

Statement Regarding Felony Conviction

In 2001, Southwestern Bell demanded an audit of NTS' intrastate/interstate traffic to verify the percentage of interstate usage ("PIU") reported each month by NTS. Southwestern Bell insisted on using its own audit company, while NTS preferred to use its own independent third-party auditor. Southwestern Bell contended that NTS was underreporting the amount of intrastate usage; however, NTS' equipment did not have the capabilities to capture the data to verify the exact PIU amounts each month. The PIU reports determined how much NTS paid to Southwestern Bell for traffic termination services as the rate for intrastate traffic is higher than the rate for interstate traffic. NTS eventually brought the matter before the Texas Public Utility Commission ("TPUC"), but Southwestern Bell rescinded its audit request; thus rendering moot the civil proceeding before the TPUC.

Rather than handling the audit and reporting dispute as a regulatory or civil matter between the companies, Southwestern Bell apparently contacted the U.S. Department of Justice ("DOJ") to investigate Southwestern Bell's claims against NTS. In February 2002, the DOJ filed a criminal complaint (Case no. SA-02—CR-83 (01) in the United States District Court for the Western District of Texas, San Antonio Division) against NTS, its President, Barbara Baldwin (nee Andrews), and its then-Chief Operating Officer, Brad Worthington, alleging that the company committed mail fraud by sending false PIU reports by U.S. mail to Southwestern Bell and that its officers failure to report this fraud to the proper authorities made them guilty of Misprision of a Felony.

As a small telecommunications carrier serving primarily rural areas, NTS did not have the resources to engage in protracted and expensive litigation to defend against the mail fraud and misprision allegations. Accordingly, NTS and its executives quickly entered into a plea agreement with the government. NTS pleaded guilty to Mail Fraud and agreed to five years' probation and to reimburse Southwestern Bell \$22 million. The officers pleaded guilty to Misprision of a Felony and agreed to three years probation, 200 hours of community service, and were assessed no fines or restitution. As a result of the plea arrangement, NTS was able to continue providing high-quality telecommunications service to its customers without interruption, and none of its more than 300 employees lost their jobs. NTS and the officers successfully completed their probations without incident, and the court granted NTS' unopposed motion for early termination of probation in August 2006. The matter is 100% concluded and the officers are no longer with NTS.