

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Petition of

NECC TELECOM, INC.

for Registration and Competitive
Classification as a Telecommunications
Company.

DOCKET UT-160475

NOTICE OF INTENT TO DENY
PETITION FOR REGISTRATION

NOTICE OF HEARING
(Set for Tuesday, June 28, 2016
at 9:30 a.m.)

BACKGROUND

- 1 On May 4, 2016, NECC Telecom, Inc. (NECC or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition for registration and competitive classification (Petition).
- 2 Under Washington Administrative Code (WAC) 480-121-020(3) the Commission may require that a petitioner show compliance with all applicable federal, state, and local telecommunications technical and business regulations. Under WAC 480-121-040(2), the Commission may deny a petition for registration if, after hearing, the Commission finds that the petition is not consistent with the public interest. In addition, Revised Code of Washington (RCW) 80.36.350(3) and WAC 480-121-040(2)(c) authorize the Commission to deny registration to a telecommunications company that does not possess adequate financial resources to provide proposed services.
- 3 The Commission must take action to approve or issue a notice of hearing concerning any petition for registration within thirty days after receiving the petition. The Commission may deny an application after hearing.¹
- 4 Commission Staff (Staff) has reviewed the Petition, and recommends that the Commission deny the Petition for reasons set out below.

FACTUAL ALLEGATIONS

- 5 Staff's review found that the Company was previously registered to provide telecommunications services in Washington and that the Commission assessed penalties against the Company in Docket UT-120987 in the amount of \$1,050 for failure to file its annual report. The Company subsequently ceased doing business in the state and

¹RCW 80.36.370(4).

voluntarily relinquished its registration in Docket UT-130275. The Company, however, did not pay the assessed penalties, which remain outstanding.

6 In its review of the Company's balance sheet, Staff finds indications that the Company may not possess sufficient financial resources to provide the proposed services.

7 Staff recommends the Commission deny the Petition. Staff alleges that the Company's failure to comply with the Commission's penalty assessment indicates that NECC is unwilling or unable to comply with Commission regulations and that the Petition is incompatible with the public interest. In addition, Staff recommends that the Commission deny the Petition because the Company's financial resources are inadequate to provide the proposed service.

DISCUSSION

8 The Commission agrees with Staff's recommendation and intends to deny the Petition unless the Company provides evidence to disprove Staff's allegations or otherwise remedy the alleged deficiencies in the Petition. The information Staff has provided indicates that NECC's history of non-compliance, along with the Company's inadequate financial resources, render the Company unfit to serve as a telecommunications company in the state of Washington.

9 Staff's findings support the conclusion that the Petition does not meet the requirements of WAC 480-121-020(3) and RCW 80.36.350(3), that approving the registration is not in the public interest, and the Commission should set this matter for hearing to provide the Company with the opportunity to present evidence to refute that conclusion.

NOTICE

10 The Commission hereby provides notice of its intention to deny NECC's petition for registration and competitive classification for failure to meet the registration requirements in RCW 80.36 and WAC 480-121. NECC has the opportunity to contest any factual allegations in this notice at the hearing detailed below.

11 Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determines that a brief adjudicative proceeding is appropriate for determining whether the Petition should be denied due to the concerns raised after Staff's review.

12 **THE COMMISSION GIVES NOTICE That it will hold a brief adjudicative proceeding on this matter on Tuesday, June 28, 2016, at 9:30 a.m. in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Dr. SW, Olympia, Washington.**

- 13 The record in this case will consist of any documents regarding the matter that are considered by or prepared for the presiding officer for the brief adjudicative proceeding and a transcript of any oral statements given at the hearing, which statements will be given under oath.
- 14 Written notice of any other stage in the proceeding or other formal proceedings that the Commission may deem appropriate will be given during the course of this case. The Commission will provide at its offices in Olympia, Washington, copies of documents in the current record for use by the parties or others who may want to review them.
- 15 Parties wishing to submit any other documents for consideration at the brief adjudicative proceeding must file with the Commission a list enumerating and describing any such documents no later than 5:00 p.m. on Tuesday, June 21, 2016, and bring an original and three (3) copies to the hearing. Filing shall be in accordance with WAC 480-07-140 and – 145.
- 16 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the brief adjudicative proceeding set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**
- 17 The names and mailing addresses of all parties and their known representatives are shown as follows:

Applicant:	NECC Telecom, Inc. 4969 US Highway 42, Ste. 2700 Louisville, KY 40222
Representative:	Lance J.M. Steinhart Regulatory Counsel 1725 Windward Concourse, Suite 150 Alpharetta, GA 30005
Registered Agent:	Business Filings Incorporated 505 Union Ave. SE, Ste. 120 Olympia, WA 98501
Commission:	Washington Utilities and Transportation Commission 1300 S. Evergreen Park Drive S.W. P.O. Box 47250 Olympia, WA 98504-7250

Representative: Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1186
jcameron@utc.wa.gov

18 Administrative Law Judge Rayne Pearson, from the Commission's Administrative Law Division, will preside during this proceeding.

DATED at Olympia, Washington, and effective June 3, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary