

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UT-121721
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	DECLARATION OF
	)	MATHEW PERKINSON
v.	)	REGARDING TELEFONICA
	)	USA, INC.
COSPEED, LLC, CVC CLEC, LLC, GO	)	
SOLO TECHNOLOGIES, INC.,	)	
GRASSHOPPER GROUP, LLC, NET	)	
TALK.COM, INC., NOWYR, INC.,	)	
PELZER COMMUNICATIONS	)	
CORPORATION, PRICERIGHT	)	
COMMUNICATIONS, LLC, PUGET	)	
SOUND TELECOMMUNICATIONS, LLC	)	
d/b/a PUGET SOUND TELECOM LLC,	)	
TELEFONICA USA, INC., TELMEX USA,	)	
L.L.C., VANCO US, LLC, VERTEX	)	
TELECOM, INC.,	)	
	)	
Respondents.,	)	

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Mathew Perkinson, under penalty of perjury under the laws of the State of Washington, declares as follows:

1. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Compliance Investigator in the Consumer Protection and Communications Section. 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 one or more statutes or rules enforced by the Commission.
2. Regulated telecommunications companies must submit annual reports and file regulatory fees by May 1 of each year. Each year, the Commission distributes an annual report form and a regulatory fee form to facilitate these submissions.

3. On February 29, 2012, the Commission mailed an annual report packet to Telefonica USA, Inc. (Telefonica) at the address on file with the Commission. The packet contained an "annual report form" and a letter from the Commission's Executive Director and Secretary, David Danner. The annual report form includes a regulatory fee calculation schedule and requires a company to attach other documents as well. A completed annual report form, with the necessary attachments, constitutes a company's annual report.
4. The letter from David Danner explained the annual report and regulatory fee submission requirements. In the letter, Mr. Danner instructed Telefonica to return the completed form and pay any regulatory fees by May 1, 2012. The letter further stated that, if the company failed to file a completed annual report and pay regulatory fees by May 1, 2012, the Commission would assess a financial penalty of \$100 for each business day after May 1 that the report was not filed and \$100 for each business day after May 1 the regulatory fees remained unpaid. Those companies wishing to request an extension to file the annual report were instructed in the letter to do so before April 24, 2012, and to provide a reason for the extension. In addition, the letter advised that Commission Staff would seek revocation of the authority of companies that failed to file an annual report or pay regulatory fees by June 1, 2012. A copy of the letter is attached as Attachment A.
5. On May 14, 2012, the Commission sent letters to those companies that had not yet filed their annual reports, Telefonica was one of these companies. The letter, signed by David Danner, informed Telefonica that, to date, it had incurred a penalty of \$800. In the letter, Mr. Danner stated that companies who filed their annual reports no later than May 25, 2012, would receive mitigated penalties of \$25 per day. Conversely, the Commission would impose an additional \$25 per day for each instance in the previous five years that the company had received a penalty for filing a late report. A copy of the letter is attached as Attachment B.
6. Telefonica did not file its annual report by May 31, 2012, which is 21 business days past the deadline of May 1. The commission assessed penalties against the company in the amount of \$2,100, in Docket UT-121013. Telefonica did not request an extension.
7. The commission issued a complaint for revocation of registration for failure to pay regulatory fees and failure to file an annual report; and a notice of hearing set for February 4, 2013. Telefonica did not appear at the hearing. At the hearing, commission staff presented evidence that Telefonica had failed to file the 2011 annual report or pay the 2012 regulatory fees, and commission staff recommended that the Commission revoke Telefonica's registration.
8. On January 15, 2013, Telefonica paid the penalty assessment in Docket UT-121013, in full. A printout of the Commission's Penalty Assessment Transaction Log documenting the payment is attached as Attachment C.

9. On March 6, 2013, Telefonica filed its 2011 annual report and paid the required regulatory fees. A true and correct copy of the annual report received by the Commission is attached as Attachment D. In addition, a screen-print of the Commission's Annual Report Tracking System, showing receipt of the regulatory fees as well as the report, is attached as Attachment E.
10. On March 7, 2013, Telefonica, in a letter to the commission, requested that the company's registration not be revoked as a result of coming into compliance with commission rules. The letter is on file in this docket.
11. Staff recommends that Telefonica's registration not be revoked. Telefonica filed its 2011 annual report and paid the required regulatory fees for 2012.

