

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	File Nos.: EB-SED-15-00018810
General Communication, Inc., indirect parent)	
company of The Alaska Wireless Network, LLC)	Acct. No.: 201632100001
)	
)	FRN: 0001570951

ORDER

Adopted: October 20, 2015

Released: October 20, 2015

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to conclude its investigation into whether General Communication, Inc., indirect parent company of The Alaska Wireless Network, LLC, (collectively GCI) failed to comply with the Commission's antenna structure registration and lighting requirements. GCI has admitted that it failed to register numerous antenna structures with the Commission prior to constructing the towers and failed to properly light several structures, as required by the Commission's antenna structure registration and lighting requirements. These requirements operate in concert with Federal Aviation Administration regulations to ensure that antenna structures do not present hazards to air navigation and advance the Bureau's priority of public safety. To settle this matter, GCI admits that it failed to comply with the Commission's antenna structure registration and lighting requirements, will implement a three-year compliance plan to ensure future compliance with these important requirements, as well as with the Commission's environmental and historic preservation review requirements, and will pay a \$620,500 civil penalty.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation into GCI's compliance with Section 303(q) of the Communications Act of 1934, as amended (Act),¹ and Sections 17.4(a) and 17.21 of the Commission's rules (Rules).²

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of GCI's basic qualifications to hold or obtain any Commission license or authorization.³

4. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 4(j) of the Communications Act of 1934, as amended,⁴ and Sections 0.111 and 0.311 of the Rules,⁵ the Consent Decree attached to this Order **IS ADOPTED** and its terms incorporated by reference.

¹ 47 U.S.C. § 303(q).

² 47 C.F.R. §§ 17.4, 17.21.

³ See 47 C.F.R. § 1.93(b).

⁴ 47 U.S.C. §§ 154(i), 154(j).

⁵ 47 C.F.R. §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to counsel for General Communication, Inc., John T. Nakahata, Esq., and Randall W. Sifers, Esq., Harris, Wiltshire & Grannis LLP, 1919 M Street NW, Suite 800, Washington DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau

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Federal Communications Commission
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In the Matter of)	
)	File No.: EB-SED-15-00018810
General Communication, Inc., indirect parent)	Acct. No.: 201632100001
company of The Alaska Wireless)	FRN: 0001570951
Network, LLC)	

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and General Communication, Inc., indirect parent company of The Alaska Wireless Network, LLC (GCI), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether GCI violated Section 303(q) of the Communications Act of 1934, as amended, and Sections 17.4 and 17.21 of the Commission's rules in connection with GCI's numerous apparent failures to comply with the Commission's antenna structure registration and lighting requirements.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) "Act" means the Communications Act of 1934, as amended.¹
 - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "Antenna Structure Lighting Rules" means Section 303(q) of the Act, Section 17.21 of the Rules, and other provisions of the Act, the Rules, and Commission orders related to the lighting of certain antenna structures according to FAA and Commission specifications.²
 - (d) "Antenna Structure Registration Rules" means Section 17.4(a) of the Rules and other provisions of the Act, the Rules, and Commission orders related to the registration of certain antenna structures with the Commission.³
 - (e) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (f) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (g) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which GCI is subject by virtue of its business activities, including but not limited to the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules.

¹ 47 U.S.C. § 151 *et seq.*

² 47 U.S.C. § 303(q); 47 C.F.R. § 17.21.

³ 47 C.F.R. § 17.4(a).

- (h) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 12.
- (i) “Covered Persons” means all employees, contractors or agents of GCI (i) who perform, or directly supervise, oversee, or manage, site selection or authorization of construction or modification for structures subject to the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules, or collocation on such structures (whether by GCI on its own or a third party’s structure or by a third party on a GCI structure) or (ii) who perform, or directly supervise, oversee, or manage, compliance with the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules. Covered Persons does not include a contractor or agent to the extent that person only conducts a site survey or performs an environmental review.
- (j) “Effective Date” means the date by which both the Bureau and GCI have signed the Consent Decree.
- (k) “Environmental Processing Rules” means Sections 1.1301–1.1319 of the Rules and other provisions of the Act, the Rules, and Commission orders related to the implementation of Subchapter I of the National Environmental Policy Act of 1969, as amended, relating to federal actions that may or will have a significant impact on the quality of the human environment.⁴
- (l) “FAA” means the Federal Aviation Administration.
- (m) “GCI” means General Communication Inc., indirect parent company of The Alaska Wireless Network, LLC, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (n) “In-Compliance Date” means either April 30, 2016, or the date that GCI notifies the Commission that all antenna structures involved in the instant Investigation are compliant with the Antenna Structure Lighting Rules and Antenna Structure Registration Rules, whichever is earlier.
- (o) “Investigation” means the investigation commenced by the Bureau in its LOI following GCI’s voluntary disclosure regarding whether GCI violated the Antenna Structure Lighting Rules and Antenna Structure Registration Rules. Investigation does not include violations of the Environmental Processing Rules.
- (p) “LOI” means the Letter of Inquiry issued by the Bureau to GCI on April 27, 2015, in File No. EB-SED-15-00018810, in connection with GCI’s apparent noncompliance with the Antenna Structure Lighting Rules and Antenna Structure Registration Rules.
- (q) “Operating Procedures” means the standard internal operating procedures and compliance policies established by GCI to implement the Compliance Plan.
- (r) “Parties” means GCI and the Bureau, each of which is a “Party.”
- (s) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (t) “WTB” means the Wireless Telecommunications Bureau of the Federal Communications Commission.

⁴ 47 C.F.R. §§1.1301–1.1319. *See* 42 U.S.C. §§ 4321–4335.

II. BACKGROUND

3. The Antenna Structure Lighting Rules and Antenna Structure Registration Rules operate in concert with FAA regulations to ensure that antenna structures do not present hazards to air navigation and to advance the Bureau's priority of public safety. Section 303(q) of the Act requires that certain antenna structure owners maintain lighting as prescribed by the Commission and FAA.⁵ Section 17.21(a) of the Rules requires antenna structures to be lit when their height exceeds any obstruction standard requiring notification to the FAA.⁶ Section 17.4(a) of the Rules requires owners of antenna structures that require notice of proposed construction to the FAA to register such structures with the Commission.⁷ Antenna structures requiring notification to the FAA generally include those over 200 feet in height and certain antenna structures located near airports.⁸ An up-to-date, complete, and accurate antenna structure database is critical to public safety.

4. In mid-2013, GCI and Alaska Communications Systems (ACS) merged their spectrum licenses and wireless antenna structures into a jointly-owned subsidiary, The Alaska Wireless Network, LLC (AWN). GCI subsequently acquired all of ACS's interest in AWN. After completing the merger, GCI began an internal inventory of AWN antenna structures, resulting in the discovery of numerous violations of the Act and Rules. Specifically, GCI found that various antenna structures located near airports or otherwise requiring registration had not been registered with the Commission's Antenna Structure Registration (ASR) system, in violation of the Antenna Structure Registration Rules. In addition, it discovered that some of the antenna structures were not properly lit, in violation of the Antenna Structure Lighting Rules.⁹

5. GCI reported these apparent violations of the Antenna Structure Registration Rules, Antenna Structure Lighting Rules, and Environmental Processing Rules to the Commission. Since then, GCI has undertaken a review of its antenna structures to ensure that they are compliant with these rules. As detailed herein, GCI estimates that it will complete its review and bring its antenna structures into compliance with these rules by no later than April 30, 2016.

III. TERMS OF AGREEMENT

6. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

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

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, GCI agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or

⁵ 47 U.S.C. § 303(q).

⁶ 47 C.F.R. § 17.21(a).

⁷ 47 C.F.R. § 17.4(a).

⁸ 47 C.F.R. § 17.7.

⁹ In addition, GCI discovered that it had not conducted all necessary environmental processing of these and other structures prior to construction.

informal, or take any action on its own motion against GCI concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of GCI's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.¹⁰ The Bureau also agrees that, in the absence of new material evidence, including any Environmental Assessment required under Section 1.1307(a)-(b) of the Rules that finds a significant adverse impact that cannot be adequately mitigated, it will not use any information resulting from GCI's efforts to bring its antenna structures into compliance with the Environmental Processing Rules pursuant to Section 12(b) to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against GCI concerning compliance with the Environmental Processing Rules with respect to the antenna structures that are the subject of the reported apparent violations referred to in paragraph 5, above.

10. **Admission of Liability.** GCI admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 9 herein, that its actions that were the subject of the Investigation violated the Antenna Structure Lighting Rules and Antenna Structure Registration Rules.

11. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, GCI shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that GCI complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules prior to assuming his/her duties.

12. **Compliance Plan.** For purposes of settling the matters set forth herein, GCI agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Antenna Structure Registration Rules, Antenna Structure Lighting Rules and Environmental Processing Rules, GCI will implement, at a minimum, the following procedures:

- (a) **Registration of All Existing Structures** On or before April 30, 2016, GCI will (i) complete registration and, where applicable, lighting of all existing structures that it owns or controls that are required to be registered or lit, pursuant to the Antenna Structure Registration Rules and Antenna Structure Lighting Rules, and (ii) either have ascertained that any structures owned or controlled by third parties on which GCI has collocated an antenna subject to the Antenna Structure Registration Rules and Antenna Structure Lighting Rules have been registered by such third party or do not require registration, or have registered the structures in place of the structure owner/controlling party, or have reported the structure owner/controlling party to the Bureau in accordance with subsection (iv)(5) below. In the event of a force majeure or a delay awaiting action by another federal agency beyond GCI's control that precludes completion of all such registrations by that date, or meeting any of the benchmarks set forth below, GCI may request an extension of the

¹⁰ See 47 C.F.R. 1.93(b).

deadline; the extension request should provide a showing that the delay is caused by force majeure or by the other federal agency involved, and is not the result of inadequate cooperation by GCI.

- i. **FAA Review and ASR Registration of All Existing GCI Structures.** As of October 1, 2015, GCI has submitted for FAA review all structures that it owns or controls that require such review. GCI will complete ASR registration within ten (10) business days of receipt of notice of completion of the determination of “no hazard” issued by the FAA. In the event GCI has not by this date completed environmental review or environmental notification for any structure as required under the Environmental Processing Rules, GCI will contact WTB to request conditional registration in accordance with WTB’s established procedures. If the FAA determines that lighting is required for any structure and the structure is not already lit in accordance with the FAA’s determination, GCI will immediately obtain a Notice to Airmen (NOTAM) from the FAA and install the appropriate lighting and markings within ten (10) business days. GCI will maintain an inventory of lighting kits available for deployment. With respect to any structure for which GCI receives a notice of presumed hazard, GCI will immediately obtain a NOTAM from the FAA. If the presumed hazard can be remediated or otherwise addressed without moving the structure, GCI will complete such remediation or other action by April 30, 2016. In the event that GCI must relocate the structure, GCI will dismantle the existing structure by April 30, 2016, unless GCI receives a temporary authorization to keep it in place. GCI will request such temporary authorization only when the disruption of service could endanger public health or safety.
- ii. **Declaration Concerning Correct Lighting and Marking.** Pursuant to its declaration dated September 30, 2015, GCI has verified that lighting and marking are correct for all GCI-owned or controlled structures for which GCI has been notified, or has otherwise determined, that lighting or marking is required under FAA rules.
- iii. **System for Detecting Lighting Failures.** As of the Effective Date, GCI shall have in place a system for detecting lighting failures and inspecting associated control equipment that conforms with Section 17.47 of the Rules at all GCI-owned or controlled structures required to be lit, and shall monitor the integrity of that system in accordance with the Rules.
- iv. **Collocations.** On or before October 15, 2015, for each third-party structure on which GCI has collocated a wireless antenna subject to the Antenna Structure Registration Rules, GCI will have done one of the following: (1) verified that the structure has been registered; (2) determined, or obtained a certification by the party that owns or controls the structure that the structure owner/controller party has determined, that the structure is not required to be registered pursuant to the Antenna Structure Registration Rules; (3) obtained a certification from the structure owner/controller party that the structure owner/controller party has submitted the structure for FAA review; (4) submitted the structure for FAA review; or (5) if actions or lack of cooperation of the structure owner/controller party prevent GCI from completing items (1)-(5), reported the structure owner/controller party to the Bureau. For any structure that GCI submits for FAA review, it will complete ASR registration within ten (10) business days of receipt of the FAA notice of the determination of “no hazard.” In the event GCI has not by this date

completed environmental review or environmental notification for any post-March 16, 2001, antenna structure as required under the Environmental Processing Rules, GCI will contact WTB to request conditional registration in accordance with WTB's established procedures. If the FAA determines that lighting or marking is required for any structure and the structure is not already lit in accordance with the FAA's determination, and if GCI has the support of the antenna structure owner, GCI will immediately obtain a NOTAM and light and mark the antenna structure within ten (10) business days, provided that the structure owner/controlling party provides GCI with timely access. If the structure owner/controlling party fails to provide GCI with timely access, GCI will report the structure owner/controlling party to the Enforcement Bureau.

(b) **Environmental Review**

- i. On or before April 30, 2016, GCI shall, for each antenna structure constructed after March 16, 2001, either: (1) confirm that the antenna structure completed environmental review under the Environmental Processing Rules prior to construction or (2) complete the review that should have been completed prior to construction in order to ascertain whether an Environmental Assessment was required under Section 1.1307(a)–(b) of the Rules. In performing this review, GCI shall evaluate effects on historic properties under Section 1.1307(a)(4) of the Rules in accordance with the provisions of the Nationwide Programmatic Agreement, 47 C.F.R. Part 1, App. C, regardless of whether that Agreement was in effect at the time the post-March 16, 2001, antenna structure was constructed.
- ii. In the event an antenna structure meets any of the criteria that would require an Environmental Assessment, GCI shall cooperate with WTB and other interested parties to develop any necessary measures to ensure that the antenna structure will not have a significant environmental impact going forward and to address any significant environmental impact that may have occurred. Such measures may include, for example, elevating the structure above the floodplain; measures to avoid, minimize, or mitigate adverse effects on historic properties; measures to mitigate the loss of wetlands; or reasonable and prudent measures to ensure against adverse effects on endangered species. Within 30 days after finalizing any such measures and any agreements memorializing them, GCI will file an Environmental Assessment with WTB for processing under the Rules. In the event WTB determines it cannot issue a Finding of No Significant Impact, GCI will cooperate with the WTB on an appropriate course of action consistent with the Rules.
- iii. On or before April 30, 2016, for each antenna structure constructed after March 16, 2001, that GCI constructed or acquired through a corporate merger or corporate acquisition and for which review under Section 106 of the National Historic Preservation Act (NHPA)¹¹ was not completed before construction, GCI shall demonstrate to WTB whether, with intent to avoid the requirements of Section 106, it intentionally significantly adversely

¹¹ 54 U.S.C. § 306108.

affected a historic property in violation of Section 110(k) of the NHPA.¹² If a violation of Section 110(k) is shown, GCI shall cooperate with WTB and the Advisory Council on Historic Preservation to resolve the situation.

