Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
WDT World Discount Telecommunications Co., Inc.	)	File No.: EB-IHD-15-00020150
	)	NAL/Acct. No.: 201732080002
	)	FRN: 0009514803

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ADMONISHMENT

Adopted: November 18, 2016 **Released: November 18, 2016**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of $100,000 against WDT World Discount Telecommunications Co., Inc. (WDT or Company), for an apparent violation of the Commission's universal service reporting obligations, and for transferring, without prior Commission approval, certain assets, including its customer base. Specifically, we find that WDT apparently violated the Communications Act of 1934 (Act), as amended, and the Commission's rules by failing to timely file one annual revenue report with the Universal Service Administrative Company (USAC), and by failing to obtain prior Commission approval for transferring its assets, including its customer base. By failing to meet its regulatory filing obligations, WDT interfered with the orderly administration of the universal service funding mechanisms. In addition, WDT's unauthorized transfer prevented the Commission from evaluating possible risks to competition and consumers, and any other adverse consequences that might have resulted from the asset transfer. In proposing penalties for WDT's failures to comply with its regulatory reporting and authorization obligations, we also consider the company's past conduct in charging excessive universal service fees to its international long distance customers. Relatedly, we admonish WDT for its violations of our rule prohibiting excessive universal service surcharges that occurred outside the one-year statute of limitations. Taken as a whole, we view the Company's apparent noncompliance as a serious dereliction of its responsibilities as a telecommunications service provider, and one that warrants the proposal of a substantial monetary penalty.

II. BACKGROUND

2. Until early 2016, WDT World Discount Telecommunications Co., Inc., was an Illinois-based toll reseller providing international and domestic long distance service nationwide, and some local phone service in Illinois.[1] Registered as a privately held corporation in Texas,[2] WDT held Commission authorizations to provide domestic and international telecommunications service pursuant to Section 214 of the Act.[3]

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[1] *See* WDT World Discount Telecommunications Co., April 2016 FCC Form 499-A (on file in EB-IHD-15-00020150) (2016 Form 499-A). As further discussed below, WDT transferred its assets in 2016.

[2] Texas Secretary of State, Corporations Section, WDT World Discount Telecommunications Co., File No. 155560600 (formed Oct. 25, 1999).

[3] *See* International Bureau Filing System (IBFS) File No.: ITC-214-19970605-00310 (granted July 23, 1997) *available at* http://licensing fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr031b hts?q_set=V_SITE_ANTENNA_FREQ.file_numberC/File+Number/%3

3. Because of its high percentage of international revenues from 2011 to 2015, WDT qualified for and availed itself of the Limited International Revenue Exemption (LIRE) provided in the Commission's rules (Rules), which exempted the Company from contributing to the Universal Service Fund (USF) based on its international revenues pursuant to Section 54.706(c).[4] After auditing the accuracy of WDT's 2012 FCC Form 499A, which reported WDT's annual revenues for 2011, USAC concluded that WDT collected USF surcharges based on international service despite the fact that WDT was not paying into the USF at the time based on its LIRE status as a primarily international service provider.[5] On June 9, 2014, USAC referred the Company to the Commission for potential enforcement action.[6]

4. On December 21, 2015, the Enforcement Bureau (Bureau) issued a Letter of Inquiry (LOI) to WDT to investigate whether the Company or its subsidiaries had violated provisions of the Act and Rules, including improperly recovering excessive federal USF contributions costs through line items on customers' bills, and failing to timely file required regulatory data, including revenue information reported on FCC Form 499A (Annual Worksheets).[7] After the Bureau granted the Company's extension request, WDT responded to the LOI in several parts on February 3, 2016, February 12, 2016, March 15, 2016, and March 25, 2016.[8] On January 1, 2016, WDT transferred certain of its assets, including its customer base, to Master Call Connections, LLC, an interexchange service provider.[9] WDT never sought FCC approval of the acquisition of assets before closing on the transaction, as required by the Commission's Rules.

III. DISCUSSION

5. Based on the facts and circumstances before us, and as described more fully below, we find that WDT apparently willfully or repeatedly failed to timely file one Annual Worksheet in accordance with Section 54.711(a) of the Rules,[10] and failed to obtain prior Commission approval for transferring certain assets, including its customer base, as required by Section 214 of the Act and Sections

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[4] *See* 47 CFR § 54.706(c) (when an entity subject to the USF reporting requirements has quarterly interstate revenue of less than 12 percent of its combined quarterly interstate and international revenue, the carrier is eligible for the LIRE and its international revenue will not be used in determining the entity's quarterly USF contribution base obligation).

[5] *See* Letter from Michelle Garber, Director, Financial Operations, USAC, to Terry Cavanaugh, Chief, Investigations and Hearings Division, FCC Enforcement Bureau (June 9, 2014) (on file in EB-IHD-15-00020150) (USAC Referral).

[6] *See id.*

[7] *See* Letter from Jeffrey J. Gee, Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Roman Talis, President and CEO, WDT World Discount Telecommunications Co., Inc., WDT Wireless Telecommunications, Inc., and AllVoi, Inc. (Dec. 21, 2015) (addressing Company's compliance with 47 U.S.C. §§ 159(a), 201(b), 254(d); and 47 CFR §§ 1.1154, 1.1157, 54.702(n), 54.706, 54.707, 54.711, 54.712, 54.713, 64.1195, 64.2401, and 64.5001) (on file in EB-IHD-15-00020150) (LOI).

[8] *See* Letters from John J. Heitmann, Kelley Drye & Warren LLP, Counsel to WDT World Discount Telecommunications Co., Inc., WDT Wireless Telecommunications, Inc., and AllVoi, Inc., to Jeffrey J. Gee, Chief, Investigations and Hearings Division, FCC Enforcement Bureau (dated February 3, 2016, February 12, 2016, March 15, 2016, and March 25, 2016) (on file in EB-IHD-15-00020150) (collectively, LOI Response).

[9] LOI Response to Inquiry 6; Asset Purchase Agreement executed by WDT and Master Call Connections, LLC (dated Jan. 1, 2016) (on file in EB-IHD-15-00020150, subject to confidentiality request). *See also* https://www.wdteasy.com (referencing "IMPORTANT information for WDT Easy customers! Due to the recent merger of WDT, Inc. and MasterCall Connections, some changes have been made to the service you currently use").

[10] *See* 47 CFR § 54.711(a).

63.01, 63.03, 63.04, and 63.18 of the Rules.[11] We also consider WDT's imposition of excessive customer surcharges in violation of Section 54.712 of the Rules in assessing proposed penalties for its noncompliance, and we admonish WDT for its violations of this rule that occurred beyond the one-year statute of limitations.

A. WDT Apparently Violated Section 54.711 of the Commission's Rules by Failing to Timely File an Annual Revenue Reporting Worksheet

6. The Act directs the Commission to establish, administer, and maintain programs to promote universal service, Telecommunications Relay Service (TRS), and numbering administration programs, among other mandates.[12] To help accomplish these goals, the Commission has established the USF and related funding mechanisms. As Congress has directed,[13] the Commission funds USF programs through assessments on telecommunications service providers. To gather the data necessary to calculate assessments, the Commission requires interstate telecommunications service providers, among others, to periodically file projected revenue information and, using the FCC Form 499A, also known as the Annual Worksheet, to report providers' actual revenues from the various types of services provided during the previous calendar year.[14] USAC utilizes this data to calculate, and later true-up, a company's USF contributions.[15] The Annual Worksheet filing obligations allow the Commission and the administrator of the USF to determine the extent of a company's payment obligations for these federal programs.[16]

7. WDT failed to timely submit an Annual Worksheet reporting revenue for 2012, which was due April 1, 2013.[17] WDT submitted its 2013 Annual Worksheet on November 27, 2015, more than 31 months late.[18] We therefore find it is apparent that WDT willfully or repeatedly violated Section 54.711(a) of the Rules by failing to timely file the Annual Worksheet that was due April 1, 2013.

8. Pursuant to Section 54.711(a) of the Rules, telecommunications providers such as WDT are required to timely file Telecommunications Reporting Worksheets to provide the information necessary to calculate amounts that a service provider must contribute to federal regulatory programs. A carrier's failure to file these required worksheets has a direct and detrimental impact by interfering with the calculation of USF contributions telecommunications revenues, and shifts additional economic burdens to compliant carriers in the USF program. Consequently, a carrier's failure to file required Worksheets frustrates the very purpose for which Congress enacted Section 254(d) of the Act—to ensure that every interstate carrier "contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."[19] By failing to timely file the required revenue data on different types of services during the

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[11] *See* 47 U.S.C. § 214; 47 CFR §§ 63.01, 63.03, 63.04, 63.18.

[12] *See* 47 U.S.C. §§ 225(b)(1)–(2), 251(b)(2), (e), 254(a)(2).

[13] *See* 47 U.S.C. §§ 225(d)(3), 251(e)(2), 254(d).

[14] *See* 47 CFR §§ 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B).

[15] *See Wireline Competition Bureau Releases 2016 Telecomms. Reporting Worksheets & Accompanying Instructions*, Public Notice, 31 FCC Rcd 973, 2016 WL 520248, **44 (Wireline Comp. Bur. 2016).

[16] *See InPhonic, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 20 FCC Rcd 13277, 13283-84, para. 18 (2005), *forfeiture issued*, Order of Forfeiture and Further Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 8689, 8691, para. 5 (2007).

[17] *Wireline Competition Bureau Releases 2013 Telecomms. Reporting Worksheets & Accompanying Instructions*, Public Notice, 28 FCC Rcd 1933 (2013).

[18] *See* https://efile.universalservice.org/form499/source/search.asp?optFilerID=823370&allFilings=1 (WDT's USAC filing history) (last visited Nov. 1, 2016) (search results on file in EB-IHD-15-00020150).

[19] 47 U.S.C. §254(d).

calendar year, WDT interfered with the orderly administration of the universal service funding mechanism.

B. WDT Apparently Violated Section 214 of the Act and Sections 63.01, 63.03, 63.04 and 63.18 of the Rules by Failing to Obtain Prior Commission Approval for a Transfer Of Assets

9. Section 214 of the Act requires telecommunications carriers to obtain a certificate of public convenience and necessity from the Commission before constructing, acquiring, operating, or engaging in the transmission of common carrier communications services over communications lines, and before discontinuing, reducing, or impairing service to a community.[20] In addition, the Commission's Rules also state that sales of assets that include a company's customer base should be treated as transfers of control requiring Commission approval.[21] From July 23, 1997 until January 1, 2016, WDT held Commission authorizations to provide domestic and international telecommunications service pursuant to Section 214 of the Act for itself and its subsidiaries.[22] On January 1, 2016, WDT consummated a transfer of its assets, including a transfer of its customer base, to Master Call Connections LLC,[23] another telecommunications provider, without obtaining prior Commission approval.

10. Although ten months have passed since the Company finally disclosed the transfer of assets in response to the LOI, it still has not submitted applications with the Wireline Competition and International Bureaus for the requisite approvals necessary to consummate the transaction. Nor has WDT explained why it has not filed applications for approval. Pursuant to Section 214 of the Act and the rules cited above, WDT was required to obtain two approvals from the Commission—one from the Wireline Competition Bureau and another from the International Bureau—before consummating the transfer of assets including customer accounts.[24] Based on a preponderance of the evidence, we therefore find that WDT's unauthorized transfer of its assets and customer base resulted in two violations—one for the domestic authorization and one for the international authorization—of Section 214 of the Act and Sections 63.01, 63.03, 63.04 and 63.18 of the Rules.[25] WDT's violations of the statute and Rules continue

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[20] *See* 47 U.S.C. § 214(a). In 1999, the Commission granted all telecommunications carriers blanket authority under Section 214 to provide domestic interstate services and to construct or operate any domestic transmission line. *See* 47 CFR § 63.01(a) ("Any party that would be a domestic interstate communications common carrier is authorized to provide domestic, interstate services to any domestic point and to construct or operate any domestic transmission line as long as it obtains all necessary authorizations from the Commission for use of radio frequencies.").

[21] *See* 47 CFR §§ 63.01, 63.03, 63.04, and 63.18; *see also* Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations, *Report and Order*, 17 FCC Rcd 5517, 5547-49, paras. 59-64 (2002) (modifying 47 CFR § 63.01 to reflect that asset purchases will no longer be subject to blanket authority, but rather will be treated as transfers of control).

[22] *See* LOI Response to Inquiries No. 6 and 7; International Bureau Filing System (IBFS) File No.: ITC-214-19970605-00310 (granted July 23, 1997) *available at* http://licensing fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr031b hts?q_set=V_SITE_ANTENNA_FREQ.file_numberC/File+Number/%3D/ITC2141997060500310&prepare=&column=V_SITE_ANTENNA_FREQ.file_numberC/File+Number (last visited Nov. 1, 2016).

[23] *See* Asset Purchase Agreement (dated Jan. 1, 2016) (on file in EB-IHD-15-00020150, subject to confidentiality request).

[24] *See* 47 U.S.C. § 214(a); 47 CFR §§ 63.01 (requiring prior approval for transfer of domestic transmission lines), 63.03 (streamlining procedures for domestic transfer of control applications), 63.04 (filing procedures for domestic transfer of control applications), and 63.18 (procedures for transfer of control applications for international common carriers).

[25] *See* 47 U.S.C. § 214(a); 47 CFR §§ 63.01, 63.03, 63.04, and 63.18.

under the applicable statutory limitations period until Commission approvals of the transfers are granted.[26]

C. WDT Apparently Violated Section 54.712(a) of the Commission's Rules by Imposing Excessive USF Surcharges on Service for Which it Had No Contribution Obligation

11. Section 54.712(a) of the Commission's Rules prohibits USF contributors from charging more to the end-user for USF surcharges than what they pay into the fund on interstate revenues from that customer.[27] As the Commission noted when it adopted Section 54.712, such pass-throughs of USF costs are not mandatory customer surcharges, since it wanted carriers to retain the flexibility to structure their recovery of the costs of universal service.[28] However, it emphasized that contributors choosing to pass through USF contributions to customers must "include complete and truthful information regarding the contribution amount. We do not assume that contributors will provide false or misleading statements, but we are concerned that consumers receive complete information regarding the nature of the universal service contribution."[29]

12. Pursuant to Section 54.706(c),[30] WDT qualified for LIRE from 2011-2015 because its interstate revenue equaled less than 12 percent of its combined interstate and international revenue. As a result, WDT was exempt from contributing to the USF based on its international revenues.[31] However, upon investigation, WDT apparently billed customers for excessive and unlawful USF surcharges for international service this entire period, despite having no USF contribution obligation on those revenues. Specifically, according to its Annual Worksheets filed with USAC, WDT reported more than $[redacted][32] of international surcharge revenue during the period in which it qualified for LIRE, between 2011 and 2015, and did not pay USF charges on international revenues at the time. Accordingly, the surcharges on international service collected by WDT between 2011 and 2015 appear to have exceeded the recovery from end-users permitted under Section 54.712(a) of the Commission's Rules.[33]

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[26] *See, e.g., PTT Phone Cards, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 11531, 11534, para. 9 (2014) (PTT Phone Cards NAL); *Unipoint Technologies, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 12751, 12757, para. 13 (2012) (Unipoint NAL).

[27] 47 CFR § 54.712(a). Specifically, the rule provides: "If a contributor chooses to recover its federal universal service contribution costs through a line item on a customer's bill the amount of the federal universal service line-item charge may not exceed the interstate telecommunications portion of that customer's bill times the relevant contribution factor." *Id.*

[28] *See* In the Matter of Fed.-State Joint Bd. on Universal Serv., *Report and Order*, 12 FCC Rcd 8776, 9211-12, para. 855 (1997) (Universal Service First Report and Order).

[29] *Id.*

[30] *See* 47 CFR § 54.706(c) (when an entity subject to the USF reporting requirements has quarterly interstate revenue of less than 12 percent of its combined quarterly interstate and international revenue, the carrier is eligible for the LIRE and its international revenue will not be used in determining the entity's quarterly USF contribution base obligation).

[31] *See* 47 CFR § 54.706(c). The rule extends the exemption to the entity that is subject to the USF reporting requirements as well as the entity's affiliated providers of interstate and international telecommunications and telecommunications services. *Id.*

[32] The Bureau has redacted information in this NAL relating to WDT's revenues. On each FCC Form 499A, WDT's President requested nondisclosure and certified that the reported revenue data was privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the company. *See* 47 CFR § 0.459; FCC Form 499A, Line 605.

[33] 47 CFR § 54.712(a).

13. Following the issuance of the final USAC audit report in 2014,[34] WDT stopped reporting international surcharge revenue on its Annual Worksheets in 2015,[35] and WDT stated that it ceased imposing the charges on customer bills in early fall of 2015.[36] However, as we discuss below, in light of WDT's violation of Commission Rules by improperly collecting such a significant amount of customer overcharges over such a long period, we find the existence of the prior violations warrants consideration in our calculation of the proposed forfeitures for the rule violation relating to WDT's failure to timely file an Annual Worksheet as well as for its failure to obtain prior Commission approval for its transfer of assets.[37] We also find these violations by WDT merit admonishment to emphasize the seriously anti-consumer nature of its collection of excessive USF surcharges on service for which the Company had no USF contribution obligation.

D. Proposed Action

1. Proposed Forfeiture Amount

14. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission."[38] Section 503(b)(2)(B) of the Act authorizes the Commission to assess a forfeiture against WDT up to $189,361 for each violation or each day of a continuing violation, up to a statutory maximum of $1,893,610 for a single act or failure to act.[39] In exercising our 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 such other matters as justice may require."[40] In addition, the Commission has established forfeiture guidelines that establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.[41] 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.[42] We may adjust a forfeiture downward under the guidelines for minor violations, good faith or voluntary disclosure, a history of

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[34] *See* USAC Referral, Attachment A.

[35] *See* WDT 2016 FCC Form 499A, Line 403(e) (on file in EB-IHD-15-00020150).

[36] *See* LOI Response to Inquiry 22.

[37] *See* Section III.D.1, *infra.*

[38] 47 U.S.C. § 503(b).

[39] *See* 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(9). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(B) ($100,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,000,000 for 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 on June 9, 2016. *See Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 31 FCC Rcd 6793 (EB 2016); *see also* Inflation Adjustment of Monetary Penalties, 81 Fed. Reg. 42,554 (Jun. 30, 2016) (setting August 1, 2016 as the effective date for the increases).

[40] 47 U.S.C. § 503(b)(2)(E).

[41] 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

[42] *Id*. *See also The Comm'n's Forfeiture Policy Statement & 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 Guidelines*), *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

overall compliance, or an inability to pay.[43] The Commission's forfeiture guidelines specifically "are intended as a guide for frequently recurring violations" and not "a complete or exhaustive list of violations."[44]

15. Under Section 503(b)(6) of the Act, we may only propose forfeitures for apparent violations that accrued within one year of the date of this NAL.[45] Nevertheless, Section 503 does not prohibit us from assessing whether WDT's conduct prior to that date apparently violated the Act or our Rules and we may consider WDT's other violations in determining the appropriate forfeiture amount for those violations within the statute of limitations.[46] Therefore, although we find that WDT apparently violated the Act and our Rules in multiple years, we discuss forfeitures here for only the last year of violations. We admonish WDT for the violations of the rule prohibiting excessive USF surcharges that occurred beyond the statute of limitations.[47]

16. Pursuant to Commission precedent, we impose a forfeiture of $50,000 for WDT's failure to timely file an Annual Worksheet that it was legally obligated to file on April 1, 2013.[48] The forfeiture amount of $50,000 for its failure to timely file, as applied to WDT, is consistent with the statutory factors in the Act. We thus find that WDT is apparently liable for a forfeiture of fifty thousand dollars ($50,000) for its apparently willful or repeated failure to timely file its Annual Worksheet.[49]

17. Regarding WDT's unauthorized transfer of assets, which included its customer base, Section 1.80 of the Rules establishes a base forfeiture amount of $8,000 for an "unauthorized substantial transfer of control."[50] WDT was required by Section 214 of the Act and Sections 63.01, 63.03, 63.04, and 63.18 of the Rules to obtain two approvals from the Commission – one from the Wireline Competition Bureau and another from the International Bureau – before consummating the transfer of assets including customer accounts.[51] Consequently, for the two failures to obtain authorization to transfer WDT's assets and customer base, we find that a proposed base forfeiture in the amount of $16,000 is appropriate. The Commission has upwardly adjusted the base forfeiture to $20,000 for two unauthorized transfer of control violations in other cases because of the duration of the violation and other factors contained in Section 503(b)(2)(E) of the Act.[52] In this case, WDT consummated the transaction over 11 months ago.

