

2 **Nature of Proceedings.** This proceeding involves a complaint and order to show cause why the registrations of certain named telecommunications companies should not be revoked for failure to file a 2007 annual report and pay 2008 regulatory fees.

3 **Appearances:** Jennifer Cameron Rulkowski, Assistant Attorney General, Olympia, Washington represents the Commission's regulatory Staff (Staff).¹ None of the telecommunications companies named in the complaint entered an appearance.

4 **Background and Procedural History.** On December 2, 2008, the Washington Utilities and Transportation Commission (Commission) entered a complaint against AK Communications, Inc.; (AK Communications); Epixtar Communications Corp. (Epixtar); FreedomStarr Communications, Inc.; (FreedomStarr); Jambo, Inc.; (Jambo); Least Cost Routing, Inc. d/b/a Long Distance Charges (Least Cost); Marathon Communications Corporation d/b/a Marathon USA (Marathon); Nations Broadband, Inc., (Nations); Pacific Centrex Services, Inc. (Pacific); Phonetec, LP (Phonetec); PTS Access Networks (PTS); StarVox Communication, Inc., (StarVox); TeleCents Communications, Inc., (TeleCents); Telmex USA, L.L.C. (Telmex); and Vycera Communications, Inc. (Vycera). The complaint alleges that each company failed to file 2007 annual reports or pay 2008 regulatory fees. The Commission set this matter for hearing and notified all respondents that any party that failed to attend or participate in the hearing may be held in default.

5 The complaint was heard on due and proper notice to all parties on January 14, 2009, in Olympia, Washington. During the hearing, Staff presented the testimony of Sheri Hoyt, Compliance Specialist in the Compliance Investigation Section of the Commission. None of the telecommunications companies named in the complaint appeared or presented testimony.

DISCUSSION AND DECISION

6 **Applicable Law.** Every public service company operating in Washington is required to file an annual report that sets forth the company's operations during the preceding

¹ In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "ex parte wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. RCW 34.05.455.

year. *RCW 80.04.080*. Every public service company subject to regulation by the Commission must also pay a regulatory fee each year on or before the date specified by the Commission. *RCW 80.24.010*. Commission rules require all telecommunications companies to file annual reports and pay regulatory fees by May 1. *WAC 480-120-382* (competitively classified companies). The Commission may revoke the registration of a telecommunications company for failure to file an annual report or pay regulatory fees. *WAC 480-121-060*. Any party who fails to attend or participate in a hearing scheduled by the Commission may be held in default. *RCW 34.05.440* and *WAC 480-07-450*.

7 **Motion to Dismiss.** At hearing, Staff moved to dismiss the complaint against Least Cost because its registration was cancelled at the request of the company. Staff also moved to dismiss the complaint against Telmex and PTS because both companies filed 2007 annual reports and are now in compliance with the Commission's statutes and rules.²

8 *Least Cost.* Staff moved to dismiss the complaint against Least Cost because it voluntarily sought cancellation of its registration to provide telecommunications service in Washington³ Staff requested that the Commission take official notice of Least Cost's request in Docket UT-082196.⁴ Staff asserted that the Commission took no action on the request during its regularly scheduled December 23, 2008, Open Meeting. The Commission grants the request to take official notice of the record in Docket UT-082196.⁵ The record in Docket UT-082196 demonstrates that Least Cost's request to cancel its registration pursuant to WAC 480-120-148 became effective by operation of law during the Commission's December 23, 2008, Open Meeting. Accordingly, the motion to dismiss is granted. Because the company's request to cancel its registration in Docket UT-082196 became effective December 23, 2008, Least Cost is no longer registered to provide telecommunications service in Washington.

9 *Telmex.* Staff moved to dismiss the complaint against Telmex because the company filed its 2007 annual report on December 15, 2008.⁶ According to that report, Telmex

² Hoyt, TR. 7.

³ See n. 2.

