

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

In the Matter of

Vero Broadband, LLC

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File No.: EB-IHD-22-00033591

NAL/Acct. No.: 202432080007

FRN: 0031708613

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: March 22, 2024**Released: March 22, 2024**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Vero Broadband, LLC (Vero or Company) apparently violated sections 214(a) and 310(d) of the Communications Act of 1934, as amended (the Act)¹ and sections 1.948, 63.03, 63.04, and 63.24 of the Federal Communication Commission's (Commission or FCC) rules by willfully and repeatedly failing to obtain the Commission's approval prior to the acquisition of the assets of San Isabel Telecom, Inc. (San Isabel), Futurum Communications Corporation d/b/a Forethought.net (Futurum), Brainstorm Internet, Inc. (Brainstorm), and Fundamental Holdings Corp., formerly d/b/a Peak Internet (Peak Internet).² Based on our review of the facts and circumstances surrounding this matter, and for the reasons discussed below, we propose a forfeiture penalty of \$48,000 for Vero's apparent violations.

2. While the facts in this case are complex, as reflected in the numerous revisions that the Company filed for its transfer applications over an extended period of time, the violations are straightforward: there were three section 214 authorizations and three sets of wireless licenses that required prior FCC approval before their transfer and assignment, but the Company never sought FCC approval, despite being advised to do so by the U.S. Bankruptcy Court for the District of Colorado. Accordingly, we propose a forfeiture of \$48,000 for apparent violations of our rules.

II. BACKGROUND

3. *Legal Background.* Section 214(a) of the Act requires telecommunications carriers to obtain a certificate of public convenience and necessity from the Commission before constructing, extending, acquiring, or operating any line, or engaging in transmission over that line.³ The Commission granted all domestic carriers blanket authority under section 214(a) to provide domestic interstate services and construct, acquire, and operate any domestic transmission line, meaning that such carriers need not apply to the Commission for such authority before providing domestic service.⁴ However, section 63.03 of the Commission's rules requires that any domestic carrier seeking to transfer control of its lines or

¹ 47 U.S.C. §§ 214(a), 310(d).

² 47 CFR §§ 1.948, 63.03, 63.04, 63.24.

³ 47 U.S.C. § 214(a).

⁴ 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*, CC Docket No. 97-11; AAD File No. 98-43, Report and Order and Second Memorandum Opinion and Order, 14 FCC Rcd 11364 (1999) (*Implementation of Section 402(b)(2)(A) Report and Order*).

authorization to operate under section 214(a) of the Act resulting from an acquisition of corporate control or acquisition of assets must obtain prior approval from the Commission.⁵ Section 63.04 sets forth the filing procedures for domestic transfer of control applications.⁶

4. While the Commission has granted blanket section 214(a) authority to carriers of domestic services, meaning that such carriers need not apply to the Commission for such authority before providing domestic service, it has not done so for providers of international telecommunications services.⁷ Any carrier that seeks section 214(a) authority to provide common carrier services between the United States and a foreign point, must request and receive such authority by application to the Commission pursuant to section 63.18 of the Commission's rules.⁸ Through this process, the applicant provides the Commission with, among other things, contact information, ownership information, information on any affiliations it may have with foreign carriers, certification that it will comply with Commission rules, and certification that the applicant is not subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.⁹ Under section 63.24 of the Commission's rules, control of an international section 214(a) authorization, other than a *pro forma* transfer of control, may be transferred to another party only by application and prior Commission approval.¹⁰ A carrier may apply for Special Temporary Authority (STA) relating to temporary or emergency services under a section 214(a) authorization pursuant to section 63.25 of the Commission's rules.¹¹

5. Section 1.948 of the rules similarly requires that Commission consent be obtained prior to consummating any substantial transfer of control or assignment of wireless radio licenses to another party.¹² Section 310(d) of the Act provides that

[n]o construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person

⁵ 47 CFR § 63.03 (prescribing procedures for domestic transfers of control); 47 CFR 63.24 (prescribing procedures for transfers of control of international section 214(a) authorizations); *see Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, CC Docket No. 01-150, Report and Order, 17 FCC Rcd 5517, 5521, 5547-48, paras. 5, 59, 63 (2002) (*2002 Streamlining Order*).

⁶ 47 CFR § 63.04.

⁷ *Implementation of Section 402(b)(2)(A) Report and Order* at 11364, para. 2 & n.8 (grant of blanket authority is only for domestic interstate services and does not extend to the provision of international services).

⁸ *See* 47 CFR §§ 63.04, 63.18. The Commission has explained that the international section 214(a) review process enables the Commission to review applications for risks to competition, particularly in situations where the applicant has an affiliation with a foreign carrier with market power on the foreign end of the route that may be able to leverage that market power to discriminate against U.S. competitors to the detriment of U.S. consumers. *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB Docket Nos. 97-142, 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997); Order on Reconsideration, 15 FCC Rcd 18158 (2000). The Commission also considers national security, law enforcement, foreign policy, and trade policy concerns in its public interest review of an application and will seek input from the Executive Branch on these issues. *Id.* at 23918-21, paras. 61-66; *see also Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927 (2020).

⁹ *See* 47 CFR § 63.18.

¹⁰ *Id.* § 63.24(a). A *pro forma* transfer of control does not require Commission approval, but the carrier is required to notify the Commission of the transfer within 30 days of the transfer. *Id.* § 63.24(d), (f).

¹¹ *Id.* § 63.25.

