

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

| | | |
|-----------------------|---|---|
| In the Matter of |) | File No.: EB-IHD-13-00011669 ¹ |
| |) | |
| PTT Phone Cards, Inc. |) | NAL/Acct. No.: 201432080040 |
| |) | |
| |) | FRN: 0022611958 |

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: September 15, 2014

Released: September 16, 2014

By the Commission:

I. INTRODUCTION

1. When a company enters the telecommunications services marketplace, it subjects itself to a number of safeguards and support mechanisms that Congress and the Federal Communications Commission have established to help ensure, among other goals, rapid, efficient, and reasonably priced communications for all Americans. In this Notice of Apparent Liability for Forfeiture, we propose penalties of \$493,327 against PTT Phone Cards, Inc. (PTT or Company), a prepaid calling card provider that apparently provided international telecommunications services in disregard of virtually all of its regulatory obligations for over three years. Although PTT has been aware of the Enforcement Bureau's (Bureau) investigation since last year, some of PTT's apparent violations continue to this day.

2. PTT's apparent violations include providing international telecommunications services without first obtaining Commission authority, a failure that prevented the Commission from timely evaluating whether PTT's provision of those services would create risks to consumers and competition. PTT also apparently failed to file the annual reports that the Administrators of the Universal Service Fund (USF), the Telecommunications Relay Service (TRS) Fund, and the cost recovery mechanisms for local number portability (LNP) and the North American Numbering Plan (NANP) use to determine service providers' contribution obligations, and that the Commission uses to assess regulatory fees. The filing failures persisted for over three years and resulted in either PTT's late payment or non-payment of required TRS and LNP contributions and regulatory fees.

3. Additionally, PTT was required to file periodic reports certifying its compliance with the Commission's USF contribution and customer proprietary network information (CPNI) rules, and disclosing its international traffic and revenues. PTT also apparently failed to meet these requirements, thereby undermining our ability to monitor compliance with our USF and customer privacy rules and developments in the international telecommunications market. The penalties we propose here reflect the seriousness, duration, and scope of PTT's violations.

II. BACKGROUND

4. PTT is a Pennsylvania corporation that, from January 1, 2010, through early 2014, operated under the trade name Star Pinless as a prepaid calling card services provider reselling international telecommunications services.² PTT sold its prepaid calling card services through grocery

¹ This case was formerly assigned File No. EB-13-IH-0051.

² See Letter from Ayub Amir, President, PTT Phone Cards, Inc., to Robert Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau at Responses to Inquiries 1, 5–6, 18 (Apr. 24, 2013) (on file in EB-IHD-13-00011669) (*LOI Response*); Letter from Ayub Amir, President, PTT Phone Cards, Inc., to

(continued....)

stores that served as distributors to PTT's end user customers.³ PTT also used the Internet to market its international telecommunications services to other potential distributors and resellers.⁴ PTT's distributors helped set up each end user with a PTT account. If an end user chose to do so, the account information included the end user's phone number so that PTT's prepaid calling platform could recognize the end user's number, thereby enabling the end user to place telephone calls without having to dial a personal identification number (PIN) access code.⁵ After the authentication process, whether by PIN or PIN-less processes, PTT's platform routed telephone calls to the international destinations to which PTT end users sought to connect.⁶

5. In January 2013, the Bureau learned that PTT might not be complying with the provisions of the Communications Act of 1934, as amended (Act) and the Commission's rules (Rules) applicable to prepaid calling card providers. After a preliminary investigation, the Bureau sent a Letter of Inquiry (*LOI*) to PTT on April 8, 2013, directing the Company to respond to questions regarding its compliance with the provisions of the Act and the Rules pertaining to PTT's authority to provide international telecommunications services, payment of regulatory obligations, and other related requirements.⁷ On April 24, 2013, PTT responded to the *LOI*.⁸ On July 7, 2014, and August 7, 2014, PTT supplemented its *LOI Response*.⁹ On December 20, 2013, PTT entered into a tolling agreement with the Bureau, which extended the applicable statute of limitations period.¹⁰

III. DISCUSSION

6. Based on the facts and circumstances before us, we find that PTT apparently willfully or repeatedly failed to: (a) obtain Commission authority prior to providing international telecommunications services, as Section 214(a) of the Act and Section 63.18 of the Rules require; (b) timely file annual Telecommunications Reporting Worksheets, as Sections 52.32, 54.711, and 64.604(c)(5)(iii) of the Rules require; (c) timely make required TRS and LNP contributions and timely pay required regulatory fees in accordance with Section 251(e)(2) of the Act and Sections 1.1154, 1.1157(b)(1), 53.32, and 64.604(c)(5)(iii) of the Rules; and (d) timely file prepaid calling card certifications, international traffic

(Continued from previous page) _____

Robert Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau at Responses to Supplemental LOI Inquiries 1, 5–6, 18 (July 7, 2014) (on file in EB-IHD-13-00011669) (*Supplemental LOI Response of July 7, 2014*).

³ See *Supplemental LOI Response of July 7, 2014 supra* note 2 at Responses to Inquiries 8–9.

⁴ See Star Pinless, "Prepaid Partner/Reseller Program," *formerly available at* <http://mystarpinless.com/Common/HowItWorks.aspx> (last visited Jan. 8, 2013) (on file in in EB-IHD-13-00011669). In early 2014, PTT discontinued the website for its Star Pinless telecommunications service, which it had established in 2010; *Supplemental LOI Response of July 7, 2014 supra* note 2 at Response to Inquiry 2.

⁵ See *LOI Response supra* note 2 at Responses to Inquiries 12–13.

⁶ See *id.* at Response to Inquiry 13. PTT states that that it programmed its prepaid calling platform to prevent its customers from completing domestic phone calls. See *Supplemental LOI Response of July 7, 2014 supra* note 2 at Response to Inquiry 6.

⁷ See Letter from Pamela S. Kane, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Ayub Amir, President, PTT Phone Cards, Inc. (Apr. 8, 2013) (on file in EB-IHD-13-00011669) (*LOI*).

⁸ See *LOI Response supra* note 2.

⁹ See *id.*; *Supplemental LOI Response of July 7, 2014 supra* note 2; Letter from Raul Magallanes, Esq., Law Offices of Raul Magallanes, Counsel to PTT, to Robert Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Aug. 7, 2013) (on file in in EB-IHD-13-00011669).

¹⁰ See Tolling Agreement between PTT Phone Cards, Inc. and FCC Enforcement Bureau (Dec. 20, 2013) (on file in in EB-IHD-13-00011669).

and revenue reports, and CPNI certifications in accordance with Section 222 of the Act and Sections 43.61, 64.2009(e), and 64.5001(c)(3) of the Rules.¹¹

A. PTT Apparently Failed to Obtain International Section 214 Authority Before Providing International Telecommunications Services

7. We find that PTT apparently violated Section 214(a) of the Act and Section 63.18 of the Rules by willfully or repeatedly providing international telecommunications services without international Section 214 authority from January 1, 2010, until May 9, 2013. Section 214(a) of the Act prohibits any carrier from constructing, extending, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certification of authorization from the Commission.¹² While the Commission has granted “blanket” authority to carriers providing domestic service, meaning that such carriers need not apply to the Commission for such authority before providing domestic service,¹³ the Commission has not granted the same authority for providers of international telecommunications services.¹⁴ Instead, a carrier must seek and obtain Section 214 authority from the Commission prior to providing international telecommunications services.¹⁵ The Commission has explained that the international Section 214 review process enables the Commission to screen applications for risks to competition, particularly in situations where the applicant has an affiliation with a foreign carrier with market power on the foreign end of the route that may be able to leverage that market power to discriminate against U.S. competitors to the detriment of U.S. consumers.¹⁶

8. Section 63.18 of the Rules requires that any carrier that seeks Section 214 authority “for the provision of common carrier communications services between the United States, its territories or possessions, and a foreign point shall request such authority by formal application.”¹⁷ Through this process, the applicant provides the Commission with, among other things, contact information, ownership information, information on any affiliations it may have with foreign carriers, a certification that it will comply with Commission rules, and a certification that the applicant is not subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.¹⁸ Section 63.18(e)(2) of the Rules establishes specific requirements for parties “applying for authority to resell the international services of authorized

¹¹ See 47 U.S.C. §§ 214(a), 222, 225, 251(e)(2); 47 C.F.R. §§ 1.1154, 1.1157(b)(1), 43.61, 52.32, 54.711, 63.18, 64.604(c)(5)(iii), 64.2009(e), 64.5001(c)(3).