⁴ *In the Matter of the Request by Least Cost Routing to Cease Business in Washington*, Docket UT-082196.

⁵ *Id.*

⁶ Hoyt, TR. 12 and Exh. No. SH-1.

did not owe any regulatory fees.⁷ The motion to dismiss the complaint against Telmex is granted. Although Telmex's annual report was not filed by the May 1, 2008, deadline, Staff is not seeking revocation of its registration.⁸ Telmex is reminded that, in the future, its annual report should be submitted to the Commission in a timely manner.

10 *PTS.* Staff moved to dismiss the complaint against PTS because the company filed its 2007 annual report on January 13, 2009.⁹ According to the annual report, PTS did not owe any regulatory fees.¹⁰ Despite the fact that the annual report was not submitted in a timely manner, Staff does not seek to revoke PTS' registration.¹¹ Accordingly, the motion to dismiss the complaint against PTS is granted. PTS is reminded that its annual reports are due on May 1 of the reporting year and that future annual reports should be submitted in a timely manner.

11 **Default.** With respect to the remaining telecommunications companies named in the complaint, Staff moved that they be held in default for failure to appear at hearing. Staff requested that the Commission dispose of the substantive issues in the complaint against these companies.

12 **Complaint.** Ms. Sheri Hoyt testified that the Financial Services Section of the Commission provides her with a list of all companies that are delinquent in filing their annual reports.¹² The list is generated by the Annual Report Tracking System (ARTS).¹³ Ms. Hoyt reviewed ARTS for each company named in the complaint as late as the morning of the hearing, January 14, 2009.¹⁴ This review revealed that AK Communications, Epixtar, FreedomStarr, Jambo, Marathon, Nations, Pacific, Phonetec, StarVox, TeleCents, and Vycera failed to submit annual reports for 2007 and/or failed to pay regulatory fees for 2008.

⁷ *Id.*

⁸ Telmex's annual report was filed more than seven months after the deadline. WAC 480-120-382, Hoyt, TR. 12, and Exh. No. SH-1.

⁹ TR. 12-13 and Exh. No. SH-2.

¹⁰ *Id.*

¹¹ PTS' annual report was filed more than eight months after the filing deadline. WAC 480-120-382, Hoyt, TR. 12-13, and Exh. No. SH-2.

¹² Hoyt, TR. 10.

¹³ *Id.*

¹⁴ Hoyt, TR. 11.

- 13 *AK Communications*. The Commission mailed a copy of the complaint and notice of hearing to AK Communications via certified mail and regular mail.¹⁵ On December 30, 2008, the Commission received certified mail notice that the complaint addressed to AK Communications was unclaimed, but the complaint mailed via regular mail was not returned.¹⁶
- 14 AK Communications is a public service company as defined in RCW 80.04.010. AK Communications provides telecommunications services in Washington for compensation and is registered under RCW 80.36 and WAC 480-121. AK Communications is required to submit annual reports to the Commission and pay regulatory fees.¹⁷ The Commission may revoke a registration, after notice and opportunity for hearing, for good cause.¹⁸ Good cause includes the failure to file an annual report, pay regulatory fees, or maintain a current address.¹⁹ From the Commission's files and records, it appears that AK Communications failed to file its annual report due on May 1, 2008, and failed to pay the required regulatory fees.²⁰ In addition, the Commission may revoke a registration for failure to maintain the telecommunications company's current address and telephone number.²¹ The fact that the copy of the complaint sent to AK Communications via certified mail was returned as unclaimed is an indication that AK Communications may also have failed to maintain a current address as required by Commission rule.²² Moreover, AK Communications failed to appear at the time and place scheduled for hearing in this matter and is in default. Accordingly, AK Communications' registration should be revoked.
- 15 *Epixtar*. The Commission sent Epixtar a copy of the complaint and notice of hearing via certified mail and regular mail and neither mailing was returned to the Commission.²³ Epixtar is a public service company as defined in RCW 80.04.010. Epixtar provides telecommunications services in Washington for compensation and is

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ WAC 480-120-382.

