

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

In the Matter of)
)
Peace Communications, LLC) File No.: EB-IHD-20-00031697
) NAL/Account No.: 202132080030
) FRN: 0019189331

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 29, 2021

Released: July 29, 2021

By the Enforcement Bureau:

I. INTRODUCTION

1. Under the Federal Communications Commission’s (FCC or Commission) rules and orders, telecommunications service providers and certain telecommunications providers (collectively, service providers) are required to periodically file Telecommunications Reporting Worksheets (Worksheets) with Universal Service Administrative Company (USAC) in furtherance of the Commission’s universal service programs. USAC and the administrators of Telecommunications Relay Service, Local Number Portability, and the North American Numbering Plan rely on information filed in the Worksheets to fairly and accurately determine, on behalf of the Commission, each service provider’s contributions responsibilities for the USF and these federal funding mechanisms. Likewise, the Commission relies on the information filed in Worksheets to assess fair and accurate federal regulatory fees owed by each service provider.

2. Failure to timely file complete and accurate Worksheets therefore undermines the Commission’s efforts to effectively maintain the USF and these other federal programs arising under the Communications Act of 1934, as amended (Act). The equitable administration of each of these federal payment requirements depends on the timely filing of Worksheets. In this case, Peace Communications, LLC (Peace Communications or Company) apparently failed repeatedly to file a total of 14 Worksheets between February 1, 2018 and August 1, 2020. We propose in this Notice of Apparent Liability for Forfeiture (NAL) a penalty of \$50,000 against Peace Communications for its apparent, willful, and repeated failure to comply with its obligation to timely file its Quarterly Worksheet due on August 1, 2020.¹

II. BACKGROUND

A. Legal Framework

3. The Act codifies Congress’s historical commitment to promote universal service to ensure that consumers in all regions of the nation have access to affordable, quality telecommunications services. In particular, section 254(d) of the Act requires, among other things, that “[e]very telecommunications carrier [providing] interstate telecommunications services . . . contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established

¹ Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

by the Commission to preserve and advance universal service.”² In implementing this Congressional mandate, the Commission directed all telecommunications carriers providing interstate telecommunications services to contribute to the USF based upon their interstate and international end-user telecommunications revenues.³ The Commission also requires certain providers of interstate telecommunications, including interconnected Voice over Internet Protocol (VoIP) providers, to contribute to the USF.⁴ When service providers fail to pay their share of obligations to the USF, they undermine the Congressional mandates embodied in section 254(d) of the Act.⁵ Delinquent contributors also obtain an unfair competitive advantage over companies that comply with the universal service provisions of the Act and the Commission’s rules.⁶

4. The Commission has established specific procedures to administer the USF. Each service provider required to contribute to the USF is required to file annually an FCC Form 499-A, also known as the Annual Telecommunications Reporting Worksheet (Annual Worksheet),⁷ and, with certain exceptions, to file quarterly an FCC Form 499-Q, also known as the Quarterly Telecommunications Reporting Worksheet (Quarterly Worksheet).⁸ USAC uses the revenue projections submitted in the Quarterly Worksheets to determine each service provider’s monthly universal service contribution obligation.⁹ A service provider must timely file Quarterly Worksheets by February 1, May 1, August 1 and November 1 of each year, and Annual Worksheets by April 1 of each year.¹⁰ The Commission’s rules explicitly warn service providers that failure to timely file forms or submit timely USF payments potentially subjects them to enforcement action.¹¹ The Commission’s rules also require that the information contained in the forms must be truthful and that the USF payments must be accurate.¹² The

² 47 U.S.C. § 254(d).

³ 47 CFR § 54.706(b).

⁴ 47 CFR § 54.706; *see* 47 U.S.C. § 254(d) (“Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.”); *Universal Service Contribution Methodology*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 (2006) (extending section 254(d) permissive authority to require interconnected VoIP providers to contribute to the USF), *petition for review denied, and vacated in part on other grounds, Vonage Holding Corp. v. FCC*, 489 F.3d 1232 (D.C. Cir. 2007).

