

[Service Date April 28, 2009]

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UT-082006
TRANSPORTATION COMMISSION,	)	
	)	ORDER 01
Complainant,	)	
	)	INITIAL ORDER GRANTING
v.	)	REQUEST TO DISMISS
	)	COMPLAINT AGAINST
GRANDE COMMUNICATIONS	)	TELECENTS
NETWORKS, INC., NORSTAN	)	COMMUNICATIONS, INC.;
NETWORK SERVICES, INC.,	)	GRANTING REQUEST TO FIND
TELECENTS COMMUNICATIONS,	)	REMAINING COMPANIES IN
INC.,	)	DEFAULT AND REVOKING
	)	REGISTRATION FOR FAILURE
Respondents.	)	TO PAY DELINQUENT ANNUAL
	)	REPORT PENALTIES
.....	)	

- 1     ***Synopsis:** This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. If this Initial Order becomes final, the request to dismiss the complaint against Telecents Communications, Inc., will be granted. In addition, the request to find the two other telecommunications companies named in this complaint in default will be granted and their registrations will be revoked for failure to pay delinquent annual report penalties.*
  
- 2     **Nature of Proceedings.** This proceeding involves a complaint and order to show cause why the registrations of certain named competitively classified telecommunications companies should not be revoked for failure to pay penalties imposed for their failures to timely file annual reports from 2005, 2006, and/or 2007.
  
- 3     **Appearances:** Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington represents the Washington Utilities and Transportation Commission’s

(Commission) regulatory staff (Staff).<sup>1</sup> None of the telecommunications companies named in the complaint appeared at the hearing.

4 **Background and Procedural History.** On January 21, 2009, the Commission entered a complaint against Grande Communications Networks, Inc. (Grande); Norstar Network Services, Inc. (Norstar); and TeleCents Communications, Inc., (TeleCents). The complaint alleges that each company failed to pay penalties previously assessed for their failures to timely file required annual reports. 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 On February 13, 2009, the Commission entered a corrected complaint against the same companies with identical allegations. The corrected complaint listed the proper name and address for Norstan Network Services, Inc. (Norstan).

6 The complaint was heard on due and proper notice to all parties on March 25, 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

7 **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 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 competitively classified telecommunications companies to file annual reports and pay regulatory fees by May 1. *WAC 480-120-382*. The Commission may revoke the registration of a competitively classified telecommunications company for good cause, which includes, but is not limited to the failure to file an annual report or pay regulatory fees. *WAC*

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<sup>1</sup> 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*.

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*.

- 8 **Motion to Dismiss -- Telecents.** At hearing, Staff moved to dismiss the complaint against Telecents because its registration had already been revoked. Staff requested that the Commission take official notice of Order 01 in Docket UT-082005.<sup>2</sup> In accordance with WAC 480-07-495, the Commission grants this request. The record in Docket UT-082005 demonstrates that Administrative Law Judge (ALJ) Patricia Clark held Telecents in default for failure to appear and that the company's registration was revoked; Judge Clark's Initial Order became a Final Order by operation of law on March 6, 2009. Accordingly, the motion to dismiss is granted. Because a prior Commission order has already revoked the company's registration, Telecents is no longer registered to provide telecommunications service in Washington.
- 9 **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. The record reflects that both Grande and Norstan received notice of the hearing by certified mail and failed to appear or otherwise respond to the complaint. Therefore, the presiding ALJ granted the motion. Even so, Staff requested that the Commission hear and dispose of the substantive issues brought in the complaint against these companies.
- 10 **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 or paying their regulatory fees.<sup>3</sup> The list is generated by the Commission's Annual Report Tracking System (ARTS).<sup>4</sup> Ms. Hoyt reviewed ARTS data for each company named in the complaint as late as the morning of the hearing, March 25, 2009, and determined that neither Grande nor Norstan had paid their outstanding annual report penalties.<sup>5</sup>
- 11 *Grande Communications.* Grande is a public service company as defined in RCW 80.04.010. Grande provides telecommunications services in Washington for compensation and is registered under RCW 80.36 and WAC 480-121 as a competitively classified telecommunications company. Grande is required to submit

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<sup>2</sup> TR. 6:2-9.

<sup>3</sup> Hoyt, TR. 10:19 to 11:1.