¹² See 47 U.S.C. § 214(a).

¹³ See 47 C.F.R. § 63.01(a) (authorizing “[a]ny party that would be a domestic interstate communications common carrier . . . to provide domestic, interstate services to any domestic point and to construct or operate any domestic transmission line as long as it obtains all necessary authorizations from the Commission for use of radio frequencies”).

¹⁴ See *Implementation of Section 402(b)(2)(A) of the Telecom. Act of 1996*, Report and Order in CC Docket No. 97-11, Second Memorandum Opinion and Order in AAD File No. 98-43, 14 FCC Rcd 11364, 11365–66, para. 2 & n.8 (1999) (grant of blanket authority is only for domestic services and does not extend to international services).

¹⁵ See 47 C.F.R. § 63.18; see also *1998 Biennial Regulatory Review – Review of International Common Carrier Regulations*, Report and Order, 14 FCC Rcd 4909, 4912–17, paras. 8–18 (1999) (*1998 International Biennial Review Order*) (Commission concluded not to adopt a blanket authorization for international services but to further streamline the authorization process).

¹⁶ See *1998 International Biennial Review Order*, 14 FCC Rcd at 4914–16, paras. 14–16; *Personal Communications Industry Ass’n’s Broadband Personal Communications Services Alliance’s Petition for Forbearance for Broadband Personal Communications Services*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16882–83, para. 50 (1998) (*PCIA Forbearance Order*).

¹⁷ 47 C.F.R. § 63.18.

¹⁸ See *id.*

common carriers,” and Section 63.23 of the Rules, in turn, identifies the conditions that apply to “carriers authorized to resell the international services of other authorized carriers.”¹⁹

9. In its *LOI Response*, PTT states that it began providing international telecommunications services on January 1, 2010.²⁰ PTT did not apply for international Section 214 authority until April 15, 2013, three days after acknowledging receipt of the Bureau’s *LOI* on April 12, 2013.²¹ At the time of its application, PTT did not disclose to the Commission’s International Bureau that it had been providing international telecommunications services without authorization. Nor did PTT apply for or receive special temporary authority to provide international telecommunications services while its application for permanent authority was pending.²² The Commission has determined that a “failure to obtain an international Section 214 authorization prior to offering international telecommunications service constitutes a continuing violation until the violation is cured.”²³ Here, PTT did not cure its continuing violation until May 10, 2013, the date the Commission’s International Bureau granted PTT’s application for international Section 214 authority.²⁴ Based on the preponderance of the evidence, we find that PTT apparently violated Section 214(a) of the Act and Section 63.18 of the Rules by willfully or repeatedly providing international telecommunications services without Section 214 authority from January 1, 2010, through May 9, 2013.²⁵

B. PTT Apparently Failed to Timely File Annual Telecommunications Reporting Worksheets for 2011, 2012, and 2013

10. We find that PTT apparently violated Sections 52.32(b), 54.711, and 64.604(c)(5)(iii)(B) of the Rules by willfully or repeatedly failing to timely file annual Telecommunications Reporting Worksheets (FCC Forms 499-A or Worksheets) for 2011, 2012, and 2013. The Act directs the Commission to establish, administer, and maintain programs to promote universal service and TRS, and to ensure LNP and effective numbering administration more generally, among other mandates.²⁶ To help accomplish these goals, the Commission has established the USF, the TRS Fund, and cost recovery mechanisms for LNP and NANP. As Congress has directed,²⁷ the Commission funds these programs through assessments on telecommunications providers. To gather the data necessary to calculate the assessments, the Commission requires international telecommunications service providers, among others, to file annual Worksheets reporting the providers’ revenues from various types of services during the preceding calendar year.²⁸ The Administrators of the USF, TRS, LNP, and NANP programs rely upon

¹⁹ See *id.* §§ 63.18(e)(2), 63.23.

²⁰ See *LOI Response supra* note 2 at Responses to Inquiries 9–11, 18.

²¹ See PTT Phone Cards, Inc., d/b/a Star Pinless, International Section 214 Application, IBFS File No.: ITC-214-20130415-00108 (filed Apr. 15, 2013) (International Section 214 Application); see also U.S. Postal Service Return Receipt, signed by Ayub Amir, President, PTT Phone Cards, Inc. (Apr. 12, 2013) (on file in EB-IHD-13-00011669) (*Apr. 12, 2013 U.S. Postal Receipt*).

²² See 47 C.F.R. §§ 1.10016, 63.25.

²³ See *Unipoint Technologies, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 12751, 12757, para. 13 (2012) (*Unipoint NAL*), forfeiture issued, Forfeiture Order, 29 FCC Rcd 1633 (2014) (*Unipoint Forfeiture Order*) (imposing \$179,000 forfeiture on prepaid calling card provider for, among other things, providing unauthorized international telecommunications service).

²⁴ See *International Authorizations Granted*, Public Notice, Report No. TEL-01617, 28 FCC Rcd 7112, 7113 (Int’l Bur. 2013).

²⁵ See 47 U.S.C. § 214(a); 47 C.F.R. § 63.18.

²⁶ See 47 U.S.C. §§ 225(b)(1)–(2), 251(b)(2), (e), 254(a)(2).

²⁷ See 47 U.S.C. §§ 225(d)(3), 251(e)(2), 254(d).

²⁸ See 47 C.F.R. §§ 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B).

the reported data to calculate and assess any necessary contributions. Although some providers may not need to contribute to each fund and cost recovery mechanism, all telecommunications service providers must file annual Worksheets.²⁹ The Commission also uses the annual Worksheet data to calculate and assess annual regulatory fees in accordance with the Act.³⁰

11. PTT neglected to timely file required annual Worksheets for 2011, 2012, and 2013. These failures to timely file constituted continuing violations until the violations were cured.³¹ The Company's 2011 Worksheet was due on April 1, 2011, but it was not received by the Commission until August 5, 2013, more than 28 months past its due date.³² The Company's 2012 Worksheet was due on April 1, 2012, but it was not received until August 5, 2013, more than 16 months late.³³ PTT's 2013 Worksheet was due on April 1, 2013, but it was not received until July 19, 2013, more than three months late.³⁴ These three late filings were made only after PTT had acknowledged receipt of the Bureau's *LOI*, which had informed PTT that the Bureau was investigating the Company's compliance with the Worksheet filing requirement.³⁵ Based on the preponderance of the evidence, we find that PTT apparently willfully or repeatedly violated Sections 52.32(b), 54.711, and 64.604(c)(5)(iii)(B) of the Rules by failing to timely file its 2011, 2012, and 2013 annual Worksheets.³⁶

C. PTT Apparently Failed to Timely Contribute to the TRS Fund

12. We also find that PTT apparently violated Section 225 of the Act and Section 64.604(c)(5)(iii) of the Rules by willfully or repeatedly failing to timely contribute to the TRS Fund. Section 225(b)(1) of the Act, which codifies Title IV of the Americans with Disabilities Act of 1990, directs the Commission to "ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States."³⁷ To that end, the Commission established the TRS Fund to reimburse TRS providers for the costs of providing interstate telecommunications relay services.³⁸

²⁹ See, e.g., *2014 Telecommunications Reporting Worksheet Instructions (Form 499-A) in Wireline Competition Bureau Releases 2014 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 29 FCC Rcd 939, 945 (Wireline Comp. Bur. 2014) (*Telecommunications Worksheet Instructions*).

