

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Decertification of) DOCKET NO. 05-2359-01
NetTronix, Inc.)
)
) REPORT AND ORDER CANCELING
) CERTIFICATE

ISSUED: March 13, 2006

SYNOPSIS

NetTronix, Inc. ("NetTronix") having failed to appear and show cause why NetTronix has failed to file its annual report for 2004, and further to show cause why NetTronix should not be fined and have its Certificate of Public Convenience and Necessity cancelled for its failure to file the annual report, and no detriment to the public interest appearing, the Commission cancelled the certificate.

By The Commission:

PROCEDURAL HISTORY

On August 1, 2005, the Division of Public Utilities ("Division") filed a memorandum requesting the Public Service Commission of Utah ("Commission") issue an Order to Show Cause to NetTronix Inc. ("NetTronix") for failure to file its annual report for the year ended December 31, 2004.

On August 11, 2005, the Commission issued an Order to Show Cause commanding NetTronix and its officers to show cause, if any, why NetTronix has not filed its annual report, and further to show cause why NetTronix should not be fined or have other remedies imposed. The Commission received no response from NetTronix.

On February 13, 2006, the Division again filed a memorandum requesting the Commission issue an Order to Show Cause why NetTronix should not be fined or its certificate suspended or revoked for failure to file its annual report.

On February 24, 2006, the Commission issued a Notice of Hearing on Order to Show Cause. On March 9, 2006, hearing commenced as noticed before the Administrative Law Judge. Patricia Schmid, Assistant Attorney General, State of Utah, appeared on behalf of the Division. Mr. Wesley Huntsman testified on behalf of the Division. Representatives of NetTronix failed to appear.

BACKGROUND AND DISCUSSION

On May 2, 2001, in Docket No. 01-2359-01, the Commission granted NetTronix a Certificate of Public Convenience and Necessity (“certificate”) authorizing NetTronix “to provide local and public telecommunications services within the State of Utah.”

Utah Code Ann. § 54-3-21 provides:

(1) Every public utility shall furnish to the commission in such form and such detail as the commission shall prescribe all tabulations and computations and all other information required by it to carry into effect any of the provision of this title, and shall make specific answers to all questions submitted by the commission.

(2) Every public utility receiving from the commission any blanks with directions to fill the same shall cause the same to be properly filled so as to answer fully and correctly each question propounded therein; in case it is unable to answer any question, it shall give a good and sufficient reason for such failure.

In addition, *Utah Code Ann.* § 54-3-22 states:

Every public utility shall furnish to the commission at such time and in such form as the commission may require a report in which the public utility shall specifically answer all questions propounded by the commission upon or concerning any matter upon which the commission may desire information. The commission

shall have authority to require any public utility to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matter about which the commission is authorized to inquire or to keep itself informed or which it is required to enforce. All reports shall be under oath when required by the commission.

At hearing, the Division submitted evidence indicating NetTronix had not filed its required annual report for the year ending December 31, 2004. The Division mailed the annual report form to NetTronix for completion on February 1, 2005. The report was due by March 31, 2005. The Division thereafter sent a number of letters and emails to NetTronix concerning the delinquency of the annual report; the most recent correspondence being a certified letter warning NetTronix of the potential filing of an order to show cause. This letter was received and signed for on June 14, 2005. The Division also telephoned the President of NetTronix who told the Division on April 18, 2005, that the annual report would be filed by the end of April 2005. However, the report has never been filed. The Division testified that cancellation of the NetTronix's certificate would be in the public interest and would not harm Utah ratepayers. The Division believes NetTronix currently serves no customers in Utah.

We therefore find and conclude that NetTronix has failed to file an annual report for the year ended December 31, 2004, in violation of statute and that cancellation of its certificate is in the public interest.

Therefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- The Certificate of Public Convenience and Necessity, issued May 2, 2001, to NetTronix, Inc., be, and it is, cancelled and annulled effective the date of this Order.
- Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

Dated at Salt Lake City, Utah, this 13th day of March, 2006.

/s/ Steven F. Goodwill
Administrative Law Judge

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Approved and Confirmed this 13th day of March, 2006, as the Report and Order of
the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/Julie Orchard
Commission Secretary
G#48014