

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment
Against DelTel, Inc., in the Amount of
\$100

DOCKET UT-101020

DECLARATION OF
SHERI HOYT

SHERI HOYT, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Consumer Program Specialist in the Consumer Protection Section. I have been employed at the Commission for 18 years, holding various positions. As a Consumer Program Specialist, my responsibilities include conducting investigations regarding annual reports filed by regulated utility and transportation companies. As part of those duties, I investigate telecommunications companies that may be operating in violation of Commission statute or rule.
3. On July 8, 2010, Janet Willis on behalf of DelTel, Inc. (DelTel or the company) filed with the Commission an Application for Mitigation (Mitigation Request), in Docket UT-101020. I have read the Mitigation Request. In the Mitigation Request, DelTel admits the violation occurred and requests an administrative decision by an administrative law judge.
4. This Mitigation Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on June 30, 2010, in Docket UW-101020. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code (WAC) 480-120-382, which requires competitively classified telecommunications companies to file annual reports with the Commission by May 1 each year.
5. Before recommending the Commission issue penalties, as part of my job, I conducted an investigation of Commission records concerning DelTel¹. I documented my investigation in a report titled, "Staff Investigation - 2009 Annual

¹ At the time the investigation was conducted, I was a Compliance Investigator in the Compliance Investigations Section.

Reports.”² I identified the violation in this case from records maintained by the Commission.

Specific Issues Addressed by DeITel in its Mitigation Request


Ms. Willis states the Commission received the company’s report timely on May 25, 2010, and that the financials were not initially sent with the report but were submitted at a later date.

6. Commission records indicate that the Commission mailed an annual report packet to DeITel on February 26, 2010, to the address of record: 25531 Commerce Center Drive, Suite 250, Lake Forest, California 92630. On March 31, 2010, the Commission mailed a notice to DeITel reminding it that the annual report was due May 1, 2010. Further, records indicate that on May 14, 2010, the Commission sent a letter to the same address notifying DeITel that its annual report was delinquent and that it must be postmarked by May 31, 2010, to avoid enforcement action.
7. Commission records indicate that DeITel did not request an extension to file its 2009 annual report after the May 1 deadline.
8. Commission records indicate that it received DeITel’s incomplete annual report on May 25, 2010³.
9. The Commission did not receive DeITel’s completed 2009 annual report until after the company was assessed the \$100 penalty assessment. The missing financial documents were received on July 15, 2010, with DeITel’s Mitigation Request.

Staff Recommendation

10. DeITel failed to timely file its 2009 annual report. DeITel did not request an extension to file its report after May 1, 2010. The company submitted an incomplete annual report and did not provide the requested missing documents until July 15, 2010. The violation occurred, and the penalty is appropriate.

DATED this 29th day of July 2010 at Olympia, Washington.


SHERI HOYT

² A true and accurate copy of the investigation report is attached to this declaration as Attachment A.

³ See Declaration of Rae Lynn Carnes.

Attachment A

Telecommunications Companies Staff Investigation - 2009 Annual Reports June 8, 2010

Purpose

The purpose of this investigation is to determine if 29 telecommunications companies are in violation of Washington Administrative Code (WAC) 480-120-382¹. WAC 480-120-382 requires competitively classified telecommunications companies to furnish annual reports to the Washington Utilities and Transportation Commission (commission) no later than May 1 each year.

Background

This investigation was prompted by commission staff's yearly review of annual reports for telecommunications carriers registered in the state of Washington.

On February 26, 2010, the commission mailed 2009 Annual Report forms and 2010 Regulatory Fee packets to telecommunications carriers registered with it. A letter from Executive Director and Secretary David W. Danner instructed companies to file annual reports and pay regulatory fees by May 1, 2010². Further, the letter stated failure to file the annual report by May 1 could result in a penalty. Those companies wishing to request an extension to file the annual report were asked to do so prior to May 1, providing a reason for the requested extension.

On March 31, 2010, the commission mailed a notice to all telecommunications carriers reminding them 2009 annual reports and 2010 regulatory fees were due by May 1, 2010³.

Investigation

The 29 telecommunications companies listed in attached Appendix A failed to file their 2009 annual reports by the May 1 deadline. On May 14, 2010, the commission sent letters to those companies that had not yet filed their reports. The letter, signed by Mr. Danner, gave an extension to companies to file their reports by May 31, 2010⁴. In the letter, Mr. Danner stated the commission would not seek a fine or move to revoke the registration of any company with a report received by the commission postmarked no later than May 31, 2010.

Only one of the telecommunications carriers listed in Appendix A requested an extension. On May 3, 2010, the commission received a request for extension to file the 2009 annual report from CTC Communications Corp. On May 13, 2010, the commission granted the company an extension to file its report by June 1, 2010. As of the date of this report, the commission has not received CTC Communications Corp.'s 2009 annual report.

