

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment  
Against NATIONS BROADBAND, INC.  
in the Amount of \$100

DOCKET UT-071277

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 Compliance Specialist in the Business Practices Investigations Section. I have been employed at the Commission for over 15 years, holding various positions. As a Compliance Specialist, my responsibilities include conducting investigations regarding the business practices of regulated utility or transportation companies. As part of those duties, I investigate telecommunications companies that may be operating in violation of Commission statute, rule, or tariff.
3. On August 13, 2007, Nations Broadband, Inc. (Nations) filed with the Commission an Application for Mitigation (Mitigation Request) in Docket No. UT-071277. I have read the Mitigation Request. In the Mitigation Request, Nations waives a hearing and asks for an administrative decision.
4. This Mitigation Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on July 5, 2007, in Docket UT-071277. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code 480-120-382, which requires competitive 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 Nations' records. My investigation resulted in an investigation report titled, "Staff Investigation - 2006 Annual Reports."<sup>1</sup> I identified the violation in this case from records maintained by the Commission.

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<sup>1</sup> A true and accurate copy of the investigation report is attached to this declaration as Attachment A.

### **Nations' failed to timely file its Mitigation Request**

6. The Commission received Nations' Mitigation Request 20 days after it was due. The Mitigation Request form, which accompanied the penalty assessment order, clearly stated in the first paragraph:

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment.

Commission records indicate the penalty assessment was sent to Nations by certified mail, and that Nations received it on July 9, 2007.<sup>2</sup> Accordingly, the deadline for filing a Mitigation Request was July 24, 2007. However, the Commission did not receive Nations' Mitigation Request, until August 13, 2007.

### **Nations failed to timely file its 2006 Annual Report**

7. Nations filed its Annual Report 25 days after the Commission's extended deadline. On March 8, 2007, the Commission mailed 2006 Annual Report forms, along with a letter of instruction, to competitive telecommunications companies registered in Washington State. The letter explained that if a company wished to request an extension to file the annual report, it must make the request in writing and the request must be received by the Commission prior to May 1. The Commission sent out a reminder notice to those same companies on April 6, 2007. Finally, on May 15, 2007, the Commission gave the competitive telecommunications companies that had not yet filed annual reports an extension until May 31, 2007.
8. The Commission did not receive from Nations a request for an extension to file its 2006 annual report. On June 25, 2007, the Commission received Nations' 2006 annual report. No regulatory fees were due.

### **In its Mitigation Request, Nations did not provide any information in support of its request**

9. The space for comment on the Mitigation Request form is blank. Therefore, there is no further information on which Staff could comment.

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<sup>2</sup> A true and accurate copy of the certified mail card is attached to this declaration as Attachment B.

**Staff Recommendation**

10. Because it is uncontested that Nations filed its annual report late, because Nations failed to timely request mitigation, and because Nations did not provide any reasons to support any mitigation, Staff recommends that the Commission reject Nations' Mitigation Request.

DATED this 16th day of August 2007 at Olympia, Washington.

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SHERI HOYT

# Attachment A

## Telecommunications Companies Staff Investigation - 2006 Annual Reports June 18, 2007

### Purpose

The purpose of this investigation is to determine if 35 telecommunications companies<sup>1</sup> are in violation of Washington Administrative Code (WAC) 480-120-382. WAC 480-120-382 requires competitively classified telecommunications companies to furnish annual reports to the commission no later than May 1 each year.

### Background

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

On March 8, 2007, the commission mailed 2006 Annual Report forms and 2007 Regulatory Fee packets to competitive telecommunications companies registered in Washington State. A letter from Executive Secretary Carole Washburn instructed companies to file annual reports and pay regulatory fees by May 1, 2007<sup>2</sup>. Further, the letter stated failure to file the annual report by May 1 would result in a penalty and possible revocation of the company's registration to operate in Washington. 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. None of the 35 companies listed in Appendix A requested an extension.

On April 6, 2007, the commission mailed a notice to all telecommunications companies reminding them that 2006 annual reports and 2007 regulatory fees were due by May 1, 2007<sup>3</sup>.

### Investigation

The 35 telecommunications companies listed in attached Appendix A failed to file their 2006 annual reports by the May 1 deadline. On May 15, 2007, the commission sent letters to those companies that had not yet filed their reports. The letter, signed by Carole Washburn, gave an extension to companies to file their reports by May 31, 2007<sup>4</sup>. In the letter, Ms. Washburn 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.

Fourteen companies that failed to file their 2006 annual report by the May 31 extended deadline also failed to file their 2005 annual report timely and, as a result, on July 5, 2006, received a \$100 penalty assessment in docket UT-060977. Those companies are included in Appendix A, however, they are distinguished by recommended penalty amounts of \$200.

