

Necessity. Furthermore, NTS's response indicated that it had been in contact with Staff and was working on coming into compliance with its delinquencies.

3. Commission Staff (Staff) submitted a Report and Recommendation (R&R) to the Commissioners on January 4, 2018, attached hereto and made a part hereof by reference.

4. Staff explains in its R&R that Staff sent numerous communications to NTS in an effort to resolve its delinquencies. Ultimately, NTS resolved all outstanding delinquencies except for its 2016 Annual Interrogatory that was due May 1, 2017, and NTS remains in "forfeiture" status with the Kansas Secretary of State's office, meaning it cannot legally do business in Kansas.

5. Staff further explains that NTS has a history of compliance issues over the last three years, and that NTS continues to demonstrate its disregard for its Kansas legal requirements. For greater detail, refer to Staff's R&R.

6. Due to these outstanding issues, Staff recommends the Commission revoke the Certificate of Convenience and Necessity currently held by NTS, and fine the company \$500 for its violations pursuant to K.S.A. 66-138.

7. The Commission finds Staff's findings and recommendations to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. NTS's Certificate of Convenience and Necessity granted in Docket No. 95-HPNC-608-COC is hereby revoked.

B. NTS is assessed a \$500 penalty. The penalty shall be paid within thirty (30) days of the issuance of this order. Payment shall reference this docket, 18-NTSC-105-SHO, be made out to the Commission, and mailed to the Commission's Fiscal Office, 1500 SW Arrowhead

Road, Topeka, Kansas 66604-4027. Credit card payment may be made by calling the Fiscal Office at 785-271-3113.

C. GVNW Consulting, Inc. is authorized to remove the company's name from its active KUSF files. GVNW shall maintain its records in such a manner that in the event any monies due to the KUSF are ever paid, the files can reflect such receipt of payment.

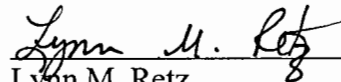
D. The parties have fifteen (15) days, plus three (3) days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118; K.S.A. 77-529(a)(1).

E. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: JAN 18 2018


Lynn M. Retz
Secretary to the Commission

MRN

Order Mailed Date

JAN 19 2018

REPORT AND RECOMMENDATION
UTILITIES DIVISION

TO: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

FROM: Paula Artzer, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: January 4, 2018

SUBJECT: Docket No. 18-NTSC-105-SHO
In the Matter of a General Investigation of NTS Communications, Inc. to Show Cause Why This Commission Should Not Initiate Sanctions and Fines and Cancel, Suspend and Revoke Any Authority the Carrier Currently Holds.

EXECUTIVE SUMMARY:

On September 12, 2017, the Commission issued an Order to Show Cause NTS Communications, Inc. (NTS) due to the Company's failure to file its 2016 Annual Interrogatory¹ by the designated filing date of May 1, 2017. The Company was delinquent with Commission assessments, the Secretary of State's Office and the Kansas Universal Service Fund (KUSF).² The attorney representing NTS contacted the Commission on October 9, 2017, and subsequently filed a letter on October 11, 2017, indicating the Company no longer did business in Kansas. The Company requested it be allowed to relinquish the Certificate of Convenience (COC) in Kansas issued to NTS, and indicated it would work with Staff to come into compliance with all remaining documents and payments. The Company is now current with all Commission assessments and

¹ The Annual Interrogatory was previously known as the Annual Report. The change is based on the enacted HB 2201 and the Commission's Order in Docket No. 13-GIMT-736-GIT, dated December 3, 2013, which investigated the implementation of HB 2201 and replaced the Annual Reports for telecommunications carriers (CLEC,IXC,OSP) and electing carriers with interrogatories to collect the financial data necessary to carry out its statutory regulatory responsibilities.

² With regard to the KUSF, any delinquencies are collected pursuant to Kansas statute K.S.A. 66-2010 by the third party KUSF Administrator.

the filings and payments to the Kansas Universal Service Fund. However, the Company remains delinquent in filing the Annual Interrogatory for 2016 that was due May 1, 2017, and will not be filing with the Kansas Secretary of State, since the Company no longer does business in Kansas.

Staff recommends the Commission assess a \$500 penalty to NTS for being in violation of Commission orders and statutes and revoke the Certificate of Convenience and any authority the carrier currently holds to do business in Kansas.

BACKGROUND:

On May 4, 1998, NTS filed an Application to change its name from Hi-Plains Communications (Hi-Plains) in Docket No. 98-NTSC-741-CCN, which was granted on August 4, 1998. On December 13, 1995, the Commission originally granted Hi-Plains authority to operate as an interexchange carrier (IXC) in Docket No. 95-HPNC-608-COC.

On January 29, 2015, the Commission issued an Order to Show Cause NTS in Docket No. 15-NTSC-317-SHO for failing to remain in compliance with Kansas statute K.S.A. 66-1503. On February 24, 2015, the Commission dismissed the Order to Show Cause after the Company paid the outstanding Commission Assessments.

