

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

In the Matter of	)	
	)	
General Communication, Inc.,	)	File Nos.: EB-SED-13-00009563
d/b/a Alaska DigiTel LLC and Alaska Wireless	)	EB-SED-12-00003545 <sup>1</sup>
Communications, LLC	)	
	)	NAL/Acct. No.: 201232100014
	)	
	)	FRN: 0001570951 <sup>2</sup>

**ORDER**

**Adopted: April 9, 2014**

**Released: April 9, 2014**

By the Acting Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to conclude its investigation into whether General Communication, Inc., d/b/a Alaska DigiTel LLC and Alaska Wireless Communications, LLC (GCI), offered to consumers the required number of hearing aid-compatible digital wireless handset models during the 2010 and 2011 reporting periods. GCI has acknowledged that it erroneously relied on handset model ratings provided by its handset distributors. The Commission's hearing aid compatibility rules serve to ensure that consumers with hearing loss have access to advanced telecommunications services. In the attached Consent Decree, GCI will implement a three-year plan to ensure future compliance with these important requirements.

2. The Bureau and GCI have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree 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 into GCI's compliance with Section 20.19(d)(3) of the Commission's rules (Rules).<sup>3</sup>

<sup>1</sup> The investigations initiated under File Nos. EB-10-SE-117 and EB-11-SE-049 were subsequently assigned File Nos. EB-SED-13-00009563 and EB-SED-12-00003545, respectively. Any future correspondence with the FCC concerning these matters should reflect the new case numbers.

<sup>2</sup> The hearing aid compatibility status report that General Communication, Inc. (FRN 0001570951) filed on January 18, 2011, for the January 1, 2010, to December 31, 2010, reporting period (*see* General Communication, Inc., Hearing Aid Compatibility Status Report (filed Jan. 18, 2011), *available at* [http://wireless.fcc.gov/hac\\_documents/110210/5951300\\_315.PDF](http://wireless.fcc.gov/hac_documents/110210/5951300_315.PDF)), which formed the basis for the *Notice of Apparent Liability for Forfeiture* issued to the company on December 28, 2011 (*see General Communication, Inc., Notice of Apparent Liability for Forfeiture*, 26 FCC Rcd 17042 (Enf. Bur. 2011)), incorrectly referenced the FRN for General Communication Corporation (000156880), a subsidiary of General Communication, Inc. An Erratum to this *Notice of Apparent Liability for Forfeiture* corrects the FRN for General Communication, Inc. to "0001570951." *See General Communication, Inc., Erratum*, DA 14-406 (Enf. Bur. April 8, 2014).

<sup>3</sup> 47 C.F.R. § 20.19(d)(3).

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 GCI 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), 4(j), and 503(b) of the Communications Act of 1934, as amended,<sup>4</sup> and Sections 0.111 and 0.311 of the Rules,<sup>5</sup> the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigations **ARE 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 Chris Nierman, Director, Federal Regulatory Affairs, General Communication, Inc., 1350 I Street, N.W., Suite 1260, Washington D.C. 20005, and to counsel for General Communication, Inc., Andrew Morentz, Esq., Telecommunications Law Professionals PLLC, 875 15th St., N.W., Suite 750, Washington D.C. 20005.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc  
Acting Chief, Enforcement Bureau

---

<sup>4</sup> 47 U.S.C. §§ 154(i), 154(j), 503(b).

<sup>5</sup> 47 C.F.R. §§ 0.111, 0.311.



virtue of its business activities, including but not limited to, the Hearing Aid Compatibility Rules.

- (f) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 10.
- (g) “Covered Employees” means all employees and agents of GCI who perform, or supervise, oversee, or manage the performance of, duties that relate to GCI’s responsibilities under the Hearing Aid Compatibility Rules.
- (h) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (i) “GCI” means General Communication, Inc., d/b/a Alaska DigiTel LLC and Alaska Wireless Communications, LLC, and its predecessors-in-interest and successors-in-interest.
- (j) “Hearing Aid Compatibility Rules” means Section 20.19 of the Rules and other Communications Laws governing digital wireless hearing aid compatibility, such as the Rules governing the design, selection, or acquisition of digital wireless handsets and the marketing or distribution of such handsets to consumers in the United States.
- (k) “Investigations” means, collectively, the Bureau’s investigation into GCI’s compliance with the Hearing Aid Compatibility Rules during the 2010 reporting period, which culminated in the issuance of the *Notice of Apparent Liability for Forfeiture*, and the Bureau’s subsequent investigation into GCI’s compliance with the Hearing Aid Compatibility Rules during the 2011 reporting period.
- (l) “*Notice of Apparent Liability for Forfeiture*” or “NAL” means *General Communication, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 17042 (Enf. Bur. 2011).
- (m) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by GCI to implement the Compliance Plan.
- (n) “Parties” means GCI and the Bureau, each of which is a “Party.”
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

## II. BACKGROUND

2. In the 2003 *Hearing Aid Compatibility Order*, the Commission adopted several measures to enhance the ability of consumers with hearing loss to access digital wireless telecommunications.<sup>4</sup> The Commission established technical standards for radio frequency interference (the M rating) and

---

<sup>4</sup> The Commission adopted these requirements for digital wireless telephones under the authority of the Hearing Aid Compatibility Act of 1988, Pub. L. No. 100-394, 102 Stat. 976 (codified at 47 U.S.C. § § 609 note, 610, 610 note). See Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, Report and Order, 18 FCC Rcd 16753, 16787, para. 89 (2003), Erratum, 18 FCC Rcd 18047 (2003) (*Hearing Aid Compatibility Order*); Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11221 (2005).

inductive coupling (the T rating)<sup>5</sup> that digital wireless handsets must meet to be considered compatible with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes, respectively. For each of these standards, the Commission further established deadlines by which manufacturers and service providers were required to offer specified numbers or percentages of digital wireless handsets per air interface<sup>6</sup> that are compliant with the relevant standard.<sup>7</sup> In February 2008, as part of a comprehensive reconsideration of the effectiveness of the Hearing Aid Compatibility Rules, the Commission released an order that, among other things, adopted new hearing aid-compatible handset deployment benchmarks that became effective beginning in 2008.<sup>8</sup>

3. On January 18, 2011, GCI submitted its hearing aid compatibility status report for the January 1, 2010, to December 31, 2010, reporting period.<sup>9</sup> Based on its review of that report, the Wireless Telecommunications Bureau (Wireless Bureau) subsequently referred this matter to the Bureau for investigation and possible enforcement action. On December 28, 2011, the Bureau issued the *NAL* to GCI, finding that GCI apparently willfully and repeatedly violated Section 20.19(d)(3)(ii) of the Rules<sup>10</sup> by failing to offer to consumers the requisite number of handset models rated T3 or higher.<sup>11</sup> In lieu of filing a response to the *NAL*, GCI expressed an interest in settlement.

4. On January 17, 2012, GCI submitted its hearing aid compatibility status report for the January 1, 2011, to December 31, 2011 reporting period.<sup>12</sup> On July 13, 2012, the Wireless Bureau

---

<sup>5</sup> As subsequently amended, Section 20.19(b)(1) of the Rules provided that, for the period beginning June 6, 2008, and ending December 31, 2009, a newly certified wireless handset is deemed hearing aid-compatible for radio frequency interference if, at minimum, it meets the M3 rating associated with the technical standard set forth in either the standard document “American National Standard Methods of Measurement of Compatibility between Wireless Communication Devices and Hearing Aids,” ANSI C63.19-2006 (June 12, 2006) or ANSI C63.19-2007 (June 8, 2007). Beginning January 1, 2010, a newly certified handset had to meet at least an M3 rating under ANSI C63.19-2007 to be considered hearing aid-compatible for radio frequency interference. 47 C.F.R. § 20.19(b)(1). Section 20.19(b)(2) of the Rules provided that, for the period beginning June 6, 2008, and ending December 31, 2009, a newly certified wireless handset was deemed hearing aid-compatible for inductive coupling if, at minimum, it met the T3 rating associated with the technical standard as set forth in ANSI C63.19-2006 or ANSI C63.19-2007, and beginning January 1, 2010, it was deemed hearing aid-compatible for inductive coupling if it met at least a T3 rating under ANSI C63.19-2007. *Id.* § 20.19(b)(2). Grants of certification issued before June 6, 2008, under previous versions of ANSI C63.19 remained valid for hearing aid compatibility purposes. A recently adopted further amendment to Section 20.19(b) of the Rules permits manufacturers to test handsets for hearing aid compatibility using the 2011 version of the ANSI standard, ANSI C63.19-2011, as an alternative to ANSI C63.19-2007. *See Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, Third Report and Order, 27 FCC Rcd 3732 (WTB/OET 2012).

<sup>6</sup> The term “air interface” refers to the technical protocol that ensures compatibility between mobile radio service equipment, such as handsets, and the service provider’s base stations. Currently, the leading air interfaces include Code Division Multiple Access (CDMA), Global System for Mobile Communications (GSM), Integrated Digital Enhanced Network (iDEN), and Wideband Code Division Multiple Access (WCDMA) a/k/a Universal Mobile Telecommunications System (UMTS).

<sup>7</sup> *See Hearing Aid Compatibility Order*, 18 FCC Rcd at 16780, para. 65; 47 C.F.R. § 20.19(c)–(d).

<sup>8</sup> *See Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406 (2008); Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008).

<sup>9</sup> *See General Communication, Inc., Hearing Aid Compatibility Status Report* (filed Jan. 18, 2011), *available at* [http://wireless.fcc.gov/hac\\_documents/110210/5951300\\_315.PDF](http://wireless.fcc.gov/hac_documents/110210/5951300_315.PDF).

<sup>10</sup> 47 C.F.R. § 20.19(d)(3)(ii).

<sup>11</sup> *See NAL*, 26 FCC Rcd at 17045–46, para. 5.

<sup>12</sup> *See General Communication, Inc., Hearing Aid Compatibility Status Report* (filed Jan. 17, 2012), *available at* [http://wireless.fcc.gov/hac\\_documents/120307/6567330\\_284.PDF](http://wireless.fcc.gov/hac_documents/120307/6567330_284.PDF).

referred this matter to the Bureau for investigation and possible enforcement action. On August 16, 2012, the Bureau's Spectrum Enforcement Division issued a Letter of Inquiry (LOI) to GCI,<sup>13</sup> directing GCI to submit a sworn written response to a series of questions relating to GCI's compliance with Sections 20.19(c)(3) and 20.19(d)(3) of the Rules.<sup>14</sup> GCI responded to the LOI on September 19, 2012.<sup>15</sup> In its LOI Response, GCI stated that it had difficulty ascertaining the hearing aid compatibility rating of the handset models it offered, and that it obtained ratings information from its handset distributors, the FCC Office of Engineering and Technology (OET) Equipment Authorization Database, and the handset manufacturer's website.<sup>16</sup> In a supplement to its LOI Response, GCI acknowledged that it erroneously relied on handset ratings provided by its handset distributors.<sup>17</sup> The Bureau and GCI entered into Tolling Agreements to toll the statute of limitations.<sup>18</sup>

### III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

6. **Jurisdiction.** GCI agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, 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.

8. **Termination of Investigations.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigations. In consideration for the termination of the Investigations, GCI agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, it will not use the facts developed in the Investigations 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 GCI concerning the matters that were the subject

---

<sup>13</sup> See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Chris Nierman, Director, Federal Regulatory Affairs, General Communication, Inc. (Aug. 16, 2012) (on file in EB-SED-12-0003545).

<sup>14</sup> See *id.* at 1; see also 47 C.F.R. § 20.19(c)(3) & (d)(3).

<sup>15</sup> See Letter from Chris Nierman, Director, Federal Regulatory Affairs, General Communication, Inc., to Nissa Laughner, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (Sept. 19, 2012) (LOI Response) (on file in EB-SED-12-0003545).

<sup>16</sup> See *id.* at 2–3.

<sup>17</sup> See Letter from Chris Nierman, Director, Federal Regulatory Affairs, General Communication, Inc., to Nissa Laughner, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau at 2 (Jan. 11, 2013) (on file in EB-SED-12-0003545).

<sup>18</sup> See, e.g., Tolling Agreement Extension, entered into between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and Chris Nierman, Director, Federal Regulatory Affairs, General Communication, Inc. (Sept. 11, 2013) (on file in EB-SED-12-0003545).

of the Investigations. The Bureau also agrees that in the absence of new material evidence, it will not use the facts developed in the Investigations 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 GCI with respect to GCI's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, GCI shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as 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 GCI complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Hearing Aid Compatibility Rules prior to assuming his/her duties.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, GCI agrees that it shall within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Hearing Aid Compatibility Rules, GCI shall implement the following procedures:

- (a) **Operating Procedures on Hearing Aid Compatibility.** Within sixty (60) calendar days after the Effective Date, GCI shall establish Operating Procedures that all Covered Employees must follow to help ensure GCI's compliance with the Hearing Aid Compatibility Rules. GCI's Operating Procedures shall include internal procedures and policies specifically designed to ensure that GCI offers to consumers the requisite number or percentage of digital wireless hearing aid-compatible handset models, as required by the Hearing Aid Compatibility Rules, and accurately reports its handset offerings in its annual hearing aid compatibility status reports. GCI also shall develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure that the inclusion of a new handset model, or discontinuance of an existing handset model offering, will not result in a violation of the Commission's digital wireless hearing aid-compatible handset deployment requirements. At a minimum, the Compliance Checklist shall require Covered Employees to verify the hearing aid compatibility rating(s) of each existing and proposed handset model offering using the OET Equipment Authorization Database.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Hearing Aid Compatibility Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure GCI's compliance with the Hearing Aid Compatibility Rules. GCI shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. GCI shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** GCI shall establish and implement a Compliance Training Program on compliance with the Hearing Aid Compatibility Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of GCI's obligation to report any noncompliance with the Hearing Aid Compatibility Rules under paragraph 11 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. GCI 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.

- (d) **Quarterly Compliance Audits.** The Compliance Officer shall conduct audits of GCI's compliance with the hearing aid-compatible handset deployment requirements on a quarterly basis. As part of each Compliance Audit, the Compliance Officer shall ascertain the hearing aid compatibility rating of each handset model offered by GCI using the OET Equipment Authorization Database. If at any time GCI determines that its handset model offerings do not comply with the deployment benchmarks set forth in the Hearing Aid Compatibility Rules, GCI shall promptly adjust its handset model offerings so as to come into compliance with the deployment benchmarks, and shall report such noncompliance in accordance with the requirements of paragraph 11 of this Consent Decree.

11. **Reporting Noncompliance.** GCI shall report any noncompliance with the Hearing Aid Compatibility 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 GCI 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 GCI has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to Nissa Laughner at [Nissa.Laughner@fcc.gov](mailto:Nissa.Laughner@fcc.gov) and to Pamela Hairston at [Pamera.Hairston@fcc.gov](mailto:Pamera.Hairston@fcc.gov).

12. **Compliance Reports.** GCI shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, 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 GCI's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Hearing Aid Compatibility Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of GCI, stating that the Compliance Officer has personal knowledge that GCI (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) 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 11 hereof.
- (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 Rules<sup>19</sup> and be subscribed to as true under penalty of perjury in substantially the form set forth therein.

---

<sup>19</sup> 47 C.F.R. § 1.16.

- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of GCI, 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 GCI 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 GCI 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, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to Nissa Laughner at Nissa.Laughner@fcc.gov and to Pamera Hairston at Pamera.Hairston@fcc.gov.

13. **Termination Date.** Unless stated otherwise, the requirements of paragraphs 9 through 12 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

14. **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 Act<sup>20</sup> against GCI 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 complaints 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 GCI with the Communications Laws.

15. **Voluntary Contribution.** GCI agrees that it will make a voluntary contribution to the United States Treasury in the amount of one hundred twenty-five thousand dollars (\$125,000) within thirty (30) calendar days after the Effective Date. GCI shall also send electronic notification of payment to Nissa Laughner at Nissa.Laughner@fcc.gov, Pamera Hairston at Pamera.Hairston@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>21</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions GCI should follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

<sup>20</sup> 47 U.S.C. § 208.

<sup>21</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If GCI has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

16. **Waivers.** GCI 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 Bureau issues an Adopting Order as defined herein. GCI 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 GCI nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and GCI shall waive any statutory right to a trial *de novo*. GCI hereby agrees to waive any claims it may have under the Equal Access to Justice Act<sup>22</sup> relating to the matters addressed in this Consent Decree.

17. **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.

18. **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 GCI does not expressly consent) that provision will be superseded by such Rule or Commission order.

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

20. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigations. 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 Communications Laws.

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

22. **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.

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

---

<sup>22</sup> Equal Access to Justice Act, Pub L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501–1.1530.

24. **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.

\_\_\_\_\_  
John D. Poutasse  
Chief, Spectrum Enforcement Division  
Enforcement Bureau

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chris Nierman  
Director, Federal Regulatory Affairs  
General Communication, Inc.

\_\_\_\_\_  
Date