During this investigation, records revealed a data entry error made while recording 2005 annual reports in the Annual Report Tracking System (ARTS) database. Association Administrators, Inc. failed to file its 2005 annual report or pay 2006 regulatory fees. The missing report was not discovered because another company's annual report was erroneously entered in Association Administrators, Inc.'s record. Therefore, although the company was in violation of WAC 480-120-382, it was not assessed a \$100

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<sup>1</sup> See Appendix A for a list of the telecommunications companies.

<sup>2</sup> See Appendix B for a copy of the March 8, 2007, letter sent to telecommunications companies.

<sup>3</sup> See Appendix C for a copy of the April 6, 2007, reminder notice sent to telecommunications companies.

<sup>4</sup> See Appendix D for a copy of the May 15, 2007, letter sent to delinquent telecommunications companies.

penalty and the company's registration was not revoked due to its failure to file the report as it should have been.

**Recommendation:**

Penalize the 21 telecommunications companies that failed to file a 2006 annual report by May 31, 2007, \$100 each for a violation of WAC 480-120-382.

In addition to issuing a \$100 penalty assessment to Association Administrators, Inc. for failure to file the 2006 annual report, the company should be directed to file its 2005 annual report, and pay the appropriate regulatory fees for 2006, that it has previously failed to submit to the commission.

Penalize the remaining 14 telecommunications companies that failed to file their 2005 annual report timely and their 2006 annual report by May 31, 2007, \$200 each for a repeat violation of WAC 480-120-382. As a repeat violation, staff finds it appropriate that the companies receive escalating penalties due to continued violations of the rules.

**APPENDIX A**

	<b>Company Name</b>	<b>Report Received Yes or No</b>	<b>If yes, Date Received</b>	<b>Recommended Penalty Amount</b>
1.	ACCXX Communications, LLC	No		\$100
2.	Association Administrators, Inc.	No		\$100
3.	Buehner-Fry, Inc.	No		\$100
4.	Com-Tech Resources, Inc.	No		\$100
5.	Custom Switching Technologies, Inc.	No		\$100
6.	Ernest Communications, Inc.	No		\$100
7.	Integrated Services, Inc.	No		\$100
8.	Marathon Communications Corporation	No		\$100
9.	Nations Broadband, Inc.	No		\$100
10.	Nehalem Telecommunications, Inc.	No		\$100
11.	Norlight Telecommunications, Inc.	No		\$100
12.	Norstar Telecommunications, LLC	No		\$100
13.	OCMC, Inc.	No		\$100
14.	Pelzer Communications Corporation	No		\$100
15.	Ripple Services, Inc.	No		\$100
16.	SNiP Link, LLC	No		\$100
17.	Telcentrex, LLC	No		\$100
18.	TSS Digital Services, L.L.C.	No		\$100
19.	Who's Calling, Inc.	No		\$100
20.	WilTel Local Network, LLC	Yes	June 6, 2007	\$100
21.	Xtension Services, Inc.	No		\$100
22.	Advanced Tel, Inc.	No		\$200
23.	Aimex Communications, Inc.	No		\$200
24.	Global Grid Telecom, Inc.	No		\$200
25.	Integrated Voice Services, Inc.	No		\$200
26.	Net One International, Inc.	No		\$200
27.	Norstan Network Services, Inc.	No		\$200
28.	OPEX Communications, Inc.	Yes	June 11, 2007	\$200
29.	PHONETEC, LP	No		\$200
30.	Preferred Carrier Services, Inc.	No		\$200
31.	SC TxLink, LLC	No		\$200
32.	TDS Long Distance Corporation	No		\$200
33.	Tel West Communications, LLC	Yes	June 5, 2007	\$200
34.	Time Warner Telecom of Washington, LLC	No		\$200
35.	Winstar Communications, LLC	No		\$200

## APPENDIX B

March 8, 2007

### **Subject: Your Telecommunications Annual Report and 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.

#### **What is required of me?**

By May 1, you must:

- Complete and file the enclosed 2006 annual report form
- Pay your 2007 regulatory fees

Failure to file your annual report or pay regulatory fees by May 1 will result in a penalty and possible revocation of your registration to operate in Washington. This is the only notice you will receive from the commission.

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

If regulatory fees are not paid by May 1, you will incur:

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

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

Yes, you must provide the request in writing, including a valid reason for the extension by May 1. We will notify you when your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your regulatory fees by May 1. If you are late filing your annual report or fail to file, you could incur additional penalties up to \$100 a day.

#### **Can I designate any information that I submit in my annual report as confidential?**

Yes, however, you must follow the strict legal guidelines outlined in WAC 480-07-160 (3).

#### **Where do I mail the completed annual report form and regulatory fee payment?**

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



Page 2

**Where can I obtain an electronic version of the annual report?**

Forms are available on our website at [www.wutc.wa.gov](http://www.wutc.wa.gov). Locate "Quick Links" then select "2006 annual reports".

**Who do I contact if I have questions?**

You may call 360-664-1152 or e-mail us at: [annualreports@wutc.wa.gov](mailto:annualreports@wutc.wa.gov). If you need this information in an alternate format, please call 360-664-1133. TTY Toll Free phone number is 1-800-416-5289.

Sincerely,

Carole J. Washburn  
Executive Secretary

Enclosures



## APPENDIX C

### **Reminder!** **Annual Reports and Regulatory Fees are due May 1, 2007**

On March 8, we sent you 2006 annual report and regulatory fee forms. This is just a friendly reminder that your company's completed annual report and regulatory fees are due, postmarked, by 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 obtain an electronic version of the annual report and regulatory fee sheet at our website, [www.wutc.wa.gov](http://www.wutc.wa.gov). Locate "Quick Links" then select "2006 annual reports".

If you have questions about your report or fee or need assistance, please contact staff for your industry, listed below:

<b>Industry</b>	<b>Contact</b>
Bus – Nonprofit Special Needs	Carolyn Caruso at (360) 664-1244 or e-mail at <a href="mailto:ccaruso@wutc.wa.gov">ccaruso@wutc.wa.gov</a>
Electric	Roland Martin at (360) 664-1304 or e-mail at <a href="mailto:rmartin@wutc.wa.gov">rmartin@wutc.wa.gov</a>
Gas	Roland Martin at (360) 664-1304 or e-mail at <a href="mailto:rmartin@wutc.wa.gov">rmartin@wutc.wa.gov</a>
Railroad	Lori Halstead at 360-664-1262 or email at <a href="mailto:lhalstea@wutc.wa.gov">lhalstea@wutc.wa.gov</a>
Auto-Transportation - Bus, Commercial Ferry, Household Goods, Low-level Radioactive Waste, Pipelines, Solid Waste, Telecommunications or Water	Brandy Sedillo at (360) 664-1152 or e-mail at <a href="mailto:annualreports@wutc.wa.gov">annualreports@wutc.wa.gov</a>

Annual Report Letter

April 6, 2007

Page 2

If you fail to pay your regulatory fee or file your company's annual report, postmarked by May 1, commission staff will recommend the commission issue a financial penalty.

For household goods and telecommunications companies, staff will also recommend that the commission cancel your authority to operate in Washington.

Please don't let either happen. If you have questions or needed assistance, please contact us at the numbers listed above.

Sincerely,

Carole J. Washburn  
Executive Secretary

APPENDIX D



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

May 15, 2007

Dear Telecommunications Provider:

You did not file your annual report by May 1 as required by law. You are now subject to enforcement action by the Washington Utilities and Transportation Commission (UTC) 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.

We mailed you a 2006 annual report form and fee calculation sheet on March 8, 2007. On April 6, 2007, we sent you a reminder to file your report and pay your fees. Our records indicate that you have not yet filed the completed report form.

Commission staff will file for enforcement action against your company unless we receive your completed report postmarked no later than May 31. Enforcement action in this matter may include penalties of up to \$100 for each day you are late and revocation of your authority to provide telecommunications services in Washington.

If we receive your report postmarked no later than May 31, we will not seek a fine or move to revoke your registration.

Annual report forms are available on the UTC's web site at [www.wutc.wa.gov](http://www.wutc.wa.gov). If you have questions or require additional information, please call Sheri Hoyt, Compliance Specialist, at (360) 664-1149 or email her at [shoyt@wutc.wa.gov](mailto:shoyt@wutc.wa.gov).

Sincerely,

A handwritten signature in cursive script that reads "Carole J. Washburn".

Carole J. Washburn  
Executive Secretary



Attachment B

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p><i>J. Holzworth</i></p> <p>B. Received by (Printed Name) <i>J. Holzworth</i></p> <p>C. Date of Delivery <i>7/9/07</i></p>
<p>1. Article Addressed to:</p> <p>STEVEN L GREEN VICE-PRESIDENT NATIONS BROADBAND, INC. 13455 NOEL RD #1000 DALLAS TX 75240</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p> <p><i>Rms</i> <i>L</i></p> <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7006 0100 0002 2918 6969</p>