On June 21, 2016, the Commission issued an Order to Show Cause NTS in Docket No. 16-NTSC-570-SHO for failing to remain in compliance with Kansas statute K.S.A. 66-1503. On August 16, 2016, the Commission dismissed the Order to Show Cause after the Company paid the outstanding Commission Assessments. The Company was assessed a penalty of \$100, which was not paid until this year.

Public utilities are required to file an Annual Interrogatory with the Commission. Such reports are to be certified under oath by an officer of the Company who has knowledge of the information contained in the report. NTS failed to file its 2016 Annual Interrogatory with the Commission by the May 1, 2017, filing deadline.

The Kansas Secretary of State's record indicated that the authority given to NTS to operate in the state of Kansas was in "forfeiture" status as of July 15, 2017. NTS; therefore; is not legally allowed to operate in the state of Kansas pursuant to K.S.A.17-7509(a).

ANALYSIS:

As the previous compliance history on NTS reveals, the Company has been negligent in maintaining its filing requirements with Kansas statutes over the past three years. NTS continues to demonstrate its obvious disregard to remain compliant with Kansas filing requirements. Below are Staff's ongoing attempts to make contact with NTS to correct the failure to file a 2016 Annual Interrogatory.

On May 12, 2017, Staff sent its "*First Notice of Failure to File 2016 Annual Interrogatory*" allowing the Company until May 22, 2017, to file its required report. On June 1, 2017, Staff sent its "*Final Notice of Failure to File 2016 Annual Interrogatory*" allowing the Company until June 16, 2017, in the attempt to get resolution of this delinquency. Both of Staff's Notices included

guidance as to where the report forms are located on the Commission's website. Both Notices have gone unanswered.

Staff further advised the Company, in both Notices, that failure to remit the required report with the Commission could result in Staff recommending the Commission open a show cause proceeding to impose penalties on the Company for failing to comply with the statute as authorized by K.S.A. 66-138. Per K.S.A. 66-138, the Commission may assess a penalty of \$100 to \$5,000 for each such violation.

The attorney representing NTS contacted the Commission on October 11, 2017, in response to the Order to Show Cause, indicating NTS was no longer doing business in Kansas and would work with Staff to bring the Company into compliance. The letter also requested the Commission allow the Company to relinquish the Certificate of Convenience, since it no longer had customers in Kansas, and respectfully requested the Commission forebear from issuing any sanctions or fines.

On October 11, 2017, Staff sent an email to the NTS attorney listing the outstanding documents and payments that were required for compliance, referenced where the forms were available with instructions indicating what was necessary to file.

On October 12, 2017, Staff again contacted the NTS attorney to indicate it had been brought to the Commission's attention that NTS was also delinquent in filing the Company's Kansas Property Tax Return, as required by K.S.A. 79-5a02, that was due March 20, 2017. The attorney responded that the Company would contact the Kansas Department of Revenue.

On October 23, 2017, Staff again contacted the NTS attorney via email and indicated the items on the list provided on October 11, 2017, were still outstanding. The attorney responded that the issues would be cared for by October 27, 2017.

On November 29, 2017, Staff again contacted the NTS attorney via email and indicated the items on the list provided on October 11, 2017, were still outstanding. The attorney responded that he would follow up and get back with Staff. No further response was received.

All missing documentation has now been filed and outstanding payments have been made, except for the 2016 Annual Interrogatory. Staff recommends a penalty of \$500 be assessed against NTS Communications for violation of Commission orders and requirements and the Certificate of Convenience for the Company be revoked. Staff recommends the penalty due to the continuing issues of non-compliance with the Company and the repeated attempts to help them come into compliance being ignored.

Per K.S.A. 66-138, the Commission has the authority to levy a penalty of \$100 to \$5,000 for each violation. However, given the size of the company and the fact the Company is no longer operating in Kansas, Staff is therefore recommending a penalty of \$500.

RECOMMENDATION:

As indicated above, NTS has failed to file its 2016 Annual Interrogatory. Staff recommends the Commission assess a fine of \$500 for violation of Commission orders and requirements and revoke the Certificate and authority the carrier currently holds.

Regarding the Company's reporting obligations to the KUSF, Staff recommends that if the Commission finds that NTS' Certificate should be canceled, the Commission should authorize GVNW Consulting to remove the Company's name from its active KUSF files. It is possible that some monies might be retained in the KUSF or attempts made to return the monies to the carrier. Therefore, the Commission should also direct GVNW to maintain its records in such a manner that in the event any monies due to the KUSF are ever paid, the files can reflect receipt of these monies paid.

CERTIFICATE OF SERVICE

18-NTSC-105-SHO

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on JAN 18 2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

JAN 19 2018