⁵ *See Telseven, LLC*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 6636, 6637, para. 2 (2012) (*Telseven NAL*), *forfeiture issued*, Forfeiture Order, 31 FCC Rcd 1629 (2016).

⁶ *See id.*

⁷ *See* 47 CFR § 54.711; *Telseven NAL*, 27 FCC Rcd at 6637, para. 2. Within 30 days of beginning to provide service, new service providers must register with the Commission by obtaining an FCC registration number (FRN) from the Commission registration system (CORES) and obtaining a Filer ID from USAC’s E-File system. *See, e.g., Wireline Competition Bureau Releases the 2020 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 35 FCC Rcd 1350, 1372, Attach. 2, 2020 FCC Form 499-A Instructions, Tbl. 2, Filing Schedule for One-Time Requirements (WCB 2020) (*2020 Form 499 Public Notice*).

⁸ *See* 47 CFR § 54.711; *2020 Form 499 Public Notice*, 35 FCC Rcd at 1372; *Telseven NAL*, 27 FCC Rcd at 6637, para. 2.

⁹ Individual universal service contribution amounts that are based upon quarterly filings are subject to an annual true-up based on the Annual Worksheets. *See* 47 CFR § 54.711; *Federal-State Joint Board on Universal Service*, Report and Order and Order on Reconsideration, 16 FCC Rcd 5748, 5752-53, para. 12 (2001).

¹⁰ *See 2020 Form 499 Public Notice*, 35 FCC Rcd at 1372.

¹¹ 47 CFR § 54.713(c).

¹² *Id.* at §§ 54.711(a), 54.713. An officer of a company completing an Annual Worksheet must certify, in part, as follows: “I have examined the foregoing report and, to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs

(continued....)

Commission's equitable contribution scheme relies on the timely, complete, and accurate filing of Annual and Quarterly Worksheets by all contributors.¹³ A service provider must provide USAC the Worksheets by each filing deadline so that USAC can issue monthly invoices assessing correct USF contribution amounts pursuant to the Commission's rules and orders.¹⁴ A service provider shirking its Worksheet filing obligations therefore frustrates Congress's policy objective to ensure the equitable and non-discriminatory distribution of universal service costs among all service providers.¹⁵

5. USAC; the administrators of Telecommunications Relay Service, Local Number Portability, and the North American Numbering Plan; and the Commission rely on the Worksheets service providers file to determine liability for, and subsequent billing and collection of, payments for important federal regulatory mechanisms implemented under the Act.¹⁶ The failure of a service provider to timely file every Quarterly and Annual Worksheet by each filing deadline could result in USAC relying on a smaller base of USF contributions revenues than would otherwise have been reported. The Worksheet filing obligations are therefore necessary to ensure the integrity of the USF. Furthermore, a contributor's failure to comply with these filing requirements can impede the very purpose for which Congress enacted section 254(d) – to ensure that service providers contribute to USF on an equitable and nondiscriminatory basis. The effect on other programs arising under the Act that rely on assessments of the Worksheets is similar. Indeed, a service provider that neglects to submit accurate and the most current revenue information in its Worksheets can evade its federal obligations to fully contribute toward the vital programs linked to the reporting obligations.¹⁷ As a consequence of this failure, other service providers might shoulder an unfair burden of the USF and other federal regulatory programs implemented under the Act.¹⁸

of the above-named company for the previous calendar year.” *2020 Form 499 Public Notice*, 35 Rcd at 1360, Attach. 1, 2020 Form 499-A. While the Commission permits revisions to Worksheets in certain circumstances, *see id.* at 1373-74, that opportunity does not affect the separate requirement to submit accurate information in the first instance to the best of the filer's knowledge, information and belief. *See id.* at 1350.

¹³ *See* 47 CFR § 54.711. The Commission and USAC may review records and documentation underlying revenue reported on a contributor's Worksheets to determine whether the contributor is properly reporting revenue, and thus contributing its fair share to the costs of the universal service program. *See id.* at § 54.711(a); *see also id.* at § 54.706(e).

