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1 THE BEFORE WASHINGTON STATE
2 UTILITIES AND TRANSPORTATION COMMISSION

3 WASHINGTON UTILITIES AND) DOCKET UT-111529
4 TRANSPORTATION COMMISSION,)
5 Complainant,)
6 v.) Official Transcript of
7 AFFORDABLE VOICE) Recorded Hearing
8 COMMUNICATIONS, INC.,) Volume I
9 AMERICAN CYBER CORPORATION) Pages 1 - 27
10 d/b/a DISCOUNT PLUS,)
11 AMERICAN DIAL TONE, INC.,) ADMINISTRATIVE LAW
12 AMERICAN FIBER NETWORK,) JUDGE MARTIN LOVINGER
13 INC., ATLAS NETWORKS, LLC,) DECEMBER 5, 2011
14 BLC MANAGEMENT LLC d/b/a)
15 ANGLES COMMUNICATIONS)
16 SOLUTIONS, CENTEL) Washington Utilities
17 COMMUNICATIONS, INC.,) and Transportation
18 COLEMAN ENTERPRISES, INC.) Commission
19 d/b/a LOCAL LONG DISTANCE,) 1300 South Evergreen
20 DEVINE COMMUNICATIONS,) Park Drive Southwest
21 INCORPORATED, ENTELEGENT) Olympia, Washington
22 SOLUTIONS, INC., GROUP SIX) 98504-7250
23 COMMUNICATIONS, LIFECONNEX)
24 TELECOM, LLC, PACIFIC)
25 TELECOM COMMUNICATIONS GROUP)
d/b/a PACIFIC)
TELECOMMUNICATIONS GROUP,)
INC., QX TELECOM LLC, ROYAL)
COMMUNICATIONS, LLC,)
SELECTEL, INC., TELEDATA)
SOLUTIONS, INC. d/b/a TSI,)
TRIARCH MARKETING, INC., TTC)
TELECOMUNICATIONS, LLC,)
Respondents.)
TRANSCRIBED BY:
SHERRILYN SMITH,
CCR# 2097

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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

MARTIN LOVINGER
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FOR WASHINGTON UTILITIES AND TRANSPORTATION
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RP-2 23 23 ARTS Record

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RP-3 23 23 09/30/11 Entelegent Solutions,

12

Incorporated, Annual Report

13

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1 OLYMPIA, WASHINGTON; DECEMBER 5, 2011

2 9:35 A.M.

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5 JUDGE LOVINGER: Let's go on the record.

6 Good morning. It is approximately 9:35 on
7 December 5th, 2011, in the Washington Utilities and
8 Transportation Commission's hearing room, Room 206, in
9 Olympia, Washington. This is the time and place set
10 for the hearing in the Commission's complaint against
11 numerous telephone companies in Docket UT-111529 for
12 revocation of their registrations for failure to pay
13 regulatory fees and failure to file annual reports.
14 My name is Martin Lovinger and I am the administrative
15 law judge presiding over this proceeding.

16 Are there any parties appearing on the
17 conference bridge today?

18 (Pause in the proceedings.)

19 JUDGE LOVINGER: Apparently not.

20 Our first order of business is taking of
21 appearances. Please state your name, the spelling of
22 your last name, your business address, telephone
23 number, fax number and e-mail address.

24 As this complaint was initiated by the
25 Commission Staff, let's begin with Commission Staff.

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1 Mr. Fassio.

2 MR. FASSIO: Good morning, Your Honor.
3 Michael Fassio, Assistant Attorney General
4 representing Commission Staff. My address is 1400
5 South Evergreen Park Drive Southwest, P.O. Box 40128,
6 Olympia, Washington 98504. Telephone number (360)
7 664-1192, fax number (360) 586-5522, and e-mail
8 address mfassio@utc.wa.gov.

9 JUDGE LOVINGER: Thank you.

10 Is there anyone else who would like to make an
11 appearance?

12 (Pause in the proceedings.)

