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

In the Matter of	)	
	)	
	)	File Nos. EB-06-IH-5039,
Global Crossing North America, Inc.,	)	EB-07-IH-5217
	)	
Global Crossing Telecommunications, Inc.,	)	NAL/Acct. No. 200832080080
	)	FRN No. 0002-8505-19
	)	
Global Crossing Bandwidth, Inc., and	)	NAL/Acct. No. 200832080081
	)	FRN No. 0003-7330-94
	)	
Budget Call Long Distance, Inc.	)	NAL/Acct. No. 200832080082
	)	FRN No. 0003-7330-78

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: April 8, 2008 **Released:** April 9, 2008

By the Commission:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* ("*NAL*"), we find that various subsidiaries of Global Crossing North America, Inc. ("Global Crossing")[1] apparently violated sections 254(d) and 225 of the Communications Act of 1934, as amended (the "Act"),[2] and sections 54.706(a) and 64.604(c)(5)(iii)(A) of the Commission's rules by willfully or repeatedly failing to contribute fully and timely to the Universal Service Fund ("USF") and Telecommunications Relay Service ("TRS") Fund.[3] Based on our review of the facts and circumstances surrounding these apparent violations, and for the reasons discussed below, we find that the Global Crossing Companies are apparently liable for forfeitures totaling $10,518,013.

2. We order the Global Crossing Companies to submit within thirty days a report supported by a sworn statement or declaration under penalty of perjury of a corporate officer setting forth in detail each entity's plan to come into compliance with the payment obligations discussed herein.

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[1] Global Crossing North America, Inc. is the parent company of various telecommunications companies providing service in the United States, including, but not limited to: Global Crossing Telecommunications, Inc. ("GC Telecommunications"); Global Crossing Bandwidth, Inc. ("GC Bandwidth"); and Budget Call Long Distance, Inc. ("Budget"). *See infra* note 18. For the sake of brevity, unless stated otherwise, all references to the "Global Crossing Companies" in this *NAL* refer to one or more of the aforementioned Global Crossing operating subsidiaries.

[2] 47 U.S.C. §§ 254(d), 225. The Telecommunications Act of 1996 amended the Communications Act of 1934. *See* Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

[3] 47 C.F.R. §§ 54.706(a), 64.604(c)(5)(iii)(A).

II. BACKGROUND

3. The Act codified Congress's historical commitment to promote universal service to ensure that consumers in all regions of the nation have access to affordable, quality telecommunications services.[4] In particular, section 254(d) of the Act requires, among other things, that "[e]very telecommunications carrier [providing] interstate telecommunications services . . . contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."[5] In implementing this Congressional mandate, the Commission directed all telecommunications carriers providing interstate telecommunications services to contribute to the universal service fund based upon their interstate and international end-user telecommunications revenues.[6] The Commission also requires certain providers of interstate telecommunications, including Voice over Internet Protocol (VoIP) providers, to contribute to the USF.[7] Failure by some providers to pay their share into the USF skews the playing field by giving non-paying providers an economic advantage over their competitors, who must then shoulder more than their fair share of the costs of the universal service fund. The Universal Service Administrative Company ("USAC") currently administers the USF.[8] USAC bills carriers each month, including Global Crossing, based on their quarterly contribution amount.[9] Consistent with the Debt Collection Improvement Act of 1996

[4] *See* 47 U.S.C. § 254.

[5] 47 U.S.C. § 254(d).

[6] 47 C.F.R. § 54.706(b). Beginning April 1, 2003, carrier contributions were based on a carrier's projected, rather than historical, revenues. *Id. See also Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review − Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format,* Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 24969-74, ¶¶ 29-39 (2002) ("*Interim Contribution Order*").

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

[8] 47 C.F.R. § 54.701(a).

[9] *See, e.g., Interim Contribution Order*, 17 FCC Rcd at 24971-72, ¶ 35; *Federal-State Board on Universal Service*, Further Notice of Proposed Rulemaking and Order, 15 FCC Rcd 19947, 19954, ¶ 17 (2000); *Federal-State Joint Board on Universal Service*, Sixteenth Order on Reconsideration in CC Docket No. 96-45, Eighth Report and Order in CC Docket No. 96-45, and Sixth Report and Order in CC Docket No. 96-262, 15 FCC Rcd 1679, 1687, ¶ 18 (1999); *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, *Federal-State Board on Universal Service*, Second Order on Reconsideration, 12 FCC Rcd 22423, 22425, ¶ 3 (1997). Carriers must pay by the date shown on the invoice from the Administrator. 47 C.F.R. § 54.711(a) ("The Commission shall announce by Public Notice published in the Federal Register and on its website the manner of payment and the dates by which payments must be made."). *See, e.g.*, "Proposed Second Quarter 2006 Contribution Factor," Public Notice, 21 FCC Rcd 2379 (Wireline Comp. Bur. 2006) ("Contribution payments are due on the date shown on the invoice."). *See also* 47 C.F.R. § 54.713(b) (noting that if a USF "contributor fails to make full payment on or before the date due date of . . . the monthly invoice provided by the Administrator, the payment is delinquent."). *Id*.