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[43] 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

[44] *Forfeiture Guidelines*, 12 FCC Rcd at 17109-10, para. 53.

[45] 47 U.S.C. § 503(b)(6)(B). *See also* 47 C.F.R. § 1.80(c)(4).

[46] 47 C.F.R. § 1.80(b)(8).

[47] 47 CFR § 54.712(a).

[48] *See, e.g.*, *UnityComm, LLC*, DA 16-1020, Notice of Apparent Liability for Forfeiture, ___ FCC Rcd ___ (EB 2016); *Advanced Tel, Inc.*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 833, 8441-42, paras. 27-28 (2015); *ADMA Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd. 838 (2009), *forfeiture issued*, Forfeiture Order, 26 FCC Rcd 4152, 4155, 4162, paras. 9, 28 (2011); *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893 (2003), *forfeiture issued*, Order of Forfeiture, 21 FCC Rcd 4710, 4720–21, 4727, paras. 26–28, 31, 45 (2006).

[49] We note that other violations of the Commission's reporting requirements applicable to WDT and its subsidiaries may be subject to separate sanctions in a future enforcement action. *See, e.g.*, 47 CFR § 54.711(a).

[50] *See* 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

[51] *See* 47 U.S.C. § 214(a); 47 CFR §§ 63.01 (requiring prior approval for transfer of domestic transmission lines), 63.03 (streamlining procedures for domestic transfer of control applications), 63.04 (filing procedures for domestic transfer of control applications), and 63.18 (procedures for transfer of control applications for international common carriers).

[52] *See Roman LD, Inc.*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 3433, 3438-39, paras. 16-17 (2015); *Stanacard LLC*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 82, 87, para. 14 (2013).

Consequently, an upward adjustment is appropriate and consistent with precedent.[53] Based on the facts and circumstances presented, we conclude that the appropriate forfeiture amount for the two instances of unauthorized transfer of control is twenty thousand dollars ($20,000).

18. In light of WDT's improper collection of over $[redacted] of international USF surcharges for more than four years when it had no associated USF payment obligation, we find it is appropriate to upwardly adjust the proposed base forfeiture for the failures to timely file revenue worksheets and for unauthorized transfers, in order to deter other contributors from imposing excessive surcharges in violation of Section 54.712(a) of the Rules. As noted above, following the issuance of the final USAC audit report in 2014, WDT stopped reporting international surcharge revenue on its Annual Worksheets in 2015, and WDT stated that it ceased imposing the charges on customer bills in early fall of 2015.[54] Because WDT stopped the practice more than 12 months before the issuance of this NAL, the excessive surcharge violations have lapsed under the applicable one-year statute of limitations.[55] However, because WDT improperly collected such a significant amount of customer overcharges over such a long period, we find this history of prior violations of Section 54.712(a)—and particularly the egregiousness of the amount improperly collected in the guise of USF recovery—justifies an upward adjustment of the proposed forfeiture for the worksheet violations, based on the factors set forth in Section 503(b)(2)(E) of the Act,[56] as well as Commission precedent.[57] Telecommunications providers that contribute to USF are responsible for providing customers with complete and truthful information regarding any charges that relate to universal service.[58] In no event should contributors impose USF costs on customers when they have no USF contribution obligation associated with the service being provided. Taking the seriousness, extensive period, and scope of WDT's past improper collection of excessive USF surcharges into account, we find that the base forfeiture for the worksheet and unauthorized transfer of asset violations should be upwardly adjusted by an additional thirty thousand dollars ($30,000).

19. Therefore, after applying the *Forfeiture Guidelines*, Section 1.80 of the Rules, and the statutory factors, we propose a total forfeiture of $100,000, for which WDT is apparently liable.

2. Admonishment

20. As noted above, we also admonish WDT for its violations of our Rules that occurred outside the one-year statute of limitations. Although we propose forfeitures for the apparent violations within the last year, admonishment for violations beyond the statute of limitations is appropriate here to note the full scope and scale of WDT's departure from our Rules.

