

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment
Against CORDIA COMMUNICATIONS
CORP. in the Amount of \$2,700

DOCKET UT-090440
(consolidated)

In the Matter of Penalty Assessment
Against NORTHSTAR TELECOM, INC.
in the Amount of \$18,000

DOCKET UT-090441
(consolidated)

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 Investigator in the Compliance Investigations Section. I have been employed at the Commission for 17 years, holding various positions. As a Compliance Investigator, 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 May 12, 2009, Cordia Communications Corp. (Cordia) and Northstar Telecom, Inc. (Northstar) submitted electronically to the Commission Applications for Mitigation (Mitigation Requests), in Docket UT-090440 (Cordia) and Docket UT-090441 (Northstar).¹ I have read the Mitigation Requests. In the Mitigation Requests, Cordia and Northstar waive a hearing and ask for an administrative decision.
4. The Mitigation Requests arise from Notices of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on April 27, 2009, in Docket UT-090440 and Docket UT-090441. In those notices, the Commission

¹ Cordia and Northstar followed up their electronic submissions with hard copies, which the Commission received May 18, 2009.

issued Cordia a penalty of \$2,700 and Northstar a penalty of \$18,000, for repeated violations of Washington Administrative Code (WAC) 480-120-166. WAC 480-120-166 generally requires a telecommunications company that receives a customer complaint referred by Commission Staff (Staff) to respond to Staff within two days, three days, or five days, depending on whether the complaint is service affecting and whether the response is the initial response or a follow-up response.

Specific Issues Addressed by Cordia and Northstar in their Mitigation Requests

Cordia and Northstar state they have taken steps to ensure that all complaints will be responded to in a timely fashion.

5. In the Mitigation Requests, Cordia and Northstar state all complaints are now passed to the company via an e-mail address that goes to (1) Anna Fernandes, Executive Escalations Analyst and primary contact for resolution of the complaints; and Maria Abbagnaro, General Counsel, and (2) into the company's Operational Support System (OSS) where complaints are sorted by complaint due date. According to the companies, their previous OSS system was not able to sort incoming complaints by due date; it sorted by receipt date with the most recently received at the top of the received complaint list. That system apparently resulted in Cordia and Northstar manually sorting through each complaint, leaving room for error with regard to response deadlines.
6. Cordia and Northstar state that Keith Applewhite, who is referenced on numerous occasions in the preliminary investigation report, was terminated in late February. Further, the companies assert that Mr. Applewhite's attitude was in no way sanctioned by Cordia or Northstar and that they feel Mr. Applewhite was a very poor reflection of the companies. Anna Fernandes replaced Mr. Applewhite as the primary complaint contact for Staff for Cordia and Northstar.
7. Commission records indicate Ms. Fernandes responded timely to the one Cordia complaint and the one Northstar complaint received since Mr. Applewhite's termination at the end of February 2009. While it is not clear from the Mitigation Requests when the companies began using the new complaint distribution process, Staff notes that Mr. Applewhite apparently was terminated well before Cordia and Northstar received Staff's investigation report and the Commission's penalty assessment.

Cordia believes that two violations recorded against Cordia in complaint 104799 were in error and that the total number of violations recorded should be 25, not 27.

8. The company believes that complaint 104799 was not service-affecting and therefore the proper response due date should have been five days, not two. The company's response was timely under the five day deadline.

9. Staff reviewed complaint 104799 and believes that Cordia is correct. The complaint was passed as a service-affecting complaint. The complaint documentation indicates, however, that the consumer had canceled his Cordia service prior to filing the complaint against the company. Because the consumer did not have service with Cordia at the time of the complaint, the issue was not service-affecting. Staff has removed the two violations recorded in complaint 104799, reducing the total number of recorded violations of WAC 480-120-166 from 27 to 25.

Staff Discussion and Recommendation

10. Staff believes Mr. Applewhite was the main cause of the late responses to Commission complaints. Nevertheless, Cordia and Northstar were and are responsible for compliance with Commission rules. Reducing the penalty amount from \$20,700 to \$1,500 total, as the companies propose, does not reflect the continuing and serious nature of the alleged violations. Staff requires timely responses to its inquiries in order to fulfill its regulatory duties. The companies' alleged untimely responses took place over close to an entire year, constituting a plain pattern of noncompliance.
11. Because Cordia and Northstar took steps to rectify the problem prior to receiving notification of Staff's investigation into their business practices, Staff recommends the penalty be reduced. Specifically, Staff supports a 50 percent mitigation of each penalty. To ascertain whether Cordia and Northstar continue to comply with WAC 480-120-166, Commission Staff may conduct a compliance review one year from the date this matter is concluded.
12. Further, Staff recommends that two of the violations of WAC 480-120-166(6) recorded against Cordia be removed from the initial penalty amount, thereby reducing the initial penalty amount assessed against Cordia from \$2,700 to \$2,500.
13. In conclusion, Staff recommends that the sum of the penalties assessed against Cordia and Northstar be reduced from \$20,700 to \$10,250.

DATED this day of May, 2009, at Olympia, Washington.

SHERI HOYT