- iv. In the event of a force majeure or a delay awaiting action by another federal agency beyond GCI's control that precludes meeting any of the benchmarks set forth above, GCI will cooperate with WTB on an appropriate course of action consistent with the Rules.
- (c) **Operating Procedures**. Within thirty (30) calendar days after the Effective Date, GCI shall establish Operating Procedures that all Covered Persons must follow to help ensure GCI's compliance with the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules. GCI's Operating Procedures shall include internal procedures and policies specifically designed to ensure that GCI's antenna structures remain in compliance with the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules. These procedures shall include maintaining an inventory of all antenna structures owned, controlled, or otherwise used by GCI, which will enable GCI to determine whether the facilities are compliant. GCI shall also develop a Compliance Checklist that describes the steps that a Covered Person must follow to ensure compliance with the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules.
 - (d) **Compliance Manual**. Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Persons. The Compliance Manual shall explain the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules and set forth the Operating Procedures that Covered Persons shall follow to help ensure GCI's compliance with the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules. GCI shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains correct and accurate. GCI shall distribute any revisions to the Compliance Manual promptly to all Covered Persons.
 - (e) **Due Diligence for Acquisitions**. GCI agrees to perform thorough due diligence prior to any acquisitions to determine whether any noncompliant facilities are involved in the transaction.
 - (f) **Compliance Training Program**. GCI shall establish and implement a Compliance Training Program on compliance with the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, Environmental Processing Rules, and Operating Procedures. As part of the Compliance Training Program, Covered Persons shall be advised of GCI's obligation to report any noncompliance with the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, Environmental Processing Rules, and Operating Procedures under paragraph 13 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Persons shall be trained pursuant to the Compliance Training program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Person at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Person. GCI shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance

¹² 54 U.S.C. § 306113.

Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

13. **Reporting Noncompliance.** GCI shall report any noncompliance with the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, Environmental Processing Rules, and the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. For the purposes of this section, noncompliance means, for any currently existing structure, failure to be in compliance as of or after the dates specified pursuant to paragraph 12(a) or 12(b) of this Consent Decree, or failure to maintain any required lighting after the Effective Date once compliance initially has been achieved; and for all other structures, failure to be in compliance as of or after the Effective Date. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that GCI has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that GCI has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Rm. 4C-224, Washington, DC 20554, with copies submitted electronically to Paul Noone at Paul.Noone@fcc.gov and Neal McNeil at Neal.McNeil@fcc.gov.

14. **Compliance Reports.** GCI shall file compliance reports with the Commission: (i) ninety (90) days after the In-Compliance Date; (ii) twelve (12) months after the In-Compliance Date; (iii) twenty-four (24) months after the In-Compliance Date; (iv) and thirty-six (36) months after the In-Compliance Date.

- (a) Each Compliance Report shall include a detailed description of GCI's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Antenna Structure Lighting Rules, Antenna Structure Registration Rules, and Environmental Processing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of GCI, stating that the Compliance Officer has personal knowledge that GCI: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures specified in the Compliance Manual since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 13 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.¹³
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of GCI, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that GCI has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that GCI has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Rm. 4C-224, Washington, DC 20554, with copies submitted

¹³ See 47 C.F.R. § 1.16.

electronically to Paul Noone at Paul.Noone@fcc.gov, Neal McNeil at Neal.McNeil@fcc.gov, and Won Kim at Won.Kim@fcc.gov.

15. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 11 through 14 of this Consent Decree shall expire thirty-six (36) months after the In-Compliance Date.

16. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act¹⁴ against GCI or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by GCI with the Communications Laws.

17. **Civil Penalty.** GCI will pay a civil penalty to the United States Treasury in the amount of \$620,500 within 30 calendar days of the Effective Date. GCI shall send electronic notification of payment to Paul Noone at Paul.Noone@fcc.gov, Neal McNeil at Neal.McNeil@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the Account Number and FRN referenced in the caption of the Adopting Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹⁵ 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 that should be followed based on the form of payment selected:

- 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.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

18. **Waivers.** As of the Effective Date, GCI waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. GCI shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent

¹⁴ 47 U.S.C. § 208.

¹⁵ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

Decree or the Adopting Order, neither GCI nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and GCI shall waive any statutory right to a trial *de novo*. GCI hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act¹⁶ relating to the matters addressed in this Consent Decree.

19. **Severability**. The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

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

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

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

23. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

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

25. **Paragraph Headings**. The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

26. **Authorized Representative**. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

¹⁶ See 5 U.S.C. § 504; 47 C.F.R. §§ 1.1501–1.1530.

27. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Travis LeBlanc
Chief
Enforcement Bureau

Date

Tina M. Pidgeon
Senior Vice President and General Counsel
General Communication, Inc.

Date