

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Clarity Telecom, LLC d/b/a Vast Broadband
File No.: EB-18-IHD-00026141
Acct. No.: 201832080004
FRN: 0023758238

ORDER

Adopted: May 8, 2018

Released: May 8, 2018

By the Deputy Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether Clarity Telecom, LLC d/b/a Vast Broadband (Vast) violated the Commission's rules related to the sale of assets to Long Lines Metro, LLC (Metro) prior to receiving approval from the Commission's Wireline Competition and International Bureaus. To settle this matter, Vast admits that it failed to obtain the Commission's approval prior to the sale of assets to Metro, will implement a compliance plan, and will pay a \$16,000 settlement amount.

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 regarding Vast's compliance with the Commission's rules regarding the requirement of prior Commission approval for the sale of assets as set forth in Section 214 of the Communications Act of 1934, as amended (Act)1, and Sections 63.03, 63.04, 63.18, and 63.24 of the Commission's rules (Rules)2 In the absence of material new evidence relating to this matter, we do not set for hearing the question of Vast's basic qualifications to hold or obtain any Commission license or authorization.3

3. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Act4 and the authority delegated by Sections 0.111 and 0.311 of the Rules,5 the attached Consent Decree IS ADOPTED and its terms incorporated by reference.

4. IT IS FURTHER ORDERED that the above-captioned matter IS TERMINATED.

1 47 USC § 214.

2 47 CFR §§ 63.03, 63.04, 63.18, 63.24.

3 See 47 CFR § 1.93(b).

4 47 USC § 154(i).

5 47 CFR §§ 0.111, 0.311.

5. **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, James M. Gleason, President and Chief Executive Officer, Clarity Telecom, LLC d/b/a Vast Broadband, 912 S. Main Street, Suite 106, Sikeston, MO 63801 and Gregory W. Whitaker, Esq., Herman & Whiteaker, LLC, 6720-B Rockledge Drive, Suite 150, Bethesda, MD 20817.

FEDERAL COMMUNICATIONS COMMISSION

Keith V. Morgan  
Deputy Chief  
Enforcement Bureau

Before the
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In the Matter of
Clarity Telecom, LLC d/b/a Vast Broadband
File No.: EB-18-IHD-00026141
Acct. No.: 201832080004
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CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Clarity Telecom, LLC d/b/a Vast Broadband (Vast), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation, as defined below, into whether Vast violated Section 214 of the Communications Act of 1934, as amended (Act)1, and Sections 63.03, 63.04, 63.18, and 63.24 of the Commission’s rules (Rules)2 related to the sale of assets to Long Lines Metro, LLC (Metro) prior to receiving approval from the Commission’s Wireline Competition and International Bureaus.3

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.4
(b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
(e) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Vast is subject by virtue of its business activities, including but not limited to the Section 214 Rules.
(f) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 17
(g) “Covered Employees” means all employees and agents of Clarity who perform, or supervise, oversee, or manage the performance of, duties that relate to Vast’s responsibilities under the Communications Laws, including the Section 214 Rules.

1 47 USC § 214.

2 47 CFR §§ 63.03, 63.04, 63.18, 63.24.

3 See IBFS Application No. ITC-ASG-20170905-00145; Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Clarity Telecom, LLC d/b/a Vast Broadband to Long Lines Metro, LLC., WC Docket No. 17-229.

4 47 USC § 151 et seq.

- (h) “Effective Date” means the date by which both the Bureau and Vast have signed the Consent Decree.
- (i) “Investigation” means the investigation commenced by the Bureau in EB-18-IHD-00026141 regarding whether Vast violated the Section 214 Rules.
- (j) “LOI” means the Letter of Inquiry issued by the Bureau to Vast on February 2, 2018 investigating whether Vast violated the Section 214 Rules related to the transfer of control of the Company’s authorizations to provide domestic and international service pursuant to Section 214 of the Act, prior to receiving approval from the Commission’s Wireline Competition and International Bureaus
- (k) “Metro” means Long Lines Metro, LLC (Metro) and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (l) “Operating Procedures” means the standard internal operating procedures and compliance policies established by Vast to implement the Compliance Plan.
- (m) “Parties” means Vast 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.
- (o) “Section 214 Rules” means Section 214 of the Act and other provisions of the Act, the Rules, and Commission orders related to the construction, acquisition, operation, or transmission of lines of communication, including any Rules implementing Section 214 and any related Commission orders.
- (p) “Vast” or “Company” means Clarity Telecom, LLC d/b/a Vast Broadband and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

