

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

In the Matter of )

James Valley Cooperative )  
Telephone Company )

) File No.: EB-SED-22-00033413  
) CD Acct. No.: 202232100019  
) FRN: 0003709888  
)  
)

ORDER

Adopted: September 1, 2022

Released: September 1, 2022

By the Acting Chief, Enforcement Bureau:

1. The Enforcement Bureau of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether James Valley Cooperative Telephone Company (James Valley) began construction on wireless telecommunications towers in Brown County, South Dakota, before completing the required environmental<sup>1</sup> and historic preservation reviews,<sup>2</sup> and prior to following the prescribed procedures under the Commission’s antenna structure registration rules.<sup>3</sup> These requirements ensure that applicants assess whether proposed facilities may significantly affect the environment or interfere with aviation safety prior to commencing construction, thereby promoting the nationwide deployment of wireless facilities while balancing such deployments against other important federal, state, and sovereign Tribal interests. To settle this matter, James Valley admits that it violated the Commission’s environmental and historic preservation rules and antenna structure registration rules, will implement a compliance plan, and will pay a \$38,000 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 regarding James Valley’s compliance with sections 1.1307, 1.1312, and 17.4 of the Commission’s rules.<sup>4</sup>

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of James Valley’s basic qualifications to hold or obtain any Commission license or authorization.<sup>5</sup>

4. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act<sup>6</sup> and the authority delegated by sections 0.111 and 0.311 of the Commission’s rules,<sup>7</sup> the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

<sup>1</sup> National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 (1970) (codified as amended at 42 U.S.C. § 4321 *et seq.*).

<sup>2</sup> National Historic Preservation Act, Pub. L. No. 89-665, 80 Stat. 915 (1966) (codified as amended at 54 U.S.C. § 300101 *et seq.*).

<sup>3</sup> 47 CFR §§ 17.1-17.7.

<sup>4</sup> 47 CFR §§ 1.1307, 1.1312, 17.4.

<sup>5</sup> *See* 47 CFR § 1.93(b).

<sup>6</sup> 47 U.S.C. § 154(i).

<sup>7</sup> 47 CFR §§ 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 James Groft, Chief Executive Officer, James Valley Cooperative Telephone Company, 234 East 1st Avenue, Groton, SD 57445, and to Marjorie Spivak, Esq., Womble Bond Dickinson LLP, 2001 K St, NW, Suite 400 South, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal  
Acting Chief  
Enforcement Bureau

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

In the Matter of )
James Valley Cooperative ) File No.: EB-SE2-22-00033413
Telephone Company ) CD Acct. No.: 202232100019
) FRN: 0003709888
)

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and James Valley Cooperative Telephone Company, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether James Valley violated sections 1.1307(a), 1.1312(a), and 17.4 of the Rules in connection with its construction of wireless telecommunications facilities in Brown County, South Dakota.1 To resolve this matter, James Valley admits that it violated the Rules, agrees to implement a compliance plan, and agrees to pay a \$38,000 civil penalty.

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.2
(b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “Antenna Structure Registration (ASR) Rules” means part 17 of the Rules3 and other Communications Laws implementing procedures for antenna structure registration and application.
(d) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(e) “CD Acct No.” means account number 202232100019 associated with payment obligations described in paragraph 18 of this Consent Decree.
(f) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
(g) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which James Valley is subject by virtue of its business activities, including but not limited to the Environmental Rules and the ASR Rules.
(h) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 14.
(i) “Covered Employees” means all employees and agents of James Valley who perform, supervise, oversee, or manage the performance of duties that relate to

1 47 CFR §§ 1.1307(a), 1.1312(a), 17.4.

2 47 U.S.C. § 151 et seq.

3 47 CFR §§ 17.1-17.7.

James Valley's responsibilities under the Communications Laws, including the Environmental Rules and the ASR Rules.