³⁰ See *Telecommunications Worksheet Instructions*, 29 FCC Rcd at 945; 47 U.S.C. § 159(a), (b)(1)(A), (g) (authorizing the Commission to collect annual regulatory fees to recover the costs of enforcement, policy and rulemaking, user information, and international activities).

³¹ See, e.g., *Unipoint NAL*, 27 FCC Rcd at 12758, para. 14.

³² See Universal Service Administrative Company, PTT Phone Cards, Inc. – Form 499 – Search Forms, available at <https://efile.universalservice.org/form499/source/search.asp> (last visited June 2, 2014) (on file in EB-IHD-13-00011669).

³³ See *id.*

³⁴ See *id.*

³⁵ See *Apr. 12, 2013 U.S. Postal Receipt supra* note 21.

³⁶ See 47 U.S.C. §§ 52.32(b), 54.711, 64.604(c)(5)(iii)(B).

³⁷ See 47 U.S.C. § 225(b)(1).

³⁸ See *Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, Third Report and Order, 8 FCC Rcd 5300, 5300, para. 3 (1993). Telecommunications relay services enable persons with hearing and speech disabilities to communicate by telephone with other individuals. Such services provide telephone access to a significant number of Americans who, without it, might not be able to make calls to or receive calls from other users. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, 15 FCC Rcd 5140, 5141, 5143, paras. 2, 5 (2000).

Pursuant to Section 64.604(c)(5)(iii)(A) of the Rules, every provider of interstate or international telecommunications services must contribute to the TRS Fund based upon its end-user revenues.³⁹

13. As a provider of international telecommunications services, PTT was obligated to contribute to the TRS Fund on the basis of its international end-user telecommunications revenues.⁴⁰ The TRS Fund Administrator calculates the contribution that a carrier is required to make to the TRS Fund by applying a contribution factor (determined annually by the Commission) to the carrier's revenues for the prior calendar year as reported in the annual Worksheet due in April of each year.⁴¹ The TRS Fund Administrator uses a July 1 through June 30 billing year, and subject carriers must make TRS contributions on a monthly or annual basis.⁴² Failures to timely contribute to the TRS Fund constitute continuing violations until the violations are cured.⁴³

14. Because PTT did not timely file its annual Worksheets for 2011, 2012, and 2013, the TRS Fund Administrator did not bill PTT for mandated TRS contributions until September 13, 2013.⁴⁴ This *September 2013 Invoice* included the TRS contribution amounts that PTT owed for July 1, 2011, through June 30, 2012 (the 2011–2012 TRS contribution period), July 1, 2012, through June 30, 2013 (the 2012–2013 TRS contribution period), and for July 1, 2013, through September 30, 2013 (the first three months of the 2013–2014 TRS contribution period).⁴⁵ Had PTT timely filed its annual Worksheets, its payments for each of these periods would have been due in equal monthly installments beginning in August 2011, August 2012, and August 2013, respectively.⁴⁶

³⁹ 47 C.F.R. § 64.604(c)(5)(iii)(A) (requiring every carrier that provides “interstate services, including . . . international . . . services” to contribute to the TRS Fund).

⁴⁰ See 47 C.F.R. § 64.604(c)(5)(iii)(A); see also, e.g., 47 C.F.R. § 64.604(c)(5)(iii)(B) (setting forth methods for computing and paying TRS contributions); *Telecommunications Worksheet Instructions*, 29 FCC Rcd at 973–74, Instructions for Lines 511–14 (setting forth line-by-line computation of TRS contribution amounts).

⁴¹ 47 C.F.R. § 64.604(c)(5)(iii)(B).

⁴² *Id.* Under the Rules, each subject provider must contribute at least \$25 per year, and providers whose annual contributions are less than \$1,200 must pay the entire amount at the beginning of the contribution period. Otherwise, providers that are current on their payments may divide their contributions into equal, monthly payments. *Id.*

⁴³ See, e.g., *Unipoint NAL*, 27 FCC Rcd at 12758–59, para. 15; *RB Communications, Inc., d/b/a Starfone*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 4393, 4402, para. 25 (2012) (*Starfone NAL*), *forfeiture issued*, Forfeiture Order, 29 FCC Rcd 5668 (2014) (*Starfone Forfeiture Order*); *Omniat International Telecom, LLC d/b/a Omniat Telecom*, Notice of Apparent Liability for Forfeiture and Order, 24 FCC Rcd 4254, 4265–66, paras. 27, 29 (2009) (*Omniat NAL*).

⁴⁴ See E-mail from Wendy S. Lutz, Accountant, Rolka Loube Saltzer Associates LLC, to Robert B. Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Nov. 27, 2013, 12:33 EST) (on file in EB-IHD-13-00011669).

⁴⁵ See *id.*; Interstate TRS Fund Contribution, Invoice from TRS Fund Administrator Rolka Loube Saltzer Associates LLC to PTT Phone Cards, Inc., Invoice No. 82977009131 (dated Sept. 13, 2013) (*September 2013 TRS Invoice*) (on file in EB-IHD-13-00011669).

⁴⁶ See E-mail from Wendy S. Lutz, Accountant, Rolka Loube Saltzer Associates LLC, to Robert B. Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Nov. 25, 2013, 14:36 EST) (*Lutz E-mail Nov. 25, 2013*) (on file in EB-IHD-13-00011669). For each of these periods, PTT's TRS contribution obligation was large enough for it to have elected payment in monthly increments over twelve-months. See 47 C.F.R. § 64.604(c)(5)(iii)(B) (allowing service providers whose contribution obligations total \$1,200 or more to divide their contributions into equal monthly payments). Because the period for installment payments for 2011–2012 and 2012–2013 had already passed, the *September 2013 TRS Invoice* included all the overdue payments.

15. The *September 2013 TRS Invoice* required PTT to contribute \$34,485.36 to the TRS Fund by October 11, 2013.⁴⁷ The *September 2013 TRS Invoice* went unpaid, as did all subsequent monthly invoices from the TRS Fund Administrator, which included additional monthly installment obligations for the 2013–2014 TRS contribution period.⁴⁸ On February 28, 2014, the TRS Fund Administrator transferred PTT’s TRS debt to the U.S. Department of Treasury (Treasury Department).⁴⁹ Effective April 7, 2014, the Treasury Department and PTT entered into a payment agreement that requires PTT to make monthly installment payments until April 2016.⁵⁰ PTT’s unpaid TRS obligations totaled \$46,653.25 at the time that PTT entered into its payment agreement with the Treasury Department, an agreement that stemmed from PTT’s prior failure to make any TRS contributions.⁵¹ We therefore conclude, based on a preponderance of the evidence, that PTT apparently violated Section 225 of the Act and Section 64.604(c)(5)(iii) or the Rules by willfully or repeatedly failing to timely make required TRS contributions for the 2011–2012, 2012–2013, and 2013–2014 TRS contribution periods.⁵²

D. PTT Apparently Failed to Timely Contribute to the LNP Cost Recovery Mechanism

16. We next conclude that PTT apparently violated Section 251(e)(2) of the Act and Section 52.32 of the Rules by willfully or repeatedly failing to make timely payments to the LNP cost recovery mechanism. Telecommunications number portability concerns the ability of consumers of telecommunications services to “retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”⁵³ The presence of this feature in the telecommunications marketplace fosters consumer choice and enhances competition.⁵⁴ Section 251(b)(2) of the Act establishes that every telecommunications carrier has a duty to provide local number portability in accordance with requirements established by the Commission.⁵⁵ Section 251(e)(2) mandates that “[t]he cost of establishing . . . number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.”⁵⁶ In implementing this statutory directive, the Commission adopted Section 52.32 of its Rules, which requires, among other things, that all telecommunications carriers contribute to the costs of LNP on the basis of their end-user

⁴⁷ See *September 2013 TRS Invoice* *supra* note 45.

⁴⁸ See *id.*; Lutz E-mail Nov. 25, 2013 *supra* note 46 (“There are no payments on this account.”); Interstate TRS Fund Contribution, Statement from TRS Fund Administrator Rolka Loube Saltzer Associates LLC to PTT Phone Cards, Inc. (dated Dec. 13, 2013) (listing \$39,395.66 as overdue) (on file in EB-IHD-13-00011669).

⁴⁹ See E-mail from Wendy S. Lutz, Accountant, Rolka Loube Saltzer Associates LLC, to David W. Rolka, President, Rolka Loube Saltzer Associates LLC (May 16, 2014, 09:57 EDT) (on file in EB-IHD-13-00011669).

⁵⁰ See Letter from U.S. Dept. of Treasury, Financial Management Service, Debt management Services to Ayub Amir, Business Contact, PTT Phone Cards, Inc., FedDebt Payment Agreement ID Number: PA14017957, Payment Agreement at 1 (dated Apr. 7, 2013) (on file in EB-IHD-13-00011669).

⁵¹ See *id.* at Attachment A.

⁵² See 47 U.S.C. § 225; 47 C.F.R. § 64.604(c)(5)(iii).

⁵³ 47 C.F.R. § 52.21(n).

⁵⁴ The Commission has observed that in requiring number portability, “Congress recognized that the inability of customers to retain their telephone numbers when changing local service providers hampers the development of local competition.” *Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11702, para. 3 (1998). See H.R. Rep. No. 104-204(I), 104th Cong., 1st Sess. at 113 (1995) (Joint Explanatory Statement) (stating that “[t]he ability to change service providers is only meaningful if a customer can retain his or her local telephone number”).

⁵⁵ See 47 U.S.C. § 251(b)(2).

⁵⁶ See *id.* § 251(b)(2).

telecommunications revenues for the prior calendar year.⁵⁷ A failure to make LNP contributions constitutes a continuing violation until it is cured by payment of all monies due.⁵⁸

17. PTT's failure to timely file its annual Worksheets for 2011, 2012, and 2013 prevented the LNP Administrator from timely billing the Company for required contributions to the LNP cost-recovery mechanism. Like the TRS Fund Administrator,⁵⁹ the LNP Administrator calculates carriers' required contributions according to a July 1 through June 30 billing year.⁶⁰ By the time PTT filed its Worksheets, it owed approximately \$14,400 in LNP contributions for the 2011–2012 and 2012–2013 billing cycles.⁶¹ PTT has not yet paid these required contributions.⁶² PTT also missed three monthly payment deadlines for invoices for the 2013–2014 billing cycle.⁶³ We therefore find, based on the preponderance of the evidence, that PTT apparently violated Section 251(e)(2) of the Act and Section 52.32 of the Rules by willfully or repeatedly failing to timely make required payments to the LNP cost recovery mechanism for the 2011–2012, 2012–2013, and 2013–2014 billing cycles.⁶⁴

E. PTT Apparently Failed to Timely Pay Required Regulatory Fees

18. We further conclude that PTT apparently violated Sections 1.1154 and 1.1157(b)(1) of the Rules by willfully or repeatedly failing to timely pay required regulatory fees for fiscal years 2011 and 2012. Section 9 of the Act directs the Commission to “assess and collect regulatory fees to recover the costs” of certain enumerated Commission activities, including “enforcement activities, policy and rulemaking activities, user information services, and international activities.”⁶⁵ Consistent with this directive, the Commission has set forth in its Rules schedules of annual regulatory fees that entities regulated by the Commission must remit to the Commission, as well as requirements for when the fees must be paid.⁶⁶ As a provider of international telecommunications services, PTT was obligated to pay regulatory fees based on its international end-user revenues as recorded on its annual Worksheets.⁶⁷ Failures to make regulatory fee payments are continuing violations until they are cured by the payment of all monies owed.⁶⁸

19. PTT's regulatory fees for fiscal years 2011 and 2012 were due by September 15, 2011, and September 13, 2012, respectively.⁶⁹ PTT has not paid its regulatory fees for either fiscal year. The

⁵⁷ See 47 C.F.R. § 52.32.

⁵⁸ *Omniat NAL*, 24 FCC Rcd at 4266–67, para. 28.

⁵⁹ See *supra* para. 13.

⁶⁰ See E-mail from Karen Laffey, Manager, Billing Operations, Neustar, Inc. (LNP Administrator), to Robert Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Nov. 27, 2013, 14:24 EST) (*First LNP Administrator E-mail*) (on file in EB-IHD-13-00011669).

⁶¹ See *id.*

⁶² See *id.*; E-mail from Karen Laffey, Manager, Billing Operations, Neustar, Inc. (LNP Administrator), to Robert Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Nov. 27, 2013, 13:44 EDT) (*Second LNP Administrator E-mail*) (on file in EB-IHD-13-00011669).

⁶³ See *Second LNP Administrator E-mail*.

⁶⁴ See 47 U.S.C. § 251(e)(2); 47 C.F.R. § 52.32.

⁶⁵ See 47 U.S.C. § 159 (a)(1)–(2).

⁶⁶ See 47 C.F.R. §§ 1.1152–1.1156, 1.1157(b)(1).

⁶⁷ See 47 C.F.R. § 1.1154.

⁶⁸ See, e.g., *Starfone NAL*, 27 FCC Rcd at 4402, para. 27; *Omniat NAL*, 24 FCC Rcd at 4266, para. 29; *Telrite Corporation*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7231, 7245, para. 35 (2008).

⁶⁹ See *Reminder that FY 2012 Regulatory Fees Are Due No Later Than September 13, 2012, Eastern Time (ET)*, Public Notice, 27 FCC Rcd 10297 (2012); *FY 2011 Regulatory Fee Deadline is Extended to 11:59 PM, ET*,

(continued....)

unpaid fees and associated late penalties totaled \$11,033.75 as of July 21, 2014.⁷⁰ Based on the preponderance of the evidence, we find that PTT apparently violated Sections 1.1154 and 1.1157(b)(1) of the Rules by willfully or repeatedly failing to make regulatory fee payments for fiscal years 2011 and 2012.⁷¹

F. PTT Apparently Failed to Timely File Prepaid Calling Card Certifications

20. We also find that PTT apparently violated Section 64.5001(c) of the Rules by willfully or repeatedly failing to timely file prepaid calling card certifications. That rule requires that an officer of each prepaid calling card provider submit a quarterly certification to the Commission stating, among other information, that the provider is making any required USF contributions.⁷² Each quarterly certification is due no later than the last day of the subsequent quarter.⁷³ As with other forms, failures to file prepaid calling card certifications constitute continuing violations until the violations are cured.⁷⁴

21. Since commencing its operations in January 2010, PTT has late filed 15 separate quarterly prepaid calling card certifications, and the certification for a sixteenth quarter (the first quarter of 2014) has not yet been filed. Indeed, the Commission did not receive PTT's first 14 quarters of certifications until December 18, 2013.⁷⁵ This was more than eight months after April 12, 2013, the date PTT acknowledged receipt of the Bureau's *LOI* investigating the Company's compliance with Section 64.5001(c).⁷⁶ Based on the preponderance of the evidence, we therefore find that PTT apparently violated Section 64.5001(c) by willfully or repeatedly failing to timely file its prepaid calling card certifications.

(Continued from previous page) _____

September 16, 2011, Public Notice, 26 FCC Rcd 13029 (2011); *see also* E-mail from Ann Monahan, Financial Management Specialist, Office of the Managing Director, FCC, to Robert Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (Nov. 25, 2013, 15:04 EST) (stating that PTT's FY2013 regulatory fee payment of \$9,031.00 was due and paid on September 20, 2013).

⁷⁰ *See* E-mail from Ann Monahan, Financial Management Specialist, Office of the Managing Director, FCC, to Robert Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau (July 21, 2014, 11:18 EDT) (providing PTT regulatory fee data from the FCC Fee Filer database) (on file in EB-IHD-13-00011669).

⁷¹ *See* 47 C.F.R. §§ 1.1154, 1.1157(b)(1).

⁷² 47 C.F.R. § 64.5001(c). In 2013, the Commission forbore in part from Section 64.5001, but specified that prepaid calling card providers that do not have a two-year track record of timely filing their Telecommunications Reporting Worksheets remain subject to Section 64.5001(c). *See Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627, 7706-09, paras. 178–187 (2013) (*USTelecom Forbearance Order*).

⁷³ *See OMB Approves Prepaid Calling Card Order Reporting and Certification Rules; All Requirements Now Effective*, Public Notice, 22 FCC Rcd 2465 (Wireline Comp. Bur. 2007).

⁷⁴ *See, e.g., Unipoint NAL*, 27 FCC Rcd at 12758, para. 14 (annual Telecommunications Reporting Worksheets); *id.* at 12759, para. 16 (international telecommunications traffic reports).

⁷⁵ *See* FCC, Electronic System Comment Filing (ECFS) database, Proceeding Number 05-68, Filer PTT Phone Cards, Inc., available at http://apps.fcc.gov/ecfs/comment_search/execute?proceeding=05-68&applicant=Ptt+phone+cards+&lawfirm=&author=&disseminated.minDate=&disseminated.maxDate=&recieved.minDate=8%2F15%2F13&recieved.maxDate=&dateCommentPeriod.minDate=&dateCommentPeriod.maxDate=&dateReplyComment.minDate=&dateReplyComment.maxDate=&address.city=&address.state.stateCd=&address.zip=&daNumber=&fileNumber=&bureauIdentificationNumber=&reportNumber=&submissionTypeId=&__checkbox_exParte=true (last visited Aug. 15, 2014); *LOI supra* note 7 at Inquiry 33.

⁷⁶ *LOI supra* note 7 at 1.

G. PTT Apparently Failed to Timely File International Traffic and Revenue Reports

22. We conclude that PTT apparently violated Section 43.61(a) of the Rules by willfully or repeatedly failing to file international traffic and revenue reports. That rule requires common carriers that provide international telecommunications services to file reports with the Commission containing data on overseas traffic.⁷⁷ These reports are due not later than July 31 of each year and must include specified traffic and revenue data pertaining to the carrier's international telecommunications services provided in the preceding calendar year.⁷⁸ Failures to timely file international telecommunications traffic reports constitute continuing violations until the violations are cured.⁷⁹

23. The Commission's records indicate that PTT failed to file its 2011, 2012, 2013, and 2014 international telecommunications traffic reports (providing calendar year 2010, 2011, 2012, 2013 data, respectively) in a timely manner. PTT was obligated to submit these reports by July 31 of each year they were due. PTT, however, did not file its 2011, 2012, and 2013 reports until February 20, 2014, and the Company did not file its 2014 report until August 5, 2014. These respective dates are roughly 10 months and 16 months after April 12, 2013, the date PTT acknowledged receipt of the Bureau's *LOI* investigating the Company's compliance with Section 43.61(a).⁸⁰ Based on a preponderance of the evidence, we therefore conclude that PTT apparently violated Section 43.61 of the Rules by willfully or repeatedly failing to timely file its 2011, 2012, 2013, and 2014 international telecommunications traffic reports.

H. PTT Apparently Failed to Timely File CPNI Certifications

24. We also conclude that PTT apparently violated Section 64.2009(e) of the Rules by willfully or repeatedly failing to timely file its annual CPNI certifications. In the course of providing prepaid calling card services, PTT collects personal information relating to its customers' calling practices, such as the number of calls a customer makes, the type of services the customer subscribes to, the destination or numbers called by a customer, the location (i.e., where the customer is calling from), and information contained in a subscriber's bills. The Act defines this information as CPNI.⁸¹ Section 222 of the Act imposes the general duty on all telecommunications carriers to protect the confidentiality of their subscribers' proprietary information.⁸² The Commission has promulgated rules implementing Section 222.⁸³ Specifically, Section 64.2009(e) of the Rules requires, among other things, that carriers establish and maintain systems designed to ensure that they adequately protect their subscribers' CPNI and file with the Commission annually, on or before March 1, a certification of their compliance with the

⁷⁷ 47 C.F.R. § 43.61(a).

⁷⁸ *Id.*

⁷⁹ *Unipoint NAL*, 27 FCC Rcd at 12759, para. 16.

⁸⁰ See Letter from Alonzo Beyene, Industry Assurance Consulting, Inc., Consultant to PTT Phone Cards, Inc., to Marlene H. Dortch, Secretary, FCC (filed Feb. 20, 2014) (re: Submission of Traffic Report for CY 2010, CY 2011 and CY 2012) (on file in EB-IHD-13-00011669); *LOI supra* note 7 at Inquiry 24; *Apr. 12, 2013 U.S. Postal Receipt supra* note 21.

⁸¹ CPNI is defined as "(A) information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and (B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier." 47 U.S.C § 222(h)(1).

⁸² See 47 U.S.C § 222.

⁸³ 47 C.F.R. §§ 64.2001–2011.

CPNI rules.⁸⁴ The Commission has determined that the failure to file a CPNI certification is a continuing violation, which is not cured until the certification is filed with the Commission.⁸⁵

25. The Commission's records indicate that PTT failed to file its annual CPNI certifications for 2011, 2012, 2013, and 2014 covering PTT's CPNI policies and actions in 2010, 2011, 2012, and 2013, respectively.⁸⁶ Although PTT's annual certification was due March 1 of each year, PTT did not file its certifications for 2011, 2012, and 2013 until April 16, 2013.⁸⁷ This was after PTT learned that the Commission was investigating the Company's potential violation of this requirement.⁸⁸ These three filings were respectively more than 25 months late, more than 13 months late, and 46 days late. PTT also did not file its 2014 certification, which was due March 1, 2014, until April 15, 2014.⁸⁹ Based on a preponderance of the evidence, we therefore conclude that PTT apparently violated Section 64.2009(e) of the Rules by willfully or repeatedly failing to timely file its annual CPNI certifications.

IV. PROPOSED FORFEITURES

26. Section 503(b)(1)(B) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation, or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.⁹⁰ 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.⁹¹ The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Section 312 and 503(b) of the Act,⁹² and the Commission has so interpreted the term in the Section 503(b) context.⁹³ The Commission may also assess a forfeiture for violations that are

⁸⁴ 47 C.F.R. § 64.2009(e); *see also, e.g., Enforcement Advisory No. 2011-02, Telecommunications Carriers and Interconnected VoIP Providers Reminded of Requirement to File Annual Reports Certifying Compliance with Commission Rules Protecting Customer Proprietary Network Information*, Public Notice, 26 FCC Rcd 650 (Enf. Bur. 2011).

⁸⁵ *USA Teleport, Inc.*, Order on Review, 28 FCC Rcd 525, 530 n.41 (2013) (*USA Teleport Review Order*);

⁸⁶ *See* Letter from Alonzo Beyene, Industry Assurance Consulting, Inc., Regulatory Analyst on behalf of PTT Phone Cards, Inc., to Marlene H. Dortch, Secretary, FCC (filed Apr. 16, 2013) (re: EB Docket No. 06-36, CPNI Certification due March 1, 2011 (FY 2010 operations)) (on file in EB-IHD-13-00011669) (*2011 CPNI Filing*); Letter from Alonzo Beyene, Industry Assurance Consulting, Inc., Regulatory Analyst on behalf of PTT Phone Cards, Inc., to Marlene H. Dortch, Secretary, FCC (filed Apr. 16, 2013) (re: EB Docket No. 06-36, CPNI Certification due March 1, 2012 (FY 2011 operations)) (on file in EB-IHD-13-00011669) (*2012 CPNI Filing*); *See* Letter from Alonzo Beyene, Industry Assurance Consulting, Inc., Regulatory Analyst on behalf of PTT Phone Cards, Inc., to Marlene H. Dortch, Secretary, FCC (filed Apr. 16, 2013) (re: EB Docket No. 06-36, CPNI Certification due March 1, 2013 (FY 2012 operations)) (on file in EB-IHD-13-00011669) (*2013 CPNI Filing*); FCC, CPNI Data Base, *available at* <http://apps.fcc.gov/eb/CPNI> (record of PTT's 2014 CPNI filing is available by searching the CPNI database according to PTT's filer ID number) (last visited June 9, 2014) (on file in EB-IHD-13-00011669) (*2014 CPNI Filing*).

⁸⁷ *See 2011 CPNI Filing; 2012 CPNI Filing; 2013 CPNI Filing.*

⁸⁸ *See LOI supra* note 7 at Inquiry 34.

⁸⁹ *See 2014 CPNI Filing supra* note 86.

⁹⁰ *See* 47 U.S.C. § 503(b)(1)(B).

⁹¹ *See* 47 U.S.C. § 312(f)(1).

⁹² *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

⁹³ *See, e.g., Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991) (*Southern California Broadcasting*).

merely repeated, and not willful.⁹⁴ “Repeated” means that the act was committed or omitted more than once, or lasts more than one day.⁹⁵ To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.⁹⁶ The Commission will then issue a forfeiture if it finds based on the evidence, that the person or entity has violated the Act, or any rule, regulation, or order issued by the Commission.⁹⁷

27. As set forth above, we conclude that PTT is apparently liable for forfeitures for willfully or repeatedly providing international telecommunications services without authority under Section 214(a) of the Act, and for failing to timely file annual Worksheets, timely make required TRS and LNP contributions, timely pay required regulatory fees, and timely file prepaid calling card certifications, international traffic and revenue reports, and CPNI certifications.⁹⁸ Based on the facts and circumstances before us, we therefore find that PTT is apparently liable for forfeiture penalties totaling four hundred ninety-three thousand, three hundred twenty-seven dollars (\$493,327).

A. Providing International Telecommunications Services Without Commission Authority

28. We conclude that for more than 41 months, PTT apparently provided international telecommunications services without Commission authority in violation of Section 214 of the Act and Section 63.18 of the Rules.⁹⁹ We find that this apparent violation of the Act and Rules was willful or repeated. Given the language of the Act¹⁰⁰ and the Commission’s Rules and decisions,¹⁰¹ further buttressed by the Commission’s website,¹⁰² it should have been apparent to PTT that it was required to obtain Section 214 authority from the Commission prior to providing international telecommunications service.¹⁰³

29. We view PTT’s apparent failure to obtain international Section 214 authority prior to providing international telecommunications services as a serious dereliction of its responsibilities under the Act and Rules. The Commission requires applications for international Section 214 authority so, among other things, the Commission can screen applications for risks to competition, particularly in

⁹⁴ See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision*) (issuing an NAL for, *inter alia*, a cable television operator’s repeated violation of the cable signal leakage rules).

⁹⁵ *Southern California Broadcasting, Inc.*, 6 FCC Rcd at 4388, para. 5; *Callais Cablevision*, 16 FCC Rcd at 1362, para. 9.

⁹⁶ See 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

⁹⁷ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591, para. 9.

⁹⁸ See 47 U.S.C. §§ 214 (a), 222, 251(e)(2); 47 C.F.R. §§ 1.1154, 1.1157, 43.61, 52.32, 54.711, 63.18, 64.604(c)(5)(iii), 64.2009(e), 64.5001(c)(3).

⁹⁹ See *supra* paras. 7–9.

¹⁰⁰ See 47 U.S.C. § 214(a).

¹⁰¹ See, e.g., 47 C.F.R. §§ 63.12, 63.18, 63.20, 63.21, 63.23; see also *1998 International Biennial Review Order*, 14 FCC Rcd 4909; *Regulation of International Common Carrier Services*, Report and Order, 7 FCC Rcd 7331 (1992).

¹⁰² For example, the Commission’s website has a list of frequently asked questions about Section 214 applications for providers of international telecommunications services. Among the questions and answers are the following: “Question 7: If I am merely reselling the international service of another carrier, do I have to file a Section 214 application? Answer: Yes, including in the case of mobile international services. Refer to 47 C.F.R. § 63.18(e)(2), global resale service.” See “Frequently Asked Questions (FAQs),” available at <http://transition.fcc.gov/ib/pd/pf/214faq.html> (last visited Aug. 14, 2014).

¹⁰³ See *Unipoint NAL*, 27 FCC Rcd at 12760, para. 18.

situations where the applicant has an affiliation with a foreign carrier with market power on the foreign end of the route that may be able to leverage that market power to discriminate against U.S. competitors to the detriment of U.S. consumers.¹⁰⁴ International telecommunications carriers that operate without Section 214 authority thus may endanger important public interests.¹⁰⁵ Consistent with Commission precedent, we find that PTT is apparently liable for a forfeiture of one hundred thousand dollars (\$100,000) for its willful or repeated failure to obtain international Section 214 authority from the Commission prior to providing international telecommunications service.¹⁰⁶

B. Failure to Timely File Annual Telecommunications Reporting Worksheets

30. We conclude that PTT failed to timely file its annual Telecommunications Reporting Worksheets for 2011, 2012, and 2013 in apparent violation of Sections 52.32(b), 54.711, and 64.604(c)(5)(iii)(B) of the Rules.¹⁰⁷ This failure constitutes a serious dereliction of PTT's responsibilities under our Rules. The fund Administrators and the Commission rely on the data in annual Worksheets to determine the amounts, if any, that telecommunications service providers, among others, owe for USF, TRS, LNP, and NANP contributions and regulatory fees.¹⁰⁸ PTT's failure to timely file its annual Worksheets for 2011, 2012, and 2013 thus had serious implications for the administration of important Commission programs. In the past, the Commission has proposed a forfeiture of \$50,000 for each failure to file an annual Worksheet.¹⁰⁹ Accordingly, consistent with this precedent, we find that PTT is apparently liable for a forfeiture of one hundred fifty thousand dollars (\$150,000) for willful or repeated failure to timely file its annual Worksheets for 2011, 2012, and 2013.

C. Nonpayment and Late Payment of TRS Contributions

31. We conclude that PTT apparently violated Section 225 of the Act and Section 64.604(c)(5)(iii) of the Rules by willfully or repeatedly failing to timely make required TRS contributions for the 2011–2012, 2012–2013, and 2013–2014 TRS contribution periods.¹¹⁰ Where a provider fails to meet its obligation to contribute to the TRS Fund over an extended period, it impedes the Commission's efforts to ensure that "telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States," as Section 225(b)(1) of the Act directs.¹¹¹ The Commission has established a base forfeiture amount of

¹⁰⁴ See *1998 International Biennial Review Order*, 14 FCC Rcd at 4914–16, paras. 14–16; *Personal Communications Industry Ass'n's Broadband Personal Communications Service Alliances Petition for Forbearance for Broadband Personal Communications Services*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16882–83, para. 50 (1998).

¹⁰⁵ See *1998 International Biennial Review Order*, 14 FCC Rcd at 4915–16, paras. 15–18; *id.* at 4939–40, paras. 72–74.

¹⁰⁶ See, e.g., *Starfone Forfeiture Order*, 29 FCC Rcd at 5674–75, para. 21 (assessing a \$100,000 forfeiture against a prepaid calling company for providing unauthorized international telecommunications services); *Unipoint Forfeiture Order*, 29 FCC Rcd at 1643, para. 32 (2014) (same); *ADMA Telecom, Inc.*, Forfeiture Order, 26 FCC Rcd 4152, 4161–62, paras. 26–27 (2011) (*ADMA Forfeiture Order*) (same).

¹⁰⁷ See *supra* paras. 10–11.

¹⁰⁸ 47 C.F.R. §§ 1.1154, 1.1157, 52.17(a), 52.32, 54.711, 64.604(c)(5)(iii).

¹⁰⁹ *Unipoint Forfeiture Order*, 29 FCC Rcd at 1643, para. 32 (assessing a \$50,000 forfeiture for failure to timely file one annual Worksheet); *ADMA Forfeiture Order*, 26 FCC Rcd at 4155, 4162, paras. 9, 28 (assessing a \$150,000 forfeiture for failure to timely file three Worksheets); *Globcom, Inc.*, Order of Forfeiture, 21 FCC Rcd 4710, 4720–21, 4727, paras. 26–28, 31, 45 (2006) (*Globcom Forfeiture Order*) (assessing a \$150,000 forfeiture for failure to timely file Worksheets on three occasions).

¹¹⁰ See *supra* paras. 12–15.

¹¹¹ 47 U.S.C. § 225(b)(1); see *Unipoint NAL*, 27 FCC Rcd at 12760, para. 21.

\$10,000 for each instance in which a contributor fails to make required TRS Fund contributions.¹¹² Thus, we propose a base forfeiture of thirty thousand dollars (\$30,000) for PTT's failure to pay its TRS Fund contributions for the 2011–2012, 2012–2013, and 2013–2014 TRS contribution periods.

32. As stated above,¹¹³ PTT's unpaid TRS obligations totaled \$46,653.25 at the time that the Company entered into its payment agreement with the Treasury Department. The Commission has previously upwardly adjusted forfeitures for failure to make TRS payments based on a percentage of one half of the Company's unpaid TRS balance.¹¹⁴ Consistent with that practice, we propose an upward adjustment of \$23,327 for PTT's apparent nonpayment violations, taking into account all the factors enumerated in Section 503(b)(2)(E) of the Act. Accordingly, we find PTT apparently liable for a total proposed forfeiture of fifty-three thousand, three hundred twenty-seven-dollars (\$53,327) for its apparent willful and repeated failures to timely contribute to the TRS Fund.

D. Late Payment of LNP Contributions

33. We conclude that PTT apparently violated Section 251(e)(2) of the Act and Section 52.32 of the Rules by willfully or repeatedly failing to make payments to the LNP cost recovery mechanism in both the July 2011–June 2012 and July 2012–June 2013 billing cycles, and by failing to timely pay its LNP contribution obligations during the July 2013–June 2014 billing cycle.¹¹⁵ Failure to make payments to the LNP cost recovery mechanism undermines our ability to promote consumer choice and competition in the telecommunications marketplace.¹¹⁶ The Commission has established a base forfeiture of \$10,000 for each year in which there is a failure to timely make required LNP contributions.¹¹⁷ We therefore find PTT apparently liable for a forfeiture of thirty thousand dollars (\$30,000) for its willful or repeated LNP contribution failures in connection with the July 2011–June 2012, July 2012–June 2013, and July 2013–June 2014 billing cycles.

E. Late Payment of Regulatory Fees

34. We conclude that PTT apparently violated Sections 1.1154 and 1.1157(b)(1) of the Rules by willfully or repeatedly failing to make regulatory fee payments for fiscal years 2011 and 2012.¹¹⁸ A carrier's failure to contribute toward the costs of certain regulatory activities from which it benefits undermines the efficiency, equitability, and effectiveness of the regulatory fee program and accomplishment of Congress' objectives in Section 9(a)(1) of the Act. The Commission has established a base forfeiture amount of \$10,000 for failure to timely make required regulatory fee payments for one calendar year.¹¹⁹ Therefore, we find PTT is apparently liable for a forfeiture of twenty thousand dollars (\$20,000) for its willful or repeated failure to make full regulatory fee payments for fiscal years 2011 and 2012.

¹¹² See, e.g., *Starfone NAL*, 27 FCC Rcd at 4402, para. 26; *ADMA NAL*, 24 FCC Rcd at 853, para. 35; *Globcom, Inc. d/b/a Globcom Global Communications*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, 19904, para. 29 (2003) (*Globcom NAL*), *forfeiture issued*, Order of Forfeiture, 21 FCC Rcd 4710 (2006).

¹¹³ See *supra* para. 15.

¹¹⁴ See *id.*

¹¹⁵ See *supra* para. 17.

¹¹⁶ See *Telephone Number Portability*, Third Report and Order, 13 FCC Rcd at 11701, 11702, para. 3 (2008).

¹¹⁷ See, e.g., *Kajeet Inc. and Kajeet/Airlink, LLC*, Notice of Apparent Liability for Forfeiture and Order, 26 FCC Rcd 16684, 16695, para. 24 (2011); *Telrite Corporation*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7231, 7245, para. 34 (2008).

¹¹⁸ See *supra* para. 18.

¹¹⁹ See, e.g., *Starfone NAL*, 27 FCC Rcd at 4402, para. 27; *Compass Global Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6125, 6141–42, para. 38 (2008).

F. Failure to Timely File Prepaid Calling Card Certifications

35. We conclude that PTT apparently violated Section 64.5001(c) of the Rules by willfully or repeatedly failing to timely file prepaid calling card certifications.¹²⁰ Pursuant to Section 1.80(b)(8) of the Rules, the applicable base forfeiture amount for “failure to file required forms or information” certifications is \$3,000 per violation.¹²¹

36. The Commission’s records show that PTT failed to timely file its annual prepaid calling card certifications for 16 quarters.¹²² PTT did not file the first 14 of these certifications — covering the first quarter of 2010 (due June 30, 2010) through the second quarter of 2013 (due September 30, 2013) — until December 13, 2013.¹²³ PTT also late filed its certifications for the fourth quarter of 2013, and it has not yet filed its certification for the first quarter of 2014, which was due June 30, 2014.¹²⁴ Given this filing record, we find that the Company is apparently liable for a forfeiture of forty-eight thousand dollars (\$48,000) for willful or repeated failures to timely file its USF compliance certifications for 16 quarters from the first quarter of 2010 through the first quarter of 2014.

G. Failure to Timely File International Traffic and Revenue Reports

37. We conclude that PTT apparently violated Section 43.61 of the Rules by willfully or repeatedly failing to timely file its 2011, 2012, 2013, and 2014 international telecommunications traffic reports providing data for calendar years 2010, 2011, 2012, and 2013.¹²⁵ The Commission has held that the data it receives through international telecommunications traffic reports are “invaluable” to the discharge of essential regulatory tasks, including “evaluating applications for international facilities, considering facility planning options, monitoring the development and competitiveness of each international market, formulating policies consistent with the public interest and gauging the competitive impact of [its] decisions on the market.”¹²⁶ Failure to timely file international telecommunications traffic reports impedes the work of the Commission and hampers the discharge of its obligations under the Act. The Commission’s *Forfeiture Policy Statement* and implementing Rules prescribe a base forfeiture of \$3,000 for failure to file required forms or information, and the Commission has applied that base forfeiture amount to international traffic and revenue reports.¹²⁷ Therefore, we find PTT is apparently liable for a forfeiture of twelve thousand dollars (\$12,000) for its willful or repeated failure to timely file international telecommunications traffic reports for four separate years.

¹²⁰ See *supra* paras. 20–21.

¹²¹ See 47 C.F.R. § 1.80(b), Note to Paragraph (b)(8), Section I. Base Amounts for Section 503 Forfeitures.

¹²² See *supra* para. 21.

¹²³ See *id.*

¹²⁴ See *id.*

¹²⁵ See *supra* para. 37.

¹²⁶ *Amendment of Section 43.61 of the Commission’s Rules to Update and Simplify the Required Traffic Data Reports Filed by International Telecommunications Carriers*, Report and Order, 100 FCC 2d 578, 580, paras. 1, 7 (1985); see also *Unipoint NAL*, 27 FCC Rcd at 12759, para. 16; *Reporting Requirements for U.S. Providers of International Telecommunications Services – Amendment of Part 43 of the Commission’s Rules*, First Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 7274, 7275–76, paras. 1–2 (2011) (concluding that the Commission should continue to require U.S. providers of international telecommunications services to report information on their international telecommunications traffic).

¹²⁷ See *Unipoint NAL*, 26 FCC Rcd at 12762, para. 22; *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, 17113 (1997) (*Forfeiture Policy Statement*), *recons. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b), Note to paragraph (b)(6) “Section I. Base Amounts for Section 503 Forfeitures.”

H. Failure to Timely File CPNI Certifications

38. Finally, we conclude that PTT apparently violated Section 222 of the Act and Section 64.2009(e) of the Rules by willfully or repeatedly failing to timely file its annual CPNI certifications.¹²⁸ PTT's apparent violations of Section 222(c) and Section 64.2009(e) constitute a serious breach of federal privacy protections. Failure to file the annual CPNI certification jeopardizes the Commission's ability to effectively monitor and respond to violations of consumers' privacy. The annual certification filing obligation is specifically intended to "ensure that carriers regularly focus their attention on their duty to safeguard CPNI" and allow the Commission to "monitor the industry's response to CPNI privacy issues and to take any necessary steps to ensure that carriers are managing customer CPNI securely."¹²⁹ In prior decisions, the Commission has affirmed the Bureau's decision to assess a \$20,000 forfeiture for a failure to timely file a CPNI certification.¹³⁰

39. We follow this precedent here. As stated above, PTT apparently has never timely filed a CPNI certification.¹³¹ This lack of timeliness encompasses the CPNI certification for 2013—which was due on March 3, 2014, but not filed until April 15, 2014—as well as the certifications for 2010, 2011, and 2012—respectively due in March 2011, March 2012, and March 2013, but not filed until April 16, 2013.¹³² Given PTT's apparent pattern of noncompliance with CPNI certification requirements and the importance of the CPNI rules to protecting the privacy of consumer personal information held by telecommunications carriers, we find that PTT is apparently liable for a forfeiture of eighty thousand dollars (\$80,000) for its willful or repeated failure to timely file CPNI certifications for 2011, 2012, 2013, and 2014. This amount reflects a proposed forfeiture of \$20,000 for each of PTT's four violations of the CPNI certification requirement.

V. CONCLUSION

40. In view of the seriousness, duration, and scope of PTT's apparent violations, we propose forfeitures totaling four hundred ninety-three thousand, three hundred twenty-seven dollars (\$493,327) against PTT, consisting of one hundred thousand dollars (\$100,000) for providing international telecommunications service without authorization; one hundred fifty thousand dollars (\$150,000) for failure to timely file annual Telecommunications Reporting Worksheets; fifty-three thousand, three hundred twenty-seven dollars (\$53,327) for nonpayment and late payment of TRS contributions; thirty thousand dollars (\$30,000) for late payment of LNP contributions; twenty thousand dollars (\$20,000) for failure to timely pay required regulatory fees; forty-eight thousand dollars (\$48,000) for failure to timely file USF compliance certifications; twelve thousand dollars (\$12,000) for failure to timely file international telecommunications traffic reports; and eighty thousand dollars (\$80,000) for failure to timely file CPNI certifications.

VI. ORDERING CLAUSES

41. Accordingly, **IT IS ORDERED**, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and Section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, that PTT Phone Cards, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR**

¹²⁸ 47 U.S.C. § 222; 47 C.F.R. § 64.2009(e); see *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, IP-Enabled Services*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 6927, 6953, para. 51 (2007) (*EPIC CPNI Order*), *aff'd sub nom Nat'l Cable & Telecom. Assoc. v. FCC*, 555 F.3d 996 (D.C. Cir. 2009).

¹²⁹ *EPIC CPNI Order*, 22 FCC Rcd at 6953, para. 51.

¹³⁰ See *USA Teleport Review Order*, 28 FCC Rcd at 530, paras. 11, 13; *Think 12, Corporation d/b/a Hello Depot*, Order on Review, 27 FCC Rcd 16618, 16621, paras. 12, 14 (2012).

¹³¹ See *supra* para. 25.

¹³² See *id.*

FORFEITURE in the amount of four hundred ninety-three thousand, three hundred twenty-seven dollars (\$493,327) for willful or repeated violations of Sections 214(a), 222, and 251(e)(2) of the Communications Act, 47 U.S.C. §§ 214(a), 222, 251(e)(2), and Sections 1.1154, 1.1157(b)(1), 43.61, 52.32, 54.711, 63.18, 64.604(c)(5)(iii), 64.2009(e), and 64.5001(c)(3) of the Commission's rules, 47 C.F.R. §§ 1.1154, 1.1157(b)(1), 43.61, 52.32, 54.711, 63.18, 64.604(c)(5)(iii), 64.2009(e), 64.5001(c)(3).

42. **IT IS FURTHER ORDERED** that pursuant to Section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, PTT Phone Cards, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

43. 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. PTT Phone Cards, Inc. shall send electronic notification of payment to Terry.Cavanaugh@fcc.gov and to Robert.Krinsky@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.¹³³ 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 PTT Phone Cards, Inc. 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. 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.

44. 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, SW, Room 1-A625, Washington, DC 20554.¹³⁴ If PTT Phone Cards, Inc. has questions regarding payment procedures, it can contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

45. The response, if any, must be mailed both to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau, Investigations and Hearings Division, and to Theresa Z. Cavanaugh, Chief, Investigations and

¹³³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

¹³⁴ See 47 C.F.R. § 1.1914.

Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554 and must include the NAL/ Account number referenced in the caption. The written statement shall also be e-mailed to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov and to Robert B. Krinsky at Robert.Krinsky@fcc.gov.

46. 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 submitted.

47. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail Return Receipt Requested and First Class Mail to PTT Phone Cards, Inc.'s attorney, Mr. Raul Magallanes, Esq., Law Offices of Raul Magallanes, P.O. Box 1213, Houston, TX 77549.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary