

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

In the Matter of	)	File No. EB-09-IH-1219
	)	
NTS Communications, Inc.	)	NAL/Acct. No. 201032080024
	)	
Apparent Liability for Forfeiture	)	FRN No. 0004266938
	)	
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: May 4, 2010**

**Released: May 6, 2010**

By the Commission:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find that NTS Communications, Inc. (“NTS”), apparently violated section 254(d) of the Communications Act of 1934, as amended (the “Act”),<sup>1</sup> and section 54.706(a) of the Commission’s rules,<sup>2</sup> by willfully or repeatedly failing to contribute fully and timely to the Universal Service Fund (“USF”). Based on our review of the facts and circumstances surrounding this matter, and for the reasons discussed below, we find that NTS is apparently liable for a total forfeiture of \$284,250. We find this significant forfeiture is warranted based on NTS’s repeated failures to satisfy its obligations to the USF, spanning well over a year and amounting to a delinquency of more than \$248,000 to the Fund.

2. We order NTS 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 its plan to come into compliance with the payment obligations discussed herein.

**II. BACKGROUND**

3. The Act codifies Congress’s historic commitment to promote universal service to ensure that consumers in all regions of the nation have access to affordable, quality telecommunications services. 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.”<sup>3</sup> In implementing this Congressional mandate, the Commission directed all telecommunications carriers providing interstate telecommunications services and certain other providers of interstate telecommunications to register with the Commission,

<sup>1</sup> 47 U.S.C. § 254(d).

<sup>2</sup> 47 C.F.R. §§ 54.706(a).

<sup>3</sup> 47 U.S.C. § 254(d).

comply with annual and quarterly filing requirements, and contribute to the universal service fund based upon their interstate and international end-user telecommunications revenues.<sup>4</sup> The Universal Service Administrative Company (“USAC”) currently administers the USF.<sup>5</sup> USAC uses the revenue projections submitted on the quarterly filings to determine each carrier’s monthly universal service contribution amount, and bills them accordingly each month.<sup>6</sup> Consistent with the Debt Collection Improvement Act of 1996 (“DCIA”),<sup>7</sup> USF contributions that have become over 90 days delinquent are transferred to the Commission for further action to collect the outstanding debt.<sup>8</sup> Failure by some providers to pay their share into the USF skews the playing field by giving them an economic advantage over their competitors, who must then shoulder more than their fair share of the costs of universal service.

4. The Commission has established specific procedures for the administration of the USF and other associated federal regulatory programs. Pursuant to section 54.711(a) of the Commission’s rules, a carrier is required to file FCC Form 499-A, also known as the annual Telecommunications Reporting Worksheet (“annual Worksheet” or “Form 499-A”),<sup>9</sup> for the purpose of determining its USF, Telecommunications Relay Services Fund (“TRS Fund”), Local Number Portability (“LNP”), and North American Numbering Plan (“NANP”) administration and regulatory fee payments, and, with certain exceptions, to file Quarterly Telecommunications Reporting Worksheets (“quarterly Worksheet” or “Form 499-Q”) to determine its monthly universal service contribution amounts.<sup>10</sup> These periodic filings trigger a determination of liability, if any, and subsequent billing and collection by the entities that

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<sup>4</sup> 47 C.F.R. §§ 54.706(b), 54.711, 64.1195. *See also* 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.”). Contributions are based on a contributor’s projected revenues, and individual universal service contribution amounts that are based upon quarterly filings are subject to an annual true-up. *Id.*; 47 C.F.R. § 54.709(b).

<sup>5</sup> 47 C.F.R. § 54.701(a).

<sup>6</sup> *See* 47 C.F.R. § 54.709.

<sup>7</sup> *See* Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996). Pursuant to the “red light rule,” the Commission withholds action on applications or other requests for benefits by delinquent debtors and ultimately dismisses such applications or other requests if the delinquency is not resolved. *See* 47 C.F.R. § 1.1910.

<sup>8</sup> 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).

<sup>9</sup> *See FCC Form 499-A Telecommunications Reporting Worksheet – Annual Filing*, <http://www.fcc.gov/Forms/Form499-A/499a-2009.pdf> (February 2009) (“Annual Worksheet”).

<sup>10</sup> *See Federal-State Joint Board on Universal Service, Petition for Reconsideration filed by AT&T*, Report and Order and Order on Reconsideration, 16 FCC Rcd 5748 (2001) (“*Quarterly Reporting Order*”). Carriers report their revenues for the prior quarter by the beginning of the second month in each quarter (*i.e.*, February 1, May 1, August 1, and November 1). *See Quarterly Reporting Order*, 16 FCC Rcd at 5755, ¶ 19 & n.32. *See also FCC Form 499-Q Telecommunications Reporting Worksheet – Quarterly Filing for Universal Service Contributors*, <http://www.fcc.gov/Forms/Form499-Q/499q.pdf> (April 2009) (“*Quarterly Worksheet*”).

administer the regulatory programs.<sup>11</sup> Carriers must timely pay their contribution invoices,<sup>12</sup> and the Commission's rules explicitly warn contributors that failure to file forms or submit payments potentially subjects them to enforcement action.<sup>13</sup>

5. NTS is a Texas-based company that has provided telecommunications services since 1981.<sup>14</sup> Through subsidiaries, NTS provides facilities-based and resold long distance, private line, frame relay, ATM, and toll-free telecommunications services.<sup>15</sup> NTS is owned by Xfone, Inc.<sup>16</sup>

6. In July 2009, USAC referred NTS to the Enforcement Bureau (the "Bureau") for potential enforcement action, alleging that NTS had failed to comply with the Commission's USF contribution rules. The Bureau initiated an investigation against NTS on July 31, 2009, issuing a letter of inquiry ("LOI") to NTS seeking information about its compliance with USF and other related regulatory obligations.<sup>17</sup> NTS's LOI Response indicates that it failed to pay certain USAC invoices in full and on time.<sup>18</sup> Specifically, NTS failed on two occasions to pay any contribution toward its outstanding USF obligations, and it made only partial payments toward its USF obligations on twelve additional occasions.

### III. DISCUSSION

7. 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.<sup>19</sup> Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act,

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<sup>11</sup> See 47 C.F.R. § 54.709.

<sup>12</sup> See 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."); "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 of . . . the monthly invoice provided by the Administrator, the payment is delinquent."). *Id.* The Act and our rules, however, do not condition payment on receipt of an invoice or other notice from USAC or other fund administrator. See 47 U.S.C. § 254(d); 47 C.F.R. §§ 54.706(b) and 64.604(c)(5)(iii)(A). A carrier that does not file may not receive an invoice from USAC, but is nonetheless required to contribute to the USF, unless its revenues are considered *de minimis*. See *Globcom, Inc.*, Notice of Apparent Liability, 18 FCC Rcd 19890, 19896, ¶ 5, n.22 (2003) ("*Globcom NAL*") (subsequent history omitted). The instructions for the Worksheet include tables for carriers to determine their annual contributions. Providers whose annual contribution is less than \$10,000 are considered *de minimis* and exempted from contributing to the USF. 47 C.F.R. § 54.708.

<sup>13</sup> See 47 C.F.R. § 54.713.

<sup>14</sup> See *Response of NTS Communications, Inc. to the Enforcement Bureau's July 31, 2009 Letter of Inquiry*, dated August 31, 2009, at response to Questions 1 and 2 ("LOI Response").

<sup>15</sup> *Id.* at response to Question 4(b).

<sup>16</sup> *Id.* at response to Question 4(c).

<sup>17</sup> Letter from Trent B. Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, FCC, to Barbara Baldwin, Chief Executive Officer, NTS Communications, Inc., dated July 31, 2009 ("LOI").

<sup>18</sup> See *LOI Response* at response to Question 9.

<sup>19</sup> 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1); see also 47 U.S.C. § 503(b)(1)(D) (forfeitures for violation of 14 U.S.C. § 1464).

irrespective of any intent to violate” the law.<sup>20</sup> 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,<sup>21</sup> and the Commission has so interpreted the term in the section 503(b) context.<sup>22</sup> The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.<sup>23</sup> “Repeated” means that the act was committed or omitted more than once, or lasts more than one day.<sup>24</sup> 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.<sup>25</sup> The Commission will then issue a forfeiture if it finds, based on the evidence, that the person has violated the Act or a Commission rule.<sup>26</sup> As set forth below, we conclude that NTS is apparently liable for forfeiture for its apparent willful and repeated violations of section 254(d) of the Act<sup>27</sup> and section 54.706(a) of the Commission’s rules.<sup>28</sup>

8. The fundamental issue in this case is whether NTS apparently violated the Act and the Commission’s rules by willfully or repeatedly failing to make required contributions to the USF. We answer this question in the affirmative. Based on the facts and circumstances before us, we therefore conclude that NTS is apparently liable for a forfeiture of \$284,250.

#### **A. NTS Apparently Failed To Make Full and Timely Universal Service Fund Contributions**

9. We conclude that NTS has apparently violated section 254(d) of the Act and section 54.706 of the Commission’s rules by willfully and repeatedly failing to contribute fully and timely to the universal service support mechanisms.<sup>29</sup> Section 54.706(a) of the Commission’s rules unambiguously directs that “entities [providing] interstate telecommunications to the public . . . for a fee . . . contribute to the universal service support mechanisms.”<sup>30</sup> “Interstate telecommunications” include, among other things, “private line service,” “toll-free service,” and “resale of interstate services” such as those provided by NTS.<sup>31</sup> NTS acknowledges that it was required to make USF contributions at all relevant times.<sup>32</sup>

<sup>20</sup> 47 U.S.C. § 312(f)(1).

<sup>21</sup> H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982).

<sup>22</sup> 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.*”).

<sup>23</sup> 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*”) (issuing a Notice of Apparent Liability for, *inter alia*, a cable television operator’s repeated signal leakage).

<sup>24</sup> *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388, ¶ 5; *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, ¶ 9.

<sup>25</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

<sup>26</sup> See, e.g., *SBC Communications, Inc., Apparent Liability for Forfeiture*, Forfeiture Order, 17 FCC Rcd 7589, 7591, ¶ 4 (2002) (forfeiture paid).

<sup>27</sup> 47 U.S.C. § 254(d).

<sup>28</sup> 47 C.F.R. §§ 54.706(a).

<sup>29</sup> 47 U.S.C. § 254(d); 47 C.F.R. § 54.706(a).

<sup>30</sup> 47 C.F.R. § 54.706(a).

<sup>31</sup> *Id.*

<sup>32</sup> See *LOI Response* at response to Question 9 and pp. 8-9.

10. NTS failed to make any payment on its USF invoice for the payment due in February 2009, made only partial payments toward its outstanding balance from March to November 2009, then failed to make any payment toward its balance in December 2009. NTS resumed making partial payments toward its outstanding balance in January 2010. NTS claims it was not able to make full payments to the USF because of financial difficulties. We do not credit this argument. During the same period of time, the company continued to collect USF surcharges from its customers and it continued to receive disbursement credits from the USF.<sup>33</sup> As a result of its failures to pay, NTS has maintained large outstanding USF balances with USAC since early 2009,<sup>34</sup> and as of March 22, 2010, had a past due balance of more than \$248,000. NTS does not dispute that it is obligated to pay the invoiced amounts or that it has failed to pay the full balance due to the USF.<sup>35</sup> Based on the record developed in our investigation, we find that NTS has apparently violated section 254(d) of the Act and section 54.706 of the Commission's rules by willfully and repeatedly failing to contribute fully and timely to the USF since February 2009.

### B. Proposed Forfeiture Amount

11. Section 503(b)(1) of the Act provides that any person who willfully or repeatedly fails 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.<sup>36</sup> Section 503(b)(2)(B) of the Act authorizes the Commission to assess a forfeiture of up to \$150,000 for each violation or each day of a continuing violation, up to a statutory maximum of \$1,500,000 for a single act or failure to act.<sup>37</sup> 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," as well as our forfeiture guidelines.<sup>38</sup>

<sup>33</sup> *LOI Response* at Exhibit E, Response to Item No. 9.

<sup>34</sup> The violations continued with each subsequent day on which NTS failed to make full payment. *See Globcom, Inc.*, Order of Forfeiture, 21 FCC Rcd 4710, 4723, ¶ 35 n.105 (2006) ("*Globcom Forfeiture Order*") ("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 4836, 4838, ¶ 8 n.12 (2001); *Intellicall Operator Services*, Forfeiture Order, 15 FCC Rcd 21771, 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, 16380-81, ¶ 16 (2007); 47 C.F.R. § 54.713(e). Each violation is considered continuing until cured by full payment of each monthly obligation, as provided on the corresponding invoices. *See Telrite Corp.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7231, 7238-39, ¶ 15 (2008) ("*Telrite NAL*"); *Compass Global, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6125, 6140, ¶ 33 (2008) ("*Compass Global NAL*"); *Global Crossing North America, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6110, 6122, ¶¶ 25-27 (2008) ("*Global Crossing NAL*"); *VCI Company*, Notice of Apparent Liability for Forfeiture and Order, 22 FCC Rcd 15933, 15940, ¶ 24 & n.69 (2007) ("*VCI NAL*"); *Matrix Telecom, Inc.*, Notice of Apparent Liability, 15 FCC Rcd 13544 (2000); *Conquest Operator Services Corp.*, Order of Forfeiture, 14 FCC Rcd 12518, 12525, ¶ 16 (1999).

<sup>35</sup> *See LOI Response* at response to Question 9.

<sup>36</sup> 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(2).

<sup>37</sup> 47 U.S.C. § 503(b)(2)(B); *see also* 47 C.F.R. § 1.80(b)(2); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 15 FCC Rcd 18221 (2000).

<sup>38</sup> 47 C.F.R. § 1.80(b)(4), Note, Guidelines for Assessing Forfeitures.

12. We find that NTS failed to make payments to the USF in February and December 2009, and it made only partial payments on a total of twelve occasions – between March and November 2009 and between January and March 2010.<sup>39</sup> Nonpayment of universal service contributions is an egregious offense. It not only deprives the USF of resources necessary to preserve and advance universal service, but it also bestows on delinquent entities an unfair competitive advantage by shifting to compliant contributors the economic costs and burdens associated with universal service. An entity's failure to make required universal service contributions frustrates Congress's 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.<sup>40</sup> The Commission has established a base forfeiture amount of \$10,000 for each month in which a contributor has failed to fully pay required universal service contributions and \$20,000 for each month in which a contributor has failed to make any required universal service contribution,<sup>41</sup> plus an upward adjustment based on one-half of the company's approximate unpaid contributions.<sup>42</sup> In addition, the Commission has treated failures to pay universal service and other obligations as continuing violations.<sup>43</sup> Our forfeiture calculation therefore reflects not only violations that began within the last twelve months, but all violations, unless they were cured more than one year ago.

13. As a result, we find that NTS is apparently liable for willfully and repeatedly failing to contribute fully and timely to the USF on a total of fourteen occasions between February 2009 and March 2010. Accordingly, we assess a \$20,000 forfeiture for each of the two months in which NTS failed to remit any contribution toward its outstanding USF obligation.<sup>44</sup> We also assess \$10,000 for each of the twelve months in which NTS contributed less than the amount of its monthly obligation, as provided on the corresponding invoices.<sup>45</sup> Thus, we find NTS apparently liable for a base forfeiture of \$160,000 for its willful and repeated failures to contribute fully and timely to the USF on fourteen occasions between February 2009 and the date of this *NAL*. Moreover, 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 add an upward adjustment of \$124,250, approximately one-half of the largest amount of NTS's unpaid USF contributions due to USAC and the FCC during the period at issue,<sup>46</sup> to the base forfeiture. We therefore find NTS apparently liable for a forfeiture of \$284,250 for its apparent willful or repeated failures to contribute fully and timely to the USF.

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<sup>39</sup> See *supra* para. 10.

<sup>40</sup> See 47 U.S.C. § 254(d).

<sup>41</sup> See *OCMC, Inc.*, Order of Forfeiture, 21 FCC Rcd 10479, 10482, ¶ 10 (2006) (“*OCMC Forfeiture Order*”); *Globcom NAL*, 18 FCC Rcd at 19903-04, ¶¶ 25-27; *Globcom Forfeiture Order*, 21 FCC Rcd at 4721-24, ¶¶ 31-38.

<sup>42</sup> See, e.g., *Globcom Forfeiture Order*, 21 FCC Rcd at 4722, ¶ 33; *OCMC Forfeiture Order*, 21 FCC Rcd at 10482, ¶ 10.

<sup>43</sup> See, e.g. *Global Crossing NAL*, 23 FCC Rcd at 6120-21, ¶¶ 21-24 (proposing \$10,518,013 forfeiture for, *inter alia*, the apparent failure to make required universal service contributions); *Telrite NAL*, 23 FCC Rcd at 7245-46, ¶ 36 (proposing \$924,212 forfeiture for, *inter alia*, the apparent failure to make required universal service contributions); *Compass Global NAL*, 23 FCC Rcd at 6140-42, ¶¶ 34-38 (proposing \$828,613.44 forfeiture for, *inter alia*, the apparent failure to make required universal service contributions).

<sup>44</sup> These months consist of February 2009 and December 2009. See *supra* para. 10.

<sup>45</sup> These months consist of March to November 2009 and January to March 2010. See *supra* para. 10.

<sup>46</sup> See *supra* para. 10.



#### IV. CONCLUSION

14. In light of the seriousness, duration and scope of the apparent violations, we propose a forfeiture in the amount of \$284,250 for NTS's failure to pay its USF obligations.<sup>47</sup> We caution that additional violations of the Act or the Commission's rules could subject NTS to further enforcement action. Such action could take the form of higher monetary forfeitures and/or possible revocation of NTS's operating authority, including disqualification of NTS's principals from the provision of any interstate common carrier services without the prior consent of the Commission.<sup>48</sup>

#### V. ORDERING CLAUSES

15. 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 NTS Communications, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of \$284,250 for willfully and repeatedly violating the Act and the Commission's rules.

16. IT IS FURTHER ORDERED THAT, pursuant to section 1.80 of the Commission's Rules,<sup>49</sup> within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, NTS SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

17. IT IS FURTHER ORDERED THAT NTS 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 12<sup>th</sup> Street, S.W., Suite 4-C330, Washington, D.C. 20554. NTS shall also transmit a copy of the report via email to [hillary.denigro@fcc.gov](mailto:hillary.denigro@fcc.gov).

18. 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/Acct. No. and FRN No. 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. Payments by wire transfer may be made to ABA Number 021030004, receiving bank Federal Reserve Bank of New York, 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

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<sup>47</sup> NTS continues to have an unpaid outstanding balance due to USAC. We note that payment of the forfeiture proposed in this *NAL* does not absolve NTS of its obligation to pay its delinquent balance due to the USF. As discussed *supra* at note 8, debt collection procedures may include further administrative efforts both by the Commission and by 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.

<sup>48</sup> See *Business Options, Inc.*, Consent Decree, 19 FCC Rcd 2916 (2003); *NOS Communications, Inc., Affinity Network Incorporated and NOSVA Limited Partnership*, Consent Decree, 2003 WL 22439710 (2003).

<sup>49</sup> See 47 C.F.R. § 1.1914.

number 24A (payment type code). NTS will also send electronic notification within forty-eight (48) hours of the date said payment is made to chin.yoo@fcc.gov.

19. 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 12<sup>th</sup> Street, S.W., Room 4-C330, Washington, D.C. 20554 and must include the NAL/Acct. No. referenced above.

20. 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.

21. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. For answers to questions, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov.<sup>50</sup>

22. 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 NTS Communications, Inc., Barbara Baldwin, Chief Executive Officer, 5307 W. Loop 289, Lubbock, TX 79414.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>50</sup> See *id.*