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April 23, 2010

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
400 North Street, Filing Room
Harrisburg, PA 17101

Re: Palmerton Telephone Company v. Global NAPs South, Inc., Global NAPs
Pennsylvania, Inc., Global NAPs, Inc., and other affiliates; Docket No. C-2009-
2093336

Dear Secretary McNulty:

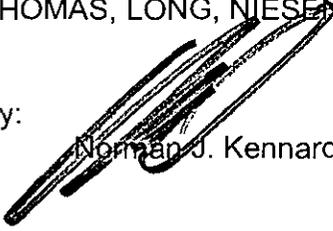
Enclosed for filing please find an original and three (3) copies of the Answer of
Palmerton Telephone Company to the Petition for Reconsideration of Global NAPs.

If you have any questions, please do not hesitate to contact me.

Sincerely,

THOMAS, LONG, NIESEN & KENNARD

By:


Norman J. Kennard

cc: Chairman and Commissioners
Per Certificate of Service

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PA PUC
SECRETARY'S OFFICE

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Palmerton Telephone Company, :
Complainant :
v. :
Global NAPs South, Inc., Global NAPs :
Pennsylvania, Inc., Global NAPs, Inc., :
and other affiliates :
Respondents :

Docket No. C-2009-2093336

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RECORDED
SERIALIZED
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ANSWER OF PALMERTON TELEPHONE COMPANY TO
PETITION FOR RECONSIDERATION OF GLOBAL NAPs**

Palmerton Telephone Company ("Palmerton") hereby answers the Petition filed by Global NAPs South, Inc., Global NAPs Pennsylvania, Inc., Global NAPs, Inc., and other affiliates ("Global NAPs") before the Pennsylvania Public Utility Commission ("Commission") for reconsideration of the Commission's March 16, 2010 Order sustaining Palmerton's Complaint and providing other relief ("March 16 Order"):

I. SUMMARY OF ANSWER.

Global NAPs' Petition adds nothing new or novel to the facts of record or the pleadings previously submitted in this proceeding. The "new" legal precedent presented by Global NAPs is simply a reassertion of legal analyses already found by the Commission to be unpersuasive. Under the *Duick* standard, Global NAPs' Petition should not be entertained.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Palmerton Telephone Company,
Complainant

v.

Global NAPs South, Inc., Global NAPs
Pennsylvania, Inc., Global NAPs, Inc.,
and other affiliates

Respondents

Docket No. C-2009-2093336

**ANSWER OF PALMERTON TELEPHONE COMPANY TO
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SECRETARY'S BUREAU

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The District Court in a reported opinion involving Paetec and CommPartners has no legal effect in Pennsylvania and, simply stated, is wrong, as it is based upon the same faulty

legal analysis that the Commission has previously rejected. As the Commission correctly ruled in the March 16 Order, it is not the originating protocol, but the character of the delivery by Global NAPs that determines whether information or telecommunications service is provided. The record of this case focused upon Global NAPs, with the Commission correctly determining that Global NAPs tendering of the traffic to Palmerton is a telecommunications service. The operation of CommPartners was not litigated in this case (no CommPartners witness testified and, indeed, CommPartners objected to testifying) and, since the District of Columbia District court opinion reveals no facts (other than alleged IP-origination) to support its opinion, whether the operations of the two companies is similar is not known.

Nor does the March 16 Order misread the New Hampshire Public Utilities Commission (“NHPUC”) Order. After the Global NAPs Petition for Reconsideration was filed here, the NHPUC affirmed **in every respect** its prior Order.¹ While the relief ordered in New Hampshire was somewhat different than was shaped here, including the directive that, if Global NAPs does not pay the entire bill, both inter and intrastate portions, it will be disconnected, the legal and factual analysis leading to the relief ordered is the same. Global NAPs’ attempt to convince the NHPUC to revise its decision completely was unsuccessful, as it should be here.

Also, the “new” and “corrected” facts asserted by Global NAPs are either incorrect, exaggerated or irrelevant. Global NAPs’ “offer” to pay an arbitrary \$.00045 in lieu of the legal rate found by this Commission has no legal relevancy to the traffic at issue in this proceeding, and was never a serious offer by Global NAPs. It was raised only once in an

¹ *Hollis Telephone, Inc., Kearsarge Telephone Co., Merrimack County Telephone Co., And Wilton Telephone Co Joint Petition for Authority to Block the Termination of Traffic from Global NAPs Inc.*, NHPUC Docket No. DT 08-028, Order Denying Motion for Stay, Rehearing or Reconsideration, NHPUC Order No. 25,088, dated April 2, 2010 (“NHPUC Reconsideration Order”).

attempt to avoid payment of the surety bond. Indeed, it was not made until the Commission had already determined that Global NAPs should post a surety bond.

Global NAPs never requested an interconnection agreement with Palmerton until **after** the Commission's Order in this case was adopted. Contrary to Global NAPs' claim, *this request for interconnection does not render the complaint case "moot."* Any relief that Global NAPs may obtain from an interconnection arbitration is prospective and has no retroactive impact. Nor is the fact that Global NAPs filed a Petition for Preemption with the FCC likely to have any effect, and even if it does, this will likely be prospective as well.

As to the second "new" fact, this Commission well understood that a few of the over 2,100 calls in the Palmerton traffic study were relayed to numbers that Paetec had assigned to Vonage. The Commission's March 16 Order fully recognizes this traffic and acknowledged it as one example of the one sided compensation scheme that Global NAPs proposes.

Finally, Global NAPs' claims that the bill submitted by Palmerton is incorrect. To the contrary, the bill is *completely accurate and consistent with the Commission's Order*, an explanation that Global NAPs chooses to ignore. Once again, Global NAPs simply seeks to inject confusion into what is very straightforward. Global NAPs did not even include an accurate copy of the final bill in its pleading.

In summary, Global NAPs is simply engaging in further obfuscation and delay tactics. No basis for reconsideration is presented and the Commission should reject the Petition and affirm its prior ruling.

II. THE STANDARDS OF RECONSIDERATION ARE NOT MET.

Whether to accept reconsideration is discretionary to the Commission:

We have held that petitions for reconsideration must assert new and novel arguments not previously considered or raise matters which are designed to

convince us to exercise our discretion to rescind or amend the order under consideration. *Duick v. PG& W*, 56 Pa. P.U.C. 553, 51 P.U.R. 4th 284 (1982) (*Duick*), citing *Pa. Railroad Co. v. Pa. PSC*, 118 Pa. Superior Ct. 380, 179 A. 850 (1935). Our decisions in these types of cases are left to our sound discretion and will not be disturbed on appeal absent bad faith, fraud, capricious action, or abuse of power. *West Penn Power v. Pa. PUC*, 659 A.2d 1055 (Pa. Cmwlth. 1995), *petition for allowance of appeal denied*, 544 Pa. 619, 674 A.2d 1079 (1996) (*West Penn Power*).²

A motion for reconsideration **must** raise new and novel issues not previously considered that the party did not have the opportunity to present at hearing. The Commission delineated the standards to be applied in considering a request for rehearing or reconsideration in *Duick*, where it stated:

. . . A Petition for Reconsideration, under the provisions of 66 Pa C.S. §703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard, we agree with the court in the *Pennsylvania Railroad Company* case, wherein it was said that: 'Parties ... cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them ...' What we expect to see raised in such petitions are new and novel arguments, not previously heard or considerations which appear to have been overlooked or not addressed by the Commission.³

A petition for reconsideration is properly before the Commission only where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances.⁴

Here, Global NAPs recognizes *Duick*, but makes no effort to explain how it meets that standard. It does not. The Petition consists of raising facts already of record and arguing legal theories already rejected in the March 16 Order.

² *Petition of Core Communications, Inc. For Resolution of Dispute with Verizon Pennsylvania, Inc. Pursuant to the Abbreviated Dispute Resolution Process*, Docket No. A-310922F7000, Order entered January 22, 2004 at 3-4.

³ *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553, 559 (1982)

⁴ *Pa. P.U.C. v. Jackson Sewer Corporation*, 2001 Pa. PUC LEXIS 44.

III. THE PRECEDENTS RELIED UPON IN THE COMMISSION'S ORDER ARE ACCURATE AND NOT REVERSED BY SUBSEQUENT DECISIONS.

The *Paetec v. CommPartners* Memorandum Order in the District of Columbia is an unreported case and, therefore, not citable precedent. Moreover, with all due respect, the decision contains sweeping rulings asserting that all VoIP calls are an information service with no case analysis about the nature of CommPartners' delivery of the traffic to Paetec. There is no discussion of the *Time Warner Declaratory Ruling*,⁵ that is to say the Court simply ignored the question of whether CommPartners is providing telecommunications service. Finally, the Court is again wrong to go the next step, declaring that VoIP is an information service, and, therefore, does not have to pay access. This Opinion is at odds with the FCC's acknowledgement in the *Vonage* case⁶ and more recently in the *UTEX* case,⁷ that it has still not revised the compensation rules for nomadic VoIP or preempted the application of access charges to interconnected VoIP. In Palmerton's view, the decision is just plain wrong. The D.C. District Court falls into the familiar trap; that is, to equate interconnected voice with an "enhanced" service and find the delivery of it exempt from compensation.

