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1 P R O C E E D I N G S

2 JUDGE CLARK: Good morning, it's  
3 approximately 10:30 a.m., January 14th, 2009, in the  
4 Commission's hearing room in Olympia, Washington. This  
5 is the time and the place set for hearing in the matter  
6 of the Washington Utilities and Transportation  
7 Commission, Complainant, versus AK Communications  
8 Incorporated, Epixtar Communications Corporation,  
9 FreedomStarr Communications, Inc., Jambo, Inc., Least  
10 Cost Routing Inc., doing business as Long Distance  
11 Charges, Marathon Communications Corporation doing  
12 business as Marathon USA, Nations Broadband  
13 Incorporated, Pacific Centrex Services Incorporated,  
14 Phonetec LP, PTS Access Networks Inc., StarVox  
15 Communications, Inc., TeleCents Communications, Inc.,  
16 Telmex USA, LLC, and Vycera Communications Incorporated,  
17 given Docket Number UT-082005, Patricia Clark,  
18 Administrative Law Judge for the Commission presiding.  
19 This matter came before the Commission on December 2nd,  
20 2008, when the Commission filed a complaint and order to  
21 show cause against each of the aforementioned  
22 telecommunications companies for failure to pay  
23 regulatory fees and file annual reports.

24 At this time I will take appearances on  
25 behalf of the parties. Appearing on behalf of

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1 Commission Staff.

2 MS. CAMERON-RULKOWSKI: Jennifer  
3 Cameron-Rulkowski, Assistant Attorney General, my  
4 address is 1400 South Evergreen Park Drive Southwest,  
5 P.O. Box 40128, Olympia Washington, 98504-7250. My  
6 telephone number is (360) 664-1186, my fax number is  
7 (360) 586-5522, my E-mail address is  
8 jcameron@utc.wa.gov.

9 JUDGE CLARK: Thank you.

10 The record should reflect that there are no  
11 individuals present in the hearing room appearing on  
12 behalf of any of the aforementioned telecommunications  
13 companies. However, the Commission's notice of hearing  
14 in this matter did allow individuals to appear via the  
15 bridge line. The record should reflect that the bridge  
16 line is on, and I will inquire at this juncture if there  
17 are any individuals on the bridge line who wish to be  
18 heard. Is there anyone on the bridge line?

19 All right, the record should reflect that no  
20 one responded to my inquiry regarding the bridge line.

21 Are there any preliminary matters that we  
22 should address before we proceed to hearing?

23 MS. CAMERON-RULKOWSKI: Your Honor, Staff  
24 would like to move to dismiss three of the companies and  
25 then move for default for failure to appear regarding

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1 the remaining companies.

2 JUDGE CLARK: All right. And the three  
3 companies for whom you wish to dismiss the complaint?

4 MS. CAMERON-RULKOWSKI: Least Cost Routing,  
5 Inc., doing business as Long Distance Charges, Telmex  
6 USA, LLC, and PTS Access Networks, Inc.

7 JUDGE CLARK: All right. And you wish to  
8 dismiss the complaint against these companies because?

9 MS. CAMERON-RULKOWSKI: I will make the first  
10 motion regarding Least Cost Routing, Inc., doing  
11 business as long distance charges.

12 JUDGE CLARK: Thank you.

13 MS. CAMERON-RULKOWSKI: Their registration  
14 was canceled effective December 23, 2008, per the  
15 request of the company, which was received by the  
16 Commission on November 25th, 2008. And I will ask you,  
17 Your Honor, at this time to take official notice of the  
18 action of the Commission in Docket UT-082196. In this  
19 docket, Least Cost Routing filed a notice of cessation  
20 of service, and the Commission allowed it to become  
21 effective per the new action agenda on December 23rd,  
22 2008. Because the company's registration already is  
23 canceled, there would be no reason to continue to  
24 include them in this proceeding.

25 JUDGE CLARK: All right, the motion regarding

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1 Least Cost Routing doing business as Long Distance  
2 Charges is granted.

3 MS. CAMERON-RULKOWSKI: Thank you, Your  
4 Honor.

5 Regarding Telmex and PTS Access Networks,  
6 both of these companies have filed annual reports and  
7 are now in compliance, and I would like to enter  
8 evidence on behalf of Staff through Ms. Hoyt after she  
9 is sworn in.

