

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

In the Matter of)	
)	File No.: EB-SED-16-00020553 ¹
Alascom, Inc.)	
)	Acct. No.: 201632100005
)	
)	FRN: 0001572676

ORDER

Adopted: April 21, 2016

Released: April 21, 2016

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into whether Alascom, Inc. (Alascom) operated common carrier point-to-point microwave stations WGF63, WHA411, and WOE33 on unauthorized frequencies. The regulations involved ensure that devices that emit radio frequency radiation comply with the Commission's technical requirements and do not interfere with authorized communications. To settle this matter, Alascom admits that it operated stations WGF63, WHA411, and WOE33 on unauthorized frequencies from April 3, 2014 until approximately April 26, 2015 and that it implemented major modifications to the stations without prior Commission approval. Alascom agrees that it will implement a compliance plan to ensure there is no reoccurrence of these violations and will pay a \$36,000 civil penalty.

2. 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 referenced investigation into Alascom's compliance with Section 301 of the Communications Act, as amended (Act),² and Sections 1.903(a) and 1.947(a) of the Commission's rules.³

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Alascom's basic qualifications to hold or obtain any Commission license or authorization.⁴

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act,⁵ and the authority delegated by Sections 0.111 and 0.311 of the Commission's rules,⁶ the Consent Decree attached to this Order **IS ADOPTED** and its terms incorporated by reference.

¹ The investigation began under File No. EB-SED-15-00019170 and was subsequently assigned File No. EB-SED-16-00020553. Any future correspondence with the Commission concerning this matter should reflect the new case number.

² 47 U.S.C. § 301.

³ 47 C.F.R. §§ 1.903(a), 1.947(a).

⁴ See 47 C.F.R. § 1.93(b).

⁵ 47 U.S.C. § 154(i).

⁶ 47 C.F.R. §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.
6. **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 Robert Vitanza, General Attorney, AT&T Services, Inc., 208 S. Akard Street, Rm. 2914, Dallas, Texas 75202.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau

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CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Alascom, Inc. (Alascom), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether Alascom violated Section 301 of the Communications Act of 1934, as amended,¹ and Sections 1.903(a) and 1.947(a) of the Commission's rules² in connection with its operation of three fixed microwave stations on unauthorized frequencies.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) "Act" means the Communications Act of 1934, as amended.³
 - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "Alascom" means Alascom, Inc. and its subsidiaries, predecessors-in-interest, and successors-in-interest.
 - (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (e) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Alascom is subject by virtue of its business activities, including but not limited to the Licensing Rules.
 - (g) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 11.
 - (h) "Covered Employees" means all employees and agents of Alascom and its affiliates who perform, or supervise, oversee, or manage the performance of, duties that relate

¹ 47 U.S.C. § 301.

² 47 C.F.R. §§ 1.903(a), 1.947(a).

³ 47 U.S.C. § 151 *et seq.*

to Alascom's responsibilities under the Communications Laws, including the Licensing Rules.

- (i) "Effective Date" means the date by which both the Bureau and Alascom have signed the Consent Decree.
- (j) "Investigation" means the investigation commenced by the Bureau in FILE No. EB-SED-16-00020553⁴ regarding whether Alascom violated the Licensing Rules.
- (k) "Licensing Rules" means Section 301 of the Communications Act of 1934, as amended, and Sections 1.903(a) and 1.947(a) of the Commission's rules and other provisions of the Act, the Rules, and Commission orders that prohibit the use or operation of a wireless radio station in a manner inconsistent with its licensed parameters.
- (l) "Operating Procedures" means the standard internal operating procedures and compliance policies established by Alascom or its parent company to implement the Compliance Plan.
- (m) "Parties" means Alascom 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

