

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Petition of  
the DIVISION OF PUBLIC )  
UTILITIES for an Order to Show )  
Cause why NETTRONIX, INC. )  
should not be penalized for failure to )  
file its annual report and pay its )  
Public Utilities Regulation Fee )

DOCKET NO. 05-2359-01

ORDER TO SHOW CAUSE

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ISSUED: August 11, 2005

By the Commission:

On August 1, 2005 The Division of Public Utilities (Division) requested that the Public Service Commission of Utah (Commission) take agency action to issue an Order to Show Cause to NetTronix Inc. (Company) for failure to file its annual report for the year ended December 31, 2004. Pursuant to Section 54-7-25 U.C.A., the Commission can impose a fine of up to \$2,000 per day. The Commission could also cancel the certificate of public convenience and necessity issued to the Company. In support of its petition, the Division alleges facts as follows:

On March 2, 2001, NetTronix, Inc. petitioned the Commission to issue a certificate of public convenience and necessity allowing the Company to become a competitive local exchange carrier. The application was designated Docket No. 01-2359-01 and the case was converted into an informal proceeding and there was no hearing held.

The Commission granted a Certificate of Public Convenience and Necessity on May 2, 2002. The Company was authorized “. . . to provide local and public telecommunications services within the State of Utah...” Utah Code Ann. Section 54-3-21 states:

(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.

Utah code Section 54-3-22 states as follows:

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.

The Division mailed the annual report form to the Company on February 1, 2005. The report was due by March 31, 2005. A reminder letter was sent on April 5, 2002.

A certified letter dated June 13, 2002, was sent from the Office of the Attorney General giving a final notice that if the report was not filed within 30 days a petition would be filed with the Commission requesting an order to show cause. The domestic return receipt card was signed and has been returned to the Division, showing that the letter was received by the Company. **The annual report for the year ended December 31, 2004 has not been filed.**

All letters and notices were mailed to the last known address that the Company provided to the Commission.

Utah code Section 54-7-25 states as follows:

(1) Any public utility that violates or fails to comply with this title or any rule or order issued under this title, in a case in which a penalty is not otherwise provided for that public utility, is subject to a penalty of not less than \$500 nor more than \$2,000 for each offense.

(2) Any violation of this title or any rule or order of the commission by any corporation or person is a separate and distinct offense. In the case of a continuing violation, each day's continuance of the violation shall be a separate and distinct offense.

(3) In construing and enforcing the provisions of this title relating to penalties, the act, omission, or failure on any officer, agent, or employee of any public utility acting within the scope of his official duties or employment shall in each case be deemed to be the act, omission, or failure of that public utility.

Whereas there appears to be good cause to support said allegations, the Commission enters the following order.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. NETTRONIX, INC. and its officers, shall show cause, if any, why NetTronix, Inc. has not filed an annual report, and further to show cause why the Company should not be fined for failing to file the report, and other remedies imposed on the Company and its named officers.

DATED at Salt Lake City, Utah, this 11<sup>th</sup> day of August, 2005.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

G#45415