receive his proprietary information, but stated that he would “submit under duress.”<sup>16</sup> In response, WCB explained the Commission’s confidentiality protections. After this e-mail exchange, Mr. Burgess sent some data to the Commission and stated he was having difficulty filing electronically. WCB staff attempted to assist Mr. Burgess, but Rio Verde never submitted its Form 477 or the remainder of its required data. WCB referred Rio Verde to the Bureau for further action.

---

<sup>10</sup> See WISPA Docket No. 13-5 Comments at 2.

<sup>11</sup> See *2008 Broadband Data Gathering Order and Further Notice*, 23 FCC Rcd at 9708, para. 32.

<sup>12</sup> See 47 C.F.R. §§ 1.7001, 1.7002. On the March Form 477, companies must report data as of December 31st of the previous year, and on the September Form 477, companies must report data as of June 30th of the current year. *Id.* The Form 477 must be filed electronically via the FCC website by the first business day of the month. See Federal Communications Commission, *Instructions for Local Telephone Competition and Broadband Reporting (FCC Form 477)* at 19 (for filings due Mar. 1, 2014), available at <http://transition.fcc.gov/Forms/Form477/477inst.pdf> (*Form 477 Instructions*). If the first day of the month falls on a weekend or holiday, then Form 477 filings are due on the next business day. The March 2014 Form 477 therefore was due March 3, 2014.

<sup>13</sup> 47 U.S.C. § 1302(a).

<sup>14</sup> Rio Verde never filed Form 477s due in September 2010, March 2011, September 2011, March 2012, September 2012, March 2013, and September 2013.

<sup>15</sup> *Providers Are Reminded that They Must File Complete and Accurate Form 477 Reports Every Six Months*, Public Notice, 26 FCC Rcd 16769 (Enf. Bur. 2011).

<sup>16</sup> See E-Mail from Glen Alan Burgess, Managing Member, Rio Verde Wireless, LLC to Suzanne Yelen, Attorney Advisor, Industry Analysis and Technology Division, FCC Wireline Competition Bureau (April 15, 2013) (on file in EB-IHD-14-00014134).

8. On December 19, 2013, the Bureau sent Rio Verde an LOI requesting information regarding the company's Form 477 filing history.<sup>17</sup> As discussed below, Rio Verde never answered the Bureau's questions. After receiving further assistance from WCB staff, Rio Verde filed the Form 477 due March 3, 2014 on April 10, 2014, more than five weeks late.<sup>18</sup> Accordingly, we find that Rio Verde apparently violated Sections 1.7001 and 1.7002 of the Rules by failing to timely file its Form 477 due in March 2014.

### **B. Rio Verde Apparently Violated a Commission Order**

9. We conclude that Rio Verde apparently violated a Commission order by willfully or repeatedly failing to properly respond to the Bureau's LOI. Sections 4(i), 4(j), and 403 of the Communications Act of 1934, as amended (Act), the Rules, and relevant precedent grant the Commission broad investigatory authority, including the power to initiate inquiries and assess penalties against entities that disregard those inquiries.<sup>19</sup> Section 0.111(a)(17) of the Rules delegates this authority to the Enforcement Bureau.<sup>20</sup>

10. An LOI is a Commission order to an entity subject to the Commission's jurisdiction. Accordingly, companies that receive LOIs are required to timely file full and complete responses to the Bureau's questions.<sup>21</sup> Failure to timely and fully respond to the Bureau's inquiries violates the Rules.<sup>22</sup>

11. In the exercise of its authority, the Bureau sent an LOI to Rio Verde on December 19, 2013 via certified mail, directing the Company to provide certain information and documents in connection with its investigation into the Company's compliance with the Commission's Form 477 rules.<sup>23</sup> The

---

<sup>17</sup> See Rio Verde LOI.

<sup>18</sup> See Rio Verde April 10, 2014 E-mail.