Nor has there been a demonstration that the facts of this case are similar. The *Paetec* decision is completely silent on CommPartners' operation and does not analyze any of the factual underpinnings necessary to reach a decision. The only fact relied upon was that the traffic allegedly originated in IP protocol.

⁵ Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers, WC Docket No. 06-55 (Memorandum Opinion and Order released March 1, 2007).

⁶ In the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission, WC Docket No. 03-211, FCC 04-267 (Memorandum Opinion and Order, released November 12, 2004).

⁷ *Petition of UTEX Communications Corporation, Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas*, WC Docket No. 09-134, Memorandum Opinion And Order released October 9, 2009 at ¶¶ 9 and 10.

The fact that the FCC has not explicitly ruled on the issue of intercarrier compensation, understandably leads to different results. It can be expected that, from time to time, different jurisdictions will rule differently and, until the FCC rules, this is likely to continue. The fact that a Court in the District of Columbia is confused and entered a wrong opinion should not deter this Commission from creating its own, different precedent within its own jurisdiction. The Paetec Memorandum Order is at odds with the Commission's decision, but it is the Court that is wrong, not this Commission.⁸

In short, the legal analysis of the D.C. Memorandum Opinion is wrong and, further, provides insufficient facts to be of any real assistance as precedent.

The post-Petition submitted case⁹ finds Global NAPs liable, under equity, to pay interstate tariffed rates to the CLEC. The equity result is reached, as the legal analysis contains the same errors as the D.C. Court. Notably, the Court did not find interconnected VoIP to be information and exempt from access. The Court simply "declines to enter the melee and attempt to apply the filed rate doctrine," and, instead, cuts to the heart of the matter -- finding that, under equity, Global NAPs should pay. This Commission has no such broad equity powers under the Public Utility Code, but rather did, to its credit, enter "the melee" and apply its jurisdictional tariffs. The result in the *Manhattan Telephone* case actually supports the Commission's March 16 Order and does not detract from it.

IV. THE NEW HAMPSHIRE ORDER CONTINUES TO BE PERSUASIVE PRECEDENT.

The Global NAPs' Petition was filed prior to the entry of the NHPUC's decision of April 2, 2010, which rejected Global NAPs' request for reconsideration. Therefore, Global

⁸ Parenthetically, the New Hampshire PUC also refused to revise its original Order although Global NAPs also raised the District of Columbia Court Memorandum Order in *Paetec Communications v. CommPartners*. NHPUC Reconsideration Order at 3.

⁹ Letter of Daniel Delaney dated April 16, 2010, conveying a copy of "Findings of Fact and Conclusions of Law" in *Manhattan Telephone Corp. v. Global NAPs*, dated March 31, 2010.

NAPs refers to the New Hampshire Decision as “supposed” and only temporary, the implication being that it would be reversed. The point is now moot, given that the New Hampshire PUC has completely rejected Global NAPs’ reconsideration arguments and thoroughly reaffirmed its prior decision.¹⁰

The New Hampshire PUC summarizes its decision on reconsideration:

This order denies the request of Global NAPs to stay the proceeding, rehear or reconsider the matters before us and reasserts that Global NAPs has terminated traffic on the TDS network without compensation. We again make no determination as to the precise split between intrastate and interstate traffic, as that is not a prerequisite for a finding that TDS is entitled to disconnect Global NAPs for nonpayment for services rendered. The underlying Order left it to Global NAPs to either pay the access bills in full or reach agreement on a payment arrangement for the traffic terminated on the TDS network. The suspension of our order is no longer in effect, and all terms apply with the exception of new dates imposed regarding payment to TDS and notice to Global NAPs customers.¹¹

On the issue raised by Global NAPs here, whether New Hampshire separates inter- and intrastate traffic, the NHPUC clearly identified intrastate traffic, but simply did not feel obliged to separate it and, still rules that **any** nonpayment, including intrastate, is in violation of the tariff:

Non-payment for services rendered with respect to intrastate traffic is a violation of the applicable tariffs on file with this Commission. Commission rules permit TDS to disconnect service to Global NAPs, a non-residential customer, for a violation of a TDS tariff.¹²

The issue is moot here, however, since this Commission did separate the traffic.

Otherwise, Global NAPs simply rehashes (and continues to misconstrue) prior decisions, all the while ignoring this Commission’s disposition in the March 16 Order. The

¹⁰ NHPUC Reconsideration Order, *supra*.

¹¹ *Id.* at 3-4.

¹² *Id.* at 15.

