

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Sue Vanicek, Director of the) Application No. NUSF-37.206
Nebraska Telecommunications)
Infrastructure and Public Safety)
Department of the Nebraska)
Public Service Commission,)
Complainant,) ORDER SUSTAINING COMPLAINT
AND ASSESSING PENALTIES
v.)
Ztar Mobile, Inc.,)
Respondent.)
ENTERED: May 3, 2011

BY THE COMMISSION:

By Complaint dated February 2, 2010, Sue Vanicek, the Director of the Nebraska Telecommunications Infrastructure and Public Safety Department ("NTIPS") of the Nebraska Public Service Commission ("Commission") (hereinafter "Complainant") filed a Complaint against Ztar Mobile, Inc., (hereinafter "Respondent") alleging that Respondent failed to file the required remittance worksheets or remittance payments to the NTIPS Department by the 15th day following the end of the remittance period.

The Complaint was amended on August 31, 2010, by NTIPS alleging further failures by the Respondent to file the required remittance worksheets or remittance payments by the 15th day following the end of the remittance period. Copies of the complaints were served on the Respondent via certified mail. On February 23, 2011, the Commission enter an Order to Show Cause, ordering the Respondent to appear before the Commission and show why administrative fines and penalties should not be assessed against the Respondent by the Commission. A copy of the Show Cause Order was sent to the Respondent via certified mail.

Hearing on this matter was held on April 19, 2011 in the Commission Hearing Room. The Respondent failed to appear.

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

"Telecommunications companies shall remit the NUSF surcharge on a monthly basis to the NUSF except as provided in Rule 003.01B."¹ Companies whose assessable revenue is less than

¹ Neb. Admin. Code, Title 291, Ch. 10 § 003.01A (1992).

\$20,000 for a given fiscal year are given the option of remitting on a quarterly basis.² Additionally, Sections 003.02 and 003.03 provide that remittance worksheets shall be received by the Department no later than the 15th day following the end of a remittance period and all remittance payments must be transferred electronically to the Nebraska State Treasurer no later than the 15th day following the end of the remittance period. Respondent failed to file the required remittance worksheet or remittance payment to the Department by the 15th day following the end of the 1st Quarter, 2009; 4th Quarter, 2009; and 2nd Quarter, 2010 remittance period(s).

Copies of the complaint and amended complaint were served on the Respondent via certified mail return receipt requested on or about February 9, 2010 and September 13, 2010. "Except where good cause shown . . . failure to answer will be construed as an admission of the allegations in the complaint."³ No answer was received.

Respondent filed the NUSF remittance worksheets with the Commission for the aforementioned remittance periods after the worksheets were due. Department staff has made numerous contacts via phone and email to the company regarding the late filed remittances but the Respondent has failed to address the complaints. Therefore, the Commission finds that Respondent failed to timely file NUSF remittance worksheets or payments for the periods listed above.

Pursuant to Neb. Rev. Stat. § 75-156, Commission rules and regulations and the fining policy adopted by the Commission, Respondent is subject to fines for failure to timely file NUSF remittance worksheets or payments for the periods listed above. At hearing, Commission staff recommended that administrative fines in the amount of \$2,400.00 be assessed against Respondent. This amount is based on the cumulative and repeat late filing schedule described in the Commission fining policy.

Based upon the above, the Commission finds that administrative fines totaling **two thousand four hundred dollars (\$2,400.00), consisting of four hundred (\$400.00) in late handling fees per remittance period and four hundred dollars (\$400.00) in administrative penalties per remittance period** should be assessed against Respondent. Respondent should remit the outstanding remittance payments, costs and administrative

2 Neb. Admin. Code, Title 291, Ch. 10 § 003.01B (1992).

3 Neb. Admin. Code, Title 291, Ch. 1 § 5.08D (1992).

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penalties to the Commission within thirty (30) days of this order.

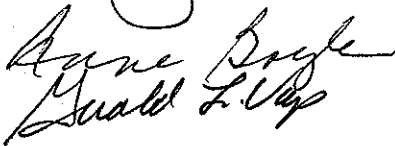
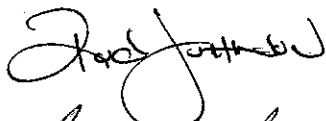
O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that administrative fines totaling **two thousand four hundred dollars (\$2,400.00)**, consisting of **four hundred (\$400.00) in late handling fees per remittance period and four hundred dollars (\$400.00) in administrative penalties per remittance period** should be assessed against Respondent.

IT IS FURTHER ORDERED that Respondent shall remit the outstanding remittance payments, costs and administrative penalties to the Commission within thirty (30) days of this order.

MADE AND ENTERED at Lincoln, Nebraska, this 3rd day of May, 2011.

COMMISSIONERS CONCURRING:

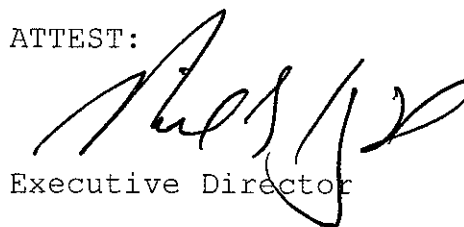


//s//Frank E. Landis
//s//Tim Schram

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director