13 JUDGE LOVINGER: Hearing none, we will
14 proceed.

15 I would appreciate it if everyone would turn
16 off their cell phones or turn them to silent. We'll
17 get started.

18 Are there any procedural matters that need to
19 be addressed before we begin, Mr. Fassio?

20 MR. FASSIO: Yes, Your Honor. Staff has
21 a few procedural matters. We would like to bring an
22 oral motion to dismiss at this time. The Commission
23 brought a complaint against 19 telecom companies for
24 failure to file their 2010 annual reports or pay their
25 2011 regulatory fees. Since the complaint was issued,

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1 four of the companies have come into compliance, and
2 have filed their annual reports and paid their
3 regulatory fees. Staff will move to dismiss those
4 companies from the complaint, and Staff will move to
5 enter evidence of their compliance during the direct
6 examination of Ms. Rayne Pearson.

7 Also, Staff has recently discovered that one
8 of the companies that was named, Selectel, in fact had
9 filed their 2010 annual report and paid their 2011
10 regulatory fees prior to the complaint being issued,
11 and so their being named in the complaint was
12 Commission oversight. And so Staff will also move to
13 dismiss this company and enter evidence of its
14 compliance during the direct examination.

15 There is also one other issue that came to the
16 attention of the Staff here; and that is, there is an
17 allegation in Paragraph 30 of the complaint against
18 Global Capacity Direct. They were not named in the
19 complaint, have not been served, and that was an
20 allegation and error as well, so Staff just simply
21 withdraws that allegation for purposes of the record.

22 JUDGE LOVINGER: Thank you.

23 MR. FASSIO: And Staff 's testimony will
24 also address the lack of compliance with the remaining
25 companies.

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1 JUDGE LOVINGER: All right. And since
2 the burden rests with the Staff, would you like to
3 proceed at this time?

4 MR. FASSIO: Sure.

5 Actually, there's one other issue, Your Honor,
6 which is that Staff would also move to find the
7 remaining 15 companies, I guess it is, or is it 14,
8 that have not yet filed or paid their report [sic] in
9 default under RCW 34.05.440 and WAC 480-07-450 for
10 failure to appear at this hearing, and requests under
11 those authorities that the Court here proceed with the
12 hearing and dispose of the substantive issues.

13 JUDGE LOVINGER: Agree. Let's proceed.

14 MR. FASSIO: Thank you.

15 Staff calls Ms. Rayne Pearson.

16

17 RAYNE PEARSON, witness herein, having been
18 first duly sworn on oath, was
19 examined and testified as follows:

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21 JUDGE LOVINGER: Thank you.

22 You may proceed.

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1 D I R E C T E X A M I N A T I O N

2 BY MR. FASSIO:

3 Q Good morning, Ms. Pearson. Can you please
4 state and spell your first and last name for the
5 record?

6 A Rayne Pearson, R-A-Y-N-E, P-E-A-R-S-O-N.

7 Q Who is your employer?

8 A The Washington Utilities and Transportation
9 Commission.

10 Q And what is your position with the Commission?

11 A I'm a compliance investigator in the
12 Compliance Investigation section.

13 Q And how long have you held this position?

14 A Twenty-three months.

15 Q Would you please describe your duties as they
16 relate to this case?

17 A I conduct investigations regarding the
18 business practices of regulated utilities or
19 transportation companies, and as part of those duties,
20 I investigate companies that are delinquent in filing
21 annual reports and paying regulatory fees.

22 Q What statutes or rules do you understand to be
23 at issue here today?

24 A RCW 80.04.080, which requires each public
25 service company to file an annual report with the

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1 Commission, RCW 80.24.010, which requires each public
2 service company to pay an annual regulatory fee, and
3 WAC 480-120-382, which requires competitively
4 classified telecommunications companies to submit
5 annual reports and regulatory fees to the Commission
6 by May 1st of each year.

7 Q In your understanding, is it possible under
8 the rules that a telecommunications company might owe
9 no regulatory fees?

10 A Yes, even the \$20 minimum regulatory fee is
11 waived for any company with less than \$20,000 in gross
12 intrastate operating revenue.

13 Q If a telecommunications company fails to file
14 their annual report, does the Commission know if any
15 regulatory fees are due?

16 A No, it does not.

17 Q Are you familiar with the companies that are
18 named in this proceeding?

19 A Yes.

20 Q I will be asking about those companies
21 individually, but first, can you describe generally
22 how you are familiar with them?

