

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. NUSF-32.17
on its own motion, seeking to)
conduct an inquiry into the)
failure of certain telecommuni-) ORDER SUSTAINING SHOW CAUSE
cations companies to comply with) AND IMPOSING CIVIL PENALTIES
Commission Rules or Orders and)
to impose administrative fines.)
) Entered: November 4, 2020

BY THE COMMISSION:

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

As part of its regulatory authority pursuant to the Nebraska Telecommunications Universal Service Fund Act¹ (the NUSF Act) the Commission has adopted requirements to verify the accuracy of Nebraska Universal Service Fund remittances. Pursuant to *Neb. Rev. Stat.* § 86-324(2)(d), the Commission

[S]hall require, as reasonably necessary, an annual audit of any telecommunications company to be performed by a third-party certified public accountant to insure the billing, collection, and remittance of a surcharge for universal service. The costs of any audit required pursuant to this subdivision shall be paid by the telecommunications company being audited.

Consistent with this statutory requirement, on April 10, 2007, the Commission entered an Order in Docket No. NUSF-33 adopting remittance audit requirements for all telecommunications carriers contributing to the Nebraska Universal Service Fund (NUSF).² As required by that Order, remittance audits are to be performed by an independent third party, with audit results for a randomly selected audit period. In addition, consistent with that Order, the remittance audits are due on or before December 31st in the year the Commission notified the companies of the audit requirement.

¹ See *Neb. Rev. Stat.* § 86-316 et seq. (2014).

² See NUSF- 33, *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to investigate the audit requirements related to the Nebraska Universal Service Fund*, Order (April 10, 2007).

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The record reflects that the following companies have filed a complete audit report, but failed to timely file their complete audit report:

Stratus Networks, Inc.
Ooma, Inc.

The record reflects that following companies failed to file the audit report that was due on December 31, 2019 altogether:

Opex Communications, Inc.
First Communications, LLC
Long Lines Siouxland, LLC

A Show Cause Hearing was held on October 6, 2020 where the above-named companies had the opportunity to show cause why they failed to comply with the Commission's audit filing requirement and why the Commission should not impose administrative penalties pursuant to *Neb. Rev. Stat. § 75-156* (2018) or take other action as necessary for failing to timely comply with the Commission rules and orders described herein.

No appearance or testimony was offered for any of the above-named companies subject to the Show Cause Order.

In consideration of the information presented by the Department relative to the companies named in the Show Cause Order, the Commission finds the following entities should be required to file their remittance audits with the Commission no later than December 31, 2020:

Opex Communications, Inc.
First Communications, LLC
Long Lines Siouxland, LLC

In light of the failure of these companies to file their remittance audits pursuant to Commission rules and orders, and in light of their failure appear at the Show Cause Hearing, the Commission finds each shall be administratively fined thirty-three

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hundred dollars (\$3,300.00). In addition, each company shall be assessed an administrative fee of one hundred dollars (\$100.00).

With respect to Ooma, Inc., this entity filed its audit report thirty (30) days late. Pursuant to its fining policy, the Commission finds that Ooma, Inc. shall be administratively fined three hundred dollars (\$300.00) in addition to an administrative fee of one hundred dollars (\$100.00) for a total of four hundred dollars (\$400.00).

Stratus Networks, Inc., initially filed a report that was incomplete and, was not completed by an independent third-party as required by statute. Notification of this deficiency was sent to Stratus Networks, Inc., on April 14, 2020. Stratus Networks, Inc. was provided a deadline of August 1, 2020 for the complete audit. The complete audit was filed on October 13, 2020. Consistent with the Commission's fining policy, the Commission finds that Stratus Networks, Inc., shall be administratively fined thirty-three hundred dollars (\$3,300). In addition, the Commission finds that Stratus Networks, Inc. owes an administrative fee of one hundred dollars (\$100.00).

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Order to Show Cause shall be, and it is hereby, sustained.

IT IS FURTHER ORDERED that **OPEX Communications, Inc., First Communications, LLC, Long Lines Siouxland, LLC**, be and they are hereby required to file their remittance audits with the Commission no later than December 31, 2020.

IT IS FURTHER ORDERED that OPEX Communications, Inc., First Communications, LLC, Long Lines Siouxland, LLC, and Stratus Networks, Inc. are hereby, ordered to submit payment in the amount of \$3,400 as an administrative penalty and fee for failure to timely comply with the Commission's remittance audit requirements.

IT IS FURTHER ORDERED that Oooma, Inc. is hereby ordered to submit payment in the amount of \$400.00 in administrative penalties and fees for filing its audit report thirty days after the deadline.

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IT IS FURTHER ORDERED that the payment of the ordered penalty amounts shall be remitted to the Nebraska Public Service Commission within thirty (30) days from the date of this Order. Failure to pay any civil penalty may be collected by civil action in the district court of Lancaster County.

MADE AND ENTERED at Lincoln, Nebraska, this 4th day of November, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rock Johnson
Crystal Hender
Tim Schram
Don Watson

Mary Kadden
Chair

ATTEST:

Michael S. Hyatt
Executive Director