

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UT-000139
)	
Complainant,)	
)	ORDER REVOKING
v.)	REGISTRATION AS A
)	TELECOMMUNICATIONS
A C S TEL COM, INC.)	COMPANY
)	
Respondent.)	
.....)	

I. SYNOPSIS

1 This is a complaint brought by the Commission Staff against A C S Tel Com, Inc. (A C S), requesting that the Commission revoke A C S's registration as a telecommunications company in the state of Washington.

2 Presiding Officer Tre Hendricks of the Washington Utilities and Transportation Commission heard the complaint upon due and proper notice in a brief adjudicative proceeding on March 16, 2000, in Olympia, Washington.

II. MEMORANDUM

A. Procedural Background

3 On November 7, 1997, A C S filed an application for registration as a telecommunications company pursuant to RCW 80.36.350. The Washington Utilities and Transportation Commission (Commission) issued an order in Docket No. UT-971616, effective February 11, 1998, approving A C S's application for registration as a telecommunications company.

4 On February 9, 2000, the Commission Staff filed a Complaint and Notice of Brief Adjudication against A C S. The Commission determined, pursuant to RCW 34.05.482 and WAC 480-09-500, that a brief adjudicative proceeding was appropriate for resolving the issues in this matter. The Commission set the following schedule for the parties to file written submissions:

Submission of Written Statements and
Evidentiary Documents

February 29, 2000

Submission of Responses

March 10, 2000

5 The Commission Staff submitted a written statement and evidentiary documents on February 29, 2000. A C S failed to provide any response to the Commission Staff's submissions.

6 The Commission set the time and place for oral comments and opportunity to object to evidentiary submissions at 9:30 a.m., on March 16, 2000, in Olympia, Washington, in the offices of the Commission.

7 The Commission Staff, represented by Jonathan C. Thompson, AAG, appeared before the presiding officer at 9:30, on March 16, 2000, in Olympia, Washington, in the offices of the Commission. No representatives of A C S appeared at that time to make oral comments or objections, nor did ACS contact the Commission to attempt to reschedule the proceeding or to explain its absence. The Commission Staff elected to rely on the documentary evidence submitted and presented no oral statement or objection.

B. Allegations

8 The Commission Staff alleges in the complaint that A C S failed to file quarterly reports as required by WAC 480-120-058(2)(a), failed to maintain a bond as ordered by the Commission and required by WAC 480-120-058(1), failed to file an annual report pursuant to RCW 80.04.080, and failed to submit calculations and pay its regulatory fees for 1998 as required by RCW 80.24.010.

9 Commission Staff requests that the Commission revoke A C S's registration as a telecommunications company in the state of Washington along with all rights and privileges that accompany registration.

C. Discussion

1. A C S failed to file quarterly reports.

10 In its application, A C S proposed to offer resold direct dialed long distance and debit card services. In the Matter of the Application of A C S Tel Com, Inc., Docket No. UT-971616, February 11, 1998. The nature of debit card services implies that the company collect customer prepayments.

11 WAC 480-120-058(2)(a) requires that, "Each company collecting customer prepayments must submit to the commission a report within fifteen days after the end of each calender quarter."

12 A C S has failed to file quarterly reports, as required by WAC 480-120-058(2)(a) and the Commission's order approving A C S's application for registration. A C S's first quarterly report was due on July 15, 1998. It submitted the report late, on September 14, 1998, after repeated requests by the Commission Staff to submit it. A C S did not submit its report for the fourth quarter of 1998 until March 8, 1999, and again only after repeated requests by Commission Staff. Similarly, A C S submitted late reports for the first and second quarters of 1999 and then only after numerous requests by Commission Staff. Finally, to this date, A C S has not submitted quarterly reports for the third and fourth quarters of 1999. See Declaration of Carolyn A. Caruso and Documentary Evidence at 2-4, Exhibits B, C and D.

2. A C S failed to maintain a performance bond.

13 To protect consumers, the legislature included in RCW 80.36.350 a provision that allows the Commission to require companies to procure a performance bond "to cover any advances or deposits the telecommunications company may collect from its customers." RCW 80.36.350 (2000). When the Commission granted A C S's application for registration, it required A C S to maintain, at a minimum, a \$5,000 performance bond as a condition of approval. *In the Matter of Application of A C S Tel Com, Inc.*, Docket No. UT-971616.