## II. BACKGROUND

3. Section 214(a) 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.<sup>5</sup> The Commission granted all carriers blanket authority under Section 214 to provide domestic interstate services and to construct, acquire, or operate any domestic transmission line.<sup>6</sup> In accordance with Section 63.03 of the Rules, however, any domestic carrier seeking to transfer control of lines or authorization to operate pursuant to Section 214 of the Act resulting from an acquisition of corporate control must obtain prior approval from the Commission.<sup>7</sup> The Commission has determined that transactions involving the sale of a telecommunications provider’s customer base should be treated as transfers of control requiring

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<sup>5</sup> See 47 USC § 214(a).

<sup>6</sup> 47 CFR § 63.01; See *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996; Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, Report and Order and Second Memorandum Opinion and Order, 14 FCC Rcd 11364 (1999) (*1999 Streamlining Order*).

<sup>7</sup> 47 CFR § 63.03; See *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd 5517, 5521, para. 5 (2002) (*2002 Streamlining Order*). See also 47 CFR § 63.03(d)(1) (excluding all *pro forma* transactions, which do not result in a change in the carrier’s ultimate ownership or control, from the domestic Section 214 application and approval requirements), § 63.04(d)(2) (requiring that a post-transaction notice be filed with the Commission within 30 days of a *pro forma* transfer of a domestic Section 214 authorization to a trustee, a debtor-in-possession, or any other party pursuant to any applicable chapter of the Bankruptcy Code).

Commission approval.<sup>8</sup> Section 63.04 sets forth the required contents of domestic transfer of control applications.<sup>9</sup> The Commission employs a public interest standard under Section 214(a) of the Act that involves the examination of the public interest impact of a proposed transaction.<sup>10</sup>

4. While the Commission has granted “blanket” Section 214 authority to carriers providing domestic service,<sup>11</sup> meaning that such carriers need not apply to the Commission before providing domestic service, the Commission has not done the same for providers of international telecommunications services.<sup>12</sup> Section 63.18 of the Rules requires any carrier that seeks Section 214 authority “for provision of common carrier communication services between the United States, its territories or possessions, and a foreign point” to request such authority by application.<sup>13</sup> This application requirement applies to carriers that resell the international services of another authorized carrier, as well as to facilities-based international service providers.<sup>14</sup> In accordance with Section 63.24 of the Rules, an international Section 214 authorization may be assigned, or control of such authorization may be transferred by the transfer of control of any entity holding such authorization, to another party, whether voluntarily or involuntarily, directly or indirectly, only upon application to and prior approval by the Commission.<sup>15</sup>

5. Vast is a Delaware limited liability corporation<sup>16</sup> with headquarters in Sikeston, Missouri.<sup>17</sup> Vast provided competitive local and long distance telecommunications services in Iowa and South Dakota. Vast also provided domestic interstate and international services in certain communities in northwest Iowa and southeast South Dakota, with service areas mirroring that of the incumbent local exchange carrier, CenturyLink.<sup>18</sup>

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<sup>8</sup> See 47 CFR §§ 63.01, 63.03, 63.04, 63.18 and 63.24; see also *2002 Streamlining Order*, 17 FCC Rcd at 5547-49, paras. 59-64 (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).

<sup>9</sup> See 47 CFR § 63.04.

<sup>10</sup> See 47 USC § 214(a).

<sup>11</sup> 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.”).

<sup>12</sup> *Implementation of Section 402(b)(2)(A) of the Telecomm. Act of 1996*, Report and Order in CC Docket No. 97-11, Second Memorandum Opinion & Order in AAD File No. 98-43, 14 FCC Rcd 11364, para. 2 & n.8 (1999) (grant of blanket authority is only for domestic interstate services and does not extend to the provision of international services).

<sup>13</sup> 47 CFR § 63.18.

<sup>14</sup> *Id.* § 63.18(e)(1)-(2); see *Start Wireless Group, Inc. d/b/a/ Page Plus Cellular*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 350 (Enf. Bur. 2012).

<sup>15</sup> 47 CFR § 63.24(a.) “The sale of a customer base, or a portion of a customer base, by a carrier to another carrier, is a sale of assets and shall be treated as an assignment which requires prior Commission approval under this section. 47 CFR § 63.24 Note to Paragraph (b).

<sup>16</sup> *Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Clarity Telecom, LLC d/b/a Vast Broadband to Long Lines, Metro, LLC*, Public Notice, WC Docket No. 17-229, 32 FCC Rcd 6969 (WCB 2017) at 1 (*Domestic 214 PN*).

<sup>17</sup> Joint Application of Clarity Telecom, LLC d/b/a Vast Broadband, Assignor, and Long Lines Metro, LLC, Assignee, for Consent to Assign Assets and Customers Subject to Blanket Section 214 Authority and to Partially Assign International Section 214 Authority Held by Clarity Telecom, LLC d/b/a Vast Broadband to Long Lines Metro, LLC (filed Sept. 1, 2017) at 5 (Joint Application).

<sup>18</sup> See *Domestic 214 PN* at 1.

6. Long Lines Metro, LLC (Metro) is a Delaware limited liability corporation<sup>19</sup> with headquarters in Sergeant Bluff, Iowa.<sup>20</sup> Metro provides competitive local and long distance services in Iowa and South Dakota. Metro's interexchange services are offered through resale arrangements with other carriers.<sup>21</sup> Metro provides communications services throughout its services areas, and in the areas previously serviced by Vast and acquired by Metro over facilities acquired through the transaction at issue in this Investigation (Transaction). Metro is providing domestic interstate services in the northwest Iowa and southeast South Dakota communities previously served by Vast. Metro also provides local and long distance services in other parts of Iowa and South Dakota.<sup>22</sup>

7. As a result of this Transaction, Metro is providing domestic and interstate and international services in the northwest Iowa and southeast South Dakota communities previously served by Vast. Metro also provides local and long distance services in other parts of Iowa and South Dakota.<sup>23</sup>

8. On June 30, 2017, Vast completed a Transaction involving the sale of certain customer accounts and assets used in the provision of residential and commercial cable television services, VoIP telephony, local exchange and interexchange services, and high-speed Internet services in the states of Iowa and South Dakota to Metro.<sup>24</sup> The Transaction was completed without prior Commission consent.<sup>25</sup> Vast retained its international Section 214 authorizations to continue providing international services in the areas not covered by the Transaction.<sup>26</sup> Vast admits that neither Metro nor Vast sought prior Commission approval for this transfer.<sup>27</sup>

9. Vast and Metro belatedly filed applications for approval of the sale of assets with the Wireline Competition and International Bureaus of the FCC on September 1, 2017.<sup>28</sup> At the same time, Vast and Metro filed requests for special temporary authority (STA) with each of the Bureaus.<sup>29</sup> The Wireline Competition Bureau granted the STA on September 13, 2017.<sup>30</sup> The International Bureau granted the STA on September 21, 2017.<sup>31</sup> The International Bureau granted the international application

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<sup>19</sup> *Id.*

<sup>20</sup> Joint Application at 5.

<sup>21</sup> *Domestic 214 PN* at 1.

<sup>22</sup> *Id.* at 2.

<sup>23</sup> Joint Application at 5-6.

<sup>24</sup> Letter from Gregory W. Whiteaker, Counsel for Clarity Telecom, LLC d/b/a Vast Broadband and Long Lines Metro, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission at 3, (Mar. 5, 2018) (LOI Response).

<sup>25</sup> *See International Authorizations Granted*, Public Notice, Rep. No. TEL-01871, 32 FCC Rcd 7520 (IB 2017) (*International 214 Grant PN*).

<sup>26</sup> LOI Response at 3.

<sup>27</sup> *See* LOI Response at 6; Joint Application at 4

<sup>28</sup> *See* Joint Application. *See also* IBFS Application No. ITC-ASG-20170905-00145; Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Clarity Telecom, LLC d/b/a Vast Broadband to Long Lines Metro, LLC., Public Notice, WC Docket No. 17-229, 32 FCC Rcd 6969 (WCB 2017).

<sup>29</sup> *See* Letter from Gregory W. Whiteaker, Counsel for Clarity Telecom, LLC d/b/a Vast Broadband and Long Lines Metro, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 1, 2017) (STA Request); <https://ecfsapi.fcc.gov/file/1091597677814/17-229.pdf>; *see also* LOI Response at 5.

<sup>30</sup> *See* LOI Response at 6; STA Request; <https://ecfsapi.fcc.gov/file/1091597677814/17-229.pdf>.

<sup>31</sup> *See International 214 Grant PN* at 2; ITC-STA-20170905-00146.

on October 6, 2017.<sup>32</sup> The Wireline Competition Bureau granted the domestic application on October 16, 2017.<sup>33</sup>

10. On February 2, 2018, the Enforcement Bureau (Bureau) issued a Letter of Inquiry (LOI) regarding the matters referenced above.<sup>34</sup> On March 5, 2018, Vast filed its response to the LOI.<sup>35</sup> The Parties negotiated the following terms and conditions of settlement and hereby enter into this Consent Decree as provided below.

### III. TERMS OF AGREEMENT

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

12. **Jurisdiction.** Vast 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.

13. **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.

14. **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, Vast 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 Vast 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 the question of Vast's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.<sup>36</sup>

15. **Admission of Liability.** Vast admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 14 herein, that its actions described in paragraph 8, herein, violated the Section 214 Rules.

16. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Vast 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 Vast complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to

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<sup>32</sup> See *International Authorizations Granted*, Public Notice, Rep. No. TEL-01871, 32 FCC Rcd 7561 (rel. Oct. 12, 2017); ITC-ASG-20170905-00145.

<sup>33</sup> See *Notice of Domestic Section 214 Authorization Granted*, Public Notice, WC Docket No. 17-229, DA 17-1016, 32 FCC Rcd 7561 (rel. Oct. 16, 2017).

<sup>34</sup> See Letter from Jeffrey J. Gee, Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to James Gleason, Chief Executive Officer, Clarity Telecom, LLC d/b/a/ Vast Broadband (Feb. 2, 2018) (on file in EB-IHD-18-00026141) (LOI).

<sup>35</sup> See LOI Response.

<sup>36</sup> See 47 CFR 1.93(b).

discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Section 214 Rules prior to assuming his/her duties.

17. **Compliance Plan.** For purposes of settling the matters set forth herein, Vast agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Section 214 Rules, Vast will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, Vast shall establish Operating Procedures that all Covered Employees must follow to help ensure Vast's compliance with the Section 214 Rules. In addition to implementing the required policies and procedures in the Section 214 Rules, Vast's Operating Procedures shall include internal procedures and policies specifically designed to ensure that Vast complies with the Section 214 Rules. Vast shall also develop a Compliance Checklist that describes the steps a Covered Employee must follow to ensure compliance with the Section 214 Rules.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain Section 214 Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Vast's compliance with the Section 214 Rules. Vast shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Vast shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Vast shall establish and implement a Compliance Training Program on compliance with the Section 214 Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Vast's obligation to report any noncompliance with the Section 214 Rules under paragraph 18 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Vast 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.

18. **Reporting Noncompliance.** Vast shall report any noncompliance with the Section 214 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 Vast 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 Vast has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov and to Pam.Slipakoff@fcc.gov.

19. **Compliance Reports.** Vast shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date and twenty-four (24) months after the Effective Date.



- (a) Each Compliance Report shall include a detailed description of Vast's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Section 214 Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Vast, stating that the Compliance Officer has personal knowledge that Vast: (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 18 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.<sup>37</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Vast, 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 Vast 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 Vast 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 the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov and to Pam.Slipakoff@fcc.gov.

20. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 16 through 19 of this Consent Decree shall expire twenty-four (24) months after the Effective Date.

21. **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 Act<sup>38</sup> against Vast 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 Vast with the Communications Laws.

22. **Settlement Amount.** Vast will make a settlement payment to the United States Treasury in the amount of sixteen thousand dollars (\$16,000) within thirty (30) calendar days of the Effective Date. Vast shall send electronic notification of payment to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov and to Pam.Slipakoff@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 above. Regardless of the form of payment, a completed FCC Form 159

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<sup>37</sup> 47 CFR § 1.16.

<sup>38</sup> 47 USC. § 208.

(Remittance Advice) must be submitted.<sup>39</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 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](mailto:ARINQUIRIES@fcc.gov).

23. **Waivers.** As of the Effective Date, Vast 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. Vast shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Vast nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Vast shall waive any statutory right to a trial *de novo*. Vast hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>40</sup> relating to the matters addressed in this Consent Decree.

24. **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.

25. **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.

26. **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 Vast does not expressly consent) that provision will be superseded by such Rule or Order.

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<sup>39</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>40</sup> See 5 USC § 504; 47 CFR §§ 1.1501–1.1530.

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

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

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

30. **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.

31. **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.

32. **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.

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Keith V. Morgan  
Deputy Chief  
Enforcement Bureau

\_\_\_\_\_  
Date

\_\_\_\_\_  
James M. Gleason  
President and Chief Executive Officer  
Clarity Telecom, LLC d/b/a Vast Broadband

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Date