<sup>19</sup> Section 4(i) authorizes the Commission to "issue such orders, not inconsistent with this Act as may be necessary in the execution of its functions." 47 U.S.C. § 154(i). Section 4(j) states that "[t]he Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice." 47 U.S.C. § 154(j). Section 403 grants the Commission both the authority to institute inquiries and "the power to make and enforce any order or orders" relating to its inquiries into compliance with the Act. 47 U.S.C. § 403. Various decisions have confirmed the Commission's authority to investigate potential rule violations and assess penalties against those that disregard Commission inquiries. See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7599–7600, paras. 23–28 (2002) (*SBC Communications*); *Net One, LLC*, *Farrahtel International, LLC*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 16493, 16494–95, paras. 4–7 (Enf. Bur. 2011) (*Net One*); *AllCom*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 9124, 9126–27, paras. 6–9 (Enf. Bur. 2010); *Digital Antenna, Inc.* Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7600, 7601–02, paras. 6–8 (Spectrum Enforcement Div., Enf. Bur. 2008) (*Digital Antenna*).

<sup>20</sup> 47 C.F.R. § 0.111(a)(17) (granting the Enforcement Bureau the authority to "[i]dentify and analyze complaint information, conduct investigations, conduct external audits and collect information, including pursuant to sections 218, 220, 308(b), 403 and 409(e) through (k) of the Communications Act, in connection with complaints, on its own initiative or upon request of another Bureau or Office").

<sup>21</sup> See 47 U.S.C. § 503(b)(1)(B); see also *SBC Communications*, 17 FCC Rcd at 7598, para. 20, (noting that "a licensee cannot ignore a Commission order simply because it believes such order to be unlawful") (quoting *Peninsula Communications*, Forfeiture Order, 17 FCC Rcd 2832 (2002)); *Technical Communication Network, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1018, 1019, para. 5. (Enf. Bur. 2013) (*Technical Communication Network*); *LDC Communications, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 300, 301, para. 5 (Enf. Bur. 2012); *Net One*, 26 FCC Rcd at 16493–96.

<sup>22</sup> See 47 U.S.C. §§ 154(i), 154(j), 403, 503(b)(1)(B); *SBC Communications*, 17 FCC Rcd at 7599–600, paras. 23–28; *Message Communications*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 8214, paras. 9–12 (Enf. Bur. 2014); *Calling Post Communications*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 8208, paras. 8–11 (Enf. Bur. 2014); *Digital Antenna*, 23 FCC Rcd at 7602–03, paras. 8–11.

<sup>23</sup> See Rio Verde LOI.

Bureau also sent a courtesy copy of the LOI by e-mail to Mr. Burgess. The United States Postal Service attempted to deliver the LOI on December 21, 2013, but could not do so. Rio Verde never retrieved the LOI from the post office, and it was ultimately returned to the Bureau on January 23, 2014. The Company also did not acknowledge receipt of the copy sent via e-mail.

12. On several occasions in late January and early February 2014, Bureau staff attempted to reach a representative of Rio Verde by telephone without avail. These efforts finally succeeded on February 7, 2014, and Bureau staff left a message with a Rio Verde employee requesting a return call from Mr. Burgess. Mr. Burgess did not return the Bureau's call. On February 14, 2014, the Bureau again sent the LOI to Rio Verde via fax and e-mail. On February 17, 2014, Mr. Burgess responded, acknowledging receipt of the LOI and objecting to the Form 477 filing requirement.<sup>24</sup>

13. On February 20, 2014, the Bureau directed Rio Verde to file its response to the LOI by March 6, 2014.<sup>25</sup> This gave the Company more than six additional weeks from the original deadline to answer the Bureau's questions.<sup>26</sup> The Bureau noted the Company's "opposition to the Form 477 filing requirements and, by extension, to the Bureau's investigation of Rio Verde's compliance with those requirements," but informed Rio Verde that its opposition did "not relieve the Company of its obligations to comply with the Form 477 filing requirements and to timely respond to the [LOI]."<sup>27</sup> The Bureau also warned Rio Verde that failure to answer the questions in the LOI would be "a violation of the Commission's Rules and subject the Company to a potential fine."<sup>28</sup> Rio Verde acknowledged receipt of this communication.<sup>29</sup>

14. The Company never filed a formal response to the Bureau's LOI and did not answer any of the Bureau's questions. Accordingly, we find that Rio Verde apparently violated a Commission order by failing to provide the information and documents required by the LOI.

