

FCC Proposes Forfeiture Against Telecom Carrier for Failure to Pay USF Contributions

Legal Alert
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Garvey Schubert Barer Legal Update, May 17, 2010.

The FCC has issued a Notice of Apparent Liability for Forfeiture (NAL) against a telecommunications carrier, NTS Communications, Inc., for apparently violating section 254(d) of the Communications Act, as amended, and section 54.706(a) of the FCC's rules. See *In the Matter of NTS Communications, Inc. Apparent Liability for Forfeiture*, File No. EB-09-IH-1219, NA Acct. No. 201032080024, Notice of Apparent Liability (rel. May 6, 2010). Section 254(d) of the Communications Act requires, among other things, that every telecommunications carrier providing interstate telecommunications services contribute, on an equitable and nondiscriminatory basis, to the Universal Service Fund (USF). Section 54.706(a) of the FCC's rules directs that entities providing interstate telecommunications to the public for a fee contribute to the USF.

Based on the record of its investigations, the FCC found that, on several occasions, NTS failed to make full payment to the USF. The FCC also found that, during the period of time that NTS failed to make the necessary contributions purportedly because of financial difficulties, NTS continued to collect USF surcharges from its customers and it continued to receive disbursement credits from the USF. Concluding that NTS is apparently liable for forfeiture for its apparent willful or repeated failures to contribute fully and timely to the USF, the FCC proposed a total forfeiture in excess of \$284,000, which amount reflects additional penalties for "egregious" conduct.