TVC,¹³ *Georgia*,¹⁴ *Global NAPs (Eastern District of New York)*,¹⁵ *AT&T Prepaid Credit Card*,¹⁶ and *AT&T IP-In-The-Middle*¹⁷ decisions were all previously briefed, reply briefed, excepted and reply excepted and are hardly new or even overlooked decisions. Each was addressed by the Commission. Nothing was overlooked in the March 16 Order and Global NAPs here is simply re-arguing its lost case.

V. THERE ARE NO FACTUAL MISSTATEMENTS OR OMISSIONS.

As is typical with Global NAPs, it presents factual assertions which are untrue or misrepresented. Global NAPs never offered to pay compensation for its traffic to Palmerton. Only after the initial hearings were held and Global NAPs sought to avoid payment of the surety bond, did it suggest to the ALJ that it might pay a rate of \$.0045 per minute as a measure of the surety bond. This rate has no application to the current case. There were no further offers or continuing settlement negotiations, despite Global NAPs' allusion to them. Moreover, whether or not Global NAPs offered to settle the case has no affect on the substantive outcome, which is the determination of what compensation should apply.

Similarly, **only** on the day **after** the Order in this case was adopted, did Global NAPs commence the Section 252 interconnection process with Palmerton. The letter requesting interconnection is vague on its salient points and triggered a letter from Palmerton

¹³ "GNAPs' reliance on the NY PSC *TVC v. GNAPs* decision is equally misplaced and unpersuasive for both legal and operative reasons." March 16 Order at 28.

¹⁴ "The Georgia Public Service Commission (GA PSC) reached a generally similar conclusion [to the NHPUC] in an intercarrier compensation dispute between GNAPs and a number of ILECs in the State of Georgia." March 16 Order at 23.

¹⁵ "A relevant decision of the United States District Court for the Eastern District of New York observed the following while deciding opposing motions for partial summary judgment and dismissal..." March 16 Order at 15-16.

¹⁶ "Instead, we are dealing with the wholesale telecommunications transport movement and termination of interexchange traffic that includes VoIP or IP-enabled calls. In these circumstances, the FCC has opined as follows [citing FCC *AT&T Prepaid Calling Card Order*, ¶ 26 at 10]..." March 16 Order at 41-42.

¹⁷ "It is obvious that a telecommunications carrier that needs and obtains Palmerton's intrastate carrier access services at the prescribed jurisdictional rates that the carrier then pays to Palmerton will be competitively but artificially disadvantaged if another carrier obtains the same Palmerton carrier access services and pays no intercarrier compensation. The FCC has expressed similar concerns [citing FCC *AT&T IP in the Middle Order*, ¶ 19 at 13-14]..." March 16 Order at 45-46.

requesting specifics, which have yet to be provided. Further, Global NAPs does not describe why this “factual” development, which seems to constitute another cynical attempt by Global NAPs to manipulate the process, has any legal relevance to the outcome in this case.

Moving to the next claim, the Commission’s March 16 Order recognizes and accurately describes the existence of Paetec numbers in the traffic study submitted by Palmerton. The traffic study represented **over** 2,000 calls (and not the 1,000 represented by Global NAPs in its Petition). The existence of Paetec traffic, some of the numbers of which have been assigned to Vonage, is acknowledged in the Commission’s Order. The Commission found no relevance to the presence of VoIP, even nomadic VoIP traffic:

The fact that GNAPs transports and indirectly terminates traffic that may have initially originated in IP, inclusive of nomadic VoIP, is largely immaterial to this analysis on whether this Commission has subject matter jurisdiction and whether the appropriate jurisdictional intercarrier compensation should apply for this common carriage function.¹⁸

Also notably, Paetec acknowledged in its deposition that, when calls are made to these numbers assigned to Vonage, it would charge access to Palmerton.¹⁹

VI. THE ALLEGED NEW FACTS DO NOT JUSTIFY RECONSIDERATION.

Palmerton completely disagrees that any interconnection agreement that may be entered into or arbitrated in the future would render the Commission’s March 16 Order “moot.” The Complaint addresses existing and ongoing obligations of compensation were

¹⁸ March 16 Order at 32.

¹⁹ The only instance of numbers assigned to Vonage contained on the entire record of this call involves Paetec, a local and interexchange carrier certificated by this Commission and doing so under its state tariffs. Global NAPs Exh. 1, pp. 16, 40. It is important to note that Paetec also assigns its numbers to other “retail end user” customers whom it serves from its retail tariff. Global NAPs Exh. 1 to deposition, p. 41. In other words, simply because a number is held by Paetec does not mean that the number has been assigned for Vonage service.¹⁹ Global NAPs Exh. 1, pp. 29-30. Where a number is assigned to Vonage by Paetec, the address of the Paetec number is still listed in the LERG as a Paetec rate center (switch), so that when a Palmerton customer calls that Vonage-assigned telephone number, the call is routed to that Paetec switch.¹⁹ Global NAPs Exh. 1, pp. 43-44 and 52-53.