("DCIA"),[10] USF contributions that have become over 90 days delinquent are transferred to the Commission for further action to collect the outstanding debt.[11]

4. Title IV of the Americans with Disabilities Act of 1990, codified at 47 U.S.C. § 225, directs the Commission to ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech impaired individuals in the United States.[12] The Commission established the TRS Fund, currently administered by the National Exchange Carrier Association ("NECA"), to reimburse TRS providers for the costs of providing interstate TRS.[13] TRS enables persons with hearing and speech disabilities to communicate by telephone with persons who may or may not have such disabilities. TRS provides telephone access to a significant number of Americans who, without it, might not be able to make or receive calls from others.[14] Pursuant to section 64.604 of the Commission's rules, every carrier providing interstate telecommunications services must contribute to the TRS fund.[15] NECA invoices common carriers each year for their contribution

[10] *See* Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996). In 2004, the Commission adopted rules implementing the DCIA requirements. *See Amendment of Parts 0 and 1 of the Commission's Rules*, Report and Order, 19 FCC Rcd 6540 (2004) ("*DCIA Order*"). In its Order, the Commission codified procedures at 47 C.F.R. § 1.1910, the "red light rule," to extend and clarify existing policies in the management of the Commission's accounts, and to withhold action on applications or other requests for benefits by delinquent debtors, and ultimately to dismiss such applications or other requests if the delinquency is not resolved. *See* 47 C.F.R. § 1.1910; *DCIA Order*, 19 FCC Rcd at 6541-45 ¶¶ 3-15. The DCIA rules specify that the term "Commission" includes the USF, TRS Fund, "and any other reporting components of the Commission." *See* 47 C.F.R. § 1.1901(b). Thus, the Commission has determined that unpaid obligations to the USF and TRS Fund are subject to the DCIA.

[11] Effective July 1, 2003, USAC implemented new collection procedures as required by the DCIA and the Commission. Pursuant to those procedures, invoices for USF contributions that become over 90 days delinquent are transferred to the Commission for further collection. *See* http://www.universalservice.org/fund-administration/contributors/understanding-your-invoice/important-invoicing-deadlines.aspx. Debt collection procedures may include further administrative efforts both by the Commission and the United States Treasury or, as appropriate, the Commission may refer the delinquent debt to the Department of Justice for enforced collection action. 47 C.F.R. § 1.1917. Collection efforts may result in additional charges, to include interest and penalties, as provided under 31 U.S.C. § 3717, and administrative charges pursuant to 47 C.F.R. §§ 1.1940 and 54.713, 31 C.F.R. § 285.12(j).

[12] Pub. L. No. 101-336, § 401, 104 Stat. 327, 366-69 (1990) (adding section 225 to the Act).

[13] *See Telecommunications Relay Services and the Americans with Disabilities Act of 1990,* Third Report and Order, 8 FCC Rcd 5300, 5301, ¶ 7 (1993) (*TRS III Order*).

[14] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, 15 FCC Red 5140, 5143, ¶ 5 (2000).

[15] *See* 47 C.F.R. § 64.604(c)(5)(iii).

based on their interstate revenues.[16] Like USF contributions, outstanding TRS obligations are subject to the DCIA.[17]

5. Global Crossing is the holding company of various telecommunications companies providing service in the United States.[18] On July 13, 2006, USAC referred Global Crossing Telecommunications, Inc. ("GC Telecommunications"), a subsidiary of Global Crossing, to the Enforcement Bureau ("Bureau") for investigation concerning GC Telecommunications' failure to fully and timely contribute to the universal service fund.[19] In response, the Bureau issued a letter of inquiry ("LOI") to GC Telecommunications, initiating an investigation into whether the company may have violated, among other things, sections 54.706 and 64.604 of the Commission's rules.[20] The LOI directed GC Telecommunications to provide certain specified documents and information. GC Telecommunications responded to the LOI on April 19, 2007.[21] In its response, GC Telecommunications does not affirmatively deny that it has failed to timely make full contributions to the USF and TRS Fund.

6. As a supplement to its initial referral, following its investigation of nine other Global Crossing subsidiaries, USAC referred additional Global Crossing subsidiaries to the Bureau for investigation for failure to fully and timely contribute to the USF.[22] On June 14, 2007, the Bureau sent a letter of inquiry to Global Crossing, expanding its investigation into whether

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[16] All carriers providing interstate telecommunications services (including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service, access, alternative access and special access, packet-switched, WATS, 800, 900, message telephone, private line, telex, telegraph, video, satellite, international, intraLATA, and resale services) must contribute to the TRS Fund on the basis of their interstate end-user telecommunications revenues. *See 1998 Biennial Regulatory Review − Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms,* Report and Order, 14 FCC Rcd 16602, 16630-34, ¶¶ 59-67; 47 C.F.R. § 64.604(c)(5)(iii).

[17] *See supra* note 10. Any entity owing money to the TRS Fund will be considered delinquent if payment is not made by the due date specified on the annual or monthly invoice. NECA notifies the Commission of all TRS delinquencies. *See* http://www.neca.org/SOURCE/NECA_RESOURCES_3430.ASP.

[18] *See* Letter from Michael J. Shortley, III, Vice President & Regional General Counsel – North America, Global Crossing North America, Inc., dated July 12, 2007 ("Supplemental LOI Response") at 2-3. *See also, e.g.*, http://fjallfoss.fcc.gov/cib/form499/499detail.cfm?FilerNum=803667; http://fjallfoss.fcc.gov/cib/form499/499detail.cfm?FilerNum=809586; http://fjallfoss.fcc.gov/cib/form499/499detail.cfm?FilerNum=808107.

[19] Letter from David Capozzi, Acting General Counsel, and Anne Marie Trew, Senior Director of Finance, Universal Service Administrative Company, to Trent Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, FCC, dated July 13, 2006 ("USAC Referral").

[20] Letter from Trent Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, FCC, to Michael J. Shortley, III, General Counsel North America, Global Crossing Telecommunications, Inc., dated Mar. 21, 2007 ("GC Telecommunications LOI" or "LOI").