¹⁸ WAC 480-120-060.

¹⁹ *Id.*

²⁰ Hoyt, TR. 13-14.

²¹ WAC 480-060(1)(d).

²² *Id.*

²³ Hoyt, TR. 11.

registered under RCW 80.36 and WAC 480-121. According to WAC 480-120-382, Epixtar is required to file annual reports and pay regulatory fees. The Commission may revoke a registration, after notice and opportunity for hearing, for good cause including failure to file annual reports and/or pay regulatory fees. From the Commission's files and records, it appears that Epixtar failed to pay the required regulatory fees and file its annual report due on May 1, 2008.²⁴ Epixtar also failed to appear at the time and place scheduled for hearing in this matter and is in default. Accordingly, Epixtar's registration should be revoked for failure to file its 2007 annual report and pay its 2008 regulatory fees.

16 *FreedomStarr.* The Commission mailed a copy of the complaint and notice of hearing to FreedomStarr via certified mail and regular mail and neither mailing was returned to the Commission.²⁵ FreedomStarr is a public service company as defined in RCW 80.04.010. FreedomStarr provides telecommunications services in Washington for compensation and is registered under RCW 80.36 and WAC 480-121. FreedomStarr is required to file annual reports and pay regulatory fees.²⁶ The Commission may, after notice and opportunity for hearing, revoke a registration for failure to file an annual report and/or pay regulatory fees.²⁷ From the Commission's files and records, it appears that FreedomStarr failed to pay the required regulatory fees and file its annual report due on May 1, 2008.²⁸ FreedomStarr also failed to appear at the hearing scheduled for January 14, 2009, and is in default. FreedomStarr's registration to provide telecommunications service in Washington should be revoked.

17 *Jambo.* The Commission sent Jambo a copy of the complaint and notice of hearing via certified mail and regular mail and neither mailing was returned to the Commission.²⁹ Jambo is a public service company as defined in RCW 80.04.010. Jambo provides telecommunications services in the state of Washington for compensation and is registered under RCW 80.36 and WAC 480-121. According to WAC 480-120-382, Jambo is required to file annual reports and pay regulatory fees. According to WAC 480-120-060, the Commission may, after notice and opportunity for hearing, revoke a registration for good cause including failing to file an annual report and/or pay

²⁴ Hoyt, TR. 14.

²⁵ Hoyt, TR. 11.

²⁶ WAC 480-120-382.

²⁷ WAC 480-120-060.

²⁸ Hoyt, TR. 14.

regulatory fees. From the Commission's files and records, it appears that Jambo failed to pay the required regulatory fees and file its annual report due on May 1, 2008.³⁰ In addition, Jambo failed to appear at the time and place scheduled for hearing in this matter and is in default. Therefore, Jambo's registration should be revoked.

18 *Marathon.* The Commission mailed a copy of the complaint and notice of hearing via certified mail and regular mail to Marathon.³¹ Notice of the certified mail delivery to Marathon was returned as undeliverable.³² Marathon is a public service company as defined in RCW 80.04.010. Marathon provides telecommunications services in Washington for compensation and is registered under RCW 80.36 and WAC 480-121. Marathon is required to file annual reports and pay regulatory fees.³³ According to WAC 480-120-060, the Commission may, after notice and opportunity for hearing, revoke a registration for failure to file annual reports and/or pay regulatory fees. From the Commission's files and records, it appears that Marathon failed to pay the required regulatory fees and file its annual report due on May 1, 2008.³⁴ The Commission may also revoke a registration for failure to maintain a current address and telephone number.³⁵ The fact that the Commission received certified mail notice that mail to Marathon was undeliverable is an indication that Marathon failed to maintain a current address. Marathon also failed to appear at the January 14, 2009, hearing and is in default. For all the foregoing reasons, Marathon's registration should be revoked.

19 *Nations.* The Commission sent Nations a copy of the complaint and notice of hearing via certified mail and regular mail and neither mailing was returned to the Commission.³⁶ Nations is a public service company as defined in RCW 80.04.010. Nations provides telecommunications services in Washington for compensation and is registered under RCW 80.36 and WAC 480-121. According to WAC 480-120-382, Nations is required to file annual reports and pay regulatory fees. The Commission may, after notice and opportunity for hearing, revoke a registration for failure to file

²⁹ Hoyt, TR. 11.

³⁰ Hoyt, TR. 14-15.

³¹ Hoyt, TR.11.

³² *Id.*

³³ WAC 480-120-382.

³⁴ Hoyt, TR.15.

³⁵ WAC 480-120-060(d).

³⁶ Hoyt, TR. 11.

annual reports or pay regulatory fees.³⁷ From the Commission's files and records, it appears that Nations failed to file its 2007 annual report or pay the required regulatory fees³⁸. Nations did not appear at the time and place set for hearing and is in default. Accordingly, Nations' registration to provide telecommunications service in Washington should be revoked.

20 *Pacific*. The Commission sent Pacific a copy of the complaint and notice of hearing via certified mail and regular mail and neither mailing was returned to the Commission.³⁹ Pacific is a public service company as defined in RCW 80.04.010. Pacific provides telecommunications services in Washington for compensation and is registered under RCW 80.36 and WAC 480-121. Pacific is required to file annual reports and pay regulatory fees.⁴⁰ According to WAC 480-120-060, the Commission may, after notice and opportunity for hearing, revoke a registration for failure to file annual reports and/or pay regulatory fees. From the Commission's files and records, it appears that Pacific failed to file its 2007 annual report or pay the required regulatory fees.⁴¹ Pacific failed to appear at the time and place set for hearing and is in default. Pacific's registration to provide telecommunications service in Washington should be revoked. .

21 *Phonetec*. The Commission mailed Phonetec a copy of the complaint and notice of hearing via certified mail and regular mail. On January 5, 2009, the Commission received certified mail notice that the complaint addressed to Phonetec was unclaimed.⁴² Phonetec is a public service company as defined in RCW 80.04.010. Phonetec provides telecommunications services in Washington for compensation and is registered under RCW 80.36 and WAC 480-121. Phonetec is required to file annual reports and pay regulatory fees.⁴³ The Commission may, after notice and opportunity for hearing, revoke a registration for failure to file annual reports, pay regulatory fees, or maintain a current address.⁴⁴ From a review of the Commission's files and records, it appears that Phonetec failed to pay the required regulatory fees and file its annual

³⁷ WAC 480-120-060.

³⁸ Hoyt, TR.15-16.

³⁹ Hoyt, TR.11.

⁴⁰ WAC 480-120-382.

⁴¹ Hoyt, TR. 16.

⁴² The Commission takes official notice of the docket pages in this proceeding which include the certified mail receipt indicating that the mailing to Phonetec was unclaimed. WAC 480-07-495.

⁴³ WAC 480-120-382.

⁴⁴ WAC 480-10-060.

report.⁴⁵ Based on the certified mail receipt indicating that the complaint and notice of hearing was unclaimed, Phonetec may also have failed to maintain a current address. Phonetec failed to appear at the hearing on January 14, 2009, and is in default. Accordingly, Phonetec's registration should be revoked.

22 *StarVox.* The Commission sent StarVox a copy of the complaint and notice of hearing via certified mail and regular mail and neither mailing was returned to the Commission. StarVox is a public service company as defined in RCW 80.04.010. StarVox provides telecommunications services in the state of Washington for compensation and is registered under RCW 80.36 and WAC 480-121. StarVox is required to file annual reports and pay regulatory fees.⁴⁶ The Commission may, after notice and opportunity for hearing, revoke a registration for failure to file annual reports or pay regulatory fees. From the Commission's files and records, it appears that StarVox failed to pay the required regulatory fees and file its annual report due on May 1, 2008.⁴⁷ StarVox failed to appear at the time and place scheduled for hearing and is in default. Accordingly, StarVox's registration should be revoked.