Global NAPs to commence resending traffic to Palmerton. The affect of an interconnection agreement, were one entered into, would be prospective only.

As the New Hampshire Commission stated in rejecting the same gambit:

None of the authorities cited by Global NAPs support the assertion that requesting an interconnection agreement should stay an order to require payment by a wholesale provider for past and ongoing use of an ILEC's network. Negotiation of an interconnection agreement is a forward-looking exercise... [TDS'] tariffs continue to govern traffic exchange between TDS and Global NAPs unless and until they are replaced by terms negotiated in an interconnection agreement.²⁰

Finally, Global NAPs asks that the Commission stay its March 16 Order pending the outcome of a petition it has filed with the FCC requesting preemption of various state Commission orders, including the March 16 Order. Palmerton does not believe that this is an adequate basis for delay of the Commission's enforcement of its Order. The Comments on the Petition almost universally condemn the relief sought by Global NAPs. Second, in Palmerton's estimation, the FCC is highly unlikely to rule upon Global NAPs' Petition. Third, while Global NAPs' Petition may be successful (unlikely), any projected outcome is speculative. In the meantime, as the FCC stated in the *UTEX* decision, states should act and follow current law, which is what this Commission did in its March 16 Order.

VII. THE DIRECTIVE TO PAY PALMERTON IS CLEAR AND THE ISSUED FINAL BILL CORRECT.

In a completely blatant attempt to avoid, once again, a payment deadline, Global NAPs claims that the March 16 Order did not suggest a method for distinguishing between intrastate and interstate calls and that Palmerton had presented a bill which includes both. These are both fabrications.

Of course, the Commission clearly and unambiguously endorsed the use of the calling and called telephone number as a basis for separating traffic between interstate and

²⁰ NHPUC Order on Reconsideration at 21.

intrastate, the industry standard used by Palmerton. Early in this proceeding, Palmerton presented its bill as an exhibit (Palmerton Exhibit 3 - Revised), which represents the intrastate portion of the outstanding bill and upon which the Commission relied in setting the surety bond amount. As of the date of that exhibit, May 1, 2009, the amount of \$192,594.32 was due and owing. At the entry of the Commission's March 16 Order, Palmerton updated its Exhibit 3 to reflect the additional late fees (using the tariff late payment rate) and presented a Final Bill in the amount of 193,063.38. Global NAPs then sent a letter to Palmerton expressing "puzzlement," which (intentional) misconceptions were addressed in Palmerton's reply letter. These documents are self-explanatory and attached hereto.

There is no ambiguity over the appropriate billing method contained in the Commission's Order.

We find that prior management or movement of a call communication is not dispositive of its jurisdictional classification when, as here, the NPA/NXX origin and termination of the call are clearly intrastate on the basis of available billing information, associated technologies, and established industry practices for the purposes of establishing the appropriate level of intercarrier compensation.

Based on the case-specific evidentiary record, we find that Palmerton adequately relied on the NPA/NXX origination and termination of the intrastate interexchange call traffic at issue for the jurisdictional classification and billing of such traffic. Such reliance is consistent with the *Core Appeal Decision* in some other but still rather important respects.²¹

That prescribed billing method was followed by Palmerton in submitting the Final Bill to Global NAPs. Global NAPs owes Palmerton, as of the Final Bill rendering, \$193,063.38. The Final Bill does not include interstate charges and payment for interstate services is not sought. No reformulation of the bill is required. What is necessary is that Global NAPs pay the amount.

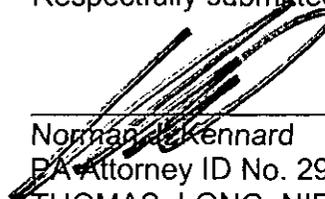
²¹ March 16 Order at 42 and 43.

The due date for payment was April 15, 2010. As of the date of submission of this Answer, Global NAPs has not paid and, once again, by failing to comply, is in contempt of a Commission Order to comply. Notably, it has not paid the fine for the last contempt finding either.

VIII. CONCLUSION.

WHEREFORE, for the above-stated reasons, Palmerton Telephone Company requests that the Commission enter an Order which denies reconsideration and affirms its March 16, 2010 Order.

Respectfully submitted,



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Attorneys for Palmerton Telephone Company

DATE: April 23, 2010



THOMAS, LONG,
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Attorneys and Counsellors at Law

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April 21, 2010

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17105-3265

Re: Palmerton Telephone Company v. Global NAPs South, Inc., Global NAPs Pennsylvania, Inc., Global NAPs, Inc., and other affiliates; Docket No. C-2009-2093336

Dear Secretary McNulty:

In compliance with Ordering Paragraph 5 of the Pennsylvania Public Utility Commission's ("Commission") Order entered on March 16, 2010, in the above referenced matter ("March 16 Order"), Palmerton Telephone Company ("Palmerton") submitted a final bill to Global NAPs South, Inc., *et al.* ("Global NAPs") for payment of the intrastate traffic delivered by Global NAPs to Palmerton, plus appropriate late payment charges ("Final Bill") on March 16, 2010.

Under Ordering Paragraph 6 of the March 16 Order, Global NAPs was provided thirty (30) days within which to make payment, which meant payment of the Final Bill was due on or before April 15, 2010.

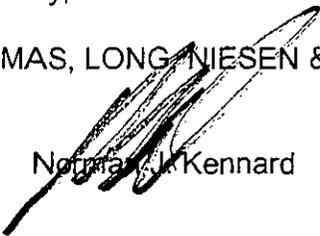
Please be advised that Palmerton has not received any payment from Global NAPs and, as such, Global NAPs is in violation of the March 16 Order. Indeed, other than to express "puzzlement" and request clarification of the bill (correspondence attached), Global NAPs appears to have made no attempt whatsoever to pay Palmerton's Final Bill as directed by the March 16 Order. This is the second time Global NAPs has refused to comply with a Commission Order to Palmerton's detriment.

Based on the foregoing, Palmerton respectfully requests that the Commission immediately take action to hold Global NAPs accountable for its continuing violation of the March 16 Order.

Sincerely,

THOMAS, LONG, NIESEN & KENNARD

By:


Norman J. Kennard

Enclosures

cc: Chairman and Commissioners
Bohdan Pankiw
Per Certificate of Service

KILE
GOEKJIAN
REED

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ATTORNEYS AT LAW

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March 19, 2010

Thomas G. Lager
General Manager
Vice-President of Operations
465 Delaware Avenue
P.O. Box 215
Palmerton, PA 18071

Re: Palmerton Final Bill

Dear Mr. Lager,

We have received and perused the bill you just sent us, but are in a state of puzzlement. Your letter says the bills are for intrastate charges. Actually, most or all of the pages contain both intrastate and interstate charges. You also bill Global for both interstate and intrastate late fees. The total does not specify what it is for.

We also note that although the trial record and the accepted ALJ findings showed that calls supposedly from LECs such as Paetec were actually from Vonage, which is not in-state and offers no service other than nomadic VoIP originating in broadband from virtual phone numbers, there is no indication that you have removed any such calls from your bills. Our view is that the PAPUC decided at most that LERGs may be utilized where the nomadic nature of VoIP traffic was not known, not that LERGs could overcome testimony under oath.

Global's position remains that it is not obligated to pay access fees for termination of its traffic, but only negotiated fees at industry levels revealed by Verizon in its testimony. We have sent you a letter to that effect and received your first reply. Nevertheless, if this matter progresses without settlement, it does seem better that the charges being litigated are only those intrastate charges endorsed by the PAPUC.

Thank you in advance for your consideration of these points. We look forward to receiving a revised bill that complies with the PAPUC order.

Sincerely,


Joel Davidow



THOMAS, LONG,
NIESEN & KENNARD

Attorneys and Counsellors at Law

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Direct Dial: 717.255.7627
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March 24, 2010

Joel Davidow, Esquire
Kile Goekjian Reed & McManus PLLC
1200 New Hampshire Ave, NW, Suite 570
Washington, DC 20036

Re: Palmerton Telephone Company v. Global NAPs South, Inc., Global NAPs
Pennsylvania, Inc., Global NAPs, Inc., and other affiliates; Docket No. C-2009-
2093336

Dear Mr. Davidow:

I have reviewed the letter you sent to Mr. Thomas Lager, General Manager for Palmerton Telephone Company, dated March 19, 2010 (attached), regarding the final intrastate CABs bill submitted by Palmerton to Global NAPs pursuant to Ordering Paragraph 5 of the Order of the Pennsylvania Public Utility Commission entered March 16, 2010 in the above matter ("Final Bill").

The Final Bill consists only of the intrastate portion of the traffic delivered by Global NAPs to Palmerton, which was the subject of dispute in the above captioned Complaint proceeding. The underlying CABS bills themselves were included for the purpose of reference and confirmation previously billed intrastate amount. The interstate amounts also reflected in those past CABs bills are not included in the Final Bill.

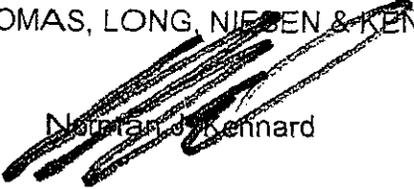
The Final Bill submitted consists of the exact same charges that were presented in litigation and set forth in Palmerton Exhibit 3 - Revised. These same figures were used to calculate the surety bond which Global NAPs did not obtain and is now liable to pay a \$50,000 fine to the Commission. The only change from Exhibit 3 - Revised is that the Final Bill reflects an additional approximately \$1,600 in late payment charges owing to the passage of almost ten months since the calculations in the exhibit were performed.

The charges set forth in the Final Bill are fully consistent with the Commission's Order entered March 16, 2010. The remaining statements in your letter simply consist of your disagreement with that Order. However, I am certain that you recognize the Order has been entered and is now enforceable. Payment of the Final Bill is due under the terms of the Commission's Order on or before April 15, 2010.

Sincerely,

THOMAS, LONG, NIESEN & KENNARD

By:


Norman J. Kennard

NJK:tit

cc: James J. McNulty, Secretary

PALMERTON TELEPHONE COMPANY

A Pencor Company

465 DELAWARE AVENUE
P.O. BOX 215
PALMERTON, PA 18071
Phone: (610) 826-2115

March 16, 2010

DATE _____

CR 2000.1190.001

INVOICE NO. _____

NET 30 DAYS

PLEASE MAKE REMITTANCE PAYABLE TO

GLOBAL NAPS INC.
10 MARRYMOUNT RD.
QUINCY, MA 02169

PALMERTON TELEPHONE COMPANY
ATTN: THOMAS LAGER
P O BOX 215
PALMERTON, PA 18071-0215

AMOUNT REMITTED

AMOUNT DUE

\$193,063.38

PLEASE DETACH HERE AND **RETURN** THIS PORTION WITH PAYMENT

DATE	DESCRIPTION	AMOUNT
	Intrastate Access Charge Late Fee	
8/1/05	\$ 11.05	\$ 6.91
9/1/05	\$ 1.08	\$.66
10/1/07	\$ 1,167.37	\$ 337.32
11/1/07	\$ 732.07	\$ 203.27
12/1/07	\$ 9,275.62	\$2,468.36
1/1/08	\$ 2,459.57	\$ 626.36
2/1/08	\$ 5,943.53	\$1,450.47
3/1/08	\$ 5,809.41	\$1,352.37
4/1/08	\$ 5,178.63	\$1,149.64
5/1/08	\$ 7,612.59	\$1,605.82
6/1/08	\$ 2,948.29	\$ 590.66
7/1/08	\$ 1,641.72	\$ 311.08
8/1/08	\$11,810.38	\$2,110.81
9/1/08	\$10,432.71	\$1,756.93
10/1/08	\$ 9,092.60	\$1,435.15
11/1/08	\$12,350.93	\$1,824.24
12/1/08	\$15,847.77	\$2,176.21
1/1/09	\$10,540.53	\$1,338.99
2/1/09	\$13,926.86	\$1,640.87
3/1/09	\$14,237.80	\$1,533.55
4/1/09	\$14,018.33	\$1,373.97
5/1/09	\$11,699.50	\$1,030.50
1/1/10	\$.90	\$.01
	TOTAL INTRASTATE DUE	\$193,063.38
	*Late Fees billed through 3/16/10	

PALMERTON TELEPHONE COMPANY

A Pencor Company

INVOICE NO. CR 2000.1190.001

March 16, 2010

DATE _____

CUSTOMER - KEEP THIS PORTION FOR YOUR RECORDS

PALMERTON TELEPHONE COMPANY
 UNPAID BALANCES
 GLOBAL NAPS
 UPDATED TO 3/16/2010

Bill Date	Due Date	Interest Through	Intrastate	STAS	Total Intra	Total	# of Days Past Due	Interest As of Mar 16, 2010	Total Due As of Mar 16, 2010
8/1/2005	9/1/2005	3/16/2010	11.12	(0.07)	11.05	11.05	1657	6.91	17.96
9/1/2005	10/1/2005	3/16/2010	1.08	-	1.08	1.08	1627	0.66	1.74
10/1/2005	11/1/2005	3/16/2010	-	-	-	-	1596	-	-
11/1/2005	12/1/2005	3/16/2010	-	-	-	-	1566	-	-
12/1/2005	1/1/2006	3/16/2010	-	-	-	-	1535	-	-
10/1/2007	11/1/2007	3/16/2010	1,177.11	(9.74)	1,167.37	1,167.37	866	337.32	1,504.69
11/1/2007	12/1/2007	3/16/2010	738.15	(6.08)	732.07	732.07	836	203.27	935.34
12/1/2007	1/1/2008	3/16/2010	9,353.57	(77.95)	9,275.62	9,275.62	805	2,468.36	11,743.98
1/1/2008	2/1/2008	3/16/2010	2,480.22	(20.65)	2,459.57	2,459.57	774	626.36	3,085.93
2/1/2008	3/1/2008	3/16/2010	5,992.81	(49.28)	5,943.53	5,943.53	745	1,450.47	7,394.00
3/1/2008	4/1/2008	3/16/2010	5,857.64	(48.23)	5,809.41	5,809.41	714	1,352.37	7,161.78
4/1/2008	5/1/2008	3/16/2010	5,222.11	(43.48)	5,178.63	5,178.63	684	1,149.64	6,328.27
5/1/2008	6/1/2008	3/16/2010	7,676.57	(63.98)	7,612.59	7,612.59	653	1,605.82	9,218.41
6/1/2008	7/1/2008	3/16/2010	2,973.05	(24.76)	2,948.29	2,948.29	623	590.66	3,538.95
7/1/2008	8/1/2008	3/16/2010	1,655.47	(13.75)	1,641.72	1,641.72	592	311.08	1,952.80
8/1/2008	9/1/2008	3/16/2010	11,909.66	(99.28)	11,810.38	11,810.38	561	2,110.81	13,921.19
9/1/2008	10/1/2008	3/16/2010	10,520.41	(87.70)	10,432.71	10,432.71	531	1,756.93	12,189.64
10/1/2008	11/1/2008	3/16/2010	9,181.93	(89.33)	9,092.60	9,092.60	500	1,435.15	10,527.75
11/1/2008	12/1/2008	3/16/2010	12,485.22	(134.29)	12,350.93	12,350.93	470	1,824.24	14,175.17
12/1/2008	1/1/2009	3/16/2010	16,020.06	(172.29)	15,847.77	15,847.77	439	2,176.21	18,023.98
1/1/2009	2/1/2009	3/16/2010	10,655.11	(114.58)	10,540.53	10,540.53	408	1,338.99	11,879.52
2/1/2009	3/1/2009	3/16/2010	14,078.29	(151.43)	13,926.86	13,926.86	380	1,640.87	15,567.73
3/1/2009	4/1/2009	3/16/2010	14,392.69	(154.89)	14,237.80	14,237.80	349	1,533.55	15,771.35
4/1/2009	5/1/2009	3/16/2010	14,170.83	(152.50)	14,018.33	14,018.33	319	1,373.97	15,392.30
5/1/2009	6/1/2009	3/16/2010	11,826.79	(127.29)	11,699.50	11,699.50	288	1,030.50	12,730.00
1/1/2010	2/1/2010	3/16/2010	0.90	-	0.90	0.90	43	0.01	0.91
			168,380.79	(1,641.55)	166,739.24	166,739.24		26,324.14	193,063.38

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Palmerton Telephone Company, :
Complainant :
 : Docket No. C-2009-2093336
v. :
 :
Global NAPs South, Inc., Global NAPs :
Pennsylvania, Inc., Global NAPs, Inc., :
and other affiliates :
Respondents :

PROOF OF SERVICE

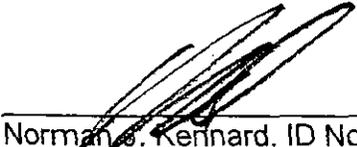
I hereby certify that I have on the 21st day of April, 2010, served a true and correct copy of the foregoing document upon the parties listed below via first class mail, postage prepaid:

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(717) 255-7600

Attorney for Palmerton Telephone Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Palmerton Telephone Company, :
Complainant :
 : Docket No. C-2009-2093336
v. :
 :
Global NAPs South, Inc., Global NAPs :
Pennsylvania, Inc., Global NAPs, Inc., :
and other affiliates :
Respondents :

PROOF OF SERVICE

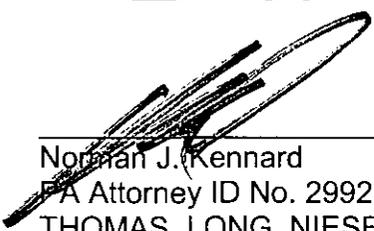
I hereby certify that I have on the 23rd day of April, 2010, served a true and correct copy of the foregoing document on behalf of Palmerton Telephone Company upon the parties listed below via electronic and first class mail, postage prepaid:

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SECRETARY'S BUREAU

2010 APR 23 PM 1:52

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