DATED this 21st day of March, 2013, at Olympia, Washington.

  
\_\_\_\_\_  
MATHEW PERKINSON

## Attachment A

February 29, 2012

Dear Regulated Company:

### **Reference: Your 2011 Annual Report and 2012 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 (UTC).

### **What is required of you?**

By May 1, you must:

- Complete and file one paper copy or electronic version of the enclosed 2011 annual report form
- Pay your 2012 regulatory fees

### **What happens if you do not file a completed annual report and pay regulatory fees on time?**

If you do not file your company's completed annual report and pay the regulatory fees by May 1, the UTC will assess a financial penalty of \$100 for each business day after May 1 that the report is not filed and \$100 for each business day after May 1 the fees are unpaid. You may seek mitigation of the penalties in response to the assessment you receive, after you have filed a completed annual report and paid your regulatory fees. The amount of the penalties the UTC mitigates, if any, will depend on the reasons you were late and whether you have filed late in prior years. If you have not filed your completed annual report or paid your regulatory fees by June 1, 2012, Staff will initiate proceedings to have the UTC revoke your authority to operate in Washington.

### **What happens if you do not pay the regulatory fees by May 1?**

If you do not pay your company's regulatory fees 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. These amounts apply in addition to the assessment of a penalty of \$100 per business day after May 1 that the fees are unpaid.

### **May you request an extension of time if you are unable to file the annual report or pay your regulatory fees on time?**

You may file a written request for an extension to file your completed annual report, but the UTC will not extend the deadline for paying regulatory fees. Any extension request must be filed with the UTC by April 24, 2012, and must state a valid reason for why you need an extension and identify a specific date by which you will file your completed annual report. The UTC will notify you by May 1 whether your request is approved or denied. Even if your request is approved, you will still be liable for penalties and interest payments if you fail to pay your regulatory fees by May 1.

**What should you do if your company is no longer operating in Washington?**

You may cancel your registration or permit by using the cancellation forms available on our website (see below), but if your company operated in Washington at any time during the 2011 calendar year, you must pay regulatory fees and file a closing annual report based on the months of operation during 2011 even if you cancel your registration or permit.

**May you designate any information in your annual report as confidential?**

Yes, but if you satisfy two conditions:

- (1) You are eligible to request confidential treatment only if your company is regulated under Title 80 RCW, that is, if you operate an electric, natural gas, telecommunications or water company. Transportation companies, regulated under Title 81 RCW, may not request confidential treatment of documents because the authority for such treatment is found only in RCW 80.04.095. If a Title 81 company files its annual report or fee sheet as confidential, the UTC will not treat it as confidential.
- (2) You must follow the steps for filing confidential documents in WAC 480-07-160. You may find this rule at the UTC website, [www.utc.wa.gov/annual\\_reports](http://www.utc.wa.gov/annual_reports).

**Please note:** The regulatory fee sheet portion of your report is not a confidential document and will not be accorded confidential treatment under the rule. The UTC will not, however, disclose credit card information you list on the fee sheet.

**May you perform some of these tasks online?**

Yes. You may complete the following tasks from the annual reports page at the UTC website [www.utc.wa.gov/annualreports](http://www.utc.wa.gov/annualreports):

- Obtain electronic versions of annual report forms
- Pay regulatory fees
- File your report electronically
- Cancel your registration (telecommunications companies) or permit (transportation companies) if your company ceased operations in 2011.

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

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

**Is there any additional information you should file?**

- If you are a gas distribution company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 2.
- If you are an electric company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 1.
- If you are a class 1 Railroad, please also file a copy of your Surface Transportation Board Form R-1 - including statistics specific to the state of Washington.

If you have questions about any aspect of your report or regulatory fee, please contact Rae Lynn Carnes at (360) 664-1152 or [rcarnes@utc.wa.gov](mailto:rcarnes@utc.wa.gov).

If you need this letter or an annual report form in an alternate format, please call 360-664-1243. The TTY Toll-Free phone number is 1-800-416-5289.

Sincerely,

David W. Danner  
Executive Director and Secretary

Enclosures

**Attachment B**

May 14, 2012

**NOTICE OF ENFORCEMENT ACTION**

**Attention:**

Your 2011 annual report to the Utilities and Transportation Commission (commission) was due on May 1, as required by law. Financial penalties of \$100 per day began accruing on May 2.