23 *TeleCents.* The Commission mailed a copy of the complaint and notice of hearing to TeleCents via certified mail and regular mail and neither mailing was returned to the Commission.⁴⁸ TeleCents is a public service company as defined in RCW 80.04.010. TeleCents provides telecommunications services in Washington for compensation and is registered under RCW 80.36 and WAC 480-121. TeleCents is required to file annual reports and pay regulatory fees.⁴⁹ The Commission may, after notice and opportunity for hearing, revoke a registration for failure to file annual reports or pay regulatory fees.⁵⁰ From the Commission's files and records, it appears that TeleCents failed to pay the required regulatory fees and file its annual report due on May 1, 2008.⁵¹ TeleCents failed to appear at the hearing on January 14, 2009, and is in default. For the foregoing reasons, TeleCents' registration to provide telecommunications service in Washington should be revoked. .

⁴⁵ Hoyt, TR. 11.

⁴⁶ WAC 480-120-382.

⁴⁷ Hoyt, TR.16-17.

⁴⁸ Hoyt, TR. 11.

⁴⁹ WAC 480-10-382.

⁵⁰ WAC 480-120-060.

⁵¹ Hoyt, TR. 17.

24 *Vycera*. The Commission sent *Vycera* a copy of the complaint and notice of hearing via certified mail and regular mail and neither mailing was returned.⁵² *Vycera* is a public service company as defined in RCW 80.04.010. *Vycera* provides telecommunications services in the state of Washington for compensation and is registered under RCW 80.36 and WAC 480-121. According to WAC 480-120-382, *Vycera* is required to file annual reports and pay regulatory fees. The Commission may, after notice and opportunity for hearing, revoke a registration for failure to file annual reports or pay regulatory fees.⁵³ From the Commission's files and records, it appears that *Vycera* failed to pay the required regulatory fees and file its annual report due on May 1, 2008.⁵⁴ *Vycera* failed to appear at the time and place scheduled for hearing and is in default. Therefore, *Vycera's* registration should be revoked.

FINDINGS OF FACT

25 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated above our findings and conclusions upon issues in dispute among the parties and the reasons supporting the findings and conclusions, the Commission now makes and enters the following summary findings of fact , incorporating by reference pertinent portions of the preceding detailed findings.

- 26 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including telecommunications companies.
- 27 (2) AK Communications, Inc. (AK Communications), Epixtar Communications Corp. (Epixtar), FreedomStarr Communications, Inc. (FreedomStarr), Jambo ,Inc., (Jambo) Least Cost Routing, Inc., d/b/a Long Distance Charges (Least Cost), Marathon Communications Corporation d/b/a Marathon USA (Marathon), Nations Broadband, Inc.(Nations), Pacific Centrex Services, Inc.(Pacific), Phonetec, LP (Phonetec), PTS Access Networks, Inc.(PTS), StarVox Communications, Inc.(StarVox), TeleCents Communications, Inc(TeleCents)., Telemex USA, LLC (Telmex), and *Vycera* Communications,

⁵² Hoyt, TR. 11.

⁵³ WAC 480-120-060.

⁵⁴ Hoyt, TR .17-18.

Inc. (Vycera) each are a “public service company” and “telecommunications company, “ as those terms are defined and used in RCW Title 80.