<sup>4</sup> *Id.*, at 11:1-5.

<sup>5</sup> *Id.*, at 11:10-17.

annual reports to the Commission and pay regulatory fees.<sup>6</sup> The Commission may revoke a registration, after notice and opportunity for hearing, for good cause.<sup>7</sup> Good cause includes the failure to file an annual report or pay regulatory fees.<sup>8</sup> From the Commission's files and records, it appears that Grande failed to timely file its annual report due on May 1, 2005, and failed to pay a \$100 penalty imposed for that delinquent filing.<sup>9</sup> Moreover, Grande failed to appear at the time and place scheduled for hearing in this matter and is in default. Accordingly, Grande's registration should be revoked.

- 12 *Norstan*. Norstan is a public service company as defined in RCW 80.04.010. Norstan provides telecommunications services in Washington for compensation and is registered under RCW 80.36 and WAC 480-121 as a competitively classified telecommunications company. According to WAC 480-120-382, Norstan 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 Norstan failed to timely file its annual reports due on May 1, 2006, or May 1, 2007, and failed to pay the respective \$100 and \$200 penalties imposed for those delinquent filings.<sup>10</sup> Norstan also failed to appear at the time and place scheduled for hearing in this matter and is in default. Accordingly, Norstan's registration should be revoked.

### FINDINGS OF FACT

- 13 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.
- 14 (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.

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<sup>6</sup> WAC 480-120-382.

<sup>7</sup> WAC 480-120-060.

<sup>8</sup> *Id.*

<sup>9</sup> Hoyt, TR. 11:20 to 13:23; *see also* Exhibits 1, 2, and 3.

<sup>10</sup> Hoyt, TR. 14:1 to 17:7; *see also* Exhibits 4, 5, 6, 7, and 8.

- 15 (2) Grande Communications Networks, Inc. (Grande), Norstan Network Services, Inc. (Norstan), and TeleCents Communications, Inc. (TeleCents) each are a “public service company,” “telecommunications company” and “competitively classified company” as those terms are defined and used in RCW Title 80.
- 16 (3) On January 21, 2009, 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 annual report penalties. The notice of hearing scheduled a hearing to convene on February 13, 2009, in Olympia, Washington.
- 17 (4) On February 13, 2009, the Commission entered a corrected complaint and notice of hearing, correcting the name and address of Norstan. This notice of hearing re-scheduled the hearing to convene on March 25, 2009, in Olympia, Washington.
- 18 (5) Telecents’ registration was revoked in Docket UT-082005 for failure to file its 2008 annual report or pay the required 2008 regulatory fees. *Order 01, Docket UT-082005*.
- 19 (6) Grande and Norstan each failed to appear at the hearing held on March 25, 2009.
- 20 (7) Grande and Norstan each failed to pay annual report penalties previously imposed by the Commission for failure to file their annual reports.

### **CONCLUSIONS OF LAW**

- 21 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.
- 22 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and the parties to, this proceeding. *RCW Title 80*.

- 23 (2) On February 11, 2009, Telecents' registration to provide telecommunications  
service in Washington was revoked. This revocation became final on March 6,  
2009. *Order 01, Docket UT-082005.*
- 24 (3) The Commission may, after notice and opportunity for hearing, revoke the  
registration of any telecommunications company for good cause. *WAC 480-  
121-060.*
- 25 (4) Grande and Norstan's failure to pay penalties for their previous failures to  
timely file annual reports constitutes good cause to revoke their registrations to  
operate in Washington state. *RCW 80.04.010, RCW 80.04.080, and WAC 480-  
120-382*
- 26 (5) Grande and Norstan each failed to appear at the March 25, 2009, hearing in this  
matter and are in default. *RCW 34.05.440 and WAC 480-07-450.*

**ORDER**

THE COMMISSION ORDERS THAT:

- 27 (1) The complaint against Telecents Communications, Inc. is dismissed;
- 28 (2) Grande Communications Networks, Inc., and Norstan Networks Services, Inc.,  
are in default; and
- 29 (3) The registrations to provide telecommunications service in Washington held by  
Grande Communications Networks, Inc., and Norstan Network Services, Inc.,  
each are revoked for good cause. *WAC 480-120-060.*

DATED at Olympia, Washington, and effective April 28, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM  
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 **seven (7)** 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