[21] *See* Letter from Michael J. Shortley, III, Vice President & Regional General Counsel, Global Crossing Telecommunications, Inc., to Raelynn Tibayan-Remy, Attorney Advisor, Investigations & Hearings Division, Enforcement Bureau, FCC, dated Apr. 19, 2007 ("LOI Response").

[22] Letter from Letter from David Capozzi, Acting General Counsel, and Anne Marie Trew, Senior Director of Finance, Universal Service Administrative Company, to Raelynn Tibayan-Remy, Attorney Advisor, Investigations & Hearings Division, Enforcement Bureau, FCC, dated April 11, 2007 ("USAC Supplemental Referral") at 1.

other Global Crossing subsidiaries may have violated the Commission's rules.[23] The Supplemental LOI directed Global Crossing to provide certain specified documents and information. In its response submitted on behalf of the Global Crossing Companies, Global Crossing does not affirmatively deny that certain subsidiaries failed to timely make full contributions to the USF and TRS Fund.

7. The evidence shows a pattern of delinquency by the Global Crossing Companies. The Global Crossing Companies have repeatedly failed to make full or timely USF contributions since the reorganization of the parent company, Global Crossing North America, in December 2003.[24] Specifically, between January 2004 and March 2008, the Global Crossing Companies have failed to make full or timely USF contributions on numerous occasions, often going months without making any contribution at all.[25] The Global Crossing Companies generally have followed a pattern of payment for USF debt in which the companies skip payments in one or more months and then make large, consolidated payments just prior to USAC transferring the past due amounts to the Commission pursuant to the DCIA transfer process.[26] The Global Crossing Companies have a similar pattern of non-compliance for TRS contributions.[27] As with their USF contributions, the Global Crossing Companies have made large bulk payments to the TRS Fund for prior balances just before those outstanding fees would be transferred to the Commission pursuant to the DCIA.[28] Therefore, notwithstanding the Global Crossing Companies' frequent delinquencies in USF and TRS contributions, their pattern of making large "catch-up" payments for prior balances has effectively circumvented the procedures to facilitate collection of delinquent debt and avoided the administrative sanctions and additional charges that ordinarily result from continued delinquency and the transfer of delinquent debt.[29]

[23] Letter from Trent Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, FCC, to Michael J. Shortley, III, Vice President & Regional General Counsel - North America, Global Crossing North America, Inc., dated June 14, 2007 ("Supplemental LOI").

[24] *See* USAC Referral at 1. Global Crossing North America filed for Chapter 11 bankruptcy protection on January 28, 2002, and confirmed its plan of reorganization on December 9, 2003. *See also* http://www.secinfo.com/d14D5a.241a.htm.

[25] *See* LOI Response at Exh. 5; Supplemental LOI Response at Exh. 6. USAC has updated the payment history of all of the subject Global Crossing subsidiaries throughout the course of our investigation. At least one Global Crossing subsidiary has failed to make full or timely payments on forty-five occasions between January 2004 and March 2008. Most of these apparent violations (31) were cured more than one-year ago and, as such, are outside the statute of limitations. This information is being provided to show the Global Crossing Companies' history of non-compliance. *See* LOI Response at Exh. 5 (providing USF payment history for GC Telecommunications).

[26] *See* USAC Referral; LOI Response at Exh. 5; Supplemental LOI Response at Exh. 6. One Global Crossing Company, GC Telecommunications, recently had outstanding USF debt sent to the Commission for collection, pursuant to the DCIA transfer process.

[27] *See* LOI Response at Exh. 6; Supplemental LOI Response at Exh. 7. NECA has provided the Commission with ongoing payment history updates for all of the subject Global Crossing subsidiaries throughout the course of our investigation.

[28] *See* LOI Response at Exh. 6; Supplemental LOI Response at Exh. 7.

[29] *See supra* notes 10 and 11 (citing to DCIA procedures and implementing regulations of the Commission).

III. DISCUSSION

8. Under section 503(b)(1) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.[30] Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.[31] The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act[32] and the Commission has so interpreted the term in the section 503(b) context.[33] The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.[34] "Repeated" means that the act was committed or omitted more than once, or lasts more than one day.[35] To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.[36] The Commission will then issue forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.[37] As we set forth below, we conclude under this standard that the Global Crossing Companies are apparently liable for their apparent violations of the Act and the Commission's rules.

9. The fundamental issue in this case is whether the Global Crossing Companies apparently violated the Act and the Commission's rules by willfully or repeatedly failing to timely pay in full their required contributions towards the Universal Service and TRS Funds. We answer this question in the affirmative. Based on a preponderance of the evidence, we therefore find that the Global Crossing Companies are apparently liable for a cumulative forfeiture of $10,518,013[38] for apparently willfully or repeatedly violating sections 254(d) and 225 of the Act and sections 54.706(a) and 64.604(c)(5)(iii)(A) of the Commission's rules.[39] Specifically, we propose

[30] 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1); s*ee also* 47 U.S.C. § 503(b)(1)(D) (forfeitures for violation of 14 U.S.C. § 1464).

[31] 47 U.S.C. § 312(f)(1).

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

[33] *See, e.g., Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) ("*Southern California Broadcasting Co.*").

[34] *See, e.g., Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, ¶ 10 (2001) ("*Callais Cablevision, Inc.*") (issuing a Notice of Apparent Liability for, *inter alia*, a cable television operator's repeated signal leakage).

[35] *Southern California Broadcasting Co.,* 6 FCC Rcd at 4388, ¶ 5; *Callais Cablevision, Inc.,* 16 FCC Rcd at 1362, ¶ 9.

[36] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

[37] *See, e.g., SBC Communications, Inc*., Forfeiture Order, 17 FCC Rcd 7589, 7591, ¶ 4 (2002).

[38] *See infra* paras. 28-30 (providing individual proposed forfeitures for the subject Global Crossing Companies).

[39] 47 U.S.C. §§ 254(d), 225; 47 C.F.R. §§ 54.706(a), 64.604(c)(5)(iii)(A).

forfeitures in the amount of $9,898,722 for failure to timely pay in full USF contributions and $619,291 for failure to timely pay in full TRS Fund contributions, divided among the three Global Crossing subsidiaries listed the caption to this *NAL*.

A. Failure to Make Universal Service Fund Contributions

10. We conclude that the Global Crossing Companies have apparently violated section 254(d) of the Act and section 54.706(a) of the Commission's rules by willfully or repeatedly failing to contribute fully and timely to the universal service support mechanisms.[40] Section 54.706(a) unambiguously directs that "[e]ntities [providing] interstate telecommunications to the public … for a fee … contribute to the universal service support mechanisms."[41] "Interstate telecommunications" include, among other things, "access to interexchange service" and "resale of interstate services," such as those provided by the Global Crossing subsidiaries.[42]

11. The Global Crossing Companies have demonstrated a pattern of failing to fulfill their contribution obligations by making irregular and insufficient payments to the USF. The record is clear that between January 2004 and the date of this *NAL*, the Global Crossing Companies have failed to make timely and adequate payments to USAC on numerous occasions, with GC Telecommunications alone failing to make timely and adequate payments to USAC on forty-five occasions during the time period in question.[43] As a result of this misconduct, the Global Crossing Companies have consistently maintained large outstanding USF balances with USAC, particularly over the past two years.[44]

1. GC Telecommunications

12. GC Telecommunications provides long distance telecommunications and other services predominantly to enterprise customers**.**[45] Between February 2007 and the date of this *NAL*, GC Telecommunications failed to pay anything towards its USF obligations on six occasions; GC Telecommunications paid less than the amounts due on eight occasions during this time period.[46] The company has provided no explanation for its payment problems. During the period covered by this *NAL*, GC Telecommunications has carried an outstanding monthly USF balance as high as $9,485,968.55.[47]

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[40] 47 U.S.C. § 254(d); 47 C.F.R. § 54.706(a).

[41] 47 C.F.R. § 54.706(a).

[42] *Id*.

[43] LOI Response at Exh. 5; Supplemental LOI Response at Exh. 6. USAC's records confirm the history of noncompliance by various Global Crossing subsidiaries.

[44] *Id*.

[45] *See* Supplemental LOI Response at 2.

[46] Specifically, GC Telecommunications failed to remit any contribution towards its respective USF obligations for payments due by March 15, June 15, July 13, November 15, and December 14, 2007, and February 15, 2008. GC Telecommunications contributed less than the amounts due on February 15, April 13, May 15, August 15, September 14, and October 15, 2007, and January 15 and March 14, 2008.

[47] As of March 25, 2008, the overall outstanding USF amount owed by GC Telecommunications is $11,085,636.65, which includes delinquent debt that was transferred to the Commission on February 15 and March 14, 2008, pursuant to the DCIA transfer process. *See supra* notes 10-11, 26.

2. GC Bandwidth

13. In its response to the Supplemental LOI, Global Crossing describes GC Bandwidth as the parent company's "wholesale sales entity that provides [telecommunications] services to carriers and other wholesale entities."[48] Between February 2007 and the date of this *NAL*, GC Bandwidth failed to contribute anything towards its USF obligations on six occasions; GC Bandwidth paid less than the amounts due on eight occasions during this time period.[49] The company has provided no explanation for its payment problems. During the period covered by this *NAL*, GC Bandwidth has carried an outstanding USF monthly balance as high as $7,754,883.98.

3. Budget

14. Budget is a "small casual-company" operating as a toll reseller in various states.[50] During 2007, Budget failed to contribute anything towards its USF obligations on three occasions.[51] The company has provided no explanation for its payment problems. During the period covered by our investigation, Budget has carried an outstanding USF balance as high as $36,924.11.

15. The Global Crossing subsidiaries that are the subject of this *NAL* have current outstanding USF balances ranging between approximately $11.08 million and $7.69 million. As we previously have stated,

> [c]arrier nonpayment of universal service contributions undermines the efficiency and effectiveness of the universal service support mechanisms. Moreover, delinquent carriers may obtain a competitive advantage over carriers complying with the Act and our rules. We consider universal service nonpayment to be a serious threat to a key goal of Congress and one of the Commission's primary responsibilities.[52]

16. Based on the preponderance of the evidence, we find that each of the Global Crossing Companies has apparently violated section 254(d) of the Act and section 54.706(a) of the Commission's rules by willfully or repeatedly failing to contribute fully and timely to the USF on multiple occasions between January 2004 and March 2008. Between February 2007 and the date of this *NAL*, we find that the Global Crossing Companies are apparently liable for a total of thirty-one (31) violations,[53] which includes fifteen (15) apparent violations for failure to remit any

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[48] *See* Supplemental LOI Response at 2.

[49] Specifically, GC Bandwidth failed to remit any contribution towards its respective USF obligations for payments due by March 15, June 15, July 13, November 15, and December 14, 2007, and February 15, 2008. GC Bandwidth contributed less than the amounts due on February 15, April 13, May 15, August 15, September 14, and October 15, 2007, and January 15 and March 14, 2008.

[50] *See* Supplemental LOI Response at 2; http://fjallfoss.fcc.gov/cib/form499/499detail.cfm?FilerNum=808107.

[51] Specifically, Budget failed to remit any contribution towards its USF obligations for payments due by March 15, April 13, and June 15, 2007. Supplemental LOI Response at 2.

[52] *Globcom, Inc. d/b/a Globcom Global Communications*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893,19903, ¶ 26 (2003) ("*Globcom NAL*"), *forfeiture ordered sub. nom. Globcom, Inc.*, Order of Forfeiture, 21 FCC Rcd 4710, 4724, ¶ 37 (2006) ("*Globcom Forfeiture Order*").

[53] *See infra* para. 24. The earliest applicable statute of limitations period for this *NAL* is April 9, 2008,

contribution toward outstanding USF obligations and sixteen (16) apparent violations for contributing less than the amounts represented on invoices for payment during the time period in question.[54] Each of these violations is considered continuing until cured by full payment of each monthly obligation, as provided on the corresponding invoices.[55]

B. Failure to Make TRS Contributions

17. We also find that the Global Crossing Companies have apparently violated section 225 of the Act and section 64.604(c)(5)(iii)(A) of the Commission's rules by willfully or repeatedly failing to contribute fully and to the TRS Fund.[56] As interstate telecommunications carriers, the Global Crossing Companies were obligated to contribute to the TRS on the basis of their interstate end-user telecommunications revenues.[57] A carrier's contribution to the TRS Fund is based upon its subject revenues for the prior calendar year and a contribution factor determined

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based on USF payments received on April 9, 2007. *See e.g.*, LOI Response at Exh. 5; Supplemental LOI Response at Exh. 6.

[54] *See Globcom NAL*, 18 FCC Rcd 19893, 19900, ¶ 16 (2003) (stating that "each month that Globcom failed to make its universal service contribution constitutes a separate violation of the Commission's rules."). *See* 47 C.F.R. § 54.711(a) (providing that contribution payments will be set by Public Notice published in the Federal Register and on the FCC website). The public notices implementing this rule have required that contributions be made on the dates shown on the monthly USAC invoices. *See, e.g.* "Proposed Second Quarter 2006 Universal Service Contribution Factor," Public Notice, 21 FCC Rcd 2379 (Wireline Comp. Bur. 2006) ("Contributions are due on the dates shown on the invoice.") *See also* http://www.universalservice.org/fund-administration/contributors/paying-your-invoice/ (USAC Website advising of monthly payment requirements).

[55] *See Conquest Operator Services Corp.*, Order of Forfeiture, 14 FCC Rcd 12518, 12525, ¶ 16 (1999); *Matrix Telecom, Inc*., Notice of Apparent Liability, 15 FCC Rcd 13544 (2000); *Globcom Forfeiture Order*, 21 FCC Rcd at 4723, ¶ 35 n.105 ("Each failure to pay the amount due each month constituted a violation that continued for more than 10 days"). USAC's practice is to apply partial payments to the oldest debt carried on USAC's books first, and not the current billed amount. *See North American Telephone Network, LLC*, Forfeiture Order, 16 FCC Rcd 4838, ¶ 8 n.12 (2001); *Intellicall Operator Services*, Forfeiture Order, 15 FCC Rcd 21,771, 21772, ¶ 6 n.8. This practice was codified by the Commission in 2007. *See Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, Report and Order, 22 FCC Rcd 16372 (2007); 47 C.F.R. § 54.713(e). As of the date of this *NAL*, GC Telecommunications and GC Bandwidth have cumulative outstanding USF balances of $11,085,636.65 and $7,696,725.71 respectively. Consistent with sections 54.711 and 54.713 of the Commission's rules, we emphasize that all of the Global Crossing Companies are required to pay the outstanding USF contribution balances billed by USAC. 47 C.F.R. §§ 54.711, 54.713. We also remind the Global Crossing Companies that outstanding USF contributions are considered delinquent and that any "such delinquent amounts shall incur from the date of delinquency, and until all charges and costs are paid in full, interest at the rate equal to the U.S. prime rate . . . plus 3.5 percent, as well as administrative charges of collection and/or penalties and charges permitted by applicable law. . . ." *See* 47 C.F.R. § 54.713(b). In addition, failure to pay outstanding fees, such as USF fees, is considered to be a continuing violation. Therefore, failure to pay in full outstanding USF balances could subject the Global Crossing Companies to additional enforcement action in the future.

[56] 47 C.F.R. § 64.604(c)(5)(iii)(A).

[57] *Id*.

annually by the Commission.[58] Subject carriers must make TRS contributions on an annual basis, with certain exceptions.[59]

18. The record demonstrates that the Global Crossing Companies have repeatedly made late and insufficient payments to the TRS fund, including at least four failures within the statute of limitations period covered by this *NAL*. Specifically, GC Telecommunications failed to timely pay its 2006 and 2007 TRS assessments, and GC Telecommunications has carried an outstanding TRS balance as high as $526,207.10 during the period covered by this *NAL*. GC Bandwidth and Budget each have failed to timely pay their respective 2007 TRS assessments,[60] and each company has carried outstanding TRS balances as high as $617,058.40, and $15,315.73, respectively, during the period covered by this *NAL*. We therefore conclude that the Global Crossing Companies have apparently violated section 225 of the Act and section 64.604(c)(5)(iii)(A) of the Commission's rules by willfully or repeatedly failing to make full and timely contributions for the 2006 and 2007 TRS assessments.

C. Proposed Forfeiture Amount

19. Section 503(b)(2)(B) of the Act authorizes the Commission to assess a forfeiture of up to $130,000 for each violation or each day of a continuing violation, up to a statutory maximum of $1,325,000 for a single act or failure to act.[61] In determining the appropriate forfeiture amount, we consider the factors enumerated in section 503(b)(2)(E) of the Act, including "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."[62]

20. Based on the facts above, it appears that the Global Crossing Companies have consistently failed to make timely and full payments to the USF since January 2004, with a noticeable increase in the frequency of apparent non-compliance between May 2005 and the present. Nonpayment of universal service contributions is an egregious offense that bestows on delinquent carriers an unfair competitive advantage by shifting to compliant carriers the economic costs and burdens associated with universal service. A carrier's failure to make required universal

[58] 47 C.F.R. § 64.604(c)(5)(iii)(B).

[59] *Id*. Under the Commission's rules, each subject carrier must contribute at least $25 per year, and carriers whose annual contributions are less than $1,200 must pay the entire amount at the beginning of the contribution period. Otherwise, carriers may divide their contributions into equal monthly payments. *Id*. The billing cycle for TRS assessments runs from July 1 to June 30 of each year, with assessments made based on carriers' reported revenues information for the corresponding FCC Form 499-A.

[60] *See* LOI Response at Exh. 6; Supplemental LOI Response at Exh. 7. NECA's records confirm the history of noncompliance by the Global Crossing subsidiaries. Despite the fact that the Global Crossing Companies consistently failed to remit full and timely payments for monthly TRS invoices, we exercise our discretion in finding that the Global Crossing Companies apparently violated section 225 of the Act and section 64.604 of the Commission's rules only four times because the TRS obligation is an annual assessment which can, and was in the instant matter, divided into equal monthly payments for the 2006 and 2007 billing cycles for one Global Crossing subsidiary – GC Telecommunications. *See e.g., Globcom Forfeiture Order*, 21 FCC Rcd at 4721, ¶ 31 (assessing forfeiture based on carrier's failure to pay monthly invoices for USF and TRS).

[61] 47 U.S.C. § 503(b)(2)(B); *see also* 47 C.F.R. § 1.80(b)(2); *see also Amendment of Section 1.80(b) of the Commission's Rules,* Order, 19 FCC Rcd 10945 (2004).

[62] 47 U.S.C. § 503(b)(2)(E).

service contributions hampers realization of Congress' policy objective in section 254(d) of the Act to ensure the equitable and non-discriminatory distribution of universal service costs among all telecommunications providers.[63] The fact that the outstanding USF balance has risen as high as over $11 million for one Global Crossing subsidiary -- GC Telecommunications -- over the past two years demonstrates the potential magnitude of competitive harm when a carrier fails to fully satisfy its contribution obligations.[64]

21. The Commission has established a base forfeiture amount of $10,000 or $20,000 for each month in which a carrier has failed to fully pay required universal service contributions,[65] plus an upward adjustment based on one-half of the company's approximate unpaid contributions.[66] Although we have stated that each failure to make a full monthly payment to the USF constitutes a separate, continuing violation until the carrier pays its outstanding contributions,[67] we have not sought to propose forfeitures on that basis. Instead, we have proposed forfeitures based solely on violations that began in the previous twelve month period, rather than those violations that began earlier but continued into the limitations period. We have placed carriers on notice, however, that they face potential liability of as much as the statutory maximum for each continuing violation of our USF contribution requirements.[68] Most recently, in the *Globcom Forfeiture Order,* we warned that "if the forfeiture methodology described herein is not adequate to deter violations of our USF and TRS rules, our statutory authority permits the imposition of much larger penalties and we will not hesitate to impose them."[69] Based on the facts of this case, as well as the accumulating record of non-compliance by other carriers, we find that it is now appropriate to revisit that methodology.

22. The Commission has imposed increasingly larger forfeitures for USF violations because of the scope and scale of violations in this area.[70] Since January 1, 2006, the Commission has issued orders regarding more than $3.15 million in proposed forfeitures and voluntary contributions for the nonpayment of contributions to USF and other programs.[71] Despite that

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[63] *See* 47 U.S.C. § 254(d).

[64] *See* LOI Response at Exh. 5.

[65] *See OCMC, Inc*., Order of Forfeiture, 21 FCC Rcd 10479, 10482, ¶ 10 (2006) ("*OCMC Forfeiture Order*"); *Globcom NAL,* 18 FCC Rcd at 19903-19904, ¶¶ 25-27; *Globcom Forfeiture Order*, 21 FCC Rcd 4710 at 4721-4724, ¶ 31-38.

[66] *See*, *e.g.*, *Globcom Forfeiture Order*, 21 FCC Rcd at 4722, ¶ 33; *OCMC Forfeiture Order*, 21 FCC Rcd at 10482, ¶ 10. For similar reasons, we also apply an upward adjustment for TRS payments based on half of a company's unpaid contributions. *Globcom NAL*, 18 FCC Rcd at 19903-19904, ¶¶ 25-27.

[67] *See supra* note 55.

[68] *See, e.g., Globcom Forfeiture Order*, 21 FCC Rcd at 4723, ¶ 35 (stating under the then applicable maximum forfeiture amount "the carrier had full notice under the APA that the maximum potential forfeiture for *each* violation could be as high as $1,200,000") (emphasis in original).

[69] *Id.* at 4724, ¶ 38.

[70] *See, e.g., id.* at 4723-24, ¶¶ 36-37.

[71] *See e.g., Telus Communications, Inc.*, Order, 22 FCC Rcd 17251 (2007) (order adopting a Consent Decree in which the carrier agreed to make a voluntary contribution to the United States Treasury in the amount of $450,000); *Verizon Business Global LLC f/k/a MCI, LLC*, Order, 22 FCC Rcd 12097 (2007) (order adopting a Consent Decree in which the carrier agreed to make a voluntary contribution to the United States Treasury in the amount of $500,000); *Carrera Communication LP*, Order of Forfeiture, 22 FCC Rcd 9585 (2007) (imposing a $345,900 forfeiture for, *inter alia*, failing to make required universal service contributions); *Teletronics, Inc*., Order, 22 FCC Rcd 8681 (2007) (*Teletronics Consent Decree*) (order

aggressive enforcement, nonpayment into those programs remains a serious concern as demands on the USF have increased.[72]

23. Clearly, our previous forfeiture calculation methodology did not deter the Global Crossing Companies from attempting to exploit USAC's referral procedures, as the companies carried large outstanding USF account balances from month to month, then made "catch-up" payments just before USAC transferred the debts to the Commission.[73] Over the course of our investigation, the Global Crossing Companies have consistently maintained large outstanding USF account balances, with a cumulative, current outstanding balance of over $18.78 million. Through this pattern of noncompliance, the Global Crossing Companies have effectively circumvented the DCIA transfer process and improperly shifted its USF contribution responsibilities to other carriers, in direct contravention of section 254(d) of the Act.[74]

24. Accordingly, consistent with our previous statements that nonpayment of USF, TRS, and other contributions constitute continuing violations, and to effectively deter companies like the Global Crossing Companies from violating our rules governing payment into the USF, TRS, and other programs, our forfeiture calculations in the instant matter will reflect not only the violations that began within the last twelve months, but all violations, whenever they began, unless they were cured more than one year ago. By including such violations in our forfeiture calculations, our enforcement actions now will provide increased deterrence and better reflect the full scope of the misconduct committed. As in previous orders, we warn carriers that if the

adopting a Consent Decree in which the carrier agreed to make a voluntary contribution to the United States Treasury in the amount of $250,000); *InPhonic, Inc.*, Order of Forfeiture and Further Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 8689 (2007) (proposing a new forfeiture of $100,000 as part of the *Further Notice of Apparent Liability for Forfeiture* for apparent violations of the Act and the Commission's rules); *Intelecom Solutions, Inc*., Order, 21 FCC Rcd 14327 (2006) (order adopting a Consent Decree in which the carrier agreed to make a voluntary contribution to the United States Treasury in the amount of $150,000); *Telecom House, Inc*., Order, 21 FCC Rcd 10883 (2006) (order adopting a Consent Decree in which the carrier agreed to make a voluntary contribution to the United States Treasury in the amount of $170,000); *Communication Services Integrated, Inc.*, Order, 21 FCC Rcd 10462 (2006) (order adopting a Consent Decree in which the carrier agreed to make a voluntary contribution to the United States Treasury in the amount of $250,000); *Local Phone Services Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 9974 (2006) (proposing forfeiture of $529,000 for apparent violations of USF related requirements); *FPL FiberNet*, *LLC*, Order, 21 FCC Rcd 8530 (2006) (order adopting a Consent Decree in which the carrier agreed to make a voluntary contribution to the United States Treasury in the amount of $150,000); *Clear World Communications Corp*., Order, 21 FCC Rcd 5304 (2006) (order adopting a Consent Decree in which the carrier agreed to make a voluntary contribution to the United States Treasury in the amount of $290,000).

[72] *See, e.g., High-Cost Universal Service Support; Federal-State Joint Board on Universal Service,* WC Docket No. 05-337, CC Docket No.96-45, Notice of Proposed Rulemaking, 22 FCC Rcd 9705 (2007) (seeking comment on Federal-State Joint Board's recommendation that the Commission take immediate action regarding increasing demand for USF monies for high-cost support); Written Statement of The Honorable Kevin J. Martin, Chairman, Federal Communications Commission, Before the Committee on Commerce, Science & Transportation, U.S. Senate, February 1, 2007 at 7 (describing increasing pressure on the stability of the USF due to "[c]hanges in technology and increases in the number of carriers who are receiving universal service support").

[73] *See supra* para. 7.

[74] *See* 47 U.S.C. § 254(d) (requiring that every telecommunications contribute to the USF on an equitable and non-discriminatory basis). As previously noted, one Global Crossing company has outstanding monthly USF debt that has been transferred to the Commission for collection pursuant to the DCIA transfer process. *See supra* note 47.

forfeiture calculation methodology described here does not adequately deter violations of our rules, we will consider larger penalties within the scope of our authority, including substantially higher forfeitures and revocation of carriers' operating authority.[75]

25. Applying this methodology to the instant case, we find that the Global Crossing Companies are apparently liable for thirty-one continuing violations for failure to make timely and full monthly payments to the USF.[76] Accordingly, we propose a $20,000 base amount for each of the fifteen months in which the Global Crossing Companies failed to remit any contribution toward their outstanding USF obligations.[77] We also propose $10,000 for each of the sixteen months in which the Global Crossing Companies contributed less than the amount of their monthly obligations, as provided on the corresponding invoices.[78] Thus, we find the Global Crossing Companies apparently liable for a total base forfeiture of $460,000 for their willful and repeated failure to contribute fully and timely to the USF on thirty-one occasions between February 2007 and the date of this *NAL*. Consistent with our approach for assessing liability for apparent USF violations, and taking into account all the factors enumerated in section 503(b)(2)(E) of the Act, we also propose upward adjustments to the forfeitures proposed against each of the Global Crossing Companies, consisting of fifty percent of each of the Global Crossing subsidiaries' unpaid USF contributions.[79] This approach results in a total upward adjustment of $9,438,722 We therefore issue a total, cumulative proposed forfeiture of $9,898,722 against the Global Crossing Companies for their apparent willful and repeated failures to contribute fully and timely to the USF.[80]

26. We also find that the Global Crossing Companies have failed to make timely TRS contributions, including at least four such failures within the period covered by this *NAL*.[81] Where a carrier fails to satisfy its TRS obligations for an extended period of time, it thwarts the purpose for which Congress established section 225(b)(1) of the Act and its implementing regulations -- to ensure that telecommunications relay services "are available to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States."[82]

27. The Commission has established a base forfeiture amount of $10,000 for each instance in which a carrier fails to make required TRS contributions.[83] As in the case of our proposed base forfeiture amount for the Global Crossing Companies' apparent USF contribution violations, we propose a forfeiture amount for each instance in which a Global Crossing subsidiary

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[75] *See Globcom Forfeiture Order,* 21 FCC Rcd at 4724, ¶ 38 & n.105.

[76] *See supra* para. 16.

[77] *See supra* paras. 12-16.

[78] *Id*.

[79] *See supra* paras. 12-15.

[80] As noted previously, we could propose as much as $1,325,000 for each continuing violation. Thus, if we proposed the maximum forfeiture permitted under the Act, calculating a base forfeiture amount as provided herein, the Global Crossing Companies could face a cumulative forfeiture of more than $50.5 million (*i.e.,* $1.325 million for each of the 31 apparent violations, plus a cumulative upward adjustment of $9,438,722) for the Global Crossing Companies' failures to contribute to the USF.

[81] *See supra* para. 18.

[82] 47 U.S.C. § 225(b)(1).

[83] *See Globcom NAL,* 18 FCC Rcd at 19904, ¶ 29.

failed to fully make TRS assessments.[84] In light of the Global Crossing Companies' failure to timely pay their TRS obligations for the 2006 and 2007 funding periods, we find that the companies are apparently liable for a base forfeiture in the amount of $40,000. For the reasons discussed above regarding the Global Crossing Companies' failure to make universal service contributions and consistent with Commission precedent,[85] we find that upward adjustments in the amount of approximately one half of each of the Global Crossing companies' unpaid TRS contributions is appropriate for the Global Crossing Companies' apparent failure to make TRS contributions.[86] Taking into account the factors enumerated in section 503(b)(2)(E) of the Act, we thus conclude that a total upward adjustment of $579,291 is reasonable. Consequently, we find the Global Crossing Companies are liable for a total proposed forfeiture of $619,291 for their willful and repeated failure to satisfy its TRS obligations for the 2006 and 2007 funding periods.

IV. ORDERING CLAUSES

28. ACCORDINGLY, IT IS ORDERED THAT, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, that Global Crossing Telecommunications, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of $6,025,921.88 for willfully or repeatedly violating sections 254(d) and 225 of the Act and sections 54.706(a) and 64.604(c)(5)(iii)(A) of the Commission's rules.

29. IT IS FURTHER ORDERED THAT, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, that Global Crossing Bandwidth, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of $4,395,971.19 for willfully or repeatedly violating sections 254(d) and 225 of the Act and sections 54.706(a) and 64.604(c)(5)(iii)(A) of the Commission's rules.

30. IT IS FURTHER ORDERED THAT, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, that Budget Call Long Distance, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of $96,119.93 for willfully or repeatedly violating sections 254(d) and 225 of the Act and sections 54.706(a) and 64.604(c)(5)(iii)(A) of the Commission's rules.

31. IT IS FURTHER ORDERED THAT, pursuant to section 1.80 of the Commission's Rules,[87] within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, each of the Global Crossing Companies SHALL PAY the full amount of the proposed forfeitures or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeitures.

[84] In the instant matter, GC Telecommunications failed to make timely and complete for monthly invoices that covered the company's 2006 and 2007 TRS assessments. *See* LOI Response at Exh. 6. GC Bandwidth and Budget failed to timely pay their respective 2007 TRS invoices, which were due on July 26, 2007. Supplemental LOI Response at Exh. 7.

[85] *See supra* para. 21.

[86] *See supra* para. 18.

[87] *See* 47 C.F.R. § 1.80.

32. IT IS FURTHER ORDERED THAT the Global Crossing Companies each shall submit within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, a report supported by a sworn statement or declaration under penalty of perjury of a corporate officer setting forth in detail its plan to come into compliance with the reporting and payment obligations discussed herein. The report must be mailed to Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Suite 4-C330, Washington, D.C. 20554; e-mail address: hillary.denigro@fcc.gov.

33. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment[**s**] by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures.

34. The response, if any, to this NOTICE OF APPARENT LIABILITY must be mailed to Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554 and must include the NAL/Acct. No. referenced above. Any response should also be sent via email to Hillary.Denigro@fcc.gov.

35. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

36. IT IS FURTHER ORDERED that a copy of this NOTICE OF APPARENT LIABILITY FOR FORFEITURE shall be sent by certified mail, return receipt requested, to Michael J. Shortley, III, Vice President and Regional General Counsel – North America, Global Crossing North America, Inc., 1080 Pittsford Victor Road, Pittsford, New York 14534.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary