

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

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

FORFEITURE ORDER

Adopted: December 2, 2015

Released: December 7, 2015

By the Commission: Commissioner O’Rielly issuing a statement.

I. INTRODUCTION

1. We impose a penalty of \$493,327 against PTT Phone Cards, Inc. (PTT or Company) for violating its regulatory obligations as an international telecommunications service provider for more than three years, including failing to register as a provider, file required reports, and make required contributions to public service programs. PTT argues in its response to the Commission’s Notice of Apparent Liability for Forfeiture (PTT Phone Cards NAL) that its penalty should be reduced or cancelled based on, among other reasons, the Company’s size, its ability to pay, and what it characterizes as good faith efforts to comply with or aid the investigation. After reviewing the response, we find no basis to cancel, withdraw, or reduce the proposed penalty, and we therefore assess the \$493,327 forfeiture proposed in the PTT Phone Cards NAL.

II. BACKGROUND

2. 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 In January 2013, the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) received information indicating that PTT failed to comply with the obligations of prepaid calling card providers under the Communications Act of 1934, as

^1 The investigation began under File No. EB-13-IH-0051 and was subsequently assigned the above-captioned file number. Any future correspondence with the Commission concerning this matter should reflect the above-captioned case number.

^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 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).

amended (Act), and the Commission's rules (Rules).³

3. Following its investigation, the Commission released the *PTT Phone Cards NAL* on September 16, 2014, proposing a forfeiture penalty of \$493,327 for PTT's apparent violations, including its failure to register, file required reports, and make required contributions to public service programs.⁴

4. On October 9, 2014, PTT filed its response.⁵ PTT did not dispute the facts underlying seven of the eight violations identified in the NAL.⁶ With respect to the apparent failure to make required payments to the Telecommunications Relay Service (TRS) fund, PTT asserts, without providing any factual support, that it is "very possible" that the facilities-based carrier whose services PTT resold satisfied the TRS contributions associated with PTT's prepaid calling card operations.⁷ PTT also sought cancellation or a reduction of the forfeiture based on, among other theories, its purported cooperation with the Commission's investigation, the purported small size of the company, an asserted inability to pay the forfeiture, and the Company's history of no prior offenses.⁸

III. DISCUSSION

5. The Commission proposed a forfeiture in accordance with Section 503(b) of the Act,⁹ Section 1.80 of the Rules,¹⁰ and the Commission's *Forfeiture Policy Statement*.¹¹ When we assess forfeitures, Section 503(b)(2)(E) requires that we take into account the "nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."¹² As discussed below, we have fully considered PTT's response to the *NAL*, which includes a variety of legal and factual arguments, but we find each of them unpersuasive. We therefore affirm the \$493,327 forfeiture proposed in the *PTT Phone Cards NAL*.

6. PTT does not dispute our conclusions in the *PTT Phone Cards NAL* that it violated: (i) 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; (ii) Sections 52.32(b), 54.711, and 64.604(c)(5)(iii)(B) of the Rules by willfully or repeatedly

³ The *NAL* includes a more complete discussion of the facts and history of this case and is incorporated herein by reference. See *PTT Phone Cards, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 11531, 11531-32, paras. 2-5 (2014) (*PTT Phone Cards NAL*).

⁴ *Id.* at 11532-41, paras. 6-25.

⁵ See Raul Magallanes, Esq., The Law Offices of Raul Magallanes, PLLC, Counsel to PTT Phone Cards, Inc., Response of PTT Phone Cards, Inc. to Notice of Apparent Liability Requesting Consent Decree Negotiations (Oct. 9, 2014) (on file in EB-IHD-13-00011669) (*PTT NAL Response*).

⁶ See *PTT NAL Response*.

⁷ See *id.* at 6; see also *Telecommunications Relay Servs. & 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).

⁸ See *PTT NAL Response* at 6-9.

⁹ 47 U.S.C. § 503(b).

¹⁰ 47 C.F.R. § 1.80.

¹¹ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

¹² 47 U.S.C. § 503(b)(2)(E).

failing to timely file annual Telecommunications Reporting Worksheets (FCC Forms 499-A or Worksheets) for 2011, 2012, and 2013; (iii) 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 local number portability (LNP) cost recovery mechanism; (iv) 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; (v) Section 64.5001(c) of the Rules by willfully or repeatedly failing to timely file prepaid calling card certifications; (vi) Section 43.62(a) of the Rules by willfully or repeatedly failing to file international traffic and revenue reports; and (vii) Section 64.2009(e) of the Rules by willfully or repeatedly failing to timely file its annual Customer Proprietary Network Information (CPNI) certifications. We therefore affirm our conclusions in the *PTT Phone Cards NAL* with respect to those violations for the reasons set forth in the *PTT Phone Cards NAL*.¹³ PTT only challenges our findings regarding its contributions to the TRS Fund, as well as advancing numerous arguments to support cancellation or reduction of the forfeiture amount.

A. PTT offers no evidence that its TRS obligations were satisfied.

7. The Commission concluded that PTT 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.¹⁴ PTT argues, without supporting evidence, that it might have been treated as an “end-user customer” by Tata Communications, Inc. (Tata), the common carrier through which it purchased international services, and that Tata may have assessed PTT, and PTT may have paid Tata, for an equitable share of its TRS contributions.¹⁵

8. The Commission satisfied its burden of demonstrating that PTT was a reseller obligated to make payments to the TRS fund, and that PTT failed to make contributions to the fund.¹⁶ The burden thus shifts to PTT to offer evidence of contributions, and PTT offers no such evidence in support of its theory that indirect payments “may” have been made through Tata. PTT alone is responsible for timely meeting its payments obligations to the TRS fund, and it has failed to meet its burden of providing demonstrative evidence that it met this obligation.¹⁷

B. PTT’s other arguments do not support a reduction or cancellation of the forfeiture.

1. PTT’s violations were willful and/or repeated.

9. PTT seeks a reduction of the forfeiture amount because its violations were “not conscious or deliberate” and it “did not know it was omitting the various registrations and filings required of common carriers.”¹⁸ As explained in the *NAL*, the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.¹⁹ “Willful” does not require a finding that the rule violations were intentional in the context of a forfeiture action.²⁰ Instead, willful “means that the violator knew that it was taking (or in this case, not taking) the action in question, irrespective of any

¹³ *PTT Phone Cards NAL*, 29 FCC Rcd at 11546, para. 40.

¹⁴ See 47 U.S.C. § 225(b)(1); 47 C.F.R. § 64.604(c)(5)(iii).

¹⁵ See *PTT NAL Response* at 6.

¹⁶ *PTT Phone Cards NAL*, 29 FCC Rcd at 11535-37, paras. 12-15.

¹⁷ Moreover, as PTT itself acknowledges, it has “entered into a payment agreement with the Treasury Department” regarding its payment obligations, including the TRS payments. *PTT NAL Response* at 7. PTT’s agreement to pay this amount undercuts its theory that the payment may already have been made.

¹⁸ See *PTT NAL Response* at 5.

¹⁹ *PTT Phone Cards NAL*, 29 FCC Rcd at 11541, para. 26 (citing 47 U.S.C. §§ 312(f)(1) & 503(b)(1)(B)).

²⁰ *Five Star Parking d/b/a Five Star Taxi Dispatch*, Forfeiture Order, 23 FCC Rcd 2649, 2651, para. 6 (Enf. Bur., Spectrum Enf. Div. 2008).

intent to violate the Rules.”²¹

10. PTT contends its violations were the result of third party errors, ignorance of the law through administrative oversight, or staffing challenges,²² but inadvertent violations remain willful under the Commission’s forfeiture policies.²³ Moreover, PTT’s purported ignorance of the law certainly does not excuse the fact that it willfully provided telecommunications services for several years while out of compliance with all of the provisions of the Act and Rules to which it was subject.

2. PTT’s small business status is not relevant.

11. PTT further argues that the forfeiture amount proposed in the *PTT Phone Cards NAL* should be reduced because it is a “woman-owned, minority-owned small business.”²⁴ PTT does not identify a basis for reduction based on these characteristics nor does it provide meaningful evidence of its status as a small business entity. Nonetheless, assuming that PTT qualifies for the considerations provided to a small business entity, the Commission’s forfeiture policies as applied here comply with the Small Business Regulatory Enforcement Fairness Act (SBREFA).²⁵ Indeed, the Commission always specifically considers a small entity’s ability to pay along with any good faith efforts by the entity to comply with the law,²⁶ and it has done so in this action as well. Thus, the Commission’s existing forfeiture policy provides appropriate consideration of PTT’s status as a small business entity.

3. Neither PTT’s actions after the launch of the investigation nor any “good faith” efforts by the Company provide a basis to reduce the forfeiture.

12. PTT also offers several examples of what it would characterize as its “good faith” efforts during the course of the investigation as bases for a reduction.²⁷ First, PTT seeks a reduction because it took “voluntary actions” to achieve compliance.²⁸ We reject PTT’s argument that its belated good faith efforts to comply with its obligations is a basis for a reduction cancellation or reduction of the forfeiture amount proposed in the *PTT Phone Cards NAL*. The Commission expects such efforts from all regulatees as a matter of course.²⁹

²¹ *Id.*

²² See *PTT NAL Response* at 4-6.

²³ See *Emery Tel.*, Memorandum Opinion and Order, 13 FCC Rcd 23854, 23859, para. 12 (1998), *recon. denied*, 15 FCC Rcd 7181 (1999) (“[I]nadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance.”) (internal quotation omitted)); *Cascade Access, LLC*, Forfeiture Order, 28 FCC Rcd 141, 145, para. 9 (Enf. Bur. 2013) (rejecting argument that forfeiture should be reduced because the violation was unintentional); *PJB Communc’ns. of Virg., Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2088, para. 5 (1992) (inadvertent violations are “willful” as “[a]ll that is necessary is that the licensee knew it was doing the act in question”); *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, para 4 (1986) (stating that “employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations”).

²⁴ See *PTT NAL Response* at 6.

²⁵ *Forfeiture Policy Statement*, 12 FCC Rcd at 17109, paras. 51-52.

²⁶ See e.g., *North County Broad. Corp.*, Forfeiture Order, 28 FCC Rcd 1207, 1210, para. 10 (Enf. Bur. Regional Dir., Western Reg. 2013) (assessment of a \$4,800 forfeiture against a small broadcaster, for failing to ensure the operational readiness of its Emergency Alert System equipment, that took into account the broadcaster’s history of compliance and ability to pay, is consistent with the requirements of the SBREFA).

²⁷ See *PTT NAL Response* at 7-8.

²⁸ *Id.*

²⁹ See, e.g., *In the Matter of Int’l Broad. Corp.*, Order on Review, 25 FCC Rcd 1538, 1539, para. 5 (2010) (The “Commission’s long-standing policy[is] that corrective action taken to come into compliance with the Rules is expected and does not nullify or mitigate any prior forfeitures or violations.”); *In the Matter of Cesar Chavez*

13. PTT further argues that the forfeiture amount should be reduced because it is now current in all its payment obligations.³⁰ As the Commission has made clear, “[a]ll licensees and . . . regulatees are expected to promptly take corrective action when violations are brought to their attention.”³¹ Thus, becoming current on payment obligations identified in an enforcement action is expected and is no basis for a reduction in the assessed forfeiture. Indeed, PTT did not enter into installment payment plans to make overdue payments for regulatory fees and contributions to the TRS Fund until after the Commission launched its investigation,³² and payments were not completed until after the release of the *PTT Phone Cards NAL* and payments for past due TRS Fund contributions are ongoing.³³

14. PTT also argues that its cooperation with the investigation, including its entry into a tolling agreement with the Bureau, merits a reduced forfeiture amount. In fact, PTT *requested* that the Bureau enter into a tolling agreement in order to provide for time for the possibility of entering into a consent decree settlement of PTT’s violations, negotiations which proved unsuccessful.³⁴ We decline to reduce the forfeiture on this basis, particularly in light of the fact that we expect full cooperation during our investigations and proceedings.³⁵

15. PTT also argues that “[a]side from the violations alleged in the NAL, PTT has no history of prior offenses.”³⁶ However, the violations covered in the *PTT Phone Cards NAL* occurred during the entire period that PTT’s operations were subject to Commission oversight, a circumstance which

Found., Forfeiture Order, 27 FCC Rcd 5252, 5257, para. 13 (Enf. Bur. 2012) (rejecting argument that “good faith effort at compliance” rendered the forfeiture excessive); *In the Matter of Beacon Broad., Inc.*, Forfeiture Order, 27 FCC Rcd 3211, 3212, para. 4 (Enf. Bur. Regional Dir., Northeast Reg. 2012) (rejecting self-corrective actions as a mitigation of prior violations) (“[T]he Commission expects parties to take . . . corrective action to come into compliance . . . and such action does not nullify or mitigate any prior violations.”).

³⁰ See *PTT NAL Response* at 7.

³¹ *AT&T Wireless Services, Inc.*, Forfeiture Order, 17 FCC Rcd 21866, 21875, para. 26 (2002).

³² On April 8, 2013, the Bureau launched its investigation of PTT with release of its LOI. See Letter from Pamela S. Kane, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, to Mr. Ayub Amir, President, PTT Phone Cards, Inc., (dated Apr. 8, 2013) (LOI) (on file in EB-IHD-13-00011669). On September 16, 2014, the Commission released its NAL. See *id.* PTT did not enter into an installment payment plan for past due regulatory fees for fiscal years 2011 and 2012 until August 27, 2014 and did not satisfy its payments until September 22, 2014. 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 (May 13, 2014, 3:08 EDT) (on file in EB-IHD-13-00011669).

³³ On February 28, 2014, the TRS Fund Administrator transferred PTT’s TRS debt to the U.S. Department of Treasury (Treasury Department).³³ 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). 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. See Letter from U.S. Dept. of Treasury, Financial Management Service, Debt Management Services to Ayub Amir, Business Contact, PTT Phone Cards, Inc., Fed Debt Payment Agreement ID Number: PA14017957, Payment Agreement at 1 (dated Apr. 7, 2013) (on file in EB-IHD-13-00011669).

³⁴ See E-mail from Robert Krinsky, Attorney Advisor, Investigations and Hearings Division, FCC Enforcement Bureau, FCC to Ayub Amir, President, PTT Phone Cards, Inc. (Dec. 18, 2013, 5:54 EST) (on file in EB-IHD-13-00011669).

³⁵ See, e.g., *RB Commc’ns, Inc. d/b/a Starfone*, Forfeiture Order, 29 FCC Rcd 5668, 5672, para. 15 (2014); *Coleman Enters., Inc. d/b/a Local Long Distance, Inc.*, Order of Reconsideration, 16 FCC Rcd 10023, 10027–28, paras. 10–11 (2001) (*Coleman Enters. Order on Recon.*); *4M of Richmond, Inc.*, Forfeiture Order, 19 FCC Rcd 15447, 15452, para. 15 (Enf. Bur. 2004).

³⁶ See *PTT NAL Response* at 9.

historically has been regarded as having had no history of overall compliance.³⁷

4. PTT has not demonstrated that it is unable to pay the forfeiture.

16. The Company also claims it is unable to pay the forfeiture amount.³⁸ The Commission will not consider reducing or canceling a forfeiture in response to a claimed inability to pay unless the licensee submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the licensee’s current financial status.³⁹ In analyzing financial hardship claims, the Commission’s long-established standard is to consider a company’s gross revenues. The Commission has found that “[i]n general, gross revenues are the best indicator of [a company’s] ability to pay a forfeiture.”⁴⁰ The Commission has concluded that if “gross revenues are sufficiently great . . . the mere fact that a business is operating at a loss does not itself mean that it cannot afford to pay a forfeiture.”⁴¹

17. PTT provided financial documentation in an effort to support its argument that it cannot pay the forfeiture amount.⁴² PTT requests the Commission to consider the Company’s net, rather than gross, revenues. [REDACTED]

[REDACTED] The Company argues that we should consider net revenue in determining the station’s ability to pay the forfeiture.⁴⁴

18. PTT’s documented gross revenues are sufficiently great that a forfeiture reduction is not supported.⁴⁵ The forfeiture amount is well within the established gross revenue standard for ability to pay a forfeiture.⁴⁶ We decline to rely on PTT’s net revenues as an alternate standard. This position is consistent with Commission precedent where losses or other factors have only been considered in cases of severe financial distress.⁴⁷ PTT has not identified any of the circumstances that have led us to look beyond gross

³⁷ See *JMK Communications, Inc.*, Forfeiture Order, 19 FCC Rcd 16111, 16114, para. 11 (Enf. Bur. 2004).

³⁸ See *PTT NAL Response* at 8-9.

³⁹ See, *Coleman d/b/a Local Long Distance*, Notice of Apparent Liability for Forfeiture, Order of Forfeiture, 15 FCC Rcd 24385, 24389, para. 11 (2000) (*Coleman Enters. NAL*) (addressing the reliability of financial data presented in federal tax returns in the context of determining ability to pay a forfeiture); *Forfeiture Policy Statement*, 12 FCC Rcd at 17107, para. 44 (acknowledging the “burden and expense” for small businesses of documenting inability to pay a forfeiture by means of audited financial statements and noting the Commission’s “flexibility to consider any documentation, not just audited financial statements, that it considers probative, objective evidence of the violator’s ability to pay a forfeiture.”).

⁴⁰ *Unipoint Techs., Inc.*, Forfeiture Order, 29 FCC Rcd 1633, 1643, para. 29 (2014) (citing *PJB Communc’ns. of Virginia, Inc.*, 7 FCC Rcd at 2088, para. 8).

⁴¹ *PJB Communc’ns. of Virg., Inc.*, 7 FCC Rcd at 2089, para. 8; see also *Sunstar Travel & Tours, Inc.*, Forfeiture Order, 25 FCC Rcd 13804, 13808, para. 14 (2010).

⁴² See *PTT NAL Response* at 8.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See *Ayustar Corp.*, Memorandum Opinion and Order, 25 FCC Rcd 16249, 16250-51, para. 5 (Enf. Bur. 2010).

⁴⁶ See *Coleman Enters. NAL*, 15 FCC Rcd at 24389, para. 11.

⁴⁷ See, e.g., *First Greenville Corp.*, Memorandum Opinion and Order and Forfeiture Order, 11 FCC Rcd 7399 (1996), *Benito Rish*, Memorandum Opinion and Order, 10 FCC Rcd 2861 (1995).

revenues in the past.⁴⁸

IV. CONCLUSION

19. After considering the relevant statutory factors and the Commission's *Forfeiture Policy Statement*, we find that PTT is liable for a total forfeiture of \$493,327, including 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. Weighing the relevant statutory factors and our own forfeiture guidelines, we conclude, based upon the evidence before us, that the proposed forfeiture of \$493,327 properly reflects the seriousness, duration, and scope of PTT's violations.

V. ORDERING CLAUSES

20. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act,⁴⁹ and Section 1.80 of the Rules,⁵⁰ PTT Phone Cards, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of four hundred ninety three thousand three hundred twenty seven dollars (\$493,327) for willfully and/or repeatedly violating Sections 214(a) and 251(e)(2) of the Act and Sections 1.1154, 1.1157, 43.62, 52.32, 54.711, 63.18, 64.5001, 64.2009, and 64.604 of the Rules.

21. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release of this Forfeiture Order.⁵¹ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.⁵²

22. 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 shall send electronic notification of payment to Jeffrey J. Gee, Chief, Investigations and Hearings Division at Jeffrey.Gee@fcc.gov and Robert B. Krinsky, Attorney-Advisor at 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.⁵³ When completing the 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 completed Form 159) must be mailed to the 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

⁴⁸See, e.g., *Ayustar Corp.*, 25 FCC Rcd at 16250, para. 5 (internal citation omitted).

⁴⁹ 47 U.S.C. § 503(b).

⁵⁰ 47 C.F.R. § 1.80.

⁵¹ *Id.*

⁵² 47 U.S.C. § 504(a).

⁵³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

23. 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 20554.⁵⁴ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

24. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to PTT's counsel, Raul Magallanes, Esq., The Law Office of Raul Magallanes, PLLC, P.O. Box 1213, Friendswood, Texas, 77546.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁵⁴ See 47 C.F.R. § 1.1914.

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

In re: PTT Phone Cards, Inc., File No. EB-IHD-13-00011669

I generally support this Forfeiture Order because it is clear that PTT violated a number of our rules. I write simply to question the Commission's perfunctory application of gross revenues as the basis for the forfeiture. In item after item, the Commission cites its "long-established" standard of considering gross revenues. While that may be true, that does not relieve the Commission of its responsibility to give serious and substantive consideration to arguments raised in the record as to why the standard is inappropriate in a given case. Here, the item briefly notes that PTT contended that the Commission should consider its net revenues before summarily dismissing the argument. No attempt is made to rebut the specific points that PTT raised in support of its position.

I have voted for certain Notices of Apparent Liability with the understanding that all counter arguments would be fully considered and addressed at the forfeiture stage. Therefore, it is disappointing to see such a cursory response in a Forfeiture Order. The failure to engage on arguments raised by companies in response to NALs risks leaving the impression that the outcome of an investigation is preordained and a respondent's replies are irrelevant, which shouldn't be the case. Moreover, summarily dismissing concerns about how a fine is calculated could give the appearance that preserving the proposed fine is worth more than setting it at a level that is fully justified and designed to achieve compliance with the rules. While I disagree that monetary penalties should be the focus of the Commission's enforcement process, driving a business to the point of bankruptcy does, in fact, decrease the likelihood of collecting the forfeiture. In this case, the investigation itself prompted PTT to come into compliance. While a fine is certainly warranted, I would have given more consideration to PTT's arguments, albeit not suggesting I would necessarily fully agree per se.