- (j) "Effective Date" means the date by which both the Bureau and James Valley have signed the Consent Decree and the Bureau has released an Adopting Order.
- (k) "Environmental Rules" means sections 1.1301-1.1319 of the Rules<sup>4</sup> and other Communications Laws implementing the National Environmental Policy Act of 1969, as amended (NEPA),<sup>5</sup> and the National Historic Preservation Act, as amended (NHPA).<sup>6</sup>
- (l) "Investigation" means the investigation commenced by the Bureau in File No. EB-SED-22-00033413 regarding whether James Valley violated the Environmental Rules and the ASR Rules.
- (m) "James Valley" or "Company" means James Valley Cooperative Telephone Company and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (n) "Operating Procedures" means the standard internal operating procedures and compliance policies established by James Valley to implement the Compliance Plan.
- (o) "Parties" means James Valley and the Bureau, each of which is a "Party."
- (p) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

## II. BACKGROUND

3. Under the Commission's Environmental Rules, applicants and licensees are required to assess whether certain proposed facilities may significantly affect the environment, as defined in section 1.1307 of the Rules.<sup>7</sup> Specifically, section 1.1307(a)(4) requires applicants to consider, prior to construction, whether their proposed facilities may affect districts, sites, buildings, structures, or objects that are listed, or eligible for listing, in the National Register of Historic Places.<sup>8</sup> In complying with section 1.1307(a)(4), applicants are required to follow the prescribed procedures set forth in the rules of the Advisory Council on Historic Preservation, or, if applicable, the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (Wireless Facilities NPA).<sup>9</sup> Under the Commission's ASR Rules, the owner of a proposed antenna structure is required to follow the prescribed registration procedures set forth in section 17.4 of the Rules prior to construction or alteration if the proposed structure exceeds 200 feet above ground level or may interfere with the flight path of a nearby airport.<sup>10</sup>

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<sup>4</sup> 47 CFR §§ 1.1301-1.1319.

<sup>5</sup> National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 (1970) (codified as amended at 42 U.S.C. § 4321 *et seq.*) (NEPA).

<sup>6</sup> National Historic Preservation Act, Pub. L. No. 89-665, 80 Stat. 915 (1966) (codified as amended at 54 U.S.C. § 300101 *et seq.*) (NHPA).

<sup>7</sup> 47 CFR § 1.1307.

<sup>8</sup> 47 CFR § 1.1307(a)(4).

<sup>9</sup> See 47 CFR § 1.1320(a)(1), (a)(2)(ii); 47 CFR pt. 1, Appx. C.

<sup>10</sup> See 47 CFR § 17.4(a) (requiring antenna structure registration prior to construction if the proposed structure requires notice to the Federal Aviation Administration); 47 CFR § 17.7(a)-(b) (requiring notice to the Federal Aviation Administration if the proposed structure exceeds 200 feet above ground level or exceeds an imaginary surface extending outward and upward at certain slopes corresponding to nearby airports).

4. James Valley is a telephone cooperative providing wireless, wireline, cable, and broadband internet access in South Dakota.<sup>11</sup> Between June 16 and July 27, 2021, the Company commenced construction on six new towers in Brown County, South Dakota (Brown County Towers).<sup>12</sup> On August 10, 2021, the Company submitted antenna structure registrations for all six towers.<sup>13</sup> Between October 13 and October 25, 2021, the Company submitted Form 620s to the South Dakota State Historic Preservation Office (SHPO) for all six towers.<sup>14</sup> The SHPO determined that construction on all six towers had already commenced and notified the Commission's Federal Preservation Officer that the Company failed to complete a timely section 106 review.<sup>15</sup>

5. The Wireless Telecommunications Bureau (WTB) referred the matter to the Bureau, and the Bureau's Spectrum Enforcement Division (SED) opened the Investigation. On March 2, 2022, SED issued a Letter of Inquiry (LOI) to the Company, directing it to submit a sworn written response to a series of questions relating to its compliance with the Commission's Environmental and ASR Rules.<sup>16</sup> On May 5, the Company filed a response to the LOI.<sup>17</sup> In its response, James Valley admits (1) that it began construction at five of the six sites before completing the required section 106 review, and (2) that it began construction for the Frederick tower before applying for an ASR for that tower.<sup>18</sup>

6. Accordingly, James Valley violated the Environmental Rules with respect to five of the six towers,<sup>19</sup> and the ASR Rules with respect to one of the six towers.<sup>20</sup> Specifically, the Company failed to complete a timely section 106 review process and Tribal notification process prior to commencing construction of the towers located in Bath, Hecla, Houghton, Stratford, and Frederick. The Company further failed to submit an antenna structure registration prior to commencing construction of the tower located in Frederick. To settle this matter, the Company and the Bureau entered into this Consent Decree and agree to the following terms and conditions.

### III. TERMS OF AGREEMENT

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

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<sup>11</sup> James Valley Telecommunications, <https://jamesvalley.com/> (last visited Aug. 17, 2022).

<sup>12</sup> Response to Letter of Inquiry, from Marjorie Spivak, Counsel to James Valley Cooperative Telephone Company, Womble Bond Dickinson LLP, to Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, Exh. 21-000001, Response to Inquiry 21 (May 5, 2022) (on file in EB-SED-22-00033413) (LOI Response). The towers are located in Bath, Hecla, Frederick, Groton, Houghton, and Stratford, SD. James Valley, in its LOI Response, asserted that it proceeded with construction of the subject towers based on its environmental consultant's statement advising that the environmental reviews had been completed; however, reliance on a third-party statement does not excuse a Commission regulated entity from its obligation to comply with FCC regulations. *See* LOI Response at 9, Response to Inquiry 10.

<sup>13</sup> *See* Antenna Structure Registration File Nos. A1198550, A1198551 A1198546, A1198547, A1198548, and A1198549.

<sup>14</sup> *See* LOI Response, Exh. 21-000001, Response to Inquiry 21. FCC Form 620 is the submission packet that new tower construction applicants must submit to the State Historic Preservation Office, or, if applicable, the Tribal Historic Preservation Office, before any construction or other installation activities on the site begin. *See* WTB, *New Tower Submission Packet*, <https://transition.fcc.gov/Forms/Form620/620.pdf> (last visited Aug. 17, 2022).

<sup>15</sup> E-mail from Heather Milliner, General Manager, Historic Preservation Specialist, South Dakota State Historical Society, to Jennie Lee, Principal Investigator/Lab Manager, Metcalf Archaeological Consultants (Nov. 18, 2021, 16:24 EDT) (on file in EB-SED-22-00033413) (copying Jill Springer, Federal Preservation Officer, FCC Wireless Telecommunications Bureau, to bring the matter to her attention).

<sup>16</sup> Letter of Inquiry from Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to James Groft, Chief Executive Officer, James Valley Cooperative Telephone Company (Mar. 2, 2022) (on file in EB-SED-22-00033413).

<sup>17</sup> LOI Response.

8. **Jurisdiction.** James Valley 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.

9. **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.

10. **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, James Valley 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 any new proceeding on its own motion against James Valley concerning the matters that were the subject of the Investigation, or to set for hearing the question of James Valley's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.<sup>21</sup>

11. **Scope of Termination.** James Valley and the Bureau agree and acknowledge that this Consent Decree is limited to resolving current violations of the Environmental Rules and the ASR Rules with respect to the Brown County Towers. The Parties agree that the execution of this Consent Decree does not represent completion of the required environmental review process or the antenna structure registration process for the facilities and does not alter the licensing or authorization status of the facilities. The Parties further agree that this Consent Decree does not excuse James Valley from taking further action identified by the Wireless Telecommunications Bureau if needed, in connection with the Environmental Rules and the ASR Rules.

12. **Admission of Liability.** James Valley admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10 herein, that its actions described in paragraph 4 violated the Environmental Rules and the ASR Rules.

13. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, James Valley 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 James Valley 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

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<sup>18</sup> The Company installed concrete piers at the Bath, Houghton, Hecla, and Frederick sites on June 16, July 7, July 10, and July 12, 2021, respectively. At the Stratford site, the Company mowed a path to reach the tower site on July 27, 2021 and installed concrete piers on September 11, 2021. See LOI Response, Exh. 21-000001, Response to Inquiry 21.

<sup>19</sup> The tower constructed in Groton qualifies as a "replacement tower" under the Wireless Facilities NPA and is therefore exempt from the section 106 review process. Specifically, a pre-existing tower at the site was built prior to March 16, 2001, the cut-off date specified in the Wireless Facilities NPA for replacement towers, and the replacement tower did not "substantially increase the size" of the existing 180-foot tower, as defined in Wireless Facilities NPA, nor did it expand the boundaries or involve excavation outside the boundaries of the existing property. See 47 CFR pt. 1, Appx. C., § III.B. Replacement towers are also exempt from the Tribal notification process. See *Nationwide Programmatic Agreement Regarding the Section 106 Nat'l Historic Pres. Act Rev. Process*, Report and Order, 20 FCC Rcd 1073, 1100-02, paras. 73-78 (2004).

<sup>20</sup> Although the Company filed antenna structure registrations for all six towers (albeit after construction began), only the Frederick tower required registration under sections 17.4 and 17.7 of the Rules because it exceeded 200 feet in height above ground level. See 47 CFR §§ 17.4(a), 17.7(a); Antenna Structure Registration File No. A1198547.

<sup>21</sup> See 47 CFR § 1.93(b).

Compliance Officer shall have specific knowledge of the Environmental Rules and ASR Rules prior to assuming his/her duties.

14. **Compliance Plan.** For purposes of settling the matters set forth herein, James Valley 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 Environmental Rules and ASR Rules, James Valley will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, James Valley shall establish Operating Procedures that all Covered Employees must follow to ensure James Valley's compliance with the Environmental Rules and the ASR Rules. James Valley's Operating Procedures shall include internal procedures and policies specifically designed to ensure that all environmental review and ASR obligations are fully satisfied prior to commencing construction on any proposed wireless facilities. James Valley shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Environmental Rules and the ASR 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 the Environmental Rules and the ASR Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure James Valley's compliance with the Environmental Rules and the ASR Rules. James Valley shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. James Valley shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** James Valley shall establish and implement a Compliance Training Program on compliance with the Environmental Rules, the ASR Rules, and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of James Valley's obligation to report any noncompliance with the Environmental Rules and the ASR Rules under paragraph 15 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. James Valley 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.

15. **Reporting Noncompliance.** James Valley shall report any noncompliance with the Environmental Rules and the ASR 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 James Valley 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 James Valley has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov), with a copy submitted electronically to [mark.desantis@fcc.gov](mailto:mark.desantis@fcc.gov).

16. **Compliance Reports.** James Valley 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 James Valley’s efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Environmental Rules and the ASR Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of James Valley, stating that the Compliance Officer has personal knowledge that James Valley: (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 15 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>22</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of James Valley, 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 James Valley 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 James Valley 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 [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov), with a copy submitted electronically to [mark.desantis@fcc.gov](mailto:mark.desantis@fcc.gov).

17. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 13 through 16 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

18. **Civil Penalty.** James Valley will pay a civil penalty to the United States Treasury in the amount of Thirty-Eight Thousand Dollars (\$38,000) within thirty (30) calendar days of the Effective Date. James Valley acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).<sup>23</sup> Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. James Valley shall send electronic notification of payment to [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov) and [mark.desantis@fcc.gov](mailto:mark.desantis@fcc.gov) on the date said payment is made. Payment of the Civil Penalty must be made by credit card using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>24</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters “FORF”. In addition, a completed Form 159<sup>25</sup> or printed CORES form<sup>26</sup>

<sup>22</sup> 47 CFR § 1.16.

<sup>23</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

<sup>24</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

<sup>25</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>26</sup> Information completed using the Commission’s Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.



must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, 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).<sup>27</sup> For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, 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 CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). Finally, 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.

19. **Event of Default.** James Valley agrees that an Event of Default shall occur upon the failure by James Valley to pay the full amount of the Civil Penalty on or before the due date specified in this Consent Decree.

20. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Civil Penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Civil Penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys' fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by James Valley.

21. **Waivers.** As of the Effective Date, James Valley 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. James Valley 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 James Valley nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and James Valley shall waive any statutory right to

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<sup>27</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

a trial *de novo*. James Valley hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>28</sup> relating to the matters addressed in this Consent Decree.

22. **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.

23. **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.

24. **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 James Valley does not expressly consent) that provision will be superseded by such Rule or order.

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

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

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

28. **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.

29. **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.

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<sup>28</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

30. **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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Loyaan A. Egal  
Acting Chief  
Enforcement Bureau

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Date

\_\_\_\_\_  
James Groft  
Chief Executive Officer  
James Valley Cooperative Telephone Company

\_\_\_\_\_  
Date