

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

In the Matter of)	
)	
Global Crossing North America, Inc.,)	File Nos. EB-06-IH-5039, 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

ORDER

Adopted: June 25, 2009

Released: June 25, 2009

By the Commission:

I. INTRODUCTION

1. In this Order, we adopt the attached Consent Decree between the Federal Communications Commission (“Commission”) and Global Crossing (as defined below).¹ The Consent Decree terminates an investigation and Notice of Apparent Liability for Forfeiture (“NAL”) by the Commission against Global Crossing for apparent violations of 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

2. The Commission and Global Crossing have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree, which terminates the investigation and cancels the NAL.

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.; Global Crossing Bandwidth, Inc.; and Budget Call Long Distance, Inc.

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).

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Global Crossing possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

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

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

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Matthew A. Brill, Counsel for Global Crossing North America, Inc., Global Crossing Telecommunications, Inc., Global Crossing Bandwidth, Inc., and Budget Call Long Distance, Inc., Latham & Watkins LLP, 555 Eleventh Street, NW, Washington D.C., 20004-1304.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴ 47 U.S.C. § 154(i), 503(b).

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CONSENT DECREE

Adopted: June 25, 2009

Released: June 25, 2009

By the Commission:

I. INTRODUCTION

1. The Federal Communications Commission (“Commission” or “FCC”) and Global Crossing (as defined below),¹ by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Commission’s investigations into whether Global Crossing 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

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.*

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”). For the sake of brevity, unless stated otherwise, all references to “Global Crossing” in this Consent Decree 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).

- (b) “Adopting Order” means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 12.
- (f) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (g) “Global Crossing” or “the Company” means Global Crossing North America, Inc., Global Crossing Telecommunications, Inc., Global Crossing Bandwidth, Inc., and Budget Call Long Distance, Inc. and their predecessors-in-interest and successors-in-interest, collectively.
- (h) “Investigation” means the investigation commenced by the Bureau’s Letters of Inquiry to Global Crossing dated March 21, 2007⁴ and June 14, 2007⁵ seeking to determine whether Global Crossing had violated, among other requirements, Sections 254(d) and 225 of the Communications Act of 1934, as amended,⁶ 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 and Telecommunications Relay Service Fund.⁷
- (i) “NAL” means the Notice of Apparent Liability for Forfeiture issued against Global Crossing on April 9, 2008.
- (j) “Parties” means Global Crossing and the Commission.
- (k) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

⁴ 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”).

⁵ 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”).

⁶ 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).

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

II. BACKGROUND

3. Pursuant to Section 254(d) of the Act and section 54.706 of the Commission's rules, telecommunications carriers that provide interstate telecommunications services are required to contribute to the federal Universal Service Fund ("USF"). Pursuant to Section 225 of the Act and section 64.604 of the Commission's rules, telecommunications carriers that provide interstate telecommunications services are required to contribute to the TRS fund.

4. Global Crossing is the holding company of various telecommunications companies providing service in the United States.⁸ On July 13, 2006, the Universal Service Administrative Company ("USAC") referred one of the Global Crossing subsidiaries to the Enforcement Bureau for investigation concerning alleged failures to fully and timely contribute to the universal service fund. The Bureau initiated an investigation by issuing a letter of inquiry to the Company seeking to determine whether it had violated, among other things, the requirements contained in the Act and the Commission's rules concerning payment to the universal service and TRS funds.⁹ As a supplement to its initial referral and following its investigation of nine other Global Crossing subsidiaries, USAC later referred additional Global Crossing subsidiaries to the Bureau for investigation for similar failures. The Bureau then sent a second letter of inquiry to Global Crossing on June 14, 2007, expanding its investigation into whether other Global Crossing subsidiaries had violated the same provisions of the Act and the Commission's rules.¹⁰

5. At the conclusion of the Bureau's investigation, the Commission determined that three Global Crossing subsidiaries had apparently accrued significant delinquent balances owed to the universal service fund and the TRS fund. As a result, the Commission issued a Notice of Apparent Liability proposing that Global Crossing pay a forfeiture in the amount of \$10,518,013.¹¹ The Commission calculated the proposed forfeiture in accordance with Commission precedent imposing forfeitures against carriers that failed to make sufficient contributions to the universal service fund. Consistent with that precedent, the largest component of the proposed forfeiture in the NAL related to the total amount Global Crossing owed to the universal service fund which, at the time the Commission issued the NAL, exceeded \$18,000,000. Following the release of the NAL, Global Crossing approached the Bureau and requested the Parties consider resolving the investigation in a Consent Decree. The Bureau agreed and extended the date by which Global Crossing was required to respond to the allegations contained in the NAL or pay the proposed forfeiture amount in order to permit negotiation of terms.

⁸ 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>.

⁹ 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.

¹⁰ 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.

¹¹ *Global Crossing North America, Inc., Global Crossing Telecommunications, Inc., Global Crossing Bandwidth, Inc., and Budget Call Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6110 (2008) ("NAL").

6. After the NAL, Global Crossing promptly paid the entire balance of outstanding universal service payments that were not subject to a pending appeal. Global Crossing also disputed many of the allegations contained in the NAL and proffered information in support of its arguments. For instance, the NAL alleged that Global Crossing engaged in a pattern of delinquency demonstrating an intent to circumvent the Debt Collection Improvement Act (“DCIA”) applicable to the Commission and USAC. Global Crossing has specifically denied this allegation and provided information in support of its claim that the Company did not intend to circumvent the DCIA. In addition, Global Crossing also argues the proposed forfeiture was unreasonably inflated because the NAL included amounts owed to the universal service fund that should not have been considered in the forfeiture calculation. These include a sizable portion of the universal service delinquency that was subject to a good faith appeal by the Company in which it asserted it was not required to pay approximately \$5,600,000 of the \$18,000,000 figure considered in the NAL (the “Pending USAC Appeal”). Global Crossing also asserts that the amount the NAL considered as owing to the universal service fund at the time of the NAL included approximately \$2,600,000 in current amounts due but not yet past due and therefore not properly the basis of any forfeiture calculation.

III. TERMS OF AGREEMENT

7. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Commission by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

8. **Jurisdiction.** Global Crossing agrees that the Commission has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

9. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Commission releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission Order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission Order.

10. **Admission:** Global Crossing admits that it violated Sections 254(d) and 225 of the Act and sections 54.706 and 64.604 of the Commission’s rules by failing to contribute in a timely manner to the federal Universal Service Fund and the Telecommunications Relay Service fund.

11. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Commission agrees to terminate its investigation and to cancel its NAL. In consideration for the termination of said investigation and cancellation of the NAL, Global Crossing agrees to the terms, conditions, and procedures contained herein, provided that nothing in the Consent Decree or in connection therewith shall limit Global Crossing’s ability to contest any findings of fact or conclusions of law arising from the Pending USAC Appeal or from any other audit or assessment by the Commission or the Universal Service Administrative Company. The Commission further agrees that, in the absence of new material evidence, the Commission 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 Global Crossing 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 Global Crossing with respect to Global Crossing's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier or hold Commission authorizations.

12. **Compliance Plan.** For purposes of settling the matters set forth herein, Global Crossing agrees to create within sixty (60) calendar days a comprehensive Compliance Plan to ensure the timely payment of all required contributions to the Federal Universal Service Fund, Telecommunications Relay Service Fund, and North American Numbering Plan and Local Number Portability cost recovery mechanisms, as well as payment of annual regulatory fees imposed pursuant to 47 U.S.C. § 159 (collectively, "Federal Regulatory Payments"). This plan is intended to create the internal structure and processes to prevent a recurrence of the events that led to the FCC's issuance of a NAL. The principal features of this compliance plan are set forth below.

- a. **Responsibility for and Processing of Regulatory Payments.** Global Crossing's finance department will designate two individuals ("Finance Designees") with exclusive responsibility to manage the regulatory payments through Global Crossing's accounts payable process to ensure timely and complete payment of all Federal Regulatory Payments. Each of the Finance Designees will receive specialized training to enable them to meet this responsibility (as discussed below). Federal Regulatory Payment obligations are to be processed outside of Global Crossing's existing commercial vendor management process.
- b. **Oversight Team.** Global Crossing will establish an oversight team that will bear supervisory responsibility for Global Crossing's timely payment of all required Federal Regulatory Payments. The Oversight Team will consist of the Chief Financial Officer, General Counsel, and Head of Regulatory Affairs. The Oversight Team will serve as a resource for resolving questions related to compliance with applicable rules governing Federal Regulatory Payments and act as a central point of contact for dissemination of information regarding FCC filing and payment requirements throughout the company. The Oversight Team will also oversee the development and dissemination of training materials and will monitor changes to rules governing Federal Regulatory Payments to ensure that those changes are documented and disseminated appropriately. Each month, quarter, or year, depending on the applicable fee, the Finance Designees will confirm to the Oversight Team whether timely Federal Regulatory Payments were made, including the amount and timing of such payments and whether Global Crossing owes a delinquent balance to any of the federal regulatory programs.
- c. **Compliance Manual.** Global Crossing will establish and maintain a compliance manual that will serve as a reference regarding revenue reporting and other obligations relating to the Federal Regulatory Payments. This manual will set forth a schedule of filing and payment dates associated with these programs, including the timely dissemination of financial data and other information to the individuals responsible for the preparation of Forms 499 and other forms related to Federal Regulatory Payments. The manual also will specify mandatory practices and

procedures to be followed by Global Crossing personnel in making the required payments.

- d. **Training**. Global Crossing will establish and maintain a training program for employees who are responsible for processing Federal Regulatory Payments and for employees who are responsible for the preparation and filing of FCC Forms 499 and other related revenue reporting forms. This training program will address, at a minimum, (i) the FCC's regulations governing Federal Regulatory Payments, (ii) the FCC Form 499 instructions and the application of those instructions to the services provided by Global Crossing and (iii) potential pitfalls in processing Federal Regulatory Payments. The training program will also discuss the potential ramifications of failing to comply with FCC form filing and payment requirements. Global Crossing will provide this training to all employees responsible for providing financial and other input necessary to the preparation of FCC forms as well as processing associated payments, on at least an annual basis. Global Crossing will also provide training to new employees who will be responsible for preparing FCC forms and processing associated payments before they assume such responsibilities. Global Crossing will update and enhance the foregoing training regarding FCC filing requirements and payment obligations as appropriate and necessary. In addition to the specialized training described above, all current and future employees who may come into contact with Federal Regulatory Payment procedures will be provided with general awareness training designed to ensure that any invoices, correspondence or questions related to Federal Regulatory Payments are directed to the employees who have received the specific training described above. Both types of training will (i) direct employees to promptly report all possible or suspected instances of non-compliance to a member of the Oversight Team, (ii) admonish employees as to the individual consequences of non-compliance, which will result in disciplinary action, up to and including termination of employment and (iii) advise employees of available channels for reporting non-compliance. Global Crossing will maintain records of all training.
- e. **Risk Assessment and Change Management**. The Oversight Team will be responsible for monitoring and responding to changes in Global Crossing's business that may impact this compliance plan or Global Crossing's broader procedures with respect to Federal Regulatory Payments. Examples of such changes could include the resignation or redeployment of employees who have received the specialized training described above, the acquisition of new businesses, or changes in the Commission's regulations
- f. **Continuous Improvement**. The Oversight Team will be responsible for making an annual assessment of this compliance plan and Global Crossing's broader procedures to confirm that (i) they are being implemented and respected by those officers and employees whose actions may impact the company's compliance with Commission regulations, and (ii) they are effective in ensuring timely payment of all Federal Regulatory Payments. Any shortcomings detected through these annual assessments will promptly be addressed
- g. **Compliance Reports**. Global Crossing will file compliance reports with the Commission ninety (90) days after the Effective Date and on each anniversary of the Effective Date until the Termination Date of this Compliance Plan. Annual compliance reports shall include a schedule of Federal Regulatory Payments made

during the previous year, indicating when payments were due and when they were made. Each compliance report shall include a compliance certificate from an officer, as an agent of Global Crossing, stating that the officer has personal knowledge that Global Crossing has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. All compliance reports shall be submitted to the Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554

- h. **Termination Date.** Global Crossing's obligations under this Paragraph shall expire thirty-six (36) months after the Effective Date.

13. **Voluntary Contribution.** Global Crossing agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$2,800,000 in two equal installment payments. Global Crossing will make the first payment within thirty (30) calendar days after the Effective Date of the Adopting Order and the second payment within seven (7) months after the Effective Date of the Adopting Order. The payments must be made by check or similar instrument, payable to the Order of the Federal Communications Commission. The payments must include the Account Number and FRN Number referenced in the caption to the Adopting Order. 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 by wire transfer may be made to ABA Number 021030004, receiving bank Federal Reserve Bank of New York, and account number 27000001. Global Crossing will also send electronic notification to trent.harkrader@fcc.gov within forty-eight (48) hours of the date said payments are made.

14. **Waivers.** Global Crossing waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Commission issues the Adopting Order adopting the Consent Decree without change, addition, modification, or deletion. Global Crossing shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Global Crossing nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Global Crossing shall waive any statutory right to a trial *de novo*. Global Crossing 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.

15. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Adopting Order (except an Order specifically intended to revise the terms of this Consent Decree to which Global Crossing does not expressly consent) that provision will be superseded by such Commission rule or Order.

16. **Successors and Assigns.** Global Crossing agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

17. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties.

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

19. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

20. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

21. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Marlene H. Dortch
Secretary
Federal Communications Commission

Date

John B. McShane
Executive Vice President and General Counsel
Global Crossing

Date