23 A The Financial Services section provides me a
24 list of all companies that are delinquent in filing
25 annual reports and/or paying regulatory fees. The

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1 list is generated by the Commission's Annual Report
2 Tracking System database, or ARTS. Staff enters
3 receipt information for annual reports and regulatory
4 fees in a record created for each company. Each
5 company is contacted by mail to inform them that they
6 are delinquent, and attempt to get them to file their
7 annual report and pay regulatory fees.

8 I then recommend penalties for those companies
9 that are late in filing. And then finally, in this
10 process, recommend, based upon my investigation, that
11 company registrations be revoked for failure to file.

12 Q To your knowledge, have any of the
13 telecommunications companies that are named in the
14 complaint, have they filed any annual reports or paid
15 regulatory fees since the complaint was issued?

16 A Yes, there are four companies that have filed
17 their reports and paid their fees since the Commission
18 filed the complaint, and one that I discovered had
19 filed and paid their fee before the complaint was
20 issued.

21 Q How do you determine that such filings are
22 made?

23 A I check the ARTS database, which is where
24 Staff enters receipt information and regulatory fees.

25 Q And when is the last time you checked ARTS?

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1 MR. FASSIO: And that's A-R-T-S.

2 A This morning at 8:40 a.m.

3 Q I have a couple of questions regarding
4 service. Was the complaint mailed out to each company
5 via certified mail and regular mail?

6 A Yes.

7 Q Were they sent to the addresses that are on
8 file with the Commission?

9 A Yes.

10 Q And was the complaint mailed out to some
11 companies at any additional addresses different from
12 those on file with the Commission?

13 A Yes, it was mailed to additional addresses for
14 Centel Communications and Teledata Solutions. These
15 companies listed different addresses on their 2009
16 annual report forms.

17 Q Are telecommunications companies required to
18 keep their current address on file with the
19 Commission?

20 A Yes, they are required to maintain a current
21 address and telephone number under WAC 480-120-060.

22 Q Were any of the certified mail returned
23 undelivered?

24 A Yes. The certified mailing address to Coleman
25 Enterprises was returned, labeled unclaimed. The

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1 certified mailing address to Royal Communications was
2 returned, labeled return to sender, no such number,
3 unable to forward. The certified mailing address to
4 Affordable Voice Communications was returned, labeled
5 unclaimed. One of the certified mailings addressed to
6 Teledata Solutions was returned, labeled with a new
7 address, and the mailing was resent to that address.

8 In each of these cases, the first class
9 regular mail was not returned.

10 Q Were any of the regular mailings returned?

11 A No.

12 Q I'll be asking you about the individual
13 companies in alphabetical order, as they are named in
14 the complaint.

15 Was one of the companies referred to
16 Affordable Voice Communications, Incorporated?

17 A Yes.

18 Q Has Affordable Voice Communications filed a
19 2010 annual report or paid a 2011 regulatory fee?

20 A No.

21 Q What is your recommendation to the Commission
22 regarding this company?

23 A I recommend the Commission revoke the
24 company's registration.

25 Q Was one of the companies referred to you

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1 American Cyber Corporation, doing business as Discount
2 Plus?

3 A Yes.

4 Q Has this company filed a 2010 annual report or
5 paid the 2011 regulatory fee?

6 A No, it has not.

7 Q What is your recommendation to the Commission
8 regarding this company?

9 A I recommend the Commission revoke the
10 company's registration.

11 Q Was one of the companies referred to you
12 American Dial Tone, Incorporated?

13 A Yes.

14 Q Has this company filed a 2010 annual report or
15 paid a 2011 regulatory fee?

16 A No.

17 Q What is your recommendation to the Commission
18 regarding this company?

19 A I recommend the Commission revoke this
20 company's registration.

21 Q Was one of the companies referred to you
22 American Fiber Network, Incorporated?

23 A Yes.

24 Q Has this company filed a 2010 annual report or
25 paid a 2011 regulatory fee?

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1 A No, it has not.

2 Q What is your recommendation to the Commission
3 about this company?

4 A I recommend that the Commission revoke this
5 company's registration.

6 Q Was one of the companies referred to you Atlas
7 Networks, LLC?

8 A Yes.

9 Q Has Atlas Networks filed a 2010 annual report
10 or paid a 2011 regulatory fee?

11 A No, it has not.

12 Q What is your recommendation to the Commission
13 regarding Atlas Networks?

14 A I recommend that the Commission revoke this
15 company's registration.

16 Q Was one of the companies referred to you BLC
17 Management, LLC, doing business as Angles
18 Communications Solutions?

19 A Yes.

20 Q Has this company filed a 2010 annual report or
21 paid a 2011 regulatory fee?

22 A No, it has not.

23 Q What is your recommendation to the Commission
24 regarding this company?

25 A I recommend that the Commission revoke this

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1 company's registration.

2 Q Was one of the companies referred to you
3 Centel Communications, Incorporated?

4 A Yes.

5 Q Has this company filed a 2010 annual report or
6 paid a 2011 regulatory fee?

7 A Yes.

8 Q I would like to turn to what has been marked
9 as Exhibit 1. Is Exhibit 1 a true and accurate copy
10 of Centel Communications' 2010 annual report?

11 A Yes, it is.

12 Q When was that report filed?

13 A September 22nd, 2011.

14 Q Did they owe regulatory fees for 2011?

15 A Yes.

16 Q And did they pay those regulatory fees?

17 A Yes.

18 Q I would like to turn to what has been marked
19 as Exhibit 2. Is this a --

20 JUDGE LOVINGER: Can I interrupt just
21 for a moment?

22 MR. FASSIO: Sure.

23 JUDGE LOVINGER: Do you mind if we
24 renumber these to -- are they going to all be
25 introduced by this witness?

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1 MR. FASSIO: Yes.

2 JUDGE LOVINGER: I would suggest that we
3 renumber them to be RP-1, RP-2, et cetera.

4 MR. FASSIO: Okay.

5 (Pause in the proceedings.)

6 JUDGE LOVINGER: You may proceed when
7 you are ready.

8 Q If you could please turn to what has been
9 marked as Exhibit No. RP-2. Is Exhibit RP-2 a true
10 and accurate copy of the ARTS records for this
11 carrier --

12 A Yes.

13 Q -- showing payment of the regulatory fee?

14 A Yes.

15 Q Was one of the companies referred to you
16 Coleman Enterprises, Incorporated, doing business as
17 Local Long Distance?

18 A Yes.

19 Q Has this company filed a 2010 annual report or
20 paid a 2011 regulatory fee?

21 A No, it has not.

22 Q What is your recommendation to the Commission
23 regarding this company?

24 A I recommend that the Commission revoke this
25 company's registration.

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1 Q Was one of the companies referred to you
2 Divine Communications, Incorporated?

3 A Yes.

4 Q Has Divine Communications filed a 2010 annual
5 report or paid a 2011 regulatory fee?

6 A No, it has not.

7 Q What is your recommendation to the Commission
8 regarding this company?

9 A I recommend that the Commission revoke this
10 company's registration.

11 Q Was one of the companies referred to you
12 Entelegent Solutions, Incorporated?

13 A Yes.

14 Q Has this company filed a 2010 annual report or
15 paid a 2011 regulatory fee?

16 A Yes, it has.

17 Q If you could turn to what has been marked as
18 Exhibit RP-3. Is Exhibit RP-3 a true and accurate
19 copy of the annual report that was received by the
20 Commission for this company?

21 A Yes.

22 Q When was that report filed?

23 A September 30th, 2011.

24 Q Did this company owe regulatory fees for 2011?

25 A No, it did not.

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1 Q Let me just turn to what has been marked as
2 Exhibit RP-4. Is this a true and accurate copy of the
3 ARTS record for this carrier showing that no
4 regulatory fees are due?

5 A Yes, it is.

6 Q Was one of the companies referred to you Group
7 Six Communications?

8 A Yes.

9 Q Has this company filed a 2010 annual report or
10 paid a 2011 regulatory fee?

11 A Yes, it has.

12 Q If I could turn to what has been marked as
13 Exhibit RP-5. Is this a true and accurate copy of the
14 annual report that was received by the Commission for
15 this company?