¹⁴ *See* 47 CFR § 54.711; *2020 Form 499 Public Notice*, 35 FCC Rcd at 1367, n. 17; *Telseven NAL*, 27 FCC Rcd at 6637, para. 2.

¹⁵ *See* 47 U.S.C. § 254(d).

¹⁶ The effective administration of Telecommunications Relay Service, *see* 47 CFR § 64.604; Local Number Portability, *see* 47 CFR § 52.32; the North American Numbering Plan, *see* 47 CFR § 52.17; and federal regulatory fees, *see* 47 CFR §§ 1.1154, 1.1157, requires the timely filing of accurate Worksheets by service providers.

¹⁷ *See, e.g., Unipoint Tech., Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 12751, 12753, para. 5 (2012), *forfeiture issued*, Forfeiture Order, 29 FCC Rcd 1633 (2014) (*Unipoint Forfeiture Order*); *ADMA Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 838, 846-47, para. 17 (2009), *forfeiture issued*, Forfeiture Order, 26 FCC Rcd 4152 (2011) (*ADMA Forfeiture Order*); *Local Phone Services, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 9974, 9977-78, para. 9 (2006), *forfeiture issued*, Order of Forfeiture, 23 FCC Rcd 8952 (2008) (proposed forfeiture reduced from \$529,000 to \$436,765 to account for updated revenue information provided to USAC by the service provider).

¹⁸ *See ibid.*

B. Factual Background

6. Peace Communications is a competitive local exchange carrier (CLEC) based in Chattanooga, Tennessee.¹⁹ Peace Communications provides “voice, data, and colocation services to business market customers in Chattanooga and Nashville, with secondary out of state markets served as a result of primary customer relationships in our two main markets.”²⁰

7. Peace Communications filed its first Annual Worksheet on October 26, 2009.²¹ For each year between 2009 and 2017, Peace Communications timely filed its Annual Worksheets.²² Between February 1, 2018 and August 1, 2020, Peace Communications failed to file any of the 14 total Worksheets required by the Commission’s rules.²³ Specifically, Peace Communications did not file (a) the eight Quarterly or two Annual Worksheets due in 2018 and 2019; (b) three Quarterly Worksheets due on February 1, May 1, and August 1, 2020; and (c) the Annual Worksheet due on April 1, 2020.²⁴ On February 4, 2021, the Company filed its Annual Worksheets that were due on April 1 of 2019 and 2020, and on March 3, 2021, it filed its Annual Worksheet that was due on April 1, 2018.

8. Although USAC repeatedly contacted Peace Communications concerning the Company’s missing Worksheets, the Company nonetheless failed to comply with these important filing requirements.²⁵ Thus, on October 28, 2020, USAC referred Peace Communications to the Enforcement Bureau (Bureau) for investigation into the Company’s apparent and repeated failures to comply with section 54.711 of the Commission’s rules, which requires service providers to timely file Quarterly and Annual Worksheets.²⁶

9. Following USAC’s referral, on February 9, 2021, the Bureau issued a Letter of Inquiry (LOI) to Peace Communications concerning the Company’s compliance with filing and contribution

¹⁹ Peace Communications was granted an order of public convenience and necessity by the Tennessee Regulatory Authority on January 25, 2010, to provide competing local telecommunications services in Tennessee. *See* Response to Letter of Inquiry, from Steve Blankenship, Chief Financial Officer, Peace Communications, LLC, to Conor P. O’Donovan, Attorney-Advisor, FCC Enforcement Bureau, at 2-3 (Mar. 17, 2021) (on file in File No. EB-IHD-20-00031697) (LOI Response).

²⁰ LOI Response at 3.

²¹ Letter from Tracey Pilsch, Manager of Contributor Operations, 499 Team, Finance, Universal Services Administrative Company to Conor O’Donovan, Attorney-Advisor, Investigations & Hearings Division, FCC Enforcement Bureau at 1 (Jul. 26, 2021) (on file in EB-IHD-20-00031697) (USAC Jul. 26, 2021 Letter).