10 JUDGE CLARK: All right.

11 MS. CAMERON-RULKOWSKI: Regarding the  
12 remaining companies, Staff moves to have them held in  
13 default for failure to appear at this hearing, and Staff  
14 makes this request under the authority of RCW 34.05.440  
15 and WAC 480-07-450. Staff further requests under these  
16 same authorities that Your Honor proceed with the  
17 hearing and dispose of the substantive issues at this  
18 time.

19 JUDGE CLARK: And both requests are granted.

20 MS. CAMERON-RULKOWSKI: Thank you, Your  
21 Honor. And Ms. Hoyt has been tracking the docket and  
22 can provide some testimony concerning service after she  
23 is sworn in.

24 JUDGE CLARK: All right, and are you ready to  
25 call Ms. Hoyt at this time?

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1 MS. CAMERON-RULKOWSKI: Yes, Your Honor.

2 JUDGE CLARK: All right.

3 Ms. Hoyt, if you would raise your right hand,  
4 please.

5 (Witness SHERI HOYT was sworn.)

6 JUDGE CLARK: Please state your full name for  
7 the record and spell your last name, please.

8 THE WITNESS: My name is Sheri Hoyt, and the  
9 last name is H-O-Y-T.

10 JUDGE CLARK: Thank you.

11 Ms. Cameron-Rulkowski.

12 MS. CAMERON-RULKOWSKI: Thank you, Your  
13 Honor.

14

15 Whereupon,

16

SHERI HOYT,

17 having been first duly sworn, was called as a witness

18 herein and was examined and testified as follows:

19

20 D I R E C T E X A M I N A T I O N

21 BY MS. CAMERON-RULKOWSKI:

22 Q. Ms. Hoyt, who is your employer?

23 A. Washington Utilities and Transportation  
24 Commission.

25 Q. And what is your position with the



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1 Commission?

2 A. I am a Compliance Specialist in the  
3 Compliance Investigation Section.

4 Q. How long have you held this position?

5 A. Just over four years.

6 Q. Would you please describe your duties as they  
7 relate to this case?

8 A. I conduct investigations regarding the  
9 business practices of utility and transportation  
10 companies. As part of those duties, I investigate  
11 companies that are delinquent in filing their annual  
12 reports and paying their regulatory fees.

13 Q. And what statute or rule do you understand to  
14 be at issue in this proceeding?

15 A. There are three, RCW 80.04.080, which  
16 requires each public service company to file an annual  
17 report with the Commission; RCW 80.24.010, which  
18 requires each public service company to pay an annual  
19 regulatory fee, and WAC 480-120-382, which requires  
20 competitively classified telecommunications companies to  
21 submit annual reports and pay their regulatory fees to  
22 the Commission by May 1 every year.

23 Q. In your understanding, is it possible under  
24 this rule, that is WAC 480-120-382, that a  
25 telecommunications company might owe no regulatory fees?

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1           A.     Yes.  Even the \$20 minimum regulatory fee  
2 would be waived for any company with revenue less than  
3 \$20,000 for gross intrastate operating revenue.

4           Q.     If a telecommunications company fails to file  
5 an annual report, does the Commission know if any  
6 regulatory fees are due?

7           A.     No.

8           Q.     Are you familiar with the companies named in  
9 this proceeding?

10          A.     I am.

11          Q.     I would like to ask you about each respondent  
12 separately.  First, however, please describe generally  
13 how you are familiar with the companies in this  
14 proceeding.

15          A.     The Financial Services Section of the  
16 Commission provides me a list of all companies that are  
17 delinquent in filing their annual reports and paying  
18 their regulatory fees.  The list is generated by the  
19 Commission's annual report tracking system, we call it  
20 ARTS.  Staff enters receipt information for each annual  
21 report received and the regulatory fees paid in a record  
22 created for each company.

23          Q.     To your knowledge, have any of the companies  
24 that are named in this proceeding filed annual reports  
25 or paid regulatory fees since the Commission filed the

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1 complaint in this proceeding?

2 A. Yes, there are two.

3 Q. How did you determine that such filings were  
4 made?

5 A. I checked the ARTS system for each company  
6 named in the proceeding.

7 Q. When is the last time you checked ARTS?

8 A. 9:00 a.m. this morning.

9 Q. I have a couple of questions regarding  
10 service. Was the complaint mailed out to each company  
11 via certified mail and via regular mail?

12 A. Yes, it was.

13 Q. Were any of the certified mailings returned  
14 as undelivered?

15 A. We received two back marked unclaimed by the  
16 Post Office, one for AK Communications, Inc., and one  
17 for Phonetec, LP. We received an additional envelope  
18 back marked undeliverable as addressed by the Post  
19 Office, and that was for Marathon Communications  
20 Corporation d/b/a Marathon USA.

21 Q. Were any of the regular mailings returned,  
22 that is were any of the first class mailings returned?

23 A. No, we received none back in the mail.

24 Q. Thank you.

25 Now I will ask you about the individual

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1 companies. Was one of the companies referred to you  
2 Telmex USA, LLC?

3 A. Yes, it was.

4 Q. Has Telmex filed a 2007 annual report?

5 A. It did.

6 Q. Please refer to the exhibit marked SH-1. Is  
7 this a true and accurate copy of Telmex's 2007 annual  
8 report?

9 A. It is.

10 Q. When was Telmex's annual report filed?

11 A. We received it on December 15th, 2008.

12 Q. Did Telmex owe regulatory fees for 2008?

13 A. It did not.

14 Q. What is your recommendation to the Commission  
15 regarding this company?

16 A. I would recommend that the Commission not  
17 cancel the company's registration at this time.

18 Q. Was one of the companies referred to you PTS  
19 Access Networks, Inc.?

20 A. Yes.

21 Q. Has PTS filed a 2007 annual report?

22 A. It has.

23 Q. Please refer to exhibit marked SH-2, is this  
24 a true and accurate copy of PTS's 2007 annual report?

25 A. It is.

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1 Q. When was PTS's annual report filed?

2 A. I received it via E-mail yesterday on January

3 13.

4 Q. Did PTS owe regulatory fees for 2008?

5 A. It did not.

6 MS. CAMERON-RULKOWSKI: At this time, Your

7 Honor, I offer the exhibits marked SH-1 and SH-2 for

8 admission into evidence.

9 JUDGE CLARK: Exhibits SH-1 and SH-2 are

10 received.

11 MS. CAMERON-RULKOWSKI: Your Honor, does that

12 mean that both exhibits are admitted?

13 JUDGE CLARK: Yes.

14 MS. CAMERON-RULKOWSKI: Thank you, Your

15 Honor.

16 BY MS. CAMERON-RULKOWSKI:

17 Q. Was one of the companies referred to you AK

18 Communications, Inc.?

19 A. Yes, it was.

20 Q. And has AK Communications filed a 2007 annual

21 report or paid regulatory fees for 2008?

22 A. No, it has not.

23 Q. What is your recommendation to the Commission

24 regarding this company?

25 A. I would recommend that the Commission cancel

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1 the company's registration.

2 Q. Was one of the companies referred to you  
3 Epixtar Communications Corp.?

4 A. Yes, it was.

5 Q. Has Epixtar filed a 2007 annual report or  
6 paid regulatory fees for 2008?

7 A. No, it has not.

8 Q. What is your recommendation to the Commission  
9 regarding this company?

10 A. I recommend that the Commission cancel the  
11 registration at this time.

12 Q. Was one of the companies referred to you  
13 FreedomStarr Communications Inc.?

14 A. Yes, it was.

15 Q. Has FreedomStarr filed a 2007 annual report  
16 or paid regulatory fees for 2008?

17 A. No, it has not.

18 Q. What is your recommendation to the Commission  
19 regarding this company?

20 A. I would recommend that the Commission cancel  
21 the company's registration at this time.

22 Q. Was one of the companies referred to you  
23 Jambo, Inc.?

24 A. It was.

25 Q. Has Jambo filed a 2007 annual report or paid

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1 regulatory fees for 2008?

2 A. No, it has not.

3 Q. What is your recommendation to the Commission  
4 regarding this company?

5 A. I would recommend that the Commission cancel  
6 the company's registration at this time.

7 Q. Was one of the companies referred to you  
8 Marathon Communications Corporation doing business as  
9 Marathon USA?

10 A. Yes.

11 Q. Has Marathon filed a 2007 annual report or  
12 paid regulatory fees for 2008?

13 A. No, it has not.

14 Q. What is your recommendation to the Commission  
15 regarding this company?

16 A. I would recommend that the Commission cancel  
17 the company's registration.

18 Q. Was one of the companies referred to you  
19 Nations Broadband, Inc.?

20 A. Yes.

21 Q. Has Nations filed a 2007 annual report or  
22 paid regulatory fees for 2008?

23 A. It has not.

24 Q. What is your recommendation to the Commission  
25 regarding this company?

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1           A.     I would recommend that the Commission cancel  
2 the company's registration.

3           Q.     Was one of the companies referred to you  
4 Pacific Centrex Services, Inc.?

5           A.     Yes.

6           Q.     Has Pacific filed a 2007 annual report or  
7 paid regulatory fees for 2008?

8           A.     No, it has not.

9           Q.     What is your recommendation to the Commission  
10 regarding this company?

11          A.     I would recommend that the Commission cancel  
12 the company's registration.

13          Q.     Was one of the companies referred to you  
14 Phonetec, LP?

15          A.     Yes.

16          Q.     Has Phonetec, that's P-H-O-N-E-T-E-C, filed a  
17 2007 annual report or paid regulatory fees for 2008?

18          A.     No, it has not.

19          Q.     What is your recommendation to the Commission  
20 regarding this company?

21          A.     I would recommend that the Commission cancel  
22 the company's registration.

23          Q.     Was one of the companies referred to you  
24 StarVox Communications, Inc.?

25          A.     Yes.



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1 Q. Has StarVox filed a 2007 annual report or  
2 paid regulatory fees for 2008?

3 A. It has not.

4 Q. What is your recommendation to the Commission  
5 regarding this company?

6 A. I recommend that the Commission cancel the  
7 company's registration.

8 Q. Was one of the companies referred to you  
9 TeleCents Communications, Inc.?

10 A. Yes.

11 Q. Has TeleCents filed a 2007 annual report or  
12 paid regulatory fees for 2008?

13 A. No, it has not.

14 Q. What is your recommendation to the Commission  
15 regarding this company?

16 A. I recommend the Commission cancel the  
17 company's registration.

18 Q. Was one of the companies referred to you  
19 Vycera Communications, Inc.?

20 A. Yes.

21 Q. Has Vycera filed a 2007 annual report or paid  
22 regulatory fees for 2008?

23 A. No, it has not.

24 Q. What is your recommendation to the Commission  
25 regarding this company?

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1           A.     I recommend that the Commission cancel the  
2 company's registration.

3                   MS. CAMERON-RULKOWSKI:  At this time, Your  
4 Honor, I have no further questions for Ms. Hoyt.  I do  
5 have a brief closing statement when and if you are  
6 willing to entertain that.

7                   JUDGE CLARK:  I'm willing to entertain that,  
8 but I just have a couple of questions for Ms. Hoyt.

9

10                               E X A M I N A T I O N

11 BY JUDGE CLARK:

12           Q.     Ms. Hoyt, do the Commission's regulations  
13 establish a deadline for telecommunications carriers to  
14 file annual reports with the Commission?

15           A.     They're required to file by May 1 of every  
16 year.

17           Q.     All right.  And you have two companies, well,  
18 actually I guess one company who filed their annual  
19 report after that deadline, significantly after that  
20 deadline, on January 13th, 2009, and it is your  
21 recommendation that although this annual report was not  
22 filed late that this company's registration should not  
23 be canceled?

24           A.     That is correct.

25                   JUDGE CLARK:  Thank you.

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1 MS. CAMERON-RULKOWSKI: Thank you, Your  
2 Honor.

3 In summary, Staff recommends that the  
4 Commission cancel the permits of all but three of the  
5 companies named in this complaint. These three are  
6 Least Cost Routing, which Staff has moved to dismiss  
7 from this proceeding because this company no longer is  
8 registered with the Commission, and Telmex and PTS, both  
9 of which have filed annual reports. Staff has presented  
10 evidence that the remaining companies all have failed to  
11 file 2007 annual reports. All of these companies did  
12 receive service of the complaint by first class mail.  
13 Under the Commission's service rule, WAC  
14 480-07-120(2)(c), service is complete when a copy of the  
15 document properly addressed and stamped is deposited in  
16 the United States mail. And Staff has asked that these  
17 remaining companies be held in default, and that has  
18 been granted I understand. Because these remaining  
19 companies have not filed annual reports, Staff does not  
20 know whether they owe 2008 regulatory fees or not. If  
21 they do owe regulatory fees, then they have failed to  
22 pay them.

23 There is nothing further, Your Honor. Thank  
24 you.

25 JUDGE CLARK: All right, if there is nothing

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1 further to be heard on this record, we are adjourned.

2 (Hearing adjourned at 10:50 a.m.)

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