### C. Proposed Forfeitures

15. Section 503(b)(1)(B) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply substantially with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission."<sup>30</sup> Here, Section 503(b)(2)(D) of the Act authorizes us to assess a forfeiture against Rio Verde of up to \$16,000 for each day of a continuing violation, up to a statutory maximum of \$122,500 for a single act or failure to act.<sup>31</sup> In exercising our

<sup>24</sup> See Rio Verde February 17, 2014 E-mail.

<sup>25</sup> See E-mail from Valerie Hill, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau, to Glenn Alan Burgess, Managing Member, Rio Verde Wireless, LLC (Feb. 20, 2014) (on file in EB-IHD-14-00014134) (Bureau February 20, 2014 E-mail).

<sup>26</sup> Rio Verde's response to the LOI was due by January 22, 2014. See Rio Verde LOI; Bureau February 20, 2014 E-mail.

<sup>27</sup> Bureau February 20, 2014 E-mail.

<sup>28</sup> *Id.*

<sup>29</sup> E-mail from Glenn Alan Burgess, Managing Member, Rio Verde Wireless, LLC, to Valerie Hill, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Feb. 20, 2014) (on file in EB-IHD-14-00014134).

<sup>30</sup> 47 U.S.C. § 503(b).

<sup>31</sup> See 47 U.S.C. § 503(b)(2)(D); 47 C.F.R. § 1.80(b)(7). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(D) (\$10,000 per violation per day of a continuing violation and \$75,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321 (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation. See 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2013. See *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect*

(continued....)

forfeiture authority, we must consider 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 other such matters as justice may require.”<sup>32</sup> In addition, the Commission has established forfeiture guidelines; they establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.<sup>33</sup> Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.<sup>34</sup>

16. Section 1.80(b) of the Rules sets a base forfeiture of \$3,000 for failure to file required forms or information for each violation or each day of a continuing violation.<sup>35</sup> For failure to respond to Commission communications, Section 1.80(b) of the Rules sets a base forfeiture amount of \$4,000 for each violation or each day of a continuing violation.<sup>36</sup> We have discretion, however, to depart from these guidelines, taking into account the particular facts of each individual case.<sup>37</sup>

17. Here, Rio Verde did not timely file its Form 477 due on March 3, 2014, resulting in a base forfeiture of \$3,000. It also did not respond to the Bureau’s LOI, resulting in a base forfeiture of \$4,000. Accordingly, we propose base forfeitures totaling \$7,000. Given the totality of the circumstances, and consistent with the *Forfeiture Policy Statement*, we conclude that significant upward adjustments are warranted. In view of the seriousness and the repeated nature of Rio Verde’s violations, we propose forfeitures of \$10,000 for failing to timely file Form 477 and \$10,000 for failing to respond to a Commission order.

18. Specifically, we find that Rio Verde’s failure to timely file March 2014 Form 477 merits an upward adjustment because the Company had failed to timely file Form 477 on eight separate occasions starting in 2010.<sup>38</sup> As discussed above, some of these missed filings, including the one due on March 3, 2014, persisted even after Rio Verde was warned of its filing obligations and after WCB staff offered ample assistance. Accordingly, we propose an upward adjustment of \$7,000, which takes into account the circumstances surrounding the violation and Rio Verde’s history of failing to timely file Form 477.<sup>39</sup>

19. We also find Rio Verde’s apparent intentional and continual refusal to respond to the Bureau’s inquiries to be particularly egregious, both because “[m]isconduct of this type exhibits contempt for the Commission’s authority and threatens to compromise the Commission’s ability to adequately

(Continued from previous page) \_\_\_\_\_

*Inflation*, Order, 28 FCC Rcd 10785 (Enf. Bur. 2013); *see also* *Inflation Adjustment of Monetary Penalties*, 78 Fed. Reg. 49370-01 (Aug. 14, 2013) (setting Sept. 13, 2013, as the effective date for the increases).