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[53] *See Stanacard LLC*, 28 FCC Rcd at 87 (adjusting proposed forfeiture for two unauthorized Section 214 transactions persisting for more than six months before corrective action taken).

[54] *See* para. 13, *supra*; LOI Response to Inquiry 22.

[55] Under federal law, the statute of limitations for issuance of a Notice of Apparent Liability (NAL) for violations of the Act, Commission Rules, or both, by a non-broadcast licensee, is one year from the date on which the alleged violations occurred. 47 U.S.C. § 503(b)(6).

[56] *See* 47 U.S.C. § 503(b)(2)(E).

[57] *See* 47 U.S.C. § 503(b)(2)(E); *Optic Internet Protocol, Inc.*, 29 FCC Rcd 9056, 9065 (2014) (upwardly adjusting the $40,000 base forfeiture for cramming where carrier's conduct was egregious, and caused substantial and continuing harm to consumers); *U.S. Telecom Long Distance, Inc.*, Forfeiture Order, 31 FCC Rcd 10413 (2016) (same). *See also Telecom Mgmt., Inc.*, Forfeiture Order, 21 FCC Rcd 10470, 10477 (2006) (upwardly adjusting proposed forfeiture of $167,992 by 100 percent to $335,983 for failures to pay USF contributions).

[58] *See In the Matter of Fed.-State Joint Bd. on Universal Serv.*, Report and Order, 12 FCC Rcd 8776, 9211-12, para. 855 (1997).

21. We therefore admonish WDT for violating Section 54.712(a) of our Rules[59] through its imposition of excessive USF surcharges on customers of international service for which WDT had no USF contribution obligation.

IV. CONCLUSION

22. We have determined it is apparent that WDT willfully or repeatedly violated Section 214 of the Act, and Sections 54.711(a), 63.01, 63.03, 63.04, and 63.18 of the Rules. We further find that WDT violated 54.712(a) of the Rules. In light of the seriousness, duration and scope of the apparent violations, we find that a proposed forfeiture of $100,000 is warranted. As discussed, this proposed forfeiture amount includes (1) a proposed penalty of $50,000 for WDT's apparent failure to timely file a revenue reporting worksheet; and (2) a total proposed penalty of $20,000 for WDT's apparent failure to obtain prior Commission approval for the transfer of its assets, including its customer base; and (3) an upward adjustment of $30,000 for WDT's charging excessive USF fees to its international long distance customers. As such, WDT is apparently liable for a forfeiture of $100,000.

V. ORDERING CLAUSES

23. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act[60] and Sections 1.80 of the Rules,[61] WDT World Discount Telecommunications Co. Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of One Hundred Thousand Dollars ($100,000) for willful or repeated violations of Section 214 of the Act,[62] and Sections 54.711(a), 63.01, 63.03, 63.04, and 63.18 of the Rules.[63]

24. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,[64] within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, WDT World Discount Telecommunications Co. Inc. **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 28 below.

25. **IT IS FURTHER ORDERED** that WDT World Discount Telecommunications Co. Inc. **IS ADMONISHED** for its violations of Section 54.712(a) of the Rules.

26. 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. WDT World Discount Telecommunications Co. Inc. shall send electronic notification of payment to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, and Mindy Littell at Mindy.Littell@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.[65] 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 mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-

[59] 47 CFR § 54.712(a).

[60] 47 U.S.C. § 503(b).

[61] 47 CFR § 1.80.

[62] 47 U.S.C. § 214.

[63] *See* 47 U.S.C. § 214; 47 CFR §§ 54.711(a), 63.01, 63.03, 63.04, 63.18.

[64] 47 CFR § 1.80.

[65] An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www fcc.gov/Forms/Form159/159.pdf.

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.

27. 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.[66] 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.

28. 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.[67] 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 & Hearings Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, and Mindy Littell at Mindy.Littell@fcc.gov.

29. 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.

30. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Admonishment shall be sent by first class mail and certified mail, return receipt requested, to Steve Augustino, Esq., Counsel to WDT World Discount Telecommunications, Inc., Kelley Drye & Warren LLP, Washington Harbour, Suite 400, 3050 K Street, NW, Washington, D.C. 20007.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau

[66] *See* 47 CFR § 1.1914.

[67] 47 CFR §§ 1.16, 1.80(f)(3).