

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No.C-3925/DC-75
Public Service Commission, on)
its own motion, to collect and)
review the 2007 Annual Reports) COMPLAINT SUSTAINED
required to be filed with the)
Commission pursuant to Nebraska)
Revised Statute §86-159.) Entered: November 5, 2008

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

By Order issued on May 6, 2008, the Nebraska Public Service Commission (Commission) opened this docket to collect and review the 2007 Annual Reports through its Communications Department (Department) pursuant to Neb. Rev. Stat. §86-159 (2006 Cum. Supp.). By original complaint, dated May 20, 2008, the Department requested the Commission assess administrative fines and revoke the operating authority of various respondents for failure to file annual reports. All interexchange carriers (IXCs) and competitive local exchange carriers (CLECs) who had not timely filed annual reports with the Commission were named as respondents.

A hearing was held on August 19, 2008, in the Commission Hearing Room, Lincoln, Nebraska, for any respondents who were not previously dismissed from the docket. The hearing was held open and staff was directed to continue to attempt contact with the remaining respondents. The hearing was continued on October 21, 2008, and further evidence of staff attempts to contact the remaining respondents was introduced into evidence.

All IXCs and CLECs were notified via first class mail on January 31, 2008, of their obligation to file an annual report on or before April 30, 2008. All IXCs and CLECs were notified a second time via first class mail on March 31, 2008. Copies of all of these letters were entered into the record as Exhibit No. 3.

The following respondents remain in the docket:

Cognigen Networks, Inc.
Epixtar Communications Corp.
New Century Telecom, Inc.
Telecentrex, LLC
V-Global Communications, LLC
Yak Communications (America), Inc.

The remaining respondents are telecommunications companies generally regulated by the Commission, pursuant to Neb. Rev. Stat. §§ 75-101, et seq. (2006 Cum. Supp.) and §§ 86-101 et seq. (2006 Cum. Supp.). Respondents are also governed by Title 291 NAC Ch. 5 of the Commission's Rules and Regulations.

As part of its regulatory authority and pursuant to § 86-159, the Commission, through its Communications Department, requires telecommunications companies which file an annual report with a federal agency to file a copy of the same report with the Commission on or before the date on which said report is filed with the federal agency. Every such company not required to file such a report with a federal agency is required to file an annual report with the Commission in a form prescribed by the Commission on or before April 30th of each year.

The respondents originally named in the petition failed to comply with the mandates of Neb. Rev. Stat. § 86-159. Therefore, this Commission, pursuant to its legislative authority, may administratively impose fines on all such companies after notice and public hearing and/or revoke the certificates of public convenience and necessity issued to the respondents.

The Commission subsequently determined that several respondents had adequately complied with the provisions of Neb. Rev. Stat. § 86-159 and had satisfactorily submitted an annual report for the year 2007. Therefore such parties were dismissed from the complaint.

All respondents who contacted the Commission were given the option of negotiating a settlement by submitting an annual report and signing a stipulation with the Department, wherein each defendant admitted to filing their annual report late and agreed to pay an administrative fine to dismiss the departmental complaint against them.

The remaining respondents either did not contact the Commission or did not agree to the terms of the stipulation. Furthermore, all respondents were notified of the hearing and were entitled to appear. Nonetheless no carriers made an appearance at the public hearings to show cause as to why administrative fines should not be assessed and their certificates of authority should not be revoked.

One respondent, New Century Telecom, Inc., sought and received approval to voluntarily withdraw its certificate of authority in Nebraska on April 1, 2008, therefore, the company retains no certificate of authority to revoke and is not doing

business in Nebraska. Accordingly, fines should be levied against the following respondents:

Cognigen Networks, Inc.
Epixtar Communications Corp.
New Century Telecom, Inc.
Telecentrex, LLC
V-Global Communications, LLC
Yak Communications (America), Inc.

Further, the Certificates of Public Convenience and Necessity issued to the following respondents should be revoked:

Cognigen Networks, Inc.
Epixtar Communications Corp.
Telecentrex, LLC
V-Global Communications, LLC
Yak Communications (America), Inc.

O R D E R

IT IS THEREFORE ORDERED that fines be levied consistent with the Commission approved fining policy calculated as of the date of the hearing against the respondents: Cognigen Networks, Inc., Epixtar Communications Corp., New Century Telecom, Inc., Telecentrex, LLC, V-Global Communications, LLC, and Yak Communications (America), Inc.

IT IS FURTHER ORDERED that the Certificates of Public Convenience and Necessity issued to the respondents: Cognigen Networks, Inc., Epixtar Communications Corp., Telecentrex, LLC, V-Global Communications, LLC, and Yak Communications (America), Inc. shall be, and are hereby, revoked.

IT IS FURTHER ORDERED that the respondents revoked herein shall cease and desist providing service in the State of Nebraska within 60 days from the date of this order. Furthermore, said carriers shall give at least 30 days notice of discontinuance of service to their customers and reimburse said customers from any charges associated with obtaining service from a different carrier.

MADE AND ENTERED at Lincoln, Nebraska, this 5th day of November, 2008.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Guadalupe Lopez

Frank E. Landis

Tim Schram

Anne C. Boyle
Chair

ATTEST:

Michelle J. Hill
Executive Director

//s// Anne C. Boyle

//s// Frank E. Landis