<sup>32</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>33</sup> 47 C.F.R. § 1.80(b)(8), Note to paragraph (b)(8).

<sup>34</sup> *Id.*

<sup>35</sup> 47 C.F.R. § 1.80(b).

<sup>36</sup> *Id.*

<sup>37</sup> *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17098–99, para. 22 (1997) (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

<sup>38</sup> These include the seven instances referenced *supra* note 14, as well as the March 2014 Form, which was filed late.

<sup>39</sup> We note that in March 2014, the Bureau entered into a consent decree requiring three co-owned entities with a history of Form 477 filing violations to pay \$24,000 for Form 477 filing violations. *Marseilles Telephone Company, Metamora Telephone Company, and MTCO Communications, Inc.*, Order, 29 FCC Rcd 2603 (Enf. Bur. 2014).

investigate violations of its rules,”<sup>40</sup> and because the Bureau gave the Company additional time to file its response.<sup>41</sup> Rio Verde acknowledged that it received both the Bureau’s LOI and the e-mail granting it more time to respond.<sup>42</sup> Further, the Bureau warned the Company that failure to respond fully to the LOI could result in a fine.<sup>43</sup> Still, Rio Verde chose not to answer the Bureau’s questions. Accordingly, we propose an upward adjustment of \$6,000, for egregious and intentional misconduct.

20. Therefore, after applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors, we propose total forfeitures of \$20,000, for which Rio Verde is apparently liable.

#### IV. CONCLUSION

21. We conclude that Rio Verde apparently willfully or repeatedly violated Sections 1.7001 and 1.7002 of the Rules, as well as a Commission Order. As such, Rio Verde is apparently liable for \$20,000 in forfeitures.

#### V. ORDERING CLAUSES

22. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act<sup>44</sup> and Sections 1.80 of the Rules,<sup>45</sup> Rio Verde Wireless, LLC is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR FORFEITURE** in the amount of twenty thousand dollars (\$20,000) for willful and repeated violations of Sections 1.7001 and 1.7002 of the Rules;<sup>46</sup> and of a Commission order.<sup>47</sup>

23. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,<sup>48</sup> within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Rio Verde Wireless, LLC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 26 below.

24. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Rio Verde Wireless, LLC shall send electronic notification of payment to Jeffrey Gee at Jeffrey.Gee@fcc.gov and Valerie Hill at Valerie.Hill@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>49</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 should be followed based on the form of payment selected:

- 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

---

<sup>40</sup> See *Technical Communication Network*, 28 FCC Rcd at 1020, para. 7; *Fox Television Stations, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 7074, 7081, para. 15 (Enf. Bur. 2010) (“Prompt and full responses to Bureau inquiry letters are *essential* to the Commission’s enforcement function.” (emphasis added)).

<sup>41</sup> See *supra* notes 25–26 and accompanying text; Bureau February 20, 2014 E-mail.

<sup>42</sup> See *supra* notes 24–29 and accompanying text.

<sup>43</sup> See *supra* notes 28–29 and accompanying text.

<sup>44</sup> 47 U.S.C. § 503(b).

<sup>45</sup> 47 C.F.R. § 1.80.

<sup>46</sup> 47 C.F.R. § 1.7001, 1.7002.

<sup>47</sup> See discussion *supra* paras. 9–10.

<sup>48</sup> 47 C.F.R. § 1.80.

<sup>49</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

25. Any request for making full payment over time 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.<sup>50</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

26. 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 1.16 and 1.80(f)(3) of the Rules.<sup>51</sup> The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau – Investigations and Hearings Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Jeffrey Gee at Jeffrey.Gee@fcc.gov and Valerie Hill at Valerie.Hill@fcc.gov.

27. 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.

28. **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 Glenn Alan Burgess, Managing Member, Rio Verde Wireless, LLC, 30514 North 162nd Street, Scottsdale, AZ, 85262.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey J. Gee  
Acting Chief  
Investigations and Hearings Division  
Enforcement Bureau

---

<sup>50</sup> See 47 C.F.R. § 1.1914.

<sup>51</sup> 47 C.F.R. §§ 1.16, 1.80(f)(3).