**As of the date of this letter, you have accrued a penalty of \$800.** That penalty will increase by \$100 per day for each subsequent day you fail to comply.

**This letter tells you what you can do to mitigate your penalty.**

If the commission receives your report **postmarked no later than May 25**, commission staff will mitigate your penalty to \$25 per day. Additional penalties of \$25 per day will be added for each year you have filed late in the past five years, up to a maximum of \$100 per day.

Annual report forms are available on the commission's website at [www.utc.wa.gov](http://www.utc.wa.gov). If you have questions or require additional information, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105 or [mperkinson@utc.wa.gov](mailto:mperkinson@utc.wa.gov).

Sincerely,

David W. Danner  
Executive Director and Secretary

## Attachment C

Docket Sheet Entry	
Docket Number:	121013
Docket Sheet Type:	Document
Sub Type:	Penalty Assessment Transaction Log
Date:	01/15/2013
Description:	Statement of Account noting payment of \$2,100.00, payment in full
Confidential Level?	<input checked="" type="radio"/> None <input type="radio"/> Confidential <input type="radio"/> Highly Confidential
Link to Filing Form:	<input type="checkbox"/>
Doc. Links:	



Attachment D

2  
0  
1  
1

TELECOMMUNICATIONS COMPANIES  
ANNUAL REPORT  
Due May 1, 2012

Telefonica USA, inc. 1111 Brickell Ave. 10 <sup>th</sup> Floor Miami, FL 33131	<p style="text-align: center;">RECEIVED 2013 MAR -6 PM 1:11 FINANCIAL SERVICES</p> <p style="text-align: center;">FILED IN COMPUTER MAR 06 2013</p>
Full name and address of Company	Correct name and address, if different than shown

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
for the YEAR ENDED DECEMBER 31, 2011.

SECTION I			
INQUIRIES CONCERNING THIS ANNUAL REPORT SHOULD BE ADDRESSED TO:			
NAME: <u>Enrique Landivar</u>		TITLE: <u>Tax Manager</u>	
ADDRESS: <u>1111 Brickell Ave. 10<sup>th</sup> floor</u>			
CITY: <u>Miami</u>		STATE: <u>FL</u>	ZIP: <u>33131</u>
TELEPHONE: <u>305 925 5489</u>		FAX: <u>305 925 5239</u>	E-MAIL: <u>Enrique.landivar@telefonica.com</u>
The company must notify the Commission, in writing, of any changes to the above information.			

SECTION II	
TYPE OF PAYMENT - DO NOT SEND CASH IN THE MAIL	
<input type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> AMEX <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard <input type="checkbox"/> Discover	For Commission Use Only Credit Card Authorization #: _____
Credit Card Number:	Expiration Date Month/Year
CERTIFICATION FOR CREDIT CARD PAYMENT: I, the undersigned, under penalty for false statement, certify that the information is true, valid and correct, that I am authorized to execute on behalf of the applicant, and that I agree to pay the above total amount according to card issuer agreement.	
Name (Printed) _____	Title _____
Signature _____	Date _____


For Commission Use Only			
Reception Number: _____	Reference: _____	Payment ID: _____	Receivable #: _____
001-111-02-88-170-01: _____	001-111-02-88-170-11: _____	001-111-02-88-032-20: _____	
Total Paid _____			

Original to be mailed to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, WA 98504-7250  
Web Site: www.uto.wa.gov

Washington Unified Business Identifier (UBI) No.: 602988539  
*(If you do not know your UBI No. please contact Business Licensing Service at 1-800-451-7985 or [BLS@dor.wa.gov](mailto:BLS@dor.wa.gov))*

### Annual Report Certification

I certify that I, Magin Briceno, the responsible account officer for Telefonica USA, Inc. have examined the foregoing report; that, to the best of my knowledge, information and belief, all statements of fact contained in said report are true and said report is a correct statement of the business and affairs of the above-named respondent in respect to each and every matter set forth therein during the period from January 1, 2011, to December 31, 2011, inclusive.