3. Section 301 of the Act and Section 1.903(a) of the Commission's rules prohibit the use or operation of any apparatus for the transmission of energy or communications or signals by radio except under, and in accordance with, a Commission-granted authorization.⁵ Section 1.947(a) of the Commission's rules states that all "major modifications" to wireless radio service stations require prior Commission approval.⁶ Section 1.929(d) of the Commission's rules sets forth the types of modifications that are considered major, such as any substantial change in ownership or control, changes that require frequency coordination, and the addition of a frequency for which a licensee is not currently authorized.⁷ Failure to receive prior Commission approval for major modifications to station operations constitutes unauthorized operations under the Act and the Commission's rules.⁸

4. In May 2015, the Wireless Telecommunications Bureau referred to the Enforcement Bureau for investigation and possible enforcement action whether Alascom was operating common carrier fixed point-to-point microwave stations WGF63, WHA411, and WOE44 on unauthorized frequencies. The Enforcement Bureau sent a Letter of Inquiry (LOI) to Alascom on September 2, 2015, regarding possible violations associated with Alascom's operation of stations WGF63, WHA411, and WOE33.⁹ Alascom responded on October 2, 2015.¹⁰ In its LOI Response, Alascom states that it operated

⁴ The investigation began under File No. EB-SED-15-00019170 and was subsequently assigned File No. EB-SED-16-00020553.

⁵ 47 U.S.C. § 301; 47 C.F.R. § 1.903(a).

⁶ 47 C.F.R. § 1.947(a).

⁷ 47 C.F.R. § 1.929(d).

⁸ 47 U.S.C. § 301; 47 C.F.R. § 1.903(a).

⁹ See Letter from Bruce D. Jacobs, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Michael T. Felix, President and CEO, Alascom, Inc. (Sept. 2, 2015) (on file in EB-SED-16-00020553).

stations WGF63, WHA411, and WOE33 on frequencies other than those authorized.¹¹ Specifically, Alascom explains that it “replaced the microwave system” at each station on April 3, 2014, and completed frequency coordination, but did not file the necessary modification applications seeking authority to operate on the new frequencies.¹²

5. Beginning January 2015, Alascom implemented a formal license review process that had been developed by AT&T Corp.’s Regulatory Compliance Team.¹³ During this review process, Alascom discovered that it was operating stations WGF63, WHA411, and WOE33 on unauthorized frequencies. Alascom subsequently filed three applications for special temporary authority (STA) with the Wireless Telecommunications Bureau,¹⁴ which was the first step needed to begin bringing the stations into compliance. The Wireless Telecommunications Bureau granted the STA applications¹⁵ and Alascom then filed applications for permanent authority to operate on the relevant frequencies.¹⁶ Subsequently, Alascom and the Bureau engaged in settlement negotiations. The Bureau and Alascom agree to the following terms and conditions of settlement and hereby enter into this Consent Decree as provided herein.

III. TERMS OF AGREEMENT

6. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

7. **Jurisdiction.** Alascom agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and 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 Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

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, Alascom agrees to the terms, conditions, and procedures contained herein. The Bureau further 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 new proceeding, formal or informal, or take any action on its own motion against Alascom 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 to set for hearing

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¹⁰ See Letter from Robert Vitanza, General Attorney, AT&T Services, Inc., to Paul Noone, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (Oct. 2, 2015) (on file in EB-SED-16-00020553).

¹¹ LOI Response at 1-2.

¹² *Id.*

¹³ LOI Response at 4.

¹⁴ See Universal Licensing System (ULS) File Nos. 0006777536 (WGF63), 0006777555 (WHA411), and 0006777597 (WOE33). All of the applications were filed on April 27, 2015.

¹⁵ The applications were granted on April 30, 2015, under call signs WQVS697 (for WGF63), WQVS699 (for WHA411), and WQVS700 (for WOE33), until May 30, 2015.

¹⁶ On May 21, 2015, Alascom filed applications for stations WGF63, WHA411, and WOE33 seeking permanent authority to operate on the relevant frequencies. See ULS File Nos. 0006810706, 0006810728, and 0006790353, respectively. The applications remain pending.

the question of Alascom's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.¹⁷

10. **Admission of Liability.** Alascom admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 8 herein, that its actions that were the subject of the Investigation violated the Licensing Rules.

11. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Alascom shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a 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 Alascom 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 discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Licensing Rules prior to assuming his/her duties. The Compliance Officer may use the resources of legal counsel, and/or of managers reporting to Compliance Office of its parent company to aid the Compliance Officer in the discharge of his/her duties under this Consent Decree.

12. **Compliance Plan.** For purposes of settling the matters set forth herein, Alascom 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.¹⁸ With respect to the Licensing Rules, Alascom will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, Alascom shall establish Operating Procedures that all Covered Employees must follow to help ensure Alascom's compliance with the Licensing Rules. Alascom's Operating Procedures shall include internal procedures and policies specifically designed to ensure that it operates its radio stations in accordance with their authorized parameters.
- (b) **Compliance Manual.**¹⁹ 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 Licensing Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Alascom's compliance with the Licensing Rules. Alascom shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Alascom shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Alascom shall establish and implement a Compliance Training Program on compliance with the Licensing Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Alascom's obligation to report any noncompliance with the Licensing Rules under paragraph 12 of this Consent Decree and shall be

¹⁷ See 47 C.F.R. § 1.93(b).

¹⁸ Alascom represents that it has comprehensive organizational structures, plans, and procedures in place that are intended to ensure compliance with the Communications Laws. This Consent Decree does not require new organizational structures, plans, or procedures except as necessary to implement paragraphs 11-14 of this Consent Decree, nor does it require application of the Compliance Plan to Covered Employees with no responsibilities for compliance with the Licensing Rules.

¹⁹ Alascom is not restricted from combining its Operating Procedures and Compliance Manual into a single, comprehensive document.

instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within ninety (90) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Alascom shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

13. **Reporting Noncompliance.** Alascom shall report any noncompliance with the Licensing 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 Alascom 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 Alascom 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, 445 12th Street, SW, Rm. 4C-224, Washington, DC 20554, with copies submitted electronically to Paul Noone at Paul.Noone@fcc.gov and Ricardo Durham at Ricardo.Durham@fcc.gov.

14. **Compliance Reports.** Alascom 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, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Alascom's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Licensing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Alascom, stating that the Compliance Officer has personal knowledge that Alascom: (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 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall 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.²⁰
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Alascom, 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 Alascom 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 Alascom 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, 445 12th

²⁰ 47 C.F.R. § 1.16.

Street, SW, Rm. 4C-224, Washington, DC 20554, with copies submitted electronically to Paul Noone at Paul.Noone@fcc.gov and Ricardo Durham at Ricardo.Durham@fcc.gov.

15. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 10 through 13 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

16. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act²¹ against Alascom or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Alascom with the Communications Laws.

17. **Civil Penalty.** Alascom will pay a civil penalty to the United States Treasury in the amount of thirty-six thousand dollars (\$36,000) within thirty (30) calendar days of the Effective Date. Alascom shall send electronic notification of payment to Paul Noone at Paul.Noone@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 Account Number and FRN referenced in the caption of the Adopting Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²² 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 63197-9000, 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.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

18. **Waivers.** As of the Effective Date, Alascom 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. Alascom shall retain the right to challenge

²¹ 47 U.S.C. § 208.

²² An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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 Consent Decree or the Adopting Order, neither Alascom nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Alascom shall waive any statutory right to a trial *de novo*. Alascom hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act²³ relating to the matters addressed in this Consent Decree.

19. **Severability**. The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

20. **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.

21. **Subsequent Rule or Order**. The Parties agree that if any provision of the 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 Alascom does not expressly consent) that provision will be superseded by such Rule or Order.

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

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

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

25. **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.

26. **Authorized Representative**. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

²³ See 5 U.S.C. § 504; 47 C.F.R. §§ 1.1501–1.1530.

27. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Travis LeBlanc
Chief
Enforcement Bureau

Date

John Monday
Vice President
Alascom, Inc.

Date