- 28 (3) On December 2, 2008, the Commission entered a complaint and notice of hearing. The complaint against each of the above-named telecommunications companies sought revocation of the company’s registration for failure to pay regulatory fees and failure to file annual report. The notice of hearing scheduled a hearing to convene on January 14, 2009, in Olympia, Washington.
- 29 (4) On December 23, 2008, at its regularly scheduled Open Meeting, the Commission took no action on the request by Least Cost in Docket UT-082196 to cancel its registration as a telecommunications company in Washington, allowing the cancellation to take effect by operation of law.
- 30 (5) On December 15, 2008, Telemex USA, LLC, filed its 2007 annual report and no regulatory fees for 2008 were owed.
- 31 (6) On January 13, 2009, PTS Access Networks., Inc., filed its 2007 annual report and no regulatory fees for 2008 were owed.
- 32 (7) AK Communications., Epixtar, FreedomStarr, Jambo, Marathon, Nations, Pacific, Phonetec, StarVox, TeleCents, and Vycera, each failed to file a 2007 annual report or pay 2008 regulatory fees.
- 33 (8) AK Communications, Epixtar, FreedomStarr, Jambo, Marathon, Nations, Pacific, Phonetec, StarVox, TeleCents, and Vycera, each failed to appear at the hearing held on January 14, 2009.

CONCLUSIONS OF LAW

34 Having discussed above all matters material to this decision, and having stated detail findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law incorporating by reference pertinent portions of the preceding detailed conclusions.

- 35 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and the parties to, this proceeding. *RCW Title 80.*

- 36 (2) On December 23, 2008, at the request of Least Cost, the company's registration to provide telecommunications service in Washington was cancelled by force of law. *WAC 480-120-148.(3)* AK Communications, Epixtar, FreedomStarr, Jambo, Marathon, Nations, Pacific, Phonetec, PTS, StarVox, TeleCents, Telmex, and Vycera, are each required to file annual reports and pay regulatory fees by May 1. *RCW 80.24.010, RCW 80.04.080, and WAC 480-120-382.*
- 37 (4) The Commission may, after notice and opportunity for hearing, revoke the registration of any telecommunications company for failure to file annual reports, pay regulatory fees, or maintain a current address and telephone number. *WAC 480-120-060.*
- 38 (5) On December 15, 2008, Telmex filed its 2007 annual report and no regulatory fees for 2008 were due, therefore the company is in compliance with all applicable statutes and rules. *RCW 80.24.010, RCW 80.04.080, and WAC 480-120-382.*
- 39 (6) On January 13, 2009, PTS filed its 2007 annual report and no regulatory fees for 2008 were due, therefore the company is in compliance with all applicable statutes and rules. *RCW 80.24.010, RCW 80.04.080, and WAC 480-120-382.*
- 40 (7) AK Communications, Epixtar, FreedomStarr, Jambo, Marathon, Nations, Pacific., Phonetec, StarVox, TeleCents, and Vycera, each failed to file 2007 annual reports, pay 2008 regulatory fees, and appear at the January 14, 2009, hearing in this matter and are in default. *RCW 80.24.010, RCW 80.04.080, RCW 34.05.440, WAC 480-120-382 and WAC 480-07-450.*

ORDER

THE COMMISSION ORDERS THAT:

- 41 (1) The complaint against Least Cost Routing, Inc., d/b/a Long Distance Charges is dismissed.
- 42 (2) The complaint against Telmex USA, L.L.C., is dismissed.
- 43 (3) The complaint against PTS Access Networks, Inc., is dismissed.

- 44 (4) The registrations to provide telecommunications service in Washington held by AK Communications, Inc., Epixtar Communications Corp., FreedomStarr Communications, Inc., Jambo, Inc., Marathon Communications Corporation d/b/a Marathon USA, Nations Broadband, Inc., Pacific Centrex Services, Inc., Phonetec, LP, StarVox Communications, Inc., TeleCents Communications, Inc., and Vycera Communications, Inc., each are revoked. *WAC 480-120-060.*

DATED at Olympia, Washington, and effective February 11, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
Administrative Law Judge

NOTICE TO PARTIES:

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **fourteen (14)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250