14 A C S procured the required performance bond, but failed to maintain it. Reliance Insurance Company canceled A C S's bond. The Commission received notice of the cancellation on January 18, 2000.

3. A C S failed to file an annual report.

15 Every public service company, including telecommunication companies like A C S, must make out under oath and file with the Commission a detailed annual report of finances. RCW 80.04.080 (2000).

16 A C S failed to file the annual report for 1998.

4. A C S failed to submit calculations and pay fees.

17 Every public service company, including telecommunication companies like A C S, must file on the same date as its annual report "a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year." RCW 80.24.010 (2000). The company must pay the Commission a regulatory fee based on a formula that is applied to that revenue. *Id.* In addition, the statute requires that a public service company submit certain calculations regarding its business and the nature of the services that it provides. *Id.*

18 A C S failed to submit the required calculations and to pay its regulatory fees.

5. Conclusion.

- 19 The Commission may revoke a registration after hearing and for good cause. WAC 480-121-060 (2000). According to the rule, good cause "includes, but is not limited to, failure to: (1) File an annual report; (2) Pay regulatory fees; (3) Comply with the requirements of WAC 480-120-058 . . ." Id. Telecommunications companies that offer prepaid calling card services must maintain a performance bond and submit to the Commission a report within fifteen days after the end of each calendar quarter. WAC 480-120-058.
- 20 A C S failed to submit any response to the Commission Staff's written statement and documentary evidence. A C S failed to appear at the time and place designated by the presiding officer to make oral statements and objections.
- 21 The un rebutted evidence presented by the Commission Staff plainly shows that A C S violated Washington State Law, the Commission's rules, and the terms of the Commission's approval of A C S's application for registration in Docket No. UT-991616. Therefore, A C S's registration as a telecommunications company in the state of Washington should be revoked.

III. FINDINGS OF FACT

- 22 On November 7, 1997, A C S Tel Com, Inc. filed an application for registration as a telecommunications company pursuant to RCW 80.36.350, which the Washington Utilities and Transportation Commission approved in Docket No. UT-971616, effective February 11, 1998.
- 23 A C S Tel Com, Inc. failed to file quarterly reports, failed to maintain a bond, failed to file an annual report, and failed to submit calculations and pay its regulatory fees for 1998.

IV. CONCLUSIONS OF LAW

- 24 The Washington Utilities and Transportation Commission has jurisdiction and other authority over the subject matter and parties to this proceeding.
- 25 When A C S Tel Com, Inc. failed to file quarterly reports, it violated WAC 480-120-058(2)(a). When A C S Tel Com, Inc. failed to maintain a performance bond, it violated the Commission's order approving its application for registration and WAC 480-120-058(1). When A C S Tel Com, Inc. failed to file an annual report, it violated RCW 80.04.080. When A C S Tel Com, Inc. failed to submit calculations and pay its regulatory fees for 1998, it violated RCW 80.24.010. These actions constitute violations of WAC 480-120-060 and are grounds to revoke A C S Tel Com, Inc.'s registration as a telecommunications company in the state of Washington.
- 26 The Commission has the authority to and should revoke the registration of A C S Tel Com, Inc. as a telecommunications company under WAC 480-121-060.

V. ORDER

THE COMMISSION ORDERS That

27 The registration of A C S Tel Com, Inc. as a telecommunications company in the state of Washington, which was granted by the Washington Utilities and Transportation Commission in Docket No. UT-991616, is revoked.

DATED at Olympia, Washington, and effective this 24th day of March, 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

TRE HENDRICKS

Presiding

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not effective until entry of a final order by the Utilities and Transportation Commission. 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.

WAC 480-09-780(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 480-09-780(3). WAC 480-09-780(4) states that any *Answer* to any Petition for review may be filed by any party within (10) days after service of the Petition.

WAC 480-09-820(2) 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.

One copy of any Petition or Answer filed must be served on each party of record, with proof of service as required by WAC 480-09-120(2). An Original and nineteen copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia Washington 98504-7250.