

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Sue Vanicek, Director of the ) Application No. 911-020.08/  
Nebraska Telephone ) DC-86  
Infrastructure and Public Safety )  
Department of the Nebraska )  
Public Service Commission, )  
Complainant, ) COMPLAINT SUSTAINED, IN  
v. ) PART  
BCN Telecom, Inc., Comtech 21, )  
LLC., Diller Telephone Company, )  
NetTalk.com, Inc., )  
Respondent(s). ) Entered: August 5, 2014

BY THE COMMISSION:

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

On May 13, 2014, Sue Vanicek, Director of the Nebraska Telephone Infrastructure and Public Safety Department (Complainant), filed a complaint against the above-captioned Respondents in this docket alleging a violation of Neb. Rev. Stat. § 86-437. Complainant alleged Respondents failed to timely file with the Commission by April 30, 2014 annual reporting information as required by § 86-437(2). Complainant sought an order assessing administrative fines and ordering Respondents to comply with the reporting requirements.

The Complaint was served on each Respondent via certified mail. Prior to the hearing on the Complaint, one Respondent signed a stipulation, paid administrative fines, and was dismissed from the docket. Commission staff is working with one additional company on compliance and will be dismissed. However, BCN Telecom, Inc. (BCN Telecom) and NetTalk.com, Inc. (NetTalk) have not yet been dismissed.

A hearing was held on July 29, 2014, in the Commission Hearing Room, Lincoln, Nebraska, for the remaining Respondent. Joselyn Luedtke appeared on behalf of Commission staff. No one appeared on behalf of BCN Telecom or NetTalk to show cause as to why the Commission should not impose administrative fines. Further no answer to the complaint was filed on behalf of BCN Telecom or NetTalk.

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Based upon the complaint and evidence presented by Commission staff, the Commission finds as follows.

The remaining Respondents, BCN Telecom and NetTalk, are telecommunication companys generally regulated by the Commission, pursuant to Neb. Rev. Stat. §§ 75-101, et seq. (2008 Cum. Supp.) and §§ 86-101 et seq. (2008 Cum. Supp.).

As part of its regulatory authority and pursuant to § 86-437, the Commission, through its Telecommunications Infrastructure and Public Safety Department, requires telecommunications companies to file a landline 911 report with the Commission in a form prescribed by the Commission on or before April 30<sup>th</sup> of each year.

The Respondents failed to comply with the mandates of Neb. Rev. Stat. § 86-437. Therefore, this Commission, pursuant to its statutory authority, may administratively impose fines on all such companies after notice and public hearing.

All Respondents who contacted the Commission were given the option of negotiating a settlement by submitting the required report and signing a stipulation with the Department, wherein each Respondent admitted to filing their annual report late and agreed to pay an administrative fine to dismiss the departmental complaint against them. To date, BCN Telecom and NetTalk have not filed any of the required information.

Department policy sets the fines for failure to file an annual report at \$10 per day for the first 30 days, \$100 per day for each day thereafter, not to exceed \$3,300, plus an administrative fee of \$100. For subsequent violations the fine increases to \$100 per day plus administrative fees of \$100.

While this is the first complaint against BCN Telecom for a violation of the mandates of Neb. Rev. Stat. § 86-437, NetTalk failed to file their 2011 annual report as well as the 2013 report at issue in this complaint.

The Commission finds that BCN Telecom should be assessed an administrative fine in the amount of \$300.00 and an additional \$100.00 in costs.

The Commission also finds that as a repeat violator, NetTalk should be assessed an administrative fine in the amount of \$3,300.00 and an additional \$100.00 in costs.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the complaint be sustained in part and fines be levied against BCN Telcom, Inc. in the amount of \$300.00 and an additional \$100.00 in costs.

IT IS FURTHER ORDERED by the Nebraska Public Service Commission that the complaint be sustained in part and fines be levied against NetTalk.com, Inc. in the amount of \$3,300.00 and an additional \$100.00 in costs.

MADE AND ENTERED at Lincoln, Nebraska, this 5<sup>th</sup> day of August, 2014.

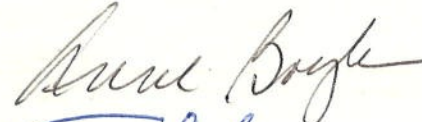

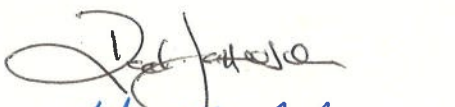

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

  
Chairman

ATTEST:

  
Executive Director

//s//Frank E. Landis