16 A Yes, it is.

17 Q And when was that report filed?

18 A September 28th, 2011.

19 Q Did this company owe regulatory fees for 2011?

20 A Yes.

21 Q Did they pay the regulatory fees?

22 A Yes.

23 Q Let me turn to what has been marked as
24 Exhibit RP-6. Is this a true and accurate copy of the
25 ARTS record for this carrier showing payment of

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1 regulatory fees?

2 A Yes, it is.

3 Q Was one of the companies referred to you
4 Lifeconnex Telecom, LLC?

5 A Yes.

6 Q Has this company filed a 2010 annual report or
7 paid a 2011 regulatory fee?

8 A No, it has not.

9 Q What is your recommendation to the Commission
10 regarding this carrier?

11 A I recommend that the Commission revoke this
12 company's registration.

13 Q Was one of the companies referred to you
14 Pacific Telecom Communications Group, doing business
15 as Pacific Telecommunications Group, Incorporated?

16 A Yes.

17 Q Has this company filed a 2010 annual report or
18 paid a 2011 regulatory fee?

19 A Yes, it has.

20 Q And when did the Commission receive their
21 annual report?

22 A November 28th, 2011.

23 Q I would like to turn to what has been marked
24 as Exhibit RP-7. Is this a true and accurate copy of
25 the annual report filed by Pacific Telecom

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1 Communications Group?

2 A Yes, it is.

3 Q Did this company owe regulatory fees for 2011?

4 A No, it did not.

5 Q If I could turn to what has been marked as
6 Exhibit RP-8. Is this a true and accurate copy of the
7 ARTS record for this carrier showing the regulatory
8 fees are due?

9 A Yes, it is.

10 Q Was one of the companies referred to you QX
11 Telecom, LLC?

12 A Yes.

13 Q Did this company file a 2010 annual report or
14 pay a 2011 regulatory fee?

15 A QX Telecom, LLC filed an incomplete annual
16 report on July 19th, 2011, and failed to respond to
17 Staff's follow-up communications requesting that the
18 report be completed.

19 Q What is your recommendation regarding this
20 company?

21 A I recommend that the Commission revoke this
22 company's registration.

23 Q Was one of the companies referred to you Royal
24 Communications?

25 A Yes.

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1 Q Did this company file a 2010 annual report or
2 pay a 2011 regulatory fee?

3 A No, it did not.

4 Q What is your recommendation to the Commission
5 regarding this company?

6 A I recommend that the Commission revoke this
7 company's registration.

8 Q Was one of the companies referred to you
9 Selectel, Incorporated?

10 A Yes.

11 Q Did this company file a 2010 annual report or
12 pay a 2011 regulatory fee?

13 A Yes, it did.

14 Q And when did they file their 2010 annual
15 report?

16 A August 25th, 2011.

17 Q Let me turn to what has been marked as
18 Exhibit RP-9. Is this a true and accurate copy of the
19 annual report filed by the company?

20 A Yes, it is.

21 Q Did they owe regulatory fees for 2011?

22 A Yes, they did.

23 Q Let's turn to what has been marked as
24 Exhibit RP-10. Is this a true and accurate copy of
25 the ARTS record for this carrier, showing receipt of

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1 regulatory fees due?

2 A Yes, it is.

3 Q Was one of the companies referred to you
4 Teledata Solutions, Incorporated, doing business as
5 TSI?

6 A Yes.

7 Q Did this company file a 2010 annual report or
8 pay a 2011 regulatory fee?

9 A No, it did not.

10 Q What is your recommendation to the Commission
11 regarding this carrier?

12 A I recommend that the Commission revoke this
13 company's registration.

14 Q Was one of the companies referred to you
15 Triarch Marketing, Incorporated?

16 A Yes.

17 Q Did this company file a 2010 annual report or
18 pay a 2011 regulatory fee?

19 A No, it did not.

20 Q What is your recommendation to the Commission
21 regarding this company?

22 A I recommend that the Commission revoke this
23 company's registration.

24 Q Was one of the companies referred to you TTC
25 Communications, LLC?

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1 A Yes.

