

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

In the Matter of)	
)	File No.: EB-05-IH-2348
)	
Telrite Corporation)	Acct. No.: 200832080084
)	
)	FRN: 0007-9604-20
)	

ORDER

Adopted: April 18, 2012

Released: April 18, 2012

By the Commission:

1. In this Order, we adopt the attached Consent Decree between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and Telrite Corporation (Telrite). The Consent Decree terminates an investigation and Notice of Apparent Liability for Forfeiture (NAL) by the Commission against Telrite for possible violations of Sections 9(a)(1), 225(b)(1), 251(e)(2), and 254(d) of the Communications Act of 1934, as amended (Act),¹ and Sections 1.1154, 1.1157(b)(1), 52.17(a), 52.17(b), 52.32(a), 52.32(b), 54.706, 54.711, 64.604(c)(5)(iii)(A), and 64.604(c)(5)(iii)(B) of the Commission's rules² concerning the payment of annual regulatory fees; contributions to the Universal Service Fund and Telecommunications Relay Services Fund; contributions to cost-recovery mechanisms for North American Numbering Plan and Local Number Portability administration; and the submission of information as set forth on the Telecommunications Reporting Worksheets (*i.e.*, FCC Forms 499-A and 499-Q).

2. A copy of the Consent Decree negotiated by the Commission and Telrite is attached hereto and incorporated herein 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 and terminating the investigation.

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 Telrite possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

¹ 47 U.S.C. §§ 159(a)(1), 225(b)(1), 251(e)(2), 254(d).

² 47 C.F.R. §§ 1.1154, 1.1157(b)(1), 52.17(a), 52.17(b), 52.32(a), 52.32(b), 54.706, 54.711, 64.604(c)(5)(iii)(A), 64.604(c)(5)(iii)(B).

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Act,³ and Sections 0.111 and 0.311 of the rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

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 David H. Solomon, Wilkinson Barker Knauer, LLP, 2300 N Street, N.W., Suite 700, Washington, DC 20037.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief
Enforcement Bureau
Federal Communications Commission

³ 47 U.S.C. §§ 154(i), 503(b).

⁴ 47 C.F.R. §§ 0.111, 0.311.

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CONSENT DECREE

1. The Federal Communications Commission and Telrite Corporation, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Commission's investigation into whether Telrite violated Sections 9(a)(1), 225(b)(1), 251(e)(2), and 254(d) of the Communications Act of 1934, as amended,⁵ and Sections 1.1154, 1.1157(b)(1), 52.17(a), 52.17(b), 52.32(a), 52.32(b), 54.706, 54.711, 64.604(c)(5)(iii)(A), and 64.604(c)(5)(iii)(B) of the Commission's rules,⁶ concerning the following issues: (1) the submission of information as set forth on the Telecommunications Reporting Worksheets (*i.e.*, FCC Forms 499-A and 499-Q); (2) contributions to the Universal Service Fund and Telecommunications Relay Services Fund; (3) contributions to the cost-recovery mechanisms for North American Numbering Plan and Local Number Portability administration; and (4) payment of annual regulatory fees.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) "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) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Telrite is subject by virtue of its business activities.
 - (f) "Compliance Plan" means the plan described in this Consent Decree at paragraph 14.
 - (g) "Covered Employees" means all employees and agents of Telrite who perform, or supervise, oversee, or manage the performance of, duties that relate to Telrite's

⁵ 47 U.S.C. §§ 159(a)(1), 225(b)(1), 251(e)(2), 254(d).

⁶ 47 C.F.R. §§ 1.1154, 1.1157(b)(1), 52.17(a), 52.17(b), 52.32(a), 52.32(b), 54.706, 54.711, 64.604(c)(5)(iii)(A), 64.604(c)(5)(iii)(B).

responsibilities under the Communications Laws, including the Federal Regulatory Reporting and Contribution Rules.

- (h) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (i) “Federal Regulatory Reporting and Contribution Rules” means Sections 9, 225, 251(e)(2), and 254(d) of the Act,⁷ Sections 1.1154, 1.1157, 52.17, 52.32, 54.706, 54.711, and 64.604 of the Rules,⁸ and other provisions of the Act, the Rules, and Commission orders governing related federal regulatory reporting and contribution obligations.
- (j) “Investigation” means the investigation commenced by the Bureau’s Letters of Inquiry to Telrite dated December 15, 2005,⁹ June 9, 2006,¹⁰ and November 8, 2006,¹¹ seeking to determine whether Telrite had violated, among other requirements, Sections 54.706 and 54.711 of the Commission’s rules by failing to fulfill the USF reporting and contribution obligations applicable to telecommunications carriers.¹²
- (k) “LNP” means Local Number Portability.
- (l) “NANP” means the North American Numbering Plan.
- (m) “Parties” means Telrite Corporation and the Commission, each of which is a “Party.”
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Federal Regulations.
- (o) “Telrite” or “the Company” means Telrite Corporation and its predecessors-in-interest and successors-in-interest.
- (p) “TRS” means Telecommunications Relay Services.
- (q) “USF” means the Universal Service Fund.

⁷ 47 U.S.C. §§ 159, 225, 251(e)(2), 254(d).

⁸ 47 C.F.R. §§ 1.1154, 1.1157, 52.17, 52.32, 54.706, 54.711, 64.604.

⁹ Letter from Hillary S. DeNigro, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, FCC, to Telrite Corporation (Dec. 15, 2005) (Initial LOI).

¹⁰ Letter from Hillary S. DeNigro, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, FCC, to Michael Geoffroy, Corporate Counsel, Telrite Corporation (June 9, 2006) (Second LOI).

¹¹ Letter from Trent Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, FCC, to Michael Geoffroy, Corporate Counsel, Telrite Corporation (November 8, 2006) (Third LOI).

¹² 47 C.F.R. §§ 54.706 and 54.711.

II. BACKGROUND

A. Federal Regulatory Reporting and Contribution Obligations

3. Pursuant to Section 254(d) of the Act and Sections 54.706 and 54.711 of the Rules, telecommunications service providers that provide interstate telecommunications services are required to file annual and quarterly Telecommunications Reporting Worksheets (FCC Form 499-A and FCC Form 499-Q) and contribute to the federal USF.¹³

4. Pursuant to Section 225(b)(1) of the Act and Section 64.604 of the Rules, providers of interstate telecommunications services are required to contribute to the TRS Fund.¹⁴

5. Pursuant to Section 251(e) of the Act and Sections 52.17 and 52.32 of the Rules, telecommunications service providers are required to contribute to the costs of establishing numbering administration and local number portability.¹⁵

6. Pursuant to Section 9(a)(1) of the Act and Sections 1.1154 and 1.1157 of the Rules, interstate telecommunications carriers are required to pay regulatory fees.¹⁶

B. Investigation

7. Telrite is a Georgia-based toll reseller providing interstate and information services to residential and business customers nationwide, and is subject to the requirements discussed in paragraphs 3 through 6, above. Following Telrite's purchase of Onestar Long Distance, Inc. in 2004, the Universal Service Administrative Company (USAC) referred Telrite to the Bureau for potential enforcement action, alleging that Telrite had failed to comply with the Commission's USF contribution and reporting rules. The Bureau issued Letters of Inquiry to Telrite dated December 15, 2005,¹⁷ June 9, 2006,¹⁸ and November 8, 2006,¹⁹ seeking information about Telrite's compliance with its regulatory obligations. Telrite submitted responses to the Bureau's inquiries, and on July 10, 2006, Telrite admitted that it had failed to accurately report revenue data on its annual Form 499-A filed in March 2006.²⁰

8. On April 17, 2008, the Commission released a Notice of Apparent Liability for Forfeiture & Order finding Telrite apparently liable for a forfeiture of \$924,212.²¹ Telrite filed a Statement Seeking Reduction of Proposed Forfeiture on June 2, 2008.²²

¹³ See 47 U.S.C. § 254(d); 47 C.F.R. §§ 54.706, 54.711.

¹⁴ See 47 U.S.C. § 225(b)(1); 47 C.F.R. § 64.604.

¹⁵ See 47 U.S.C. § 251(e); 47 C.F.R. §§ 52.17, 52.32.

¹⁶ See 47 U.S.C. § 159(a)(1); 47 C.F.R. §§ 1.1154, 1.1157.

¹⁷ See Initial LOI, n.5, *supra*.

¹⁸ See Second LOI, n.6, *supra*.

¹⁹ See Third LOI, n.7, *supra*.

²⁰ Letter from Michael G. Geoffroy, Corporate Counsel, Telrite Corporation, to Christopher Shields, Enforcement Bureau, Federal Communications Commission (July 10, 2006).

²¹ Telrite Corporation, *Notice of Apparent Liability for Forfeiture and Order*, 23 FCC Rcd 7231(2008) (NAL).

²² Telrite Corporation's Statement Seeking Reduction of Proposed Forfeiture (June 2, 2008).

9. As of the Effective Date, Telrite has paid all invoiced amounts to the USF, TRS Fund, cost recovery mechanisms for NANP and LNP administration, and regulatory fees, as discussed above.

III. TERMS OF AGREEMENT

10. **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.

11. **Jurisdiction.** Telrite 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.

12. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. 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.

13. **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. In consideration for the termination of said Investigation, Telrite agrees to the terms, conditions, and procedures contained herein. 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, 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 Telrite concerning the matters that were the subjects of the Investigation. The Commission also agrees that it will not use the facts developed in this Investigation through the Effective Date, 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 Telrite with respect to Telrite's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission authorizations.

14. **Compliance Plan.** For purposes of settling the matters set forth herein, Telrite agrees to develop and implement a Compliance Plan to help ensure future compliance with the Communications Laws, including the Federal Regulatory Reporting and Contribution Rules, and with the terms and conditions of this Consent Decree. The Compliance Plan must include, without limitation, the following components:

- (a) **Compliance Officer.** Within thirty (30) calendar days of the Effective Date, Telrite will designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Telrite complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Law necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Federal Regulatory Reporting and Contribution Rules.
- (b) **Compliance Manual.** Within sixty (60) calendar days of the Effective Date, the Compliance Officer will develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain Communications Laws that apply to Telrite and the Federal Regulatory Reporting and Contribution Rules, including (i)

the payment of annual regulatory fees; (ii) contributions to the USF and TRS Fund; (iii) contributions to cost-recovery mechanisms for NANP and LNP administration; and (iv) the submission of information as set forth on the Telecommunications Reporting Worksheets. The Compliance Manual will also set forth a schedule of filing and payment dates associated with these regulatory reporting and contribution obligations. Telrite will create compliance notifications that alert Telrite personnel to upcoming filing and payment dates. The Compliance Manual will require personnel to contact Telrite's Compliance Officer, and if appropriate, regulatory legal counsel, with any questions or concerns that arise with respect to Telrite's federal regulatory reporting and contribution obligations. Telrite shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Telrite shall distribute any revisions to the Compliance Manual promptly to Covered Employees.

- (c) **Compliance Training Program.** Telrite shall establish and conduct a training program on compliance with the Federal Regulatory Reporting and Contribution Rules and other Communications Laws. As part of the Compliance Training Program, Covered Employees shall be advised of Telrite's obligation to report any noncompliance with the Regulatory Reporting and Contribution Rules under paragraph 15 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Telrite shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

15. **Reporting Noncompliance.** Telrite shall report any noncompliance with the Federal Regulatory Reporting and Contribution Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that Telrite has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Telrite has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W. Washington, D.C. 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov and to Mindy Littell at Mindy.Littell@fcc.gov. The reporting obligations set forth in this paragraph 15 of the Consent Decree shall expire thirty-six (36) months after the Effective Date.

16. **Compliance Reports.** Telrite shall file compliance reports with the commission ninety (90) calendar days after the effective date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each compliance report shall include a detailed description of Telrite's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Federal Regulatory Reporting and Contribution Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Telrite, stating that the Compliance Officer has personal knowledge that Telrite (i) has established and implemented the Compliance Plan and (ii) is not aware of any instances of noncompliance with the terms and conditions of

this Consent Decree, including the reporting obligations set forth in paragraph 15 of this Consent Decree.

- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules²³ and be subscribed to as true under penalty of perjury in substantially the form set forth in Section 1.16.
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Telrite, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that Telrite has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Telrite has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) 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, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov and to Mindy Littell at Mindy.Littell@fcc.gov.
- (e) **Termination Date.** Unless state otherwise, the requirements of this Compliance Plan shall expire thirty-six (36) months after the Effective Date.

17. **Section 208 Complaints: Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act²⁴ against Telrite or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Telrite with the Communications Laws.

18. **Voluntary Contribution.** Telrite agrees that it will make a voluntary contribution to the United States Treasury in the amount of five hundred and twenty-five thousand dollars (\$525,000). The contribution will be made within thirty (30) calendar days after the Effective Date of the Adopting Order. The payment 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. An FCC Form 159 (Remittance Advice) must be submitted with the payment. 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). Telrite will also send electronic notification to Theresa Z. Cavanaugh at

²³ 47 C.F.R. § 1.16.

²⁴ See 47 U.S.C. § 208.

Terry.Cavanaugh@fcc.gov, Pamela S. Kane at Pamela.Kane@fcc.gov, and Mindy Littell at Mindy.Littell@fcc.gov on the date said payment is made.

19. **Waivers.** Telrite 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. Telrite 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 Telrite nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Telrite shall waive any statutory right to a trial *de novo*. Telrite hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act,²⁵ relating to the matters addressed in this Consent Decree.

20. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

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

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

23. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Communications Laws.

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

25. **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.

26. **Authorized Representative.** The individual signing this Consent Decree on behalf of Telrite represents and warrants that he is authorized by Telrite to execute this Consent Decree and to bind Telrite to the obligations set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

²⁵ See 5 U.S.C. § 504; 47 C.F.R. Part 1, Subpart K.

27. **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.

P. Michele Ellison
Chief
Enforcement Bureau
Federal Communications Commission

Date

R. P. McFarland
Chief Executive Officer
Telrite Corporation

Date