

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

| | | |
|---------------------|---|----------------------------|
| In the Matter of |) | File No. EB-04-IH-0656 |
| |) | |
| Telecom House, Inc. |) | NAL/Acct. No. 200532080144 |
| |) | |
| |) | FRN No. 0011-3826-03 |

ORDER

Adopted: September 14, 2006

Released: September 21, 2006

By the Commission:

1. In this Order, we adopt the attached Consent Decree entered into between the Federal Communications Commission (the "Commission") and Telecom House, Inc. ("Telecom House"). The Consent Decree terminates the enforcement proceeding initiated by the Enforcement Bureau against Telecom House for possible violations of section 254 of the Communications Act of 1934, as amended ("the Act"),¹ relating to universal service, and, among others, sections 1.1157, 52.17, 54.706, 54.711, 64.604, and 64.1195 of the Commission rules relating to carrier registration, revenue reporting, and contribution to certain regulatory programs.²

2. The Commission and Telecom House have negotiated the terms of a Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, and in the absence of material new evidence relating to this matter, we conclude that there are no substantial or material questions of fact as to whether Telecom House possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) and 503(b) of the Communications Act of 1934, as amended,³ the Consent Decree attached to this Order **IS ADOPTED**.

¹ 47 U.S.C. § 254.

² 47 C.F.R. §§ 1.1157, 52.17, 54.706, 54.711, 64.604, 64.1195.

³ 47 U.S.C. § 154(i), 503(b).

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**, and the Notice of Apparent Liability for Forfeiture **IS CANCELLED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

**Before the
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CONSENT DECREE

1. The Federal Communications Commission (the "Commission" or "FCC") and Telecom House, Inc. ("Telecom House" or the "Company"), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Commission's investigation into whether Telecom House violated section 254 of the Communications Act of 1934, as amended (the "Act"),⁴ relating to universal service, and certain of the Commission's rules relating to carrier registration, universal service, the Telecommunications Relay Services, the North American Numbering Plan Administration, and regulatory fees.

2. For the purposes of this Consent Decree, the following definitions shall apply:

- (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
- (b) "Commission" and "FCC" mean the Federal Communications Commission, and all of its bureaus and offices.
- (c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
- (d) "Telecom House" means Telecom House, Inc. and its predecessors-in-interest and successors-in-interest.
- (e) "Parties" means Telecom House and the Commission.
- (f) "Order" or "Adopting Order" means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (g) "Effective Date" means the date on which the Commission releases the Adopting Order.
- (h) "Investigation" means the investigation commenced by the Bureau's January 26, 2005 Letter of Inquiry⁵ regarding whether Telecom House violated the requirements of section

⁴ 47 U.S.C. § 254.

⁵ See Letter from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC to Aaron Amid, Chief Executive Officer, Telecom House, Inc., dated January 26, 2005 ("January 26, 2005 LOI").

254 of the Act⁶ and/or sections 1.1157, 52.17, 54.706, 54.711, 64.604, and 64.1195 of the Commission's rules relating to carrier registration, universal service, the Telecommunications Relay Service, the North American Numbering Plan Administration, and regulatory fees.⁷

I. BACKGROUND

3. Pursuant to section 64.1195(a) of the Commission's rules, all carriers that provide interstate telecommunications service must register with the Commission through submission of FCC Form 499-A.⁸ In addition, pursuant to section 254(d) of the Act and sections 54.706(a) and 54.711(a) of the Commission's rules, telecommunications carriers that provide interstate telecommunications services and private service providers that provide interstate telecommunications services are required to file annual and quarterly Telecommunications Reporting Worksheets (FCC Forms 499-A and 499-Q) and contribute to the Universal Service Fund on the basis of their interstate and international end-user telecommunications revenues.⁹

4. Section 225(b)(1) of the Act¹⁰ codifies Title IV of the Americans with Disabilities Act of 1990. In support of that Act, section 64.604 of the Commission's rules requires every carrier that provides interstate telecommunications services to file Telecommunications Reporting Worksheets and contribute to the Telecommunications Relay Services Fund based upon its interstate and international end-user telecommunications revenues.¹¹

5. Section 251(e) of the Act directs the Commission to ensure the availability of telephone numbers on an equitable basis, and that the costs of establishing numbering administration are borne by all carriers on a competitively neutral basis.¹² To this end, section 52.17 of the Commission's rules requires that all telecommunications carriers file Telecommunications Reporting Worksheets and contribute toward the costs of numbering administration on the basis of their "end-user telecommunications revenues for the prior calendar year."¹³

6. Pursuant to section 9(a)(1) of the Act and section 1.1151 of the Commission's rules, interstate telecommunications and other providers must pay regulatory fees to the Commission to recover the costs of certain regulatory activities.¹⁴ In particular, sections 1.1154 and 1.1157(b)(1) of the Commission's rules require that interstate telecommunications carriers pay regulatory fees on the basis of their interstate and international end-user telecommunications revenues.¹⁵

⁶ 47 U.S.C. § 254(d).

⁷ 47 C.F.R. §§ 1.1157, 52.17, 54.706, 54.711, 64.604, 64.1195.

⁸ 47 C.F.R. § 64.1195(a).

⁹ 47 U.S.C. § 254(d); 47 C.F.R. §§ 54.706(a), 54.711(a).

¹⁰ 47 U.S.C. § 225(b)(1).

¹¹ 47 C.F.R. § 64.604(c)(5)(iii)(A).

¹² 47 U.S.C. § 251(e).

¹³ 47 C.F.R. § 52.17(a).

¹⁴ 47 U.S.C. § 159(a)(1); *see also* 47 C.F.R. § 1.1151.

¹⁵ *See* 47 C.F.R. §§ 1.1154, 1.1157(b)(1).

7. Telecom House began providing interstate telecommunications service in the United States in 2000.¹⁶ Telecom House provides “1-800 Access for International Calling[,] Prepaid Phone Cards [and] Long Distance Telephone Service.”¹⁷

8. On January 26, 2005, the Bureau issued a letter of inquiry to Telecom House.¹⁸ The January 26, 2005 LOI directed Telecom House, among other things, to submit a sworn written response to a series of questions relating to the apparent failure of Telecom House to register and file Telecommunications Reporting Worksheets and to make mandated federal telecommunications regulatory program payments. Telecom House responded to the January 26, 2005 LOI on March 17, 2005.¹⁹ On July 13, 2005, the Bureau issued a follow-up letter of inquiry to Telecom House.²⁰ Telecom House responded to the July 13, 2005 LOI on August 5, 2005.²¹

9. On September 13, 2005, the Commission issued a Notice of Apparent Liability for Forfeiture and Order (“NAL”),²² proposing that Telecom House be held liable for a forfeiture of \$529,300 under section 503(b)(1)(B) of the Act, and ordering the Company either to pay the proposed forfeiture, or file a written response within thirty (30) days of the NAL release date stating why the proposed forfeiture should be reduced or canceled. The NAL also ordered Telecom House by the same date to submit to the Universal Service Administrative Company (“USAC”) all annual Telecommunications Reporting Worksheets required under the Commission’s rules from the date that Telecom House commenced providing telecommunications services in the United States to the date of the NAL. As of the Effective Date, Telecom House has submitted all required Worksheets and paid all past due debts described in the NAL. In addition, the Company has presented evidence sufficient to show that it would be unable to pay the forfeiture amount proposed in the NAL and would be eligible under the Commission’s rules and the Act for a downward adjustment of the forfeiture amount.

II. AGREEMENT

10. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Commission, through entry of the Order, which shall immediately resolve and terminate the Investigation.

11. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission’s rules and orders. The Parties agree that this Consent

¹⁶ Response to Data Requests/Request for Documents, EB-04-IH-0656, at 4, dated March 17, 2005 (“March 17, 2005 LOI Response”).

¹⁷ See <http://www.thouse.com/about.html>.

¹⁸ See January 26, 2005 LOI.

¹⁹ See March 17, 2005 LOI Response.

²⁰ Letter from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Douglas D. Orvis II, Swidler Berlin LLP, Counsel to Telecom House Incorporated, dated July 13, 2005 (“July 13, 2005 LOI”).

²¹ Response to Supplemental Request, EB-04-IH-0656, dated August 5, 2005 (“August 5, 2005 LOI Response”).

²² *Telecom House, Inc.*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 15131 (2005).

Decree is for settlement purposes only and that by agreeing to this Consent Decree, Telecom House does not admit or deny liability for violating any statute, regulation, or administrative rule in connection with matters that are the subject of this Consent Decree.

12. Telecom House agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$170,000, in twenty-four equal installments of \$7,083.33, with the first payment due the first day of the second month following the Effective Date, and the remaining twenty-three installments due on the first day of each succeeding month. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include "Acct. No. 200532080144" and "FRN No. 0011-3826-03." Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

13. For purposes of settling the matters set forth herein, Telecom House agrees to maintain a compliance program related to future compliance with the Act, the Commission's rules, and the Commission's orders. The program will include, at a minimum, the following components:

- (a) Compliance Manual. The Company shall create, maintain and update an FCC Compliance Manual. Company personnel shall have ready access to the Compliance Manual and are to follow the procedures contained in it. The Compliance Manual will, among other things, describe the regulatory fee, universal service, Telecommunications Relay Service and North American Numbering Plan Administration rules and requirements as they apply to Telecom House. The Compliance Manual will set forth a schedule of filing and payment dates associated with these regulatory programs, and Telecom House will create compliance notifications that alert the Company to upcoming filing and payment dates. The Compliance Manual will encourage personnel to contact the Company's Designated Contact, attorneys, the Company's Chief Executive and/or the Company's Chief Financial Officer with any questions or concerns that arise with respect to the Company's FCC compliance. The Company shall submit to the Bureau a final version of its Compliance Manual thirty (30) days after the Effective Date.
- (b) Compliance Training Program. Telecom House will establish an FCC compliance training program for any employee or consultant who engages in activities related to FCC regulation of Telecom House. Training sessions will be conducted at least annually for such employees or consultants to ensure compliance with the Act and the FCC's regulations and policies and, for new employees or consultants who are engaged in such activities, within the first thirty (30) days of employment.
- (c) Designated Contact. Telecom House will designate one employee or consultant as the point of contact for all telecommunications compliance matters.
- (d) Review and Monitoring. Telecom House will review the FCC Compliance Manual and FCC Compliance Training Program annually to ensure that they are maintained in a proper manner and continue to address the objectives set forth therein.
- (e) Audits. Telecom House will ensure that any audit reviews specifically consider compliance with FCC regulatory requirements.

- (f) Supplemental Measures. The Compliance Plan will be supplemented by membership in a trade organization and other means of keeping responsible company personnel informed of FCC regulatory compliance requirements.
- (g) Termination. Telecom House's obligations under this Paragraph 13 shall expire twenty-four (24) months after the Effective Date.

14. In express reliance on the covenants and representations contained herein, the Commission agrees to rescind the NAL and terminate the Investigation.

15. The Commission agrees that it will not use the facts developed in this Investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Telecom House concerning the matters that were the subject of the Investigation. The Commission also agrees that it will not use the facts developed in this Investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Telecom House with respect to Telecom House's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier.

16. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act against Telecom House or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Telecom House of the Act, the rules, or the Order.

17. Telecom House 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 Order adopting this Consent Decree, provided the Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Telecom House shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein.

18. Telecom House's decision to enter into this Consent Decree is expressly contingent upon the Commission's issuance of an Order that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition, modification, or deletion.

19. In the event that this Consent Decree 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.

20. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Telecom House nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Telecom House shall waive any statutory right to a trial *de novo*.

21. Any violation of the Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights or remedies authorized by law attendant to the enforcement of a Commission order.

22. The Parties also 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 Telecom House does not expressly consent) that provision will be superseded by such Commission rule or order.

23. Telecom House hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

24. This Consent Decree may be signed in counterparts.



Marlene H. Dortch
Secretary
Federal Communications Commission

9/20/06

Date



Mr. Aaron Amid
Chief Executive Officer
Telecom House, Inc.

9/15/06

Date