²² *Id.* As a de minimis service provider under the Commission’s rules, Peace Communications was not required to file Quarterly Worksheets between 2009 and 2017. *See* 47 CFR § 54.708.

²³ USAC Jul. 26, 2021 Letter, *supra* note 22, at 1.

²⁴ *Id.* at 1. The Company did not qualify for the de minimis exception under 47 CFR § 54.708 for the years 2018 through 2020. USAC Jul. 26, 2021 Letter, *supra* note 22, at 1.

²⁵ *Id.*

²⁶ *See id.* *See also* 47 CFR § 54.711; 2020 Form 499 Public Notice, 35 FCC Rcd at 1372; Telseven NAL, 27 FCC Rcd at 6637, para. 2.

requirements arising under the Act and the Commission's rules.²⁷ Peace Communications submitted responses to the LOI on March 17 and 24, 2021.²⁸

III. DISCUSSION

10. Based on evidence developed through the Bureau's investigation, we find that the Company apparently, willfully and repeatedly violated sections 52.17(b), 52.32(b), 54.711 and 64.604(c)(5)(iii)(B) of the Commission's rules by failing to timely file the Company's Quarterly and Annual Worksheets.²⁹ Specifically, Peace Communications apparently failed to file all 14 Worksheets due between February 1, 2018 and August 1, 2020.³⁰ We propose a forfeiture of \$50,000 for Peace Communications' failure to file its Quarterly Worksheet due on August 1, 2020.

11. As noted above, service providers like Peace Communications must timely file Quarterly Worksheets by February 1, May 1, August 1 and November 1 of each year, and Annual Worksheets by April 1 of each year.³¹ Between February 1, 2018 and August 1, 2020, Peace Communications apparently did not file any of 14 required Worksheets. We consider each individual failure to timely file a Quarterly or Annual Worksheet a separate violation of section 54.711 of the Commission's rules.³² We thus find that the Company apparently, willfully, and repeatedly violated section 54.711 of the Commission's rules by failing to timely file its Quarterly and Annual Worksheets for 2018-19, its February, May and August 2020 Quarterly Worksheets, and its 2020 Annual Worksheet. We find that the Company also apparently, willfully, and repeatedly violated sections 52.17(b), 52.32(b), and 64.604(c)(5)(iii)(B) of the Commission's rules by failing to timely file its Annual Worksheets for 2018, 2019 and 2020. As explained further below, however, we propose a forfeiture for only one of these apparent violations because the other violations occurred outside of the applicable statute of limitations.

IV. PROPOSED FORFEITURE

12. 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."³³ For the violations at issue here, section 503(b)(2)(B) of the Act authorizes us to assess a forfeiture against a service provider such as Peace Communications of up to \$207,314 for each violation or each day of a continuing violation, up to a statutory maximum of \$2,073,133 for a single act or failure to act.³⁴ In exercising our forfeiture authority, we must consider the

²⁷ Letter of Inquiry from Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, to Jim Peace, Chief Executive Officer, Peace Communications, LLC, and Steve Blankenship, Chief Financial Officer, Peace Communications, LLC (Feb. 9, 2021) (regarding compliance with 47 U.S.C. §§ 159(a), 222, 251(e)(2), 254(d); 47 CFR §§ 1.1154, 1.1157, 1.7001, 1.8002, 52.17, 52.32, 54.706, 54.711, 54.712, 54.713, 64.604, 64.2009(e), 64.2115) (on file in EB-IHD-20-00031697) (LOI).

²⁸ LOI Response, *supra* note 20; Response to Letter of Inquiry Amended, from Steve Blankenship, Chief Financial Officer, Peace Communications, LLC, to Conor P. O'Donovan, Attorney-Advisor, FCC Enforcement Bureau (Mar. 24, 2021) (on file in File No. EB-IHD-20-00031697) (Amended LOI Response).

²⁹ See 47 CFR §§ 52.17(b), 52.32(b), 54.711, 64.604(c)(5)(iii)(B).

³⁰ See USAC Jul. 26, 2021 Letter, *supra* note 22, at 1.

³¹ *E.g.*, 2020 Form 499 Public Notice, 35 FCC Rcd at 1372.

³² Additionally, each individual failure to timely file an Annual Worksheet are separate violations of 47 CFR §§ 52.17(b), 52.32(b), and 64.604(c)(5)(iii)(B).

³³ 47 U.S.C. § 503(b)(1)(B).

³⁴ See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(2). These amounts reflect inflation adjustments to the forfeitures specified in section 503(b)(2)(B) of the Act (\$100,000 per violation or per day of a continuing violation and a statutory maximum of \$1,000,000 for a single act or failure to act). See *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 35 FCC Rcd 14879 (EB

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“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.”³⁵ In addition, the Commission has established forfeiture guidelines, which establish base penalties for certain violations and identify criteria to consider when determining the appropriate penalty in any given case.³⁶

13. The Commission may adopt upward or downward adjustments to forfeitures when appropriate.³⁷ Under section 1.80 of the Commission’s rules, we may adjust a forfeiture upward for egregious misconduct, ability to pay and relative disincentive, an intentional violation, substantial harm, prior violations of Commission requirements, substantial economic gain, or repeated or continuous violations.³⁸ We may adjust a forfeiture downward for a minor violation, good faith or voluntary disclosure, a history of overall compliance, or an inability to pay.³⁹ The forfeiture guidelines listed in section 1.80 of the Commission’s rules specifically “are intended as a guide for frequently recurring violations” and not “a complete or exhaustive list of violations.”⁴⁰

14. Section 312(f)(1) of the Act defines “willful” as the “conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.⁴¹ The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act,⁴² and the Commission has so interpreted the term in the section 503(b) context.⁴³ We therefore find that the Company’s apparent failures to file Worksheets required between February 1, 2018 and August 1, 2020 were willful. Given that the Company apparently failed to timely file 14 Worksheets between February 1, 2018 and August 1, 2020, we also find that the Company’s apparent

2020), Erratum, 36 FCC Rcd 1349 (EB Feb. 3, 2021); *see also Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 86 Fed. Reg. 3830 (Jan. 15, 2021) (setting January 15, 2021, as the effective date for the increases).

³⁵ 47 U.S.C. § 503(b)(2)(E).

³⁶ 47 CFR § 1.80(b)(10), Note to paragraph (b)(10) (factors considered in determining the amount of the forfeiture penalty).

³⁷ *See Commission’s Forfeiture Policy Statement & Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17110, para. 53 (1997) (citing 47 U.S.C. § 503(b)(2)(E)) (*1997 Forfeiture Guidelines*), *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

³⁸ 47 CFR § 1.80(b)(10), Note to paragraph (b)(10). *See also 1997 Forfeiture Guidelines*, 12 FCC Rcd at 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”).

³⁹ 47 CFR § 1.80(b)(10), Note to paragraph (b)(10).

⁴⁰ *1997 Forfeiture Guidelines*, 12 FCC Rcd at 17109-10, para. 53.

⁴¹ 47 U.S.C. § 312(f)(1).

⁴² H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) (“This provision [inserted in section 312] defines the terms ‘willful’ and ‘repeated’ for purposes of section 312, and for any other relevant section of the act (e.g., section 503) As defined[,] . . . ‘willful’ means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. ‘Repeated’ means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be ‘continuous’ would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in sections 312 and 503, and are consistent with the Commission’s application of those terms”).

⁴³ *See, e.g., S. Cal. Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

violations were repeated.⁴⁴ Section 503(b)(6)(B) of the Act provides that no forfeiture penalty shall be imposed if “the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability.”⁴⁵ We therefore propose a forfeiture for the Company’s apparent failure to timely file its Quarterly Worksheet due August 1, 2020.

15. Section 1.80 of the Commission’s rules specifies a base forfeiture of \$3,000 for failure to file required forms or information.⁴⁶ However, as the Commission observed in another USF enforcement action,⁴⁷ “the size and scope of the universal service and [other federal regulatory] programs impose a monumental burden on the Commission [and] USAC . . . to verify that each and every carrier has complied with the revenue reporting requirements. By necessity, the Commission and the other entities must rely on carriers’ compliance with our rules.”⁴⁸ USAC relies on the timely filing of Worksheets in order to calculate the correct monthly USF contributions owed by each service provider. The timely filing of accurate Worksheets is crucial to implementing the Congressional directive to ensure the equitable and non-discriminatory distribution of universal service costs among all service providers. The Commission has consistently proposed a forfeiture of \$50,000 for each failure of a service provider to file an Annual or Quarterly Worksheet.⁴⁹ We therefore propose a forfeiture of \$50,000 for the Company’s failure to timely file the Quarterly Worksheet due on August 1, 2020.

16. In assessing a forfeiture amount, we consider the nature, extent and gravity of the failure to comply with the Worksheet filing requirements to be very serious.⁵⁰ The Commission, USAC, and the administrators of Telecommunications Relay Service, Local Number Portability, and the North American Numbering Plan rely on the data reported in Worksheets to respectively determine the accurate amounts that service providers owe for regulatory fees, the USF, and these other important funding mechanisms arising under the Act.⁵¹ Peace Communications’ failure to file its Worksheets between February 1, 2018 and August 1, 2020 had serious implications for the administration of these funding mechanisms. The ability of the Commission and the administrators acting on its behalf to assess accurate regulatory fees, and contributions for the USF, and Telecommunications Relay Service, Local Number Portability, and North American Numbering Plan administration, depend on every service provider’s compliance with the periodic Worksheet filing requirements. A service provider’s failure to timely file its Worksheets impedes the Congressional mandate that each service provider contribute on an equitable and nondiscriminatory basis to the USF,⁵² and to these other important funding mechanisms arising under the Act. We have also considered the degree of the Company’s culpability, ability to pay, and repeated

⁴⁴ Under the Act, 47 U.S.C. § 503(b)(1)(B), any service provider that “willfully or repeatedly” fails to comply with provisions of the Act or Commission rules or orders issued pursuant to the Act shall be liable for a forfeiture penalty.

⁴⁵ 47 U.S.C. § 503(b)(6)(B).

⁴⁶ 47 CFR § 1.80(b)(10), Note to paragraph (b)(10).

⁴⁷ *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893 (2003) (*Globcom NAL*), forfeiture issued, Order of Forfeiture, 21 FCC Rcd 4710 (2006) (*Globcom Forfeiture Order*).

⁴⁸ *Globcom NAL*, 18 FCC Rcd at 19904, para. 30.

⁴⁹ *E.g.*, *PTT Phone Cards NAL*, 29 FCC Rcd at 11543, para. 30 (citing *Unipoint Forfeiture Order*, 29 FCC Rcd at 1643, para. 32; *ADMA Forfeiture Order*, 26 FCC Rcd at 4155, 4162, paras. 9, 28; *Globcom Forfeiture Order*, 21 FCC Rcd 4710, 4720-21, 4727, paras. 26-28, 31, 45); *PTT Phone Cards Forfeiture Order*, 30 FCC Rcd at 14707, para. 19.

⁵⁰ *See* 47 U.S.C. § 503(b)(2)(E).

⁵¹ *See* 47 CFR §§ 1.1154, 1.1157, 52.17(a), 52.32, 54.711, 64.604(c)(5)(iii).

⁵² *See* 47 U.S.C. § 254(d).

violations.⁵³ The Company has an important obligation to file four Quarterly Worksheets and an Annual Worksheet every year. Peace Communications has apparently failed to comply for nearly three years. The Company is thus highly culpable for the apparent filing failures, which were repeated over several years.

17. Section 1.80 of the Commission's rules provides for an upward adjustment to forfeiture amounts for prior violations of any FCC requirements and for repeated or continuous violations.⁵⁴ We provide notice to Peace Communications, and other parties required to file Worksheets under sections 52.17(b), 52.32(b), 54.711 and 64.604(c)(5)(iii)(B) of the Commission's rules,⁵⁵ that in future enforcement actions involving the failure to file Worksheets we may also apply a further upward adjustment to forfeiture amounts when filing failures are repeated.⁵⁶

18. Consistent with the Act and the Commission's rules,⁵⁷ we have exercised our discretion and considered the specific circumstances related to the Company and the violations it apparently committed, and we therefore find the Company apparently liable for a total proposed forfeiture of fifty thousand dollars (\$50,000) for its apparent, willful and repeated failure to timely comply with the Commission's Worksheet filing requirements.

V. ORDERING CLAUSES

19. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act, and 1.80 of the Commission's rules,⁵⁸ Peace Communications, LLC is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of fifty thousand dollars (\$50,000) for apparently, willfully and repeatedly violating section 54.711 of the Commission's rules.⁵⁹

20. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules,⁶⁰ within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order, Peace Communications, LLC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 23 below.

21. Peace Communications, LLC shall send electronic notification of payment to Conor O'Donovan, Enforcement Bureau, Federal Communications Commission, at Conor.O'Donovan@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),⁶¹ or by wire transfer. The Commission no longer accepts

⁵³ See *id.* at § 503(b)(2)(E); 47 CFR § 1.80, Note to paragraph (b)(10).

⁵⁴ 47 CFR § 1.80(b)(10), Note to paragraph (b)(10).

⁵⁵ *Id.* at §§ 52.17(b), 52.32(b), 54.711, 64.604(c)(5)(iii)(B).

⁵⁶ We have recently applied upward adjustments of 50% of proposed forfeitures for the repeated nature of companies' apparent violations involving section 54.711 of the Commission's rules. See *US South Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 12668, 12676, para. 22 (EB 2020) (forfeiture paid); *Compu-Phone Voice & Data, Inc.*, Notice of Apparent Liability for Forfeiture, *LLC*, 35 FCC Rcd 6573, 6583, para. 23 (EB 2020) (forfeiture paid); *Blue Casa Telephone, LLC*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6333, 6344, para. 25 (EB 2020) (forfeiture paid).

⁵⁷ See 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(10), note to paragraph (b)(10).

⁵⁸ 47 U.S.C. § 503(b); 47 CFR § 1.80.

⁵⁹ 47 CFR § 54.711.

⁶⁰ *Id.* at § 1.80.

⁶¹ Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:⁶²

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁶³ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensingdatabases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu, and select the bill number associated with the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and then choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu and then select the bill number associated to the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

22. Any request for making full payment over time under an installment plan should be sent to Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554 and e-mailed to Scott Radcliffe, Revenue & Receivables Operations Group, FCC Office of the Managing Director, at Scott.Radcliffe@fcc.gov.⁶⁴ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

23. 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(g)(3) of the Commission’s rules.⁶⁵ The written statement must be mailed to Jeffrey J. Gee, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and must include the

⁶² For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

⁶³ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁶⁴ See 47 CFR § 1.1914.

⁶⁵ 47 CFR §§ 1.16, 1.80(g)(3).

NAL/Acct. No. referenced in the caption. The written statement shall also be e-mailed to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov and to Conor O'Donovan at Conor.O'Donovan@fcc.gov.

24. 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 principles (GAAP); 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 submitted. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we have discretion to not reduce or cancel the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.⁶⁶

⁶⁶ *Adrian Abramovich*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018).

25. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by certified mail, return receipt requested, and first-class mail to Steve Blankenship, Chief Financial Officer, Peace Communications, LLC, 1100 Central Avenue, Chattanooga, Tennessee 37403, and by e-mail to sblankenship@peacecom.net.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold
Chief
Enforcement Bureau