2 Q Did this company file a 2010 annual report or
3 pay a 2011 regulatory fee?

4 A No, it did not.

5 Q What is your recommendation to the Commission
6 regarding this company?

7 A I recommend that the Commission revoke this
8 company's registration.

9 Q Thank you, Ms. Pearson.

10 And as to the five companies that you have
11 previously mentioned, Centel Communications,
12 Entelegent Solutions, Group Six Communications,
13 Pacific Telecom Communications Group, and Selectel,
14 Inc., what are Staff's recommendations regarding these
15 five companies?

16 A That their registrations not be revoked and
17 that the complaint against them be dismissed.

18 Q Thank you.

19 MR. FASSIO: Your Honor, at this time I
20 would like to move to admit Exhibits RP-1 through
21 RP-10 for admission into evidence.

22 JUDGE LOVINGER: They will be admitted.

23 (Exhibits RP-1 - RP-10 offered and
24 admitted into evidence.)

25 MR. FASSIO: I have no further questions

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1 for Ms. Pearson. I can briefly summarize Staff's
2 recommendations, if you would like.

3 JUDGE LOVINGER: I actually had one
4 question I was hoping to do.

5 When was the date for Centel's filing of the
6 report, the annual report, and paying the regulatory
7 fees? They are the ones you had indicated were added
8 to the list but should not have been, I believe.

9 THE WITNESS: Selectel.

10 JUDGE LOVINGER: Oh, I'm sorry,
11 Selectel.

12 THE WITNESS: It was August 25th, 2011.

13 JUDGE LOVINGER: Thank you.

14 You may proceed.

15 MR. FASSIO: Thanks.

16 So in summary, Staff recommends that the
17 Commission revoke the registrations of the following
18 companies that are named, those being: Affordable
19 Voice Communications, American Cyber Corporation,
20 American Dial Tone, American Fiber Network, Atlas
21 Networks, BLC Management, Coleman Enterprises, Divine
22 Communications, Lifeconnex Telecom, QX Telecom, Royal
23 Communications, Teledata Solutions, Triarch Marketing,
24 and TTC Telecommunications. These companies have not
25 filed their annual reports and Staff does not know

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1 whether they owe 2011 regulatory fees or not. If they
2 do, they failed to pay them.

3 Staff has moved to already dismiss the five
4 remaining companies and presented evidence that they
5 have filed their annual reports, and if applicable,
6 paid 2011 regulatory fees. Those remaining five, just
7 for summary purposes, are: Centel Communications,
8 Entelegent Solutions, Group Six Communications,
9 Pacific Telecom Communications Group, and Selectel,
10 Incorporated.

11 I have nothing further, Your Honor.
12 Thank you.

13 JUDGE LOVINGER: I was going to ask you
14 if you have any recommendation. I'm assuming you are
15 recommending that each of them pay the \$100 statutory
16 fine?

17 MR. FASSIO: I believe, Your Honor, that
18 there has already been a separate proceeding against
19 several companies for penalties. There's no penalties
20 actually sought in this proceeding.

21 JUDGE LOVINGER: So you are not seeking
22 any additional penalty beyond the revocation?

23 MR. FASSIO: That's correct, not in this
24 proceeding, Your Honor.

25 JUDGE LOVINGER: Thank you.

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1 Is there anything else that needs to be
2 brought before the Court this morning?

3 (Pause in the proceedings.)

4 JUDGE LOVINGER: This matter will be
5 taken under advisement, and the Commission will issue
6 a written decision.

7 If nothing further, then we are adjourned.

8 (Hearing adjourned.)

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C E R T I F I C A T E

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5 STATE OF WASHINGTON

6 COUNTY OF KING

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I, Sherrilyn Smith, a Certified

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Shorthand Reporter and Notary Public in and for the

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State of Washington, do hereby certify that the

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foregoing transcript is true and accurate to the best

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of my knowledge, skill and ability.

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IN WITNESS WHEREOF, I have hereunto

14

set my hand and seal this 6th day of December, 2011.

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SHERRILYN SMITH

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24 MY COMMISSION EXPIRES:

25 JUNE 2012