

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

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

**ORDER TO SHOW CAUSE**

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On December 13, 1995, in Docket No. 95-HPNC-656-COC, the Commission granted Hi-Plains Communications a Certificate of Convenience and Authority to provide interexchange (IXC) service in Kansas. On August 4, 1998, in Docket No. 98-NTSC-741-CCN, the Commission granted the company's request to change its name to NTS Communications, Inc. (NTS).

2. On January 29, 2015, the Commission opened a show cause proceeding against NTS for failing to remain in compliance with K.S.A. 66-1503.<sup>1</sup> On February 24, 2016, the Commission dismissed the case after NTS paid its outstanding Commission assessments.

3. On June 21, 2016, the Commission opened another show cause proceeding against NTS for once again failing to remain in compliance with K.S.A. 66-1503.<sup>2</sup> On August

---

<sup>1</sup>Docket No. 15-NTSC-317-SHO.

<sup>2</sup>Docket No. 16-NTSC-570-SHO.

16, 2016, the Commission dismissed the case after NTS paid its outstanding Commission assessments. The Commission also assessed a \$100.00 penalty on NTS which remains outstanding.

4. Kansas statutes impose specific duties on businesses and telecommunications public utilities operating within the state. K.S.A. 17-7931(a) requires foreign corporations to obtain authority from the Kansas Secretary of State before engaging in business in Kansas. K.S.A. 66-1503 requires all public utilities and common carriers to pay assessments to the Commission. K.S.A. 66-123 requires public utilities to file Annual Reports with the Commission. K.S.A. 66-2008 requires all telecommunications public utilities to contribute to the Kansas Universal Service Fund (KUSF) on an equitable and nondiscriminatory basis. This is not an exhaustive list.

5. Commission Staff (Staff) submitted a Report and Recommendation (R&R) to the Commissioners on August 29, 2017, attached hereto and made a part hereof by reference.

6. Staff explained that in addition to failing to pay its outstanding \$100.00 penalty, NTS has failed to pay a \$25.00 Commission assessment from July 17, 2017. NTS has failed to file its required Annual Interrogatory by May 1, 2017, and NTS is delinquent in submitting its March 2016-February 2017 (FY20) Annual True-up and its March 2017-February 2018 (FY21) Attachment B form. Furthermore, NTS is in “forfeiture” status with the Kansas Secretary of State’s office.

7. Staff has attempted to contact NTS to no avail.

8. Staff recommends the Commission open a proceeding requiring NTS to show cause why this Commission should not initiate sanctions or fines and cancel, suspend or revoke any authority the carrier currently holds.

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

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. NTS shall show cause, within thirty (30) days of receipt of this Order, why it should not be subject to sanctions, fines, penalties, or authority suspension/revocation for failing to maintain compliance with its Kansas regulatory obligations.

B. If NTS's certificate is cancelled as a result of this proceeding, 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.

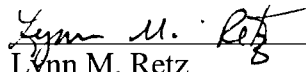
C. The parties have fifteen (15) days, plus three (3) days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118; K.S.A. 77-529(a)(1).

D. 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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: SEP 12 2017

  
Lynn M. Retz  
Secretary to the Commission

MRN

**Order Mailed Date**

**SEP 13 2017**

## 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:** August 29, 2017

**SUBJECT:** 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:

NTS Communications, Inc. (NTS) has failed to file its 2016 Annual Interrogatory<sup>1</sup> by the designated filing date of May 1, 2017, and is delinquent with Commission assessments, the Secretary of State's Office and the Kansas Universal Service Fund (KUSF).<sup>2</sup> Numerous attempts have failed to get NTS compliant with K.S.A. 66-2008 and K.S.A. 17-7509(a).

Staff recommends the Commission open a proceeding requiring NTS to show cause why this Commission should not initiate sanctions or fines and cancel, suspend or revoke any authority the carrier currently holds.

<sup>1</sup> 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.

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

## **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 \$100.00 on invoice 2017010121, which remains outstanding.

On July 17, 2017, the Commission issued an assessment invoice number 2018000183 for \$25.00, which remains outstanding. On the same date the Commission also issued an invoice 2018000468 on behalf of CURB for \$25.00. The CURB invoice has been paid, however, the Commission invoice has not. K.S.A. 66-1502 authorizes the Commission to assess fees for investigations or appraisals of public utilities, and K.S.A. 66-1503 outlines the process by which the Commission issues assessments. K.S.A. 66-1503 provides for the Commission to impose an assessment on all public utilities based on a percentage of a utility's intrastate gross operating revenues.

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 has failed to file its 2016 Annual Interrogatory with the Commission by the May 1, 2017, filing deadline.

K.S.A. 66-2008 requires all telecommunications public utilities to contribute to the KUSF on an equitable and nondiscriminatory basis. NTS Communications is currently delinquent in submitting its March 2016 – February 2017 (FY20) Annual True-up and its March 2017 – February 2018 (FY21) Attachment B form.

The Kansas Secretary of State's record indicates that NTS' authority to operate in the state of Kansas is in "forfeiture" status as of July 15, 2017. Thus, if not resolved, NTS 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 current status with Kansas statutes over the past three years and currently with K.S.A. 17-7509(a), K.S.A. 66-2008, and Commission Orders. 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. Further investigation revealed the other delinquencies.

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. The Commission may assess a penalty of \$100 to \$5,000 for each such violation.

Online examination of records searched discloses that NTS has not filed for either Chapter 7 or Chapter 11 bankruptcy protection. The Company's website is active.

#### **RECOMMENDATION:**

As indicated above, NTS has failed to file its 2016 Annual Interrogatory and is delinquent with Commission assessments, the Secretary of State's Office and the KUSF. Attempts to make contact with NTS to correct the Company's non-compliance issues have gone unanswered.

Staff recommends the Commission open a proceeding requiring NTS to show cause why this Commission should not initiate sanctions or fines and cancel, suspend or revoke any 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 **SEP 12 2017**.

CYRUS DRIVER, PRESIDENT  
NTS COMMUNICATIONS, INC.  
D/B/A ROCKY MOUNTAIN NTS COMMUNICATIONS  
1220 BROADWAY  
STE 100  
LUBBOCK, TX 79401-3202

MICHAEL NEELEY, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3167  
m.neeley@kcc.ks.gov

DAVID G. WINTER, SENIOR CONSULTANT  
GVNW CONSULTING, INC.  
2270 LA MONTANA WAY, Ste 200  
COLORADO SPRINGS, CO 80918  
Fax: 719-594-5803  
dwinter@gvnw.com

MELINDA MEDLEY, AP  
NTS COMMUNICATIONS, INC.  
D/B/A ROCKY MOUNTAIN NTS COMMUNICATIONS  
1220 BROADWAY  
STE 100  
LUBBOCK, TX 79401-3202  
Fax: 806-788-3398  
melindam@ntscom.com

NICOLE STEPHENS, KUSF ADMINISTRATOR MANAGER  
GVNW CONSULTING, INC.  
3220 PLEASANT RUN SUITE A  
SPRINGFIELD, IL 62711  
Fax: 719-594-5803  
nstephens@gvnw.com

/S/ DeeAnn Shupe  
DeeAnn Shupe

**Order Mailed Date**

**SEP 13 2017**