Name (Printed) Magin Briceno Title CFO  
Signature  Date 3/6/2013

### Online Annual Report Certification

I acknowledge that the foregoing Annual Report has been submitted electronically; that, to the best of my knowledge, information and belief, all statements of fact contained in all attached schedules are true and said report is a correct statement of the business and affairs of the above-named respondent in respect to each and every matter set forth therein during the period from January 1, 2011, to December 31, 2011, inclusive. I agree that my name typed in lieu of my handwritten signature shall be sufficient to deem the report complete.

Authorized By:   
Please Type Full Name Here

Authorized Date:   
Please Type Full Date Here

**SECTION III**

1. Have you attached the following additional documents? The report will not be complete without the required documents:

- Income statement **(Required)**:
- Balance sheet **(Required)**:
- Additional information if required under WAC 480-120-385 (1) (c) (i), (ii), or (iii).
- Other documents (please describe):

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**Washington State Data**

**2. Services**

a. Does your company provide local exchange services in WA? Yes  No

b. What other services does your company provide in WA? Please list.  
Virtual Private Network Services (VPN/MPLS)

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**3. Lines in service as of December 31, 2010**

If you file Form 477 with the FCC for Washington operations, please indicate:

a. The total number of voice grade equivalent lines: N/A  
(provide the same number as included in the FCC Form 477 Part II, A, 1.)  
(If your company does not file Form 477 you still must report voice grade equivalent lines.)

b. How many of the lines listed in 3.a. above, have access to E-911: N/A

**REGULATORY FEE CALCULATION SCHEDULE**  
Due May 1, 2012

Company Name  
**Telefonica USA, Inc.**

Annual Report Year  
**2011**

In accordance with chapter 80.24.010 RCW "Regulatory Fees", the Commission requires Telecommunication companies to file reports of gross intrastate operating revenue and pay fees on that revenue. Every company subject to regulation shall file with the Commission a statement under oath showing its gross intrastate operating revenue for the preceding year and pay to the Commission a fee as instructed below.

1 Total Gross Intrastate Operating Revenue **	1				66,319.77
2 Less Non Fee-Paying Revenue***	2				0.00
3 Balance-Adjusted Gross Intrastate Operating Revenue (subtract line 2 from 1)	3				66,319.77
4 Regulatory Fee Calculations:	4				
4a If line 3 is UNDER \$20,000, Enter ZERO (Filing ZERO indicates schedule is complete)	4a				N/A
4b If line 3 is BETWEEN \$20,000 and \$50,000-enter amount from line 3 (Filing BETWEEN \$20,000 and \$50,000 indicates schedule is complete. If filing after May 1 go to Line 6)	4b	\$		x .1 % (.001) =	N/A
4c If line 3 is OVER \$50,000-enter amount from line 3	4c	\$	66,319.77		
4d First \$50,000 is subject to .1% regulatory fee	4d	\$	50,000.00	x .1 % (.001) =	50.00
4e Adjustment of Gross Intrastate Operating Revenue (subtract Line 4d from 4c)	4e	\$	16,319.77	x .2 % (.002) =	32.64
5 Total Regulatory Fees owed (enter line 4b, or add 4d and 4e)	5				82.64
Complete Lines 6 through 9 if filing after May 1					
6 Penalties on Regulatory Fees filed after May 1	6				
6a Total Penalties on Regulatory Fees owed - enter amount from line 5	6a	\$	82.64	x 2 % (.02) =	1.65
7 Interest on Regulatory Fees filed after May 1	7				
7a Amount from line 5 82.64 x Number of months past May 11 x (% .01) =	7a				9.09
8 Total Penalties and Interest owed (add lines 6a and 7a)	8				10.74
9 Total Regulatory, Penalty and Interest Fees Due (add lines 5 and 8)	9				93.39

Note: The revenues subject to the Commission's regulatory fees are gross Washington intrastate operating revenues before deductions for uncollectibles, umbrellas, subscribers/aggregator commissions or the payment of site charges and state and federal taxes, i.e. "Gross Revenue" means before any deductions from Revenue Receipts.

**\*\*\*DETAILS OF NON FEE-PAYING REVENUE**

Indicate Account and Description	Amount
10.	\$
11.	
12.	
13.	
14.	
<b>Total Non Fee-Paying Revenue</b>	\$

Telefonica Data USA, Inc  
 Balance Sheet  
 December 31, 2011

Balance Sheet

**ASSETS**

**Current assets:**

Cash	11,987,122.39
Restricted Cash	113,430.22
Accounts receivable-net of allowance for doubtful accounts	14,257,217.66
Inventory	
Due from related parties	92,777,694.88
Prepaid expenses and other	5,579,955.69
<b>Total current assets</b>	<b>124,715,420.84</b>

Other assets, Long Term	6,417,068.84
Equipment and leasehold improvements, net	56,726,939.66

<b>TOTAL ASSETS</b>	<b>187,859,429.34</b>
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**LIABILITIES AND HOME OFFICE ACCOUNT DEFICIENCY**

**Current liabilities:**

Accounts payable	7,798,289.86
Accrued liabilities	26,475,465.59
Deferred Revenue	7,807,401.07
Due to related parties	44,188,572.21
<b>Total current liabilities</b>	<b>86,269,728.73</b>

Other liabilities, long term	5,810,422.94
Due to related parties-long term	17,442,026.97

Stockholders' equity:

Common stock - \$10 par value; 100 shares authorized, issued and outstanding	1,000.00
Stockholders Receivable	
Shares Reserved for PSP	0.00
Additional paid-in capital	176,636,633.38
Accumulated deficit	(98,300,382.40)
<b>Total stockholders' equity</b>	<b>78,337,250.99</b>

**Telefonica Data USA, Inc**  
**Income Statement**  
**December 31, 2011**

**Income Statement**

<b>Revenues</b>	109,388,745.57
<b>Operating expenses:</b>	
Cost of services and sales	66,699,565.67
External services and general and administrative	31,737,494.65
Provision for uncollectible accounts	2,133,424.80
Taxes other than on income	972,008.09
Depreciation and amortization	5,022,301.42
<b>Total operating expenses</b>	<u>106,564,794.63</u>
<b>Loss from operations</b>	2,823,950.94
<b><u>Interest income, net</u></b>	
<b><u>Net (Loss)/ Income</u></b>	<u>2,823,950.94</u>
<b>Other Income</b>	19,852,968.04
Realizes gains/(losses) on exchanged rate	(477,064.30)
Unrealized gains/ (losses) on exchange rate	630,586.12
Other gains and (losses)	(4,310.39)
Interest revenue/(expense), net	62,749
<b>Net Income (loss) before Income Taxes</b>	<u>22,888,880</u>
<b>Provision for Income Taxes</b>	(1,086,462)
<b>Net Income/ (Loss) after tax</b>	<u>21,802,417.36</u>

TOTAL LIABILITIES AND HOME OFFICE ACCOUNT DEFICIENCY 187,859,429.62

# Attachment E

**Annual Reports** Close ARTS

**Filters:** Rpt Year  Industry

Edit

Find company

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**Name** \*  ARTS Comp Id   
**DBA**  ARTS CompOp Id

**UBI**  **Address**   
**UTC Id** \*  **P O Box**

**Industry** \*  **City**   
**Pmt Id**  **St, Zip, Country**

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**Report Recv'd**  **Report Year** \*  **Vehicle-Based Fee?**  Yes  No  
**Confidential?**  Yes  No **Report Period**  **Wa Vehides**

**Rpt Complete**   Complete? **Gas Miles**   
**Revenue Amount**  **Filing Class**  **Fuel Miles**   
**Fee Amount**  **Filing Required**  **Miles Fee**   
**Balance Due**

OpEventId	CompOp	Event Typ	Date	Chrgd Amt	Rcvd Amt	Revenue I	Docket Num	EventLogTime	Nett
65058	30837	FEE	5/1/2012	\$82.64				3/6/2013 12:05:35 PM	rcart
65054	30837	CMT	3/6/2013					3/6/2013 8:16:15 AM	rcart
65053	30837	CMT	3/6/2013					3/6/2013 8:16:13 AM	rcart
65060	30837	INT	3/6/2013	\$8.26				3/6/2013 12:05:42 PM	rcart
65059	30837	LFEE	3/6/2013	\$1.85				3/6/2013 12:05:37 PM	rcart
65067	30837	PMT	3/6/2013		\$93.38	0044259		3/7/2013 10:48:57 AM	rcart
65068	30837	ADJ	3/7/2013		(\$0.82)			3/7/2013 10:49:05 AM	rcart

Record: 865 of 1015  Filtered Search