Four companies that failed to file their 2009 annual report by the May 29, 2010, extended deadline also failed to file their 2008 annual report timely and, as a result, in June 2009, each received a penalty assessment. Three companies are included in Appendix A, distinguished by recommended penalty amounts of \$200 for two consecutive years of non-compliance. One company is included in Appendix A, distinguished by a recommended penalty amount of \$400 for three consecutive years of non-compliance.

¹ See Appendix A for a list of the telecommunications companies.

² See Appendix B for a copy of the February 26, 2010, letter sent to telecommunications companies.

³ See Appendix C for a copy of the March 31, 2010, reminder notice sent to telecommunications companies.

⁴ See Appendix D for a copy of the May 14, 2010, letter sent to delinquent telecommunications companies.

Recommendation:

Staff recommends the commission issue a \$100 penalty assessment each to the telecommunications companies that failed to file a 2009 annual report by May 31, 2010. In addition, staff recommends the commission issue a \$200 penalty assessment each to the three telecommunications companies that received \$100 penalty assessments in 2009 and a \$400 penalty to the company that has three consecutive years of non-compliance.

Staff finds it appropriate that the companies receive escalating penalties due to continued violations of WAC 480-120-382. RCW 80.04.405 allows penalties of \$100 for every such violation. Each and every such violation is a separate and distinct offense and in case of a continuing violation every day's continuance shall be and be deemed to be a separate and distinct violation.

APPENDIX A

	Company Name	Report Received Yes or No	If yes, Postmark Date	Recommended Penalty Amount
1.	Americom Technologies, Inc.	No		\$100
2.	Andiamo Telecom, LLC	No		\$100
3.	Asia Talk Telecom, Inc.	No		\$100
4.	CSK Communications, Inc.	No		\$100
5.	CTC Communications, Corp.	No		\$100
6.	Cypress Communications Operating Company, LLC	No		\$200
7.	DelTel, Inc.	Incomplete	5/25/10	\$100
8.	DigitLine Express, LLC	No		\$200
9.	Elite Telnet, LLC	No		\$100
10.	EMAN Networks	No		\$200
11.	Ethos Communications Group, Inc.	No		\$100
12.	Gold Line Telemanagement, Inc.	No		\$100
13.	Grasshopper Group, LLC	No		\$100
14.	MBC Telecom, LLC	No		\$100
15.	MetroNet Fiber Washington, Inc. c/o MTS Allstream	No		\$400
16.	NetLojix Telecom, Inc.	No		\$100
17.	Network US, Inc.	No		\$100
18.	NobelTel, LLC	Incomplete	5/3/10	\$100
19.	Norstar Telecommunications, LLC	No		\$100
20.	NW Telecom, LLC	No		\$100
21.	Royal Communications, LLC	No		\$100
22.	Symtelco, LLC	No		\$100
23.	Telecare, Inc.	Incomplete	5/28/10	\$100
24.	Telenational Communications, Inc.	No		\$100
25.	Telmex USA, LLC	No		\$100
26.	Teltrust Corporation	No		\$100
27.	T-Netix, Inc.	No		\$100
28.	TSS Digital Services, LLC	No		\$100
29.	Uni-Tel Communications Group, Inc.	No		\$100

APPENDIX B

February 26, 2010

Dear Regulated Company:

Reference: Your 2009 Annual Report and 2010 Regulatory Fees are Due May 1

State law requires you to file an annual report and pay regulatory fees to the Washington Utilities and Transportation Commission (UTC).

What is required of me?

By May 1, you must:

- Complete and file one paper copy or electronic version of the enclosed 2009 annual report form
- Pay your 2010 regulatory fees

What happens if I do not file a completed annual report by May 1?

If you do not file your company's annual report by May 1 UTC staff will recommend a financial penalty between \$100 and \$800 depending on whether you have filed late in the past. If you have repeatedly filed late, the penalty will be higher. Staff may also recommend revocation of your authority to operate in Washington. Staff will also recommend a \$100 financial penalty if your annual report is incomplete, *i.e.*, not signed or lacking requested information, even if it is filed on time.

What happens if I do not pay my regulatory fees by May 1?

If you do not pay your company's regulatory fee by May 1, you will incur a:

- 2 percent penalty on the amount due; and
- 1 percent monthly interest charge on the unpaid balance.

May I request an extension of time if I am unable to file the annual report by May 1?

Yes, however, you must make the request in writing before May 1 and include a valid reason for why you need an extension. We will notify you whether your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your fee by May 1.

May I designate any information that I submit in my annual report as confidential?

Yes, however, you must meet two conditions. You may only request confidential treatment if your company is regulated under Title 80 RCW, that is, if you operate an electric, natural gas, telecommunications, or water company. Transportation companies, regulated under Title 81 RCW, may not request confidential treatment of documents because the authority for such

treatment is found only in RCW 80.04.095. If a Title 81 company files their annual report or fee sheet as confidential, we will not treat it as confidential.

Second, you must follow the requirements for filing confidential documents in WAC 480-07-160. You may find this rule at the UTC Web site, www.utc.wa.gov. Locate "Quick Links" on the right side of the home page then select "2009 annual reports."

Please note: The regulatory fee sheet portion of your report is not a confidential document and will not be accorded confidential treatment under the rule. We will not, however, disclose credit card information you list on the fee sheet.

Where do I mail my completed annual report form and regulatory fee payment?

Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250

May I file my report electronically?

Yes. You may file your report from the UTC's Web site – www.utc.wa.gov. From the home page, select the "document" tab at the top of the page and then locate and select "electronic filing" from the colored bar on the left side of the page. Alternatively you may go directly to the electronic filing page by entering www.utc.wa.gov/e-filing into your browser.

Where may I obtain an electronic version of the annual report form?

Forms are available on our Web site at www.utc.wa.gov. Locate "Quick Links" on the right side of the home page and then select "2009 annual reports."

May I pay my regulatory fees electronically?

Yes. You may call 360-664-1152 or e-mail rcarnes@utc.wa.gov requesting information about payment by Automated Clearing House. A statement of payment should accompany your Annual Report and Regulatory Fee Sheet.

Is there any additional information I should file?

- If you are a gas distribution company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 2.
- If you are an electric company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 1.
- If you are a class 1 Railroad, please also file a copy of your Surface Transportation Board Form R-1 - including statistics specific to the state of Washington.

What should I do if my company is no longer operating in Washington?

You may cancel your registration or permit by using the cancellation forms available on our Web site at www.utc.wa.gov. Locate "Quick Links" on the right side of the home page and then select "2009 annual reports." From the annual reports page select the

cancellation link to access the forms. Please note that if your company operated in Washington during the 2010 calendar year you must pay regulatory fees and file a closing annual report based on the months of operation during 2009.

Who do I contact if I have questions?

If you have questions about any aspect of your report or regulatory fee, please contact Rae Lynn Carnes at (360) 664-1152 or rcarnes@utc.wa.gov.

If you need this letter or an annual report form in an alternate format, please call 360-664-1152. The TTY Toll-Free phone number is 1-800-416-5289.

Sincerely,

David W. Danner
Secretary

Enclosures

APPENDIX C

Reminder! **Annual Reports and Regulatory Fees are due May 1, 2010**

On February 26, we sent you a 2009 annual report form and 2010 regulatory fee form. This is just a friendly reminder that your company's completed annual report and payment of your regulatory fees are due, postmarked, no later than May 1.

If you already mailed your annual report and regulatory fees, **thank you!** Please disregard this notice. If you have not yet filed, please be sure not to miss this deadline.

You may mail your completed annual report form and regulatory fee payment to:

Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250

You may also file your report electronically via the UTC's Web filing portal. From the UTC's home page, www.utc.wa.gov, select the "document" tab at the top of the page and then locate and select "electronic filing" from the colored bar on the left side of the page. Alternatively you may go directly to the electronic filing page by entering <http://utc.wa.gov/e-filing> into your browser.

You may obtain an electronic version of the annual report and regulatory fee sheet at our Web site; locate "Quick Links" on the homepage and then select "2009 annual reports".

If you fail to pay your regulatory fee or file your company's completed annual report, postmarked by May 1, UTC staff will recommend the commission issue a financial penalty. Staff may also recommend that the commission cancel your authority to operate in Washington.

Please don't let either happen. If you have questions about your report or fee or need assistance, please contact me at 360-664-1152 or e-mail me at rcarnes@utc.wa.gov.

Sincerely,

Rae Lynn Carnes,
Revenue Accountant

APPENDIX D

May 14, 2010

Attention:

Your annual report to the Utilities and Transportation Commission (commission) was due by May 1 as required by law. You are now subject to enforcement action by the commission, including financial penalties. This letter tells you what you can do to avoid this. **If you have already submitted your annual report, please disregard this notice.**

Commission staff mailed you a 2009 annual report form and fee calculation sheet on February 26, 2010. On March 1, 2010, staff mailed a reminder to file your report and pay your fees. Commission records indicate that you have not yet filed the completed report form.

Commission staff will file for enforcement action against your company unless your completed report is received postmarked no later than May 31. Enforcement action in this matter may include penalties of up to \$100 for each day it is late and revocation of your authority to provide telecommunications services in Washington. If your annual report was late last year and you received a penalty, the penalty this year will be incrementally higher.

If the commission receives your report postmarked no later than May 31, commission staff will not seek a fine or move to revoke your registration.

Annual report forms are available on the commission's Web site at www.utc.wa.gov. If you have questions or require additional information, please contact Sheri Hoyt, Compliance Investigator, at (360) 664-1149 or shoyt@utc.wa.gov.

Sincerely,



David W. Danner
Executive Director and Secretary