

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

In the Matter of	)	
	)	
Alltel Communications, LLC	)	File No. EB-08-TC-1062
d/b/a Alltel Wireless	)	NAL/Acct. No. 200832170024
	)	FRN: 0003803483

**ORDER**

**Adopted: November 26, 2008**

**Released: November 28, 2008**

By the Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau of the Federal Communications Commission (“Bureau”) and Alltel Communications, LLC d/b/a Alltel Wireless (“Alltel”). The Consent Decree terminates an investigation and Notice of Apparent Liability for Forfeiture (“NAL”)<sup>1</sup> by the Bureau against Alltel for possible violations of section 1.717 of the Commission’s rules regarding Alltel’s apparent failure to timely respond to informal consumer complaints.

2. The Bureau and Alltel have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. 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, which terminates the investigation and cancels the NAL.

4. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 503(b) of the Communications Act of 1934, as amended,<sup>2</sup> and sections 0.111 and 0.311 of the Commission’s Rules,<sup>3</sup> the Consent Decree attached to this Order **IS ADOPTED**.

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<sup>1</sup> *Notice of Apparent Liability for Forfeiture*, DA 08-427 (February 29, 2008) and Letter from Leon Jackler, Special Counsel, Telecommunications Consumers Division, Enforcement Bureau, to Mr. Glenn Rabin, Counsel for Alltel (March 19, 2008).

<sup>2</sup> 47 U.S.C. § 154(i), 503(b).

<sup>3</sup> 47 C.F.R. §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that the above-captioned proceeding is **TERMINATED** and the Notice of Apparent Liability for Forfeiture **IS CANCELLED**.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Chief, Enforcement Bureau

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	)	FRN: 0003803483

**CONSENT DECREE**

The Enforcement Bureau (“Bureau”) and Alltel Communications, LLC d/b/a Alltel Wireless (“Alltel” or the “Company”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation and Notice of Apparent Liability for Forfeiture (“NAL”)<sup>1</sup> by the Bureau against Alltel for possible violations of section 1.717 of the Commission’s rules regarding Alltel’s apparent failure to timely respond to informal consumer complaints.

**I. DEFINITIONS**

1. For the purposes of this Consent Decree, the following definitions shall apply:
  - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
  - (b) “Alltel” means Alltel Communications, LLC d/b/a Alltel Wireless.
  - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
  - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
  - (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 9.
  - (f) “Effective Date” means the date on which the Commission releases the Adopting Order.
  - (g) “Investigation” means the investigation commenced by the Bureau’s March 19, 2008 Letter of Inquiry (“LOI”)<sup>2</sup> regarding whether Alltel violated section 1.717 of

<sup>1</sup> *Notice of Apparent Liability for Forfeiture*, DA 08-427 (February 29, 2008).

<sup>2</sup> Letter from Leon Jackler, Special Counsel, Telecommunications Consumers Division, Enforcement Bureau to Mr. Glenn Rabin, Counsel for Alltel Communications (March 19, 2008) (“March, 19, 2008 LOI”).

the Commission's Rules<sup>3</sup> by failing to timely file responses to informal complaints served upon Alltel by the Consumer and Government Affairs Bureau.

- (h) "NAL" means Notice of Apparent Liability for Forfeiture, DA 08-427 (February 19, 2008).
- (i) "Order" or "Adopting Order" means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (j) "Parties" means Alltel and the Bureau.
- (k) "Rules" means the Commission's regulations found in Title 47 of the Federal Regulations.

## II. BACKGROUND

2. Pursuant to section 1.717 of the Commission's Rules, "the Commission will forward informal complaints to the appropriate carrier for investigation. The carrier will, within such time as may be prescribed, advise the Commission in writing, with a copy to the complainant, of its satisfaction of the complaint or of its refusal or inability to do so."<sup>4</sup>

3. On February 19, 2008, the Bureau issued a Notice of Apparent Liability for Forfeiture ("NAL")<sup>5</sup> proposing Alltel be held liable for a forfeiture of \$16,000 under section 503(b)(1)(B) of the Act, and ordered the Company either to pay the proposed forfeiture or file a written response within thirty (30) days of the NAL release date stating why the proposed forfeiture should be reduced or canceled.

4. On March 19, 2008, the Bureau issued a letter of inquiry (LOI) to Alltel.<sup>6</sup> The March 19, 2008 LOI directed Alltel, among other things, to submit a sworn written response to a series of questions relating to the alleged failures of Alltel to respond to informal complaints. Alltel responded to the LOI on April 14, 2008.<sup>7</sup>

## III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

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<sup>3</sup> 47 C.F.R. 1.717

<sup>4</sup> 47 C.F.R. 1.717.

<sup>5</sup> See 23 FCC Rcd. 2723.

<sup>6</sup> See March 19, 2008 LOI.

<sup>7</sup> See April 14, 2008 LOI response.

6. **Jurisdiction.** Alltel 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.

7. **Effective Date: Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the FCC releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

8. **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 its investigation and to cancel its NAL. In consideration for the termination of said investigation and cancellation of the NAL, Alltel agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau, will not use the facts developed in this investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Alltel concerning Alltel's alleged failure to timely respond as required by Section 1.717 of the Commission's rules to the informal complaints that were the subject of the investigation or the NAL. The Bureau also agrees that it will not use the facts developed in this investigation or the NAL to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Alltel concerning any alleged failure by Alltel to timely respond to any informal complaint as required by Section 1.717 of the Commission's rules served on Alltel by the Commission prior to the Effective Date of this Consent Decree. The Bureau also agrees that it will not use the facts developed in this investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Alltel with respect to Alltel's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, Alltel agrees to create within 30 calendar days a Compliance Plan related to future compliance with Section 1.717 of the Commission's Rules and related Commission Orders. The Plan will include, at a minimum, the following components:

- a. **Designated Contact/Accept Electronic Service.** Alltel will designate a Director level manager to oversee Alltel's informal complaint process, to ensure timely responses to all informal complaints, and to ensure compliance with the Compliance Plan. Alltel will designate a Distribution Coordinator to receive informal complaints from the Commission on a daily basis and monitor the Commission's web site (<https://esupport.fcc.gov/serve2000>) on a daily basis. At a minimum, informal complaints will be logged as received, docketed for response deadlines, and assigned for research and response by

the Distribution Coordinator to Alltel executive complaint staff. Alltel's Compliance Plan will require it to respond timely to each complaint served upon it by the Commission, even where duplicative service may have been effected.

- b. **Training Program.** Alltel will implement and maintain a training program for all employees whose responsibilities include responding to informal complaints. The training program is ongoing and will include appropriate reference materials and at least quarterly meetings and/or training sessions regarding FCC informal complaints and responses thereto.
- c. **Informal Complaints Database/Checklist.** Alltel shall maintain a data base of informal complaints and responses by customer name and FCC User Complaint Number, as well as all copies of informal complaints and responses thereto. Alltel shall also maintain a check list for each informal complaint served to ensure timely routing and responses to all informal complaints.
- d. **Audits.** Alltel will conduct regular and random audits on at least a bi-monthly basis regarding its informal complaints database, its ability to meet response deadlines, and to verify the timely response to all informal complaints served by the Commission.
- e. **Reporting Non-Compliance.** Alltel shall report any non-compliance with the Compliance Plan to the Bureau within thirty (30) days after the discovery of non-compliance. In such cases, Alltel shall simultaneously respond to the underlying complaint or provide an explanation of its failure to do so. Alltel shall certify at the end of the two (2) year term that it is in compliance with the terms of the Plan. Such certification must be mailed within fifteen (15) days after the two-year anniversary of the Effective Date of this Consent Decree to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W. Room 4-C244, Washington, D.C. 20554, and must include the file number listed above. Alltel will also send an electronic copy of its certification to other Telecommunications Consumers Division staff as directed by the Division Chief.
- f. **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twenty four (24) months after the Effective Date.

10. **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 Act against Alltel 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 Alltel of the Act, the Rules, or the Order.

11. **Voluntary Contribution.** Alltel agrees that it will make a voluntary contribution to the United States Treasury in the amount of twenty thousand dollars (\$20,000). The payment will be made within thirty (30) calendar days after the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment[s] by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Alltel will also send electronic notification on the date said payment is made to leon.jackler@fcc.gov.

12. **Waivers.** Alltel 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 Order adopting this Consent Decree, provided the Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Alltel 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 Adopting Order, neither Alltel nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Alltel shall waive any statutory right to a trial *de novo*. Alltel hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

13. **Severability.** The Parties agree that if any of the provisions of the Adopting Order or the Consent Decree shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. 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.

14. **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 Alltel does not expressly consent) that provision will be superseded by such Commission rule or Order.

15. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this

Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and Orders. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Alltel does not admit or deny noncompliance, violation or liability for violating the Act, Commission's Rules or Orders in connection with the matters that are the subject of this Consent Decree.

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

17. **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.

18. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

19. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

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Kris Anne Monteith  
Chief, Enforcement Bureau

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Glenn S. Rabin  
Federal Communications Counsel, Alltel,  
601 Pennsylvania Avenue, NW, Suite 720,  
Washington D.C. 20004.

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Date

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Date