¹² *Id.* § 1.948. *See also FCC Application for Assignments of Authorization or Transfer of Control: Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau*, FCC Form 603 (2016) (Form 603).

except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.¹³

6. Violations of these filing requirements are significant because they impede the Commission's ability to keep track of the ownership of licenses and authorizations it has issued, as well as ascertaining whether to refer the transaction to the Executive Branch for further review to assess any national security, law enforcement, foreign policy, or trade policy concerns. In the *Evolving Risks Order and NPRM*, the Commission discussed the importance of having accurate ownership information when considering the public interest and national security implications of Commission authorizations.¹⁴ Indeed the Commission directed the Office of International Affairs (OIA) to conduct a one-time information collection from international section 214 authorization holders to provide foreign ownership information.¹⁵

7. *Factual Background.* Vero is a Colorado limited liability company that is wholly owned by Vero Broadband Holdings, Inc. (Vero Holdings).¹⁶ Vero Holdings is a Delaware corporation and is a wholly-owned subsidiary of VFN Holdings, Inc. (VFN Holdings). VFN Holdings is a privately held company incorporated in the state of Delaware.¹⁷ Vero was created for the purpose of purchasing the assets of Futurum and San Isabel.¹⁸

8. Futurum d/b/a Forethought.net is a privately held Colorado corporation,¹⁹ and prior to the transactions outlined herein, held a domestic section 214(a) authorization²⁰ and 32 wireless radio licenses.²¹ Futurum is the 100 percent owner of the following entities: 1) Forethought Acquisition LLC (Forethought Acquisitions), a Colorado limited liability company which in turn is the owner of all the

¹³ 47 U.S.C. § 310(d).

¹⁴ *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks; Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.109 of the Commission's Rules*, IB Docket No. 23-119; MD Docket No. 23-134, Order and Notice of Proposed Rulemaking, FCC 23-28, 2023 WL 3152050, at *1, para. 103 (Apr. 25, 2023) (*Evolving Risks Order and NPRM*).

¹⁵ *Evolving Risks Order and NPRM* at paras. 16-23; see also *The Office of International Affairs Announces the Opening of the One-Time Information Collection Filing Window For International Section 214 Authorization Holders to Provide Foreign Ownership Information*, IB Docket No. 23-119, MD Docket No. 23-134, Public Notice, DA 23-1146, 2023 WL 8546707 (OIA Dec. 13, 2023).

¹⁶ Response to Letter of Inquiry (LOI) from Vero Broadband, LLC, to Investigations and Hearing Division, at 1 and 4, Responses to Question 1 and 4, Exhibit 14, Response to Question 14 (Sept. 9, 2022) (on file in EB-IHD-22-00033591) (Vero LOI Response).

¹⁷ *Id.* at 1,4, Responses to Question 1 and 4, Exhibit 14.

¹⁸ *Id.* at 7, Response to Question 12. Denver VoIP LLC was the original name of Vero Broadband, LLC at the time of incorporation on October 11, 2021. The name was changed to Vero Broadband, LLC as of December 2, 2021. See Vero LOI Response at 7, Response to Question 11.

¹⁹ Response to Letter of Inquiry, from Lance Steinhart, Esq., to Jeffrey J. Gee, Chief, Investigations and Hearings Division, at 1, Response to Question 1 and Exhibit 12 (May 18, 2022) (on file in EB-IHD-22-00033591) (Futurum/San Isabel LOI Response). On January 31, 2022, Futurum changed its name to Revenant Denver Inc. Futurum sold all of its trade names (including Forethought.net, to Vero Broadband). *Id.* at 1, 4-5. Forethought.net does not hold any licenses.

²⁰ See 47 CFR § 63.01(a); *Notice of Domestic Section 214 Authorization Granted*, WC Docket No. 18-50, Public Notice, 33 FCC Rcd 2956 (WCB 2018).

²¹ Vero LOI Response at 11, Response to Question 14(b); Futurum/San Isabel LOI Response at 2-4, Response to Questions 7, 10. See ULS File No. 0009907362 (filed Feb. 28, 2022).

common stock of San Isabel²² which at the time of the transaction held an international section 214(a) authorization,²³ a domestic section 214(a) authorization,²⁴ and four wireless radio licenses;²⁵ 2) Brainstorm²⁶ which held 31 wireless radio licenses;²⁷ and 3) Fundamental Holdings Corp, a Delaware corporation, formerly d/b/a Peak Internet.

9. On March 21, 2021, Futurum filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (Bankruptcy Code) in the United States Bankruptcy Court for District of Colorado (Bankruptcy Court) (Case No. 21-11331-KHT).²⁸ On May 12, 2021, San Isabel and Brainstorm each filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court (Case No. 21-12534-KHT and Case No. 21-12549-KHT, respectively).²⁹ The bankruptcy filings did not otherwise change the ownership or control of Futurum and its subsidiaries.³⁰

10. On October 15, 2021, Futurum, Brainstorm, and San Isabel filed a motion with the Bankruptcy Court for an order authorizing them to employ counsel “to assist Debtors with identifying and

²² Futurum/San Isabel LOI Response at 1, Response to Question 2. San Isabel underwent a name change and is now known as Revenant Eagle Inc. *See id.*

²³ File No. ITC-214-20060320-00162; *see also* File No. ITC-T/C-20180207-00029 (Granting application filed for consent to the transfer of control of San Isabel, which holds international section 214(a) authorization ITC-214-20060320-00162, to Futurum Communications Corp. that occurred on December 19, 2016, without prior Commission consent).

²⁴ 47 CFR § 63.01(a) (blanket authority for domestic interstate communications common carriers); *see also Notice of Domestic Section 214 Authorization Granted*, WC Docket No. 18-50, Public Notice, 33 FCC Rcd 2956 (WCB 2018).

²⁵ Vero LOI Response, *supra* note 16, at 11, Response to Question 14(b); Futurum/San Isabel LOI Response, *supra* note 19, at 3-4, Response to Questions 7, 10. *See* File No. ITC-214-20060320-00162 authority to provide global or limited global facilities-based and resale services granted December 10, 2010. *See* ULS File No. 0009911274 (filed Feb. 28, 2022).

²⁶ Brainstorm is now known as Revenant Durango, Inc. *See* Futurum/San Isabel LOI Response, *supra* note 19, at 1. Futurum also wholly owns Peak Internet. Fundamental Holdings, formerly d/b/a Peak Internet is now known as Revenant Teller, Inc. *See id.* Peak Internet held 14 wireless radio licenses. Due to our statute of limitations, these licenses are not the subject of this NAL. *See* ULS File No. 0009919730 (filed Feb. 18, 2022). This application was placed on Public Notice as accepted on November 4, 2022. *See Wireless Telecommunications Bureau. Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, Action De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications, Designated Entity Reportable Eligibility Event Applications, and Designated Entity Annual Reports*, Public Notice, Report No. 17257, at 2 (WTB Nov. 9, 2022) (WTB November 9, 2022 PN).

²⁷ *See* ULS File No. 0009911680 (filed Sept. 27, 2022).

²⁸ Vero LOI Response, *supra* note 16, Response to Question 13(a); Futurum/San Isabel LOI Response, *supra* note 19, at 4-5, Response to Question 11(a); *see also* Joint Application for Consent to Transfer Assets And Assignment of 214 Authority of Revenant Denver, Inc. Debtor in Possession f/k/a Futurum Communications Corporation dba Forethought.net and Revenant Eagle, Inc. Debtor in Possession f/k/a San Isabel Telecom, Inc. (Assignors) and Vero Broadband, LLC f/k/a Denver VoIP LLC (Assignee), WC Docket No. 22-23, File No. ITC-STA-20220321-00047, at 4 (filed Mar. 21, 2022) (March 2022 Joint Application).

²⁹ Vero LOI Response, *supra* note 16, at 8, Response to Question 13(a); Futurum/San Isabel LOI Response, *supra* note 19, at 4-5, Response to Question 11(a); March 2022 Joint Application at 4.

³⁰ Vero LOI Response, *supra* note 16, at 8, Response to Question 13(a); Futurum/San Isabel LOI Response, *supra* note 19, Response at 5, Response to Question 11(a).

obtaining approvals from governmental units to transfer Debtors' telecommunications-related licenses, permits, and authorizations."³¹ The Bankruptcy Court granted this motion on November 12, 2021.³²

11. On November 8, 2021, Denver VoIP, LLC (Denver VoIP), now known as Vero, entered into an Asset Purchase Agreement (Asset Purchase Agreement), whereby Denver VoIP, purchased all of the rights, title, and interest in and to all of the properties and assets, including the FCC licenses, of Futurum and its subsidiaries, San Isabel, Brainstorm, and Peak Internet (November Transaction).³³ On November 30, 2021, the Bankruptcy Court entered an order approving the Asset Purchase Agreement and the sale of substantially all of the assets of the Assignors to Denver VoIP,³⁴ which changed its name to Vero on December 2, 2021.³⁵ In accordance with the terms of the Asset Purchase Agreement, the November Transaction closed on December 31, 2021, and was effective January 1, 2022.³⁶ The parties to the November Transaction did not receive (or even request) prior Commission approval, as required by our rules, to consummate the November Transaction and Vero's acquisition of Futurum, San Isabel, Peak Internet, and Brainstorm's FCC licenses and authorizations.³⁷

12. On January 4, 2022, Futurum, San Isabel, and Vero filed a joint application seeking Commission consent to transfer the assets and section 214 authorizations of Futurum and San Isabel to Vero Broadband.³⁸ Subsequently, on February 10, 2022, Futurum filed an FCC Form 603 for the

³¹ Application to Employ Lance J.M. Steinhart, P.C, as Attorneys for a Special Purpose Under 11 U.S.C. 327(e) at para. 5, *In re Futurum Comm'ns. Corp.*, Case No. 21-11331-KHT (Bankr. D. Colo. Oct. 15, 2021).

³² *In re Futurum Comm'ns. Corp.*, Case No. 21-11331-KHT (Bankr. D. Colo. Nov. 12, 2021) (Order Granting Application to Employ J. M. Steinhart as Special Counsel).

³³ Vero LOI Response, *supra* note 16, at 8, Response to Question 13(a); Futurum/San Isabel LOI Response, *supra* note 19, at 5, Response to Question 11(a). While the Asset Purchase Agreement also sold the properties and assets of Forethought Acquisition, that entity did not hold any FCC licenses.

³⁴ Vero LOI Response, *supra* note 16, at 8, Response to Question 13(a); Futurum/San Isabel LOI Response, *supra* note 19, at 5, Response to Question 11(a). Furthermore, paragraph 44 of the Bankruptcy Court's order approving the sale provides as follows: "Notwithstanding any other provision of this Order or any other order of this Court, no sale, transfer or assignment of any rights and interests of the Debtors in any federal license or authorization issued by the Federal Communications Commission ("FCC") shall take place prior to the issuance of FCC regulatory approval for such sale, transfer or assignment pursuant to the Communications Act of 1934, as amended, and the rules and regulations promulgated under such statutes. The FCC's rights and powers to take any action pursuant to its regulatory authority, including, but not limited to, imposing any regulatory conditions on such sales, transfers and assignments and setting any regulatory fines or forfeitures, are fully preserved, and nothing herein shall proscribe or constrain the FCC's exercise of such power or authority to the extent provided by law." *In re Futurum Comm'ns. Corp.*, Case No. 21-11331-KHT (Bankr. D. Colo. Nov. 30, 2021) (Order (A) Approving Asset Purchase Agreement and Authorizing the Sale of Substantially All Debtors' Assets; (B) Authorizing the Sale of Assets Free and Clear of All Liens, Claims, Rights, Encumbrances and Other Interests Pursuant to Bankruptcy Code sections 363(b), 363(f) and 363(m); (C) Assuming and Assigning Certain Executory Contracts and Unexpired Leases Pursuant to Bankruptcy Code section 365; (D) Authorizing Futurum to Consent to and Implement the Sale of Peak Internet's Assets; and (E) Granting Related Relief).

³⁵ See Vero LOI Response, *supra* note 16, at 7, Response to Question 11.

³⁶ Vero LOI Response, *supra* note 16, at 8, Response to Question 13(a), Exhibit 13(a); Futurum/San Isabel LOI Response, *supra* note 19, at 5, Response to Question 11(a), Exhibit 11.a.(4); March 2022 Joint Application, *supra* note 28, at 4.

³⁷ Vero LOI Response, *supra* note 16, at 8-9, Response to Question 13(a); Futurum/San Isabel LOI Response, *supra* note 19, at 5, Response to Question 11(a).

³⁸ See Joint Application of Futurum Communications Corporation dba Forehtought.net, San Isabel Telecom, Inc. and Vero Broadband, LLC for Consent to Transfer Assets And Assignment of 214 Authority of Companies Holding International Section 214 Authority and Blanket Domestic Section 214 Authority Pursuant to the Communications Act of 1934, as Amended, WC Docket No. 22-23, File No: ITC-STA-20220112-00046 (filed Jan. 4, 2022) (January

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involuntary assignment and acquisition of 32 wireless radio licenses to Futurum Communications Corporation d/b/a Forethought.net Debtor in Possession (Futurum DIP).³⁹ On February 11, 2022, Futurum and San Isabel filed a notification for the involuntary transfer of control of San Isabel's domestic and assignment of international section 214(a) authority to San Isabel Telecom, Inc. Debtor In Possession (San Isabel DIP).⁴⁰ On February 14, 2022, San Isabel filed an FCC Form 603 requesting Commission authorization for the involuntary assignment and acquisition of its four wireless radio licenses on May 12, 2021, to San Isabel DIP.⁴¹ Also on February 14, 2022, Brainstorm filed an FCC Form 603 requesting Commission authorization for the involuntary assignment and acquisition of 31 wireless radio licenses on May 12, 2021, to Brainstorm Internet, Inc. Debtor in Possession (Brainstorm DIP).⁴²

13. On March 21, 2022, Forethought.net, on behalf of Futurum, San Isabel, and Vero, filed an updated request for an STA⁴³ and an updated Joint Application seeking Commission consent to transfer the assets and section 214 authorizations of Futurum and San Isabel to Vero Broadband.⁴⁴ On March 25, 2022, Applicants filed a supplement to the March 2022 Joint Application.⁴⁵ The March 2022 Joint Application and STA remain pending.

2022 Joint Application). The January 2022 Joint Application was dated December 27, 2021, but was not received until January 4, 2022.

³⁹ Vero LOI Response, *supra* note 16, at 11-12, Response to Question 14(b); Futurum/San Isabel LOI Response, *supra* note 19, at 6; Response to Question 11(e). This application was amended on February 14, 2022 and again on February 28, 2022. See ULS File No. 0009907362 (filed Feb. 28, 2022). See *Public Safety and Homeland Security Bureau, Assignment of License Authorization Applications, Transfer of Control of License Applications, Action De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications, Designated Entity Reportable Eligibility Event Applications, and Designated Entity Annual Reports*, Public Notice, Report No. 17258, at 1 (PSHSB Nov. 9, 2022).

⁴⁰ Letter from Lance Steinhart, Esq., to Marlene H. Dortch, Secretary, Fed. Commc'ns Comm'n (Feb. 11 2022) (on file in WC Docket No. 22-23, File No. ITC-ASG-20220211-00029); see also *International Authorizations Granted*, File No. ITC-ASG-20220211-00029, Public Notice, DA 22-166 (IB Feb 17, 2022).

⁴¹ Vero LOI Response, *supra* note 16, at 11-12, Response to Question 14(b); Futurum/San Isabel LOI Response, *supra* note 19, at 6, Response to Question 11(e). This application was amended on February 15, 2022 and again on February 28, 2022. See ULS File No. 0009911274 (filed Feb. 28, 2022). This application was on Public Notice as accepted on November 4, 2022. See *WTB November 9, 2022 PN*, *supra* note 26, at 2.

⁴² Vero LOI Response, *supra* note 16, at 11-12, Response to Question 14(b); Futurum/San Isabel LOI Response, *supra* note 19, at 6, Response to Question 11(e). See ULS File No. 0009911680 (filed Sept. 27, 2022). This application was amended on February 28, 2022 and again on September 27, 2022. This application was on Public Notice as accepted on November 4, 2022. See *WTB November 9, 2022 PN*, *supra* note 26, at 2-3. At the time the applications were filed to transfer the licenses to Brainstorm DIP there were 31 licenses, but due to cancellation for non-construction, there are currently only 27 licenses.

⁴³ Vero LOI Response, *supra* note 16, at 9-10, Response to Questions 13(d)-(e), Exhibit 13(e); Futurum/San Isabel LOI Response, *supra* note 19, at 6, Response to Question 11(e); see also Letter from Lance J.M. Steinhart, counsel for Revenant Eagle Inc., to Marlene H. Dortch, Secretary, Fed. Commc'ns Comm'n, WC Docket No. 22-23 (filed Mar. 21, 2023) (Futurum 214 STA).

⁴⁴ See March 2022 Joint Application, *supra* note 28, at 1. This application superseded the January 2022 Joint Application; see also Vero LOI Response, *supra* note 16, at 9-10, Response to Questions 13(d)-(e), Exhibit 13(e); Futurum/San Isabel LOI Response, *supra* note 19, at 6, Response to Question 11(e).

⁴⁵ Vero LOI Response, *supra* note 16, at 10, Response to Question 13(e); Futurum/San Isabel LOI Response, *supra* note 19, at 6, Response to Question 11(e); see also Supplement to Joint Application for Consent to Transfer Assets and Assignment of 214 Authority of Revenant Denver, Inc. Debtor in Possession f/k/a Futurum Communications Corporation dba Forethought.net and Revenant Eagle, Inc. Debtor in Possession f/k/a San Isabel Telecom, Inc. and Vero Broadband, LLC f/k/a Denver VoIP LLC, WC Docket No. 22-23 (filed Mar. 25, 2022), <https://www.fcc.gov/ecfs/document/1032583960668/>. After the creation of the Space Bureau, the new Office of

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14. In light of the foregoing circumstances, on April 19, 2022, the Commission's Enforcement Bureau (Bureau) issued an LOI, initiating an investigation into whether Futurum and San Isabel may have violated section 214(a) of the Act and the Commission's rules pertaining to the ownership and operation of domestic and international telecommunications service authorizations and section 301(d) of the Act and the Commission's rules pertaining to ownership of licenses in the wireless radio services.⁴⁶ Futurum and San Isabel responded to the LOI on May 18, 2022.⁴⁷ The Bureau also issued an LOI to Vero August 11, 2022.⁴⁸ Vero responded to the LOI on September 9, 2022.⁴⁹ On December 9, 2022, the Bureau issued a supplemental LOI to Futurum and San Isabel.⁵⁰ Futurum and San Isabel responded to the supplemental LOI on January 5, 2023.⁵¹

15. On January 18, 2023, Futurum DIP,⁵² San Isabel DIP,⁵³ and Brainstorm DIP⁵⁴ (collectively the Debtors in Possession) each filed an application to assign their respective wireless radio licenses into bankruptcy. The Debtors in Possession amended their respective applications on June 5, 2023; July 19, 2023; and October 12, 2023.⁵⁵ The October 12, 2023 amendment included the Debtors in Possession's assignments of their wireless radio licenses to Vero.⁵⁶ Specifically, Futurum DIP filed an FCC Form 603 for the involuntary assignment and acquisition of 32 wireless radio licenses to Vero.⁵⁷ In addition, San Isabel DIP filed an FCC Form 603 requesting Commission authorization for the involuntary assignment and acquisition of four wireless radio licenses to Vero.⁵⁸ Finally, Brainstorm DIP filed an FCC Form 603 requesting Commission authorization for the involuntary assignment and acquisition of 27 wireless radio licenses.⁵⁹ In their applications, the Debtors in Possession each requested a waiver of section 1.948 of the Commission's rules requiring licensees to file an FCC Form 603 no later than 30

International Affairs has been delegated authority to act on applications for international telecommunications and services. *See* 47 CFR § 0.351(a)(8).

⁴⁶ Letter of Inquiry from Jeffrey J. Gee, Chief, Investigations and Hearings Division, to Jawaid Bazyar, President, Futurum Communications Corporation d/b/a Forethought.net (Apr. 19, 2022) (on file in EB-IHD-22-00033591).

⁴⁷ *See* Futurum/San Isabel LOI Response, *supra* note 19.

⁴⁸ Letter of Inquiry, from Jeffrey J. Gee, Chief, Investigations and Hearings Division, to Gregg Strumberger, Chief Legal Officer, Vero Broadband, LLC (Aug. 11, 2022) (on file in EB-IHD-22-00033591).

⁴⁹ *See* Vero LOI Response, *supra* note 16.

⁵⁰ Supplemental Letter of Inquiry from Kalun Lee, Deputy Chief, Investigations and Hearings Division, to Lance Steinhart, Esq. (Jan. 5, 2023) (on file in EB-IHD-22-00033591).

⁵¹ Response to Supplemental Letter of Inquiry, from Lance Steinhart, Esq., to Kalun Lee, Deputy Chief, Investigations and Hearings Division (Sept. 9, 2022) (on file in EB-IHD-22-00033591) (San Isabel SLOI Response).

⁵² *See* ULS File No. 0010378751 (filed Jan. 18, 2023).

⁵³ *See* ULS File No. 0010378730 (filed Jan. 18, 2023).

⁵⁴ *See* ULS File No. 0010378808 (filed Jan. 18, 2023).

⁵⁵ *See* ULS File No. 0010378751 (filed June 5, 2023, Jul. 19, 2023, and Oct. 12, 2023); ULS File No. 0010378730 (filed June 5, 2023, July 19, 2023 and Oct. 12, 2023); ULS File No. 0010378808 (filed June 5, 2023; July 19, 2023; and Oct. 12, 2023). These applications remain pending.

⁵⁶ ULS File No. 0010378751, Attach. 2 (filed Oct. 12, 2023); ULS File No. 0010378730, Attach. 2 (filed Oct. 12, 2023); ULS File No. 0010378808, Attach. 2 (filed Oct. 12, 2023).

⁵⁷ ULS File No. 0010378751, Attach. 2 (filed Oct. 12, 2023).

⁵⁸ ULS File No. 0010378730, Attach. 2 (filed Oct. 12, 2023).

⁵⁹ ULS File No. 0010378808, Attach. 2 (filed Oct. 12, 2023).

days after the event causing the assignment.⁶⁰ The waiver requests state that the Debtors in Possession did not file FCC Form 603 within the required 30-day period.⁶¹

III. DISCUSSION

16. The consummated November Transaction involved the transfer of control of three section 214 authorizations and the assignment of three sets of wireless licenses out of bankruptcy. Each of these transfers and assignments required prior FCC approval, but the Company did not request, let alone obtain, FCC approval despite being advised to do so by the Bankruptcy Court. Accordingly, we propose a forfeiture of \$48,000 for these six violations.

A. Vero Failed to Request or Obtain Prior Commission Approval of its Acquisition of FCC Licenses and Authorizations

17. Vero admits that “the parties did not timely seek permission to close the November Transaction. The oversight was inadvertent and unintentional. At the time of the bankruptcy filings, the parties did not have advice from federal communications counsel on the petitions and was not aware of the obligation to notify the Commission.”⁶² Vero, however, was previously apprised of the Commission’s requirements. To wit, the Bankruptcy Court’s November 30, 2021 Order approving the Asset Purchase Agreement and authorizing the sale to Vero stated:

Notwithstanding any other provision of this Order or any order of this Court, no sale, transfer or assignment of any rights and interests of the Debtors in any federal license or authorization issued by the Federal Communications Commission (“FCC”) shall take place prior to the issuance of FCC regulatory approval for such sale, transfer or assignment pursuant to the Communications Act of 1934, as amended, and the rules and regulations promulgated under such statutes. The FCC’s rights and powers to take any action pursuant to its regulatory authority, including, but not limited to, imposing any regulatory conditions on such sales, transfers and assignments and setting any regulatory fines or forfeitures, are fully preserved, and nothing herein shall proscribe or constrain the FCC’s exercise of such power or authority to the extent provided by law.⁶³

Furthermore, prior to the entry of the sale order, the Bankruptcy Court had authorized Futurum DIP, San Isabel DIP, and Brainstorm DIP to retain counsel to assist in obtaining government approvals related to their licenses and authorizations.⁶⁴

⁶⁰ See ULS File No. 0010378751, Attach. 2 (filed Oct. 12, 2023); ULS File No. 0010378730, Attach. 2 (filed Oct. 12, 2023); ULS File No. 0010378808, Attach. 2 (filed Oct. 12, 2023); *see also* 47 CFR § 1.948(c)(2).

⁶¹ See ULS File No. 0010378751, Attach. 2 (filed Oct. 12, 2023); ULS File No. 0010378730, Attach. 2 (filed Oct. 12, 2023); ULS File No. 0010378808, Attach. 2 (filed Oct. 12, 2023).

⁶² Vero LOI Response, *supra* note 16, at 8-9, Response to Question 13(a).

⁶³ San Isabel SLOI Response, *supra* note 51, Response to Question 27, Exhibit 27(b); *In re Futurum Comm’ns. Corp.*, Case No. 21-11331-KHT (Bankr. D. Colo. Nov. 30, 2021)(Order (A) Approving Asset Purchase Agreement and Authorizing the Sale of Substantially All Debtors’ Assets; (B) Authorizing the Sale of Assets Free and Clear of All Liens, Claims, Rights, Encumbrances and Other Interests Pursuant to Bankruptcy Code sections 363(b), 363(f) and 363(m); (C) Assuming and Assigning Certain Executory Contracts and Unexpired Leases Pursuant to Bankruptcy Code section 365; (D) Authorizing Futurum to Consent to and Implement the Sale of Peak Internet’s Assets; and (E) Granting Related Relief).

⁶⁴ See *In re Futurum Comm’ns. Corp.*, Case No. 21-11331-KHT (Bankr. D. Colo. Nov. 12, 2021) (Order Granting Application to Employ Lance J. M. Steinhart as Special Counsel); Application to Employ Lance J.M. Steinhart, P.C,

18. Pursuant to sections 63.03 and 63.04 of the Commission's rules,⁶⁵ a domestic carrier seeking to transfer control of its section 214(a) authorization or associated assets must file a domestic transfer of control application prior to the transaction. Similarly, under section 63.24 of the Commission's rules, control of an international section 214(a) authorization, other than a *pro forma* transfer of control, may be transferred or assigned to another party only by application and prior Commission approval.⁶⁶ Section 1.948 of the Commission's rules similarly requires Commission consent prior to the transfer of control or assignment of a wireless radio license.⁶⁷

19. In accordance with the terms of the Asset Purchase Agreement, the acquisition by Vero of the international and domestic section 214(a) authorizations held by Futurum and San Isabel was consummated on December 31, 2021, and effective on January 1, 2022.⁶⁸ It was not until March 21, 2022, that the modified March 2022 Joint Application for the transfer of control and STA was submitted, notifying the Commission of the completion of the November Transaction.⁶⁹ We therefore conclude that Vero apparently violated section 214(a) of the Act and sections 63.03, 63.04, and 63.24 of the Commission's rules by acquiring control of the domestic and international section 214(a) authorizations held by San Isabel, and the domestic section 214(a) authorization held by Futurum, without obtaining prior Commission approval.⁷⁰

20. Additionally, Vero failed to request prior Commission approval for the assignment of wireless radio licenses from each of the three Debtors in Possession. Pursuant to the Asset Purchase Agreement, the acquisition of the wireless radio licenses from the Debtors in Possession by Vero was consummated on December 31, 2021, and was effective as of January 1, 2022.⁷¹ The acquisition of these licenses, however, was completed and consummated without prior Commission approval. It was not until January 18, 2023, over a year after the acquisition of the licenses was completed, that three separate applications were first filed for the assignment of the Debtors in Possession's wireless radio licenses to Vero (and subsequently amended on June 5, 2023; July 19, 2023; and October 12, 2023).⁷²

21. As a result of the Bureau's investigation, the record shows that Vero consummated the acquisition of 64 wireless radio licenses from the three Debtors in Possession, and one international and two domestic section 214(a) authorizations, without obtaining prior Commission consent. Vero concedes that it did not seek or obtain prior Commission consent for the authorization and license acquisitions prior to the November Transaction closing.⁷³

as Attorneys for a Special Purpose Under 11 U.S.C. § 327(e), at para. 5, *In re Futurum Comm'ns. Corp.*, Case No. 21-11331-KHT (Bankr. D. Colo. Oct. 15, 2021).

⁶⁵ 47 CFR §§ 63.03, 63.04.

⁶⁶ *Id.* § 63.24(a).

⁶⁷ *Id.* § 1.948.

⁶⁸ Vero LOI Response, *supra* note 16, at 8, Response to Question 13(a), Exhibit 13(a).

⁶⁹ Vero LOI Response, *supra* note 16, at 9 Response to Question 13(d), 10 Response to Question 13(e), Exhibit 13(e). See Futurum 214 STA, *supra* note 43.

⁷⁰ 47 U.S.C. § 214(a); 47 CFR §§ 63.03, 63.04; *WDT World Discount Telecommunications Co., Inc.*, Notice of Apparent Liability for Forfeiture and Admonishment, 31 FCC Rcd 12571 (EB 2016) (*WDT NAL*); *Stanacard, LLC*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 82 (EB 2013).

⁷¹ Vero LOI Response, *supra* note 16, at 8, Response to Question 13(a), Exhibit 13(a).

⁷² ULS File No. 0010378751, Attach. 2 (filed Jan. 18, 2023, and amended on June 5, 2023; July 19, 2023; and Oct. 12, 2023); ULS File No. 0010378730, Attach. 2 (filed Jan. 18, 2023, and amended on June 5, 2023; July 19, 2023; and Oct. 12, 2023); ULS File No. 0010378808, Attach. 2 (filed Jan. 18, 2023, and amended on June 5, 2023; July 19, 2023; and Oct. 12, 2023).

⁷³ See *id.*

22. We find that Vero apparently willfully and repeatedly violated sections 214(a) and 310(d) of the Act,⁷⁴ and sections 1.948, 63.03, 63.04, and 63.24 of the Commission's rules⁷⁵ by willfully and repeatedly failing to obtain Commission approval prior to the sale and acquisition of all of the membership interests and FCC licenses and authorizations held by Futurum, San Isabel, and Brainstorm, to Vero.

B. Proposed Forfeiture

23. Section 503(b)(1) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply substantially with the terms and conditions of any license, permit, certificate or other instrument or authorization issued by the Commission" as well as or against an 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."⁷⁶ In exercising the Commission's forfeiture authority, we must consider the "the nature, circumstances, extent and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."⁷⁷ In addition, the Commission has established forfeiture guidelines; they establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.⁷⁸ Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.⁷⁹

24. We conclude that Vero apparently failed to obtain Commission authorization before acquiring the domestic and international section 214(a) authorizations previously held by San Isabel and the domestic section 214(a) authorization held by Futurum. Vero was required by section 214(a) of the Act and sections 63.03, 63.04 and 63.18 of the rules to file applications and seek prior Commission approval before it acquired domestic and international section 214(a) authorizations from San Isabel and Futurum, resulting in three apparent unauthorized transfers of control. Section 1.80(b) of the Commission's rules establishes a base forfeiture of \$8,000 for an unauthorized substantial transfer of control.⁸⁰ Accordingly, we propose a forfeiture of \$24,000: 1) \$8,000 for Vero's apparent unauthorized acquisition San Isabel's domestic section 214(a) authorization;⁸¹ 2) \$8,000 for Vero's apparent unauthorized acquisition of Futurum's domestic section 214(a) authorization;⁸² and 3) \$8,000 for Vero's apparent unauthorized acquisition of San Isabel's international section 214(a) authorization.⁸³

25. We also conclude that Vero apparently failed to obtain Commission approval for the assignment of the wireless radio licenses held by the Debtors in Possession to Vero as required by section

⁷⁴ 47 U.S.C. §§ 214(a), 310(d); *see also Satamatics, Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Red 21011, 21015, para. 11 (EB 2007) (NAL paid) (proposing a \$24,000 forfeiture for violation of sections 214(a), 310(b)(4), 310(d) of the Act).

⁷⁵ 47 CFR §§ 1.948, 63.03, 62.04, 63.24.

⁷⁶ 47 U.S.C. § 503(b).

⁷⁷ *Id.* § 503(b)(2)(E).

⁷⁸ 47 CFR § 1.80(b)(11), Table 2 to Paragraph (b)(11).

⁷⁹ *Id.*

⁸⁰ 47 CFR § 1.80(b), Table 1 to Paragraph (b)(11); *see also WDT NAL*, *supra* note 70, at 12577, para. 17.

⁸¹ *See* 47 U.S.C. § 214(a); 47 CFR §§ 63.03, 63.04.

⁸² *See* 47 U.S.C. § 214(a); 47 CFR §§ 63.03, 63.04.

⁸³ *See* 47 U.S.C. § 214(a); 47 CFR § 63.24.

1.948 of the rules.⁸⁴ As discussed above, section 1.80(b) of the Commission's rules establishes a base forfeiture of \$8,000 for an unauthorized substantial transfer of control or assignment.⁸⁵ Accordingly, we propose a base forfeiture of \$24,000 for Vero's three separate apparent unauthorized substantial assignments of wireless radio licenses:⁸⁶ 1) \$8,000 for the Company's unauthorized assignment of 32 licenses from Futurum DIP; 2) \$8,000 for the Company's unauthorized assignment of four licenses from San Isabel DIP; and 3) \$8,000 for the Company's unauthorized assignment of 27 licenses from Brainstorm DIP.

26. Accordingly, we propose a total forfeiture of \$48,000 for Vero's apparently unauthorized acquisition of San Isabel's and Futurum's domestic and international section 214(a) authorizations, and Vero's failure to obtain timely Commission authorization for its assignment of Futurum, San Isabel, and Brainstorm's wireless radio licenses to Vero⁸⁷

IV. CONCLUSION

27. We have determined that Vero apparently willfully and repeatedly violated sections 214(a) and 310(d) of the Act and sections 1.948, 63.03, 63.04, and 63.24 of the Commission's rules. Accordingly, Vero is apparently liable for a \$48,000 forfeiture.

V. ORDERING CLAUSES

28. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, Vero Broadband, LLC hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of forty-eight thousand dollars (\$48,000) for willful and repeated violations of sections 214(a) and 310(d) of the Act, 47 U.S.C. §§ 214(a), 310(d); sections 1.948, 63.03, 63.04, and 63.24 of the Commission's rules, 47 CFR §§ 1.948, 63.03, 63.04, 63.24.

29. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Vero Broadband, 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 32 below.

30. In order for Vero Broadband, LLC to pay the proposed forfeiture, Vero Broadband, LLC shall notify Patrick McGrath, Kalun Lee, Georgina Feigen, and Pam Slipakoff at, Patrick.McGrath@fcc.gov, Kalun.Lee@fcc.gov, Georgina.Feigen@fcc.gov, Pam.Slipakoff@fcc.gov, and EnforcementBureauIHD@fcc.gov of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://apps.fcc.gov/core/userLogin.do>. Upon payment, Vero Broadband, LLC shall send electronic notification of payment to Patrick McGrath, Kalun Lee,

⁸⁴ Proposed forfeitures for the unauthorized assignment of wireless licenses are calculated based on the number of transactions. Proposed forfeitures related to the unauthorized assignment or transfer of section 214(a) and similar authorizations are calculated based on the number of authorizations.

⁸⁵ 47 CFR § 1.80(b), Table 1 to Paragraph (b)(11); *see also WDT NAL*, *supra* note 70, at 12577, para. 17.

⁸⁶ *See Constellium Rolled Products Ravenswood, LLC*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 6277, 6286 para 16 (2014) (*Constellium*). (Explaining that, as a general matter, the base forfeiture for engaging in an unauthorized transfer of substantial control of a Commission license is \$8,000. In *Constellium*, there were apparently 12 unauthorized transfers of control of PLMRS authorizations resulting from a single transaction. The Commission previously determined that a strict mathematical exercise of multiplying a base forfeiture amount for a violation times the number of licenses involved could result in an excessive forfeiture amount. Thus, in *Constellium*, for purposes of calculating the forfeiture penalty, the Commission decided to multiply the base amount of \$8,000 times the number of transactions at issue (as opposed to the number of licenses transferred without authorization). *See also Constellium Rolled Products Ravenswood, LLC*, Order and Consent Decree, 30 FCC Rcd 15643 (2015).

⁸⁷ 47 CFR § 1.80(b), Table 1 to Paragraph (b)(11); *see also WDT NAL*, *supra* note 70, at 12577, para. 17.

Georgina Feigen, and Pam Slipakoff Enforcement Bureau, Federal Communications Commission, at Patrick.McGrath@fcc.gov, Kalun.Lee@fcc.gov, Georgina.Feigen@fcc.gov, Pam.Slipakoff@fcc.gov, and EnforcementBureauIHD@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card using 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 forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:⁸⁸

- 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 159⁸⁹ or printed CORES form⁹⁰ 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 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).⁹¹ 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 NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 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 NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 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.

⁸⁸ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

⁸⁹ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

⁹⁰ 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>.

⁹¹ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

31. 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, D.C. 20554.⁹² Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

32. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(f)(3) of the Commission's Rules.⁹³ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, ATTN: Enforcement Bureau – Investigations and Hearings Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Patrick McGrath, Kalun Lee, Georgina Feigen, and Pam Slipakoff at Patrick.McGrath@fcc.gov, Kalun.Lee@fcc.gov, Georgina.Feigen@fcc.gov, Pam.Slipakoff@fcc.gov, and EnforcementBureauIHD@fcc.gov.

33. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status.⁹⁴ Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.⁹⁵

⁹² See 47 CFR § 1.1914.

⁹³ 47 CFR §§ 1.16, 1.80(f)(3).

⁹⁴ 47 U.S.C. § 503(b)(2)(E).

⁹⁵ See, e.g., *Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Vearl Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18-21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860–62, paras. 21-25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903-904, paras. 32-33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

34. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Greg Friedman, Chief Executive Officer, Vero Broadband, LLC at PO Box 1110, Denver, CO 80306, and to Lance Steinhart, Esq., Lance J.M. Steinhart, PC, Attorneys at Law, 1725 Windward Concourse, Suite 150, Alpharetta, GA 30005.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau