

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

In the Matter of)	
)	
The Hinton Telephone Company)	File No.: EB-SED-14-00016210 ¹
of Hinton, Oklahoma, Inc.,)	
d/b/a Hinton Telephone Company)	NAL/Acct. No.: 201432100027
)	
)	FRN: 0004365334

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: August 4, 2014

Released: August 4, 2014

By the Acting Chief, Enforcement Bureau:

I. INTRODUCTION

1. 911 is the single most critical tool for citizen emergency communications. The American public universally relies upon 911 in a time of crisis. When there is an emergency, citizens can, should, and do trust that when they call 911, someone will answer the phone. The Hinton Telephone Company of Hinton, Oklahoma, Inc. (Hinton) undermined that trust and betrayed its customers when for several months in 2013 it apparently routed 911 calls from Caddo County, Oklahoma, to an automated AT&T operator message which instructed callers to “hang up and dial 911” if their call is an emergency. That trust was further betrayed when Hinton allegedly continued to allow 911 calls to be routed to the automated message for three months after the company discovered the problem. The company returned the system to functionality only after being contacted by FCC investigators and directed to do so. This is manifestly unacceptable. This betrayal is particularly egregious and dangerous for a rural community like Caddo County, Oklahoma, whose residents may be far from help and most in need of reliable and efficient emergency communications. The Commission’s 911 rules are intended to ensure that emergency calls are routed properly and always result in contact with public safety personnel. Hinton apparently failed to use reasonable judgment in routing its Caddo County customers’ 911 calls, willfully and repeatedly violating our rules, and created a significant threat to the life and property of the residents of Caddo County, Oklahoma. This is unconscionable and warrants a substantial penalty. We propose to fine Hinton \$100,000.

2. As discussed below, Hinton, a local exchange carrier serving parts of Caddo and other counties in Oklahoma,² apparently willfully and repeatedly violated Sections 64.3001 and 64.3002(d) of the Commission’s rules (Rules) by failing to use reasonable judgment when it knowingly routed 911 calls to an automated operator message.³

¹ The investigation initiated under File No. EB-SED-13-00010169 was subsequently assigned File No. EB-SED-14-00016210. Any future correspondence with the FCC concerning this matter should reflect the new case number.

² Hinton provides local, long distance (through AT&T), television, and Internet service for approximately 1400 subscribers in Caddo County, the affected area, and approximately 2,700 customers overall in parts of Caddo, Canadian, Custer, and Washita Counties in Oklahoma. Hinton is designated as an Eligible Telecommunications Carrier by the Oklahoma Corporation Commission. See Oklahoma Corporation Commission website, available at <http://www.occeweb.com/pu/ETC%20Designation/2014-06-12ETCInformationreport.pdf> (last visited July 23, 2014).

³ 47 C.F.R. §§ 64.3001, 64.3002(d).

II. BACKGROUND

3. Pursuant to Section 64.3001 of the Rules, telecommunications carriers, such as Hinton, are required to transmit all 911 calls to a Public Safety Answering Point (PSAP),⁴ to a designated statewide default answering point,⁵ or to an appropriate local emergency authority.⁶ Section 64.3002(d) of the Rules provides that:

Where no PSAP nor statewide default answering point has been designated, and no appropriate local emergency authority has been selected by an authorized state or local entity, telecommunications carriers shall identify an appropriate local emergency authority, based on the exercise of reasonable judgment, and complete all translation and routing necessary to deliver 911 calls to such appropriate local emergency authority no later than September 11, 2002.⁷

4. On May 6, 2013, the Commission's Public Safety and Homeland Security Bureau (PSHSB) received a complaint from the Caddo County E911 Communications Center (Caddo County PSAP) alleging that Hinton was not providing basic 911 service to its customers in Caddo County, Oklahoma.⁸ Specifically, the complaint alleged that Hinton was not properly routing basic 911 calls to the Caddo County PSAP, but instead was routing 911 calls to an automated AT&T operator service. The automated operator message instructed the caller, who had already dialed 911, to hang up and dial 911 if the call was an emergency or to dial zero or remain on the line for additional assistance.⁹

5. On August 1, 2013, after being advised by PSHSB staff of the Caddo County PSAP complaint, Hinton informed PSHSB staff that Hinton previously had routed 911 calls from its Caddo County customers to a live AT&T operator, who then routed the calls to the appropriate emergency authority. According to Hinton, AT&T subsequently discontinued its live operator service and substituted an automated operator to handle operator assisted calls. PSHSB staff directed Hinton to immediately implement a basic 911 solution for its Caddo County customers by routing 911 calls to either the local sheriff's office or to the Caddo County PSAP. Hinton subsequently informed PSHSB staff that, as of August 5, 2013, 911 calls from its Caddo County customers were being routed to the Caddo County PSAP. Thereafter, PSHSB referred this matter to the Enforcement Bureau (Bureau) for investigation.

⁴ A PSAP is "[a] facility that has been designated to receive 911 calls and route them to emergency services personnel." *Id.* § 64.3000(c).

⁵ A statewide default answering point is "[a]n emergency answering point designated by the State to receive 911 calls for either the entire State or those portions of the State not otherwise serviced by a local PSAP." *Id.* § 64.3000(d).

⁶ An appropriate local emergency authority is "[a]n emergency answering point that has not been officially designated as a [PSAP], but has the capability of receiving 911 calls and either dispatching emergency services personnel or, if necessary, relaying the call to another emergency service provider. An appropriate local emergency authority may include, but is not limited to, an existing local law enforcement authority, such as the police, county sheriff, local emergency medical services provider, or fire department." *Id.* § 64.3000(b).

⁷ *Id.* § 64.3002(d).

⁸ Basic 911 networks, in contrast to E911 networks, are not capable of taking into account the caller's location, but simply forward all 911 calls from a particular public switch telephone network to the appropriate public safety authority. *See Framework for Next Generation 911 Deployment*, Notice of Inquiry, 25 FCC Rcd 17869, 17874-75, para. 13 (2010).

⁹ The complainant submitted a recording purported to be the message heard by a caller dialing 911 on Hinton's network, which stated: "Hinton Telephone Company. The local time is. . . . If this call is an emergency, hang up and dial 911. To place a call, press one. If you need additional assistance, press zero for the operator or remain on the line. To hear your options again, press star."

6. The Bureau's Spectrum Enforcement Division subsequently commenced an investigation by directing Hinton to respond to a series of inquiries into Hinton's provision of basic 911 service.¹⁰ In its responses, Hinton explains that Caddo County did not approve the Caddo County PSAP until December 2012, and that Hinton did not receive a request to direct trunks to the Caddo County PSAP until January 7, 2013.¹¹ In addition, Hinton asserts that, prior to the designation of the Caddo County PSAP, the State of Oklahoma had not designated a statewide default emergency number answering point for Caddo County residents, and that no county or other local entity had agreed to accept 911 calls in Caddo County.¹² Hinton also explains that, in August 2002, the Caddo County Sheriff's Office specifically declined to accept 911 calls from its Caddo County customers due to a lack of personnel and resources,¹³ and that the only feasible means of routing 911 calls was to direct such calls to a live AT&T operator for connection to a list of county emergency offices provided to the live operator by Hinton.¹⁴ According to Hinton, the company received no prior notice from AT&T regarding the switch from a live operator to an automated operator message and first learned of the switch from a 911 test call it performed on May 6, 2013.¹⁵ Hinton admits, however, that for three months it continued to route 911 calls to the automated operator message—i.e., until August 5, 2013.¹⁶

7. Hinton argues that it was reasonable for it to continue to route 911 calls on its network to the automated operator service. First, Hinton states that it faced technical challenges that limited its call routing options.¹⁷ Second, Hinton asserts that, due to restrictions imposed by the Oklahoma Corporation Commission, Hinton does not provide long distance service or operator service, but instead routes long

¹⁰ See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Kenneth Doughty, CEO, Hinton Telephone Company (Jan. 27, 2014) (on file in EB-SED-14-00016210); Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Kenneth Doughty, CEO, Hinton Telephone Company (July 10, 2014) (on file in EB-SED-14-00016210); E-mail from Josh Zeldis, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, to Kendall Parish, Ron Comingdeer & Associates, Counsel for Hinton Telephone Company (May 30, 2014, 12:48 EDT) (on file in EB-SED-14-00016210); E-mail from Josh Zeldis, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, to Kendall Parish, Ron Comingdeer & Associates, Counsel for Hinton Telephone Company (Jun. 12, 2014, 15:57 EDT) (on file in EB-SED-14-00016210); E-mail from Josh Zeldis, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, to Kendall Parish, Ron Comingdeer & Associates, Counsel for Hinton Telephone Company (July 15, 2014, 12:33 EDT) (on file in EB-SED-14-00016210).

¹¹ See Letter from Kendall Parish, Ron Comingdeer & Associates, Counsel for Hinton Telephone Company, to John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (June 18, 2014) (on file in EB-SED-14-00016210) (Fourth LOI Response), Attachment at 4. Pursuant to Section 64.3002(e) of the Rules, once a PSAP has been designated for an area where none had existed as of December 2001, telecommunications carriers must complete the translation and routing necessary to deliver 911 calls to that PSAP within nine months of such designation. 47 C.F.R. § 64.3002(e).

¹² See Letter from Kendall Parish, Ron Comingdeer & Associates, Counsel for Hinton Telephone Company, to John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (March 10, 2014) (on file in EB-SED-14-00016210) (First LOI Response), Attachment at 1; *see also* Fourth LOI Response, Attachment at 4.

¹³ See Letter from Kendall Parish, Ron Comingdeer & Associates, Counsel for Hinton Telephone Company, to John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (June 10, 2014) (on file in EB-SED-13-00016210) (Third LOI Response), Attachment at 2.

¹⁴ See Letter from Kendall Parish, Ron Comingdeer & Associates, Counsel for Hinton Telephone Company, to John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (May 27, 2014) (on file in EB-SED-14-00016210) (Second LOI Response), Attachment at 1.

¹⁵ Third LOI Response, Attachment at 1.

¹⁶ Fourth LOI Response, Attachment at 1.

¹⁷ According to Hinton, it was technically infeasible for Hinton's switch to selectively route 911 calls in Caddo County to multiple telephone numbers. *See id.*, Attachment at 1–4.

distance and operator assistance calls to AT&T's tandem office in Oklahoma City, Oklahoma.¹⁸ Third, Hinton claims that Caddo County offices had not established direct trunking to Hinton's switch, which Hinton asserts was technically necessary for it to route 911 calls to such locations.¹⁹ Fourth, Hinton contends that the Oklahoma Corporation Commission advised Hinton that it could continue to route 911 calls to the AT&T operator until such time that the Caddo County PSAP was operational.²⁰ In further justification of its actions, Hinton states that it notified its customers via mail-outs and newspaper notices of the limitations of Hinton's 911 service in Caddo County, and instructed its customers who needed emergency assistance to contact the appropriate authorities directly.²¹ Finally, Hinton notes that within four days of the August 1, 2013 call by PSHSB informing Hinton that its 911 solution was inadequate, it successfully began routing 911 dialed calls to the Caddo County PSAP.²²

III. DISCUSSION

A. Failure to Transmit 911 Calls Adequately

8. In the 911 Act, Congress directed the Commission to make 911 the universal emergency telephone number in the United States for wireline and wireless telephone service "for reporting an emergency to appropriate authorities and requesting assistance," and to encourage and support the development of comprehensive emergency communications throughout the United States so that all jurisdictions offer seamless networks for prompt emergency service.²³ In those areas where no PSAP or statewide default answering point has been designated, and where no appropriate local emergency authority has been selected by an authorized state or local entity to receive 911 calls, Section 64.3002(d) of the Rules imposes on telecommunications carriers the obligation to "identify an appropriate local emergency authority, based on the exercise of reasonable judgment, and complete all translation and routing necessary to deliver 911 calls to such appropriate local emergency authority no later than September 11, 2002."²⁴

9. Based on the record before us, it appears that, prior to the approval and designation of the Caddo County PSAP, there was no designated PSAP in Caddo County, Oklahoma; the State of Oklahoma had not designated a statewide default answering point; and neither the State of Oklahoma nor any Caddo County governmental entity had requested that Hinton route 911 calls from its Caddo County customers to any specified local emergency authority.²⁵ While it may have been reasonable for Hinton to route 911 calls to AT&T's live operator under these circumstances,²⁶ we reject Hinton's contention that it exercised

¹⁸ Fourth LOI Response, Attachment at 2; Second LOI Response, Attachment at 1.

¹⁹ Fourth LOI Response, Attachment at 2;

²⁰ *Id.*, Attachment at 1-2.

²¹ *See id.*, Attachment at 1.

²² *See* Third LOI Response, Attachment at 1.

²³ Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 (codified at 47 U.S.C. §§ 251, 615) (911 Act).

²⁴ 47 C.F.R. § 64.3002(d).

²⁵ *See* First LOI Response at 1-2.

²⁶ Because the 911 Act does not explicitly define the term "appropriate authorities," the Commission defined the term, for purposes of the 911 Act, "to include emergency answering points such as county sheriff offices (i.e., governmental entities), volunteer fire departments (i.e., non-governmental entities), or other similar points that are effectively functioning as PSAPs for purposes of receiving emergency calls, and, if necessary, relaying the calls to other emergency service providers, for the purpose of responding to emergencies." *Implementation of 911 Act*, Fifth Report and Order, Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 22264, 22271, para. 14 (2001). *See also* 47 C.F.R. § 64.3000(b) (defining "appropriate local emergency authority" as "[a]n emergency answering point that has not been officially designated as a [PSAP], but has the capability of receiving 911 calls and either dispatching emergency services personnel or, if necessary, relaying the call to another emergency service (continued....)

reasonable judgment by *continuing* to route 911 calls to AT&T's operator service after May 6, 2013, when it learned that 911 calls on its network were being routed to an automated operator. Moreover, Hinton allowed that unreasonable practice to continue until August 5, 2013, when it began routing calls to the Caddo County PSAP in response to the request from PSHSB staff.²⁷ As the Commission has stated, 911 service is intended to provide fast response to emergency situations by having a national three-digit number to dial and connecting 911 dialed calls to trained individuals who have ready access to police, fire, and health emergency service providers.²⁸ Caddo County residents who attempted to call 911 for emergency assistance were not connected to a live operator with the ability to immediately route the call to appropriate emergency response personnel. Instead, individuals with an immediate need for emergency assistance and who had already called 911 were directed to "hang up and dial 911," an instruction that on its face was manifestly unreasonable. Indeed, the only way a 911 caller could access a live operator to route its call to the appropriate emergency authority would be to ignore the message's instruction—to "hang up and dial 911"—and instead press zero and wait for the live operator to answer, which unnecessarily and unreasonably delayed customers' access to emergency personnel.²⁹

10. We find that, once Hinton learned that 911 calls from its Caddo County customers were being routed to an automated message, Hinton was obligated, consistent with the requirements of Section 64.3002(d) of the Rules, to reassess its call routing protocols and ascertain whether, based on the exercise of reasonable judgment, there was an alternative appropriate local emergency authority to which it could route its 911 calls. In this regard, Hinton admits that even after it learned that its Caddo County customers' 911 calls were being routed to an automated message service, Hinton made no effort to identify such an alternative appropriate local emergency authority, or that it even attempted contact with any such local authorities, such as the Caddo County Sheriff's Office, to determine whether they would temporarily accept the routing of 911 calls.³⁰ Moreover, there is no evidence that Hinton even contacted AT&T to request that it either reactivate its live operator or, at a minimum, modify the automated message to state, for example, that a 911 caller should press zero to be connected immediately to a live operator. Finally, once requested by PSHSB staff to implement a basic 911 solution, Hinton proved able to do so within four days. Accordingly, we find that Hinton apparently violated Sections 64.3001 and

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provider. An appropriate local emergency authority may include, but is not limited to, an existing local law enforcement authority, such as the police, county sheriff, local emergency medical services provider, or fire department.").

²⁷ Although it appears that Hinton faced certain technical and other impediments to routing 911 calls from its Caddo County customers directly to an appropriate local emergency authority, *see supra* para. 6, we note that many of the technical limitations identified by Hinton related to its deployment of an enhanced 911 solution, and not the provision of basic 911 service.

²⁸ *See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Call Systems*, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676, 18678, para. 3 (1996).

²⁹ Hinton's assertion that a representative of the Oklahoma Corporation Commission advised Hinton in early May 2013 that it could continue to route 911 calls to the AT&T operator (Fourth LOI Response, Attachment at 2) does not alter our conclusion. Indeed, Hinton's response does not clearly explain which 911 routing arrangement the Oklahoma Corporation Commission allegedly approved, and Hinton has provided no documentary evidence to support its assertion.

³⁰ *See* Fifth LOI Response, Attachment at 1. On January 7, 2013, approximately four months prior to the date that Hinton claims it discovered that AT&T had switched from a live operator to an automated message service, Hinton received a request to direct trunks to the Caddo County PSAP. *See* Fourth LOI Response, Attachment at 1–2. Although Section 64.3002(e) of the Rules provides that once a PSAP has been designated for an area where none had existed as of December 2001, telecommunications carriers have nine months to complete the translation and routing necessary to deliver 911 calls to that PSAP (47 C.F.R. § 64.3002(e)), the fact that Hinton was able to route calls to the Caddo County PSAP within only four days of being directed to do by PSHSB suggests that Hinton, with the exercise of reasonable diligence, could have commenced the routing of 911 calls to the Caddo County PSAP prior to August 5, 2013.

64.3002(d) of the Rules by failing to exercise reasonable judgment in the identification of an appropriate local emergency authority to which to route 911 calls from its Caddo County customers.

B. Proposed Forfeiture

11. Under Section 503(b)(1)(B) of the Communications Act of 1934, as amended (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.³¹ Section 312(f)(1) of the Act defines “willful” as the “conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.³² 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,³³ and the Commission has so interpreted the term in the Section 503(b) context.³⁴ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.³⁵ The term “repeated” means the commission or omission of an act more than once or for more than one day.³⁶ Based on the record before us, we conclude that Hinton is apparently liable for a forfeiture for its failure to adequately route 911 calls in apparent willful and repeated violation of Sections 64.3001 and 63.3002(d) of the Rules.³⁷

12. Section 503(b)(2)(B) of the Act authorizes a forfeiture assessment against a common carrier up to \$150,000 for each violation, or for each day of a continuing violation, up to a maximum of \$1,500,000 for a single act or failure to act.³⁸ In exercising such authority, we are required to take into

³¹ 47 U.S.C. § 503(b)(1)(B); *see also* 47 C.F.R. § 1.80(a).

³² *Id.* 47 § 312(f)(1).

³³ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) (“This provision [inserted in Section 312] defines the terms ‘willful’ and ‘repeated’ for purposes of section 312, and for any other relevant section of the act (e.g., Section 503) As defined[,] . . . ‘willful’ means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. ‘Repeated’ means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be ‘continuous’ would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission’s application of those terms”).

³⁴ *See, e.g., Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

³⁵ *See, e.g., Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator’s repeated signal leakage).

³⁶ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” *See Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, para. 9.

³⁷ 47 C.F.R. §§ 64.3001, 64.3002(d).

³⁸ 47 U.S.C. § 503(b)(2)(B); *see also* 47 C.F.R. § 1.80(b)(2). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(B) of the Act (\$100,000 per violation or per day of a continuing violation and \$1,000,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321 (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation. *See* 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2013. *See Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, 28 FCC Rcd 10785 (Enf. Bur. 2013); *see also Inflation Adjustment of Monetary Penalties*, 78 Fed. Reg. 49370–01 (2013) (setting Sept. 13, 2013, as the effective date for the increases). Because the DCIA specifies that any inflationary adjustment “shall apply only to violations which occur after the date the increase takes effect,” however, we apply the forfeiture penalties in effect at the time the violation took place. 28 U.S.C. § 2461 note (6).

account “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.”³⁹

13. The Commission’s *Forfeiture Policy Statement*⁴⁰ and Section 1.80 of the Rules⁴¹ do not establish a base forfeiture for violation of Sections 64.3001 and 64.3002 of the Rules. The Commission has, nevertheless, found that the “omission of a specific rule violation from the list . . . [establishing base forfeiture amounts] should not signal that the Commission considers any unlisted violation as nonexistent or unimportant. The Commission expects, and it is each licensee’s obligation to know and comply with all Commission’s rules.”⁴² Thus, the Commission retains its discretion to issue forfeitures on a case-by-case basis,⁴³ and has assessed forfeiture liability for rule violations irrespective of whether corresponding base forfeiture amounts have been established.⁴⁴

14. Having considered the statutory factors and precedent,⁴⁵ we find that the gravity and the extent of Hinton’s apparent willful and repeated failure to provide 911 service in compliance with Sections 64.3001 and 64.3002(d) of the Rules warrant a significant forfeiture. In this regard, we note that the Commission has found that violations of the 911 requirements are extremely serious given the critical function these requirements serve in promoting and safeguarding life and property.⁴⁶ We also take into

³⁹ 47 U.S.C. § 503(b)(2)(E). *See also* 47 C.F.R. § 1.80(b)(5), Note to paragraph (b)(5): Section II. Adjustment Criteria for Section 503 Forfeitures.

⁴⁰ *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*Forfeiture Policy Statement*), *recons. denied*, 15 FCC Rcd 303 (1999).

⁴¹ 47 C.F.R. § 1.80.

⁴² *Forfeiture Policy Statement*, 12 FCC Rcd at 17099, para. 22.

⁴³ *Id.*

⁴⁴ *See, e.g., Sprint Nextel Corp.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 16414, 16417–18, paras. 9–10 (2007) (proposing a \$1,325,000 forfeiture irrespective of the absence of an established base forfeiture for failure to comply with deadline for 95% E911 location-capable handset penetration) (forfeiture paid) (*Sprint Nextel*); *A-O Broad. Corp.*, Forfeiture Order, 18 FCC Rcd 27069, para. 22 (2003), *aff’d*, Memorandum Opinion and Order, 20 FCC Rcd 756 (2005) (assessing a \$25,000 forfeiture irrespective of the absence of an established base forfeiture for violations of radio frequency exposure limits); *Callais Cablevision, Inc.*, Forfeiture Order, 17 FCC Rcd 22626, 22630, paras. 19–20 (2002) (assessing an aggregate \$133,000 forfeiture irrespective of the absence of an established base forfeiture for violations of the cable signal leakage standards); *Midwest Television, Inc.*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 3959, 3965, para. 15 (Enf. Bur. 2005) (proposing a \$20,000 forfeiture irrespective of the absence of an established base forfeiture for failure to broadcast emergency information accessible to hearing impaired viewers).

⁴⁵ *See, e.g., Cardinal Broadband, LLC*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 12224, 12231, para. 19 (Enf. Bur. 2008) (proposing a \$25,000 forfeiture against a VoIP carrier for failing to provide 911 service) (forfeiture paid) (*Cardinal Broadband*); *Dobson Cellular Sys., Inc. & Am. Cellular Corp.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 4684, 4707, para. 61 (2006) (proposing a total \$750,000 forfeiture against two commonly-owned wireless carriers for failure to provide E911 Phase I service in response to valid PSAP requests in nine instances and failure to provide E911 Phase II service in response to valid PSAP requests in 41 instances) (subsequent history omitted); *Lamar Cnty. Cellular, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 4375, 4378–80, paras. 14–18 (Enf. Bur. 2006) (proposing a \$12,000 forfeiture against a wireless carrier for failure to provide E911 Phase I service in response to valid PSAP request) (forfeiture paid).

⁴⁶ *See Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Second Memorandum Opinion and Order, 14 FCC Rcd 20850 (1999), *clarified*, Order, 16 FCC Rcd 18982 (2001); *see also Cardinal Broadband*, 23 FCC Rcd at 12231, para. 19; *Sprint Nextel*, 22 FCC Rcd at 16418, para. 10; *T-Mobile USA, Inc.*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 3501, 3504, para. 7 (2003) (forfeiture paid).

consideration that Hinton continued to route 911 calls to the AT&T automated operator service for approximately three months—from May 6, 2013, when Hinton claims it discovered the change, to August 5, 2013, when Hinton commenced routing 911 calls to the Caddo County PSAP.⁴⁷ Based on the evidence in the record and our forfeiture adjustment factors, including the extended duration of the violation, we propose a forfeiture of \$100,000.

IV. ORDERING CLAUSES

15. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311, and 1.80 of the Commission's rules,⁴⁸ The Hinton Telephone Company of Hinton, Oklahoma, Inc., d/b/a Hinton Telephone Company is **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of one hundred thousand dollars (\$100,000) for willful and repeated violation of Sections 64.3001 and 64.3002(d) of the Commission's rules.⁴⁹

16. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules,⁵⁰ within thirty (30) calendar days after the release date of this Notice of Apparent Liability for Forfeiture, The Hinton Telephone Company of Hinton, Oklahoma, Inc., d/b/a Hinton Telephone Company **SHALL PAY** the full amount of the proposed forfeiture, or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 18 below.

17. The payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. The Hinton Telephone Company of Hinton, Oklahoma, Inc., d/b/a Hinton Telephone Company shall send electronic notification of payment to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov, Josh Zeldis at Josh.Zeldis@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁵¹ 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 The Hinton Telephone Company of Hinton, Oklahoma, Inc., d/b/a Hinton Telephone Company 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.
- 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.

⁴⁷ We also find that that Hinton's asserted efforts to inform its customers of the limitations of its 911 service do not mitigate the severity of Hinton's apparent violation. These efforts, while laudable, did not excuse Hinton from complying with its obligation to transmit and route 911 dialed calls to an appropriate emergency authority.

⁴⁸ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁴⁹ 47 C.F.R. §§ 64.3001, 64.3002(d).

⁵⁰ 47 C.F.R. § 1.80.

⁵¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

18. Any request for making full payment over time 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, DC 20554.⁵² If The Hinton Telephone Company of Hinton, Oklahoma, Inc., d/b/a Hinton Telephone Company 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.

19. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Commission's rules.⁵³ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554, ATTN: Enforcement Bureau—Spectrum Enforcement Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov, Josh Zeldis at Josh.Zeldis@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov.

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; 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.

21. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Kenneth Doughty, Chief Executive Officer, The Hinton Telephone Company of Hinton, Oklahoma, Inc., d/b/a Hinton Telephone Company, 200 West Main Street, Hinton, Oklahoma, 73047 and to Kendall Parrish, Commingdeer & Associates, 6011 North Robinson Avenue, Oklahoma City, Oklahoma 73118.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Acting Chief
Enforcement Bureau

⁵² See 47 C.F.R. § 1.1914.

⁵³ 47 C.F.R. §§ 1.16, 1.80(f)(3).