



STATE OF WASHINGTON
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

September 28, 2012

David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Tuebor, Inc.*
Commission Staff's Response to Application for Mitigation of Penalties
Docket UT-121017

Dear Mr. Danner:

On August 1, 2012, the Washington Utilities and Transportation Commission issued a \$2,100 Penalty Assessment in Docket UT-121017 against Tuebor, Inc. for 21 violations of Washington Administrative Code (WAC) 480-120-382, which requires competitively classified telecommunications companies to furnish annual reports to the commission no later than May 1 each year.

On August 10, 2012¹, Tuebor, Inc. wrote the commission requesting mitigation of penalties (Mitigation Request). In its Mitigation Request, Tuebor, Inc. disputes the violations occurred. The company states, "Tuebor ceased offering service in November 2010, and no longer intends to retain authority in the State of Washington. Accordingly, we respectfully request that the Commission cancel TUEBOR'S authority effective immediately."

A company that went out of business during the prior year but did not cancel its commission-issued permit or registration is not required to file an annual report or pay a regulatory fee. Therefore, the company is not subject to any penalties. Tuebor, Inc. failed to notify the commission it no longer intended to retain authority or cancel its permit, which is why the company received a penalty notice.

¹ See attachment A for a copy of Tuebor, Inc.'s Mitigation Request.



Based on the above mentioned information, staff recommends waiving any and all penalties related to Tuebor, Inc.'s 2011 annual report.

If you have questions regarding this recommendation, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105 or at mperkinson@utc.wa.gov.

Sincerely,

A handwritten signature in cursive script that reads "S Wallace".

Sharon Wallace, Assistant Director
Consumer Protection and Communications

Attachment A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT UT-121017

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred. I have:

Enclosed \$2,100 in payment of the penalty

Submitted my payment of \$2,100 online at www.utc.wa.gov. My confirmation number is _____.

2. **Request for a hearing.** I believe that one or more of the alleged violations did not occur, based on the following information, and request a hearing, which is a process that allows an affected person to present argument to an administrative law judge for a decision by an administrative law judge:

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reason(s) set out below.

2012 AUG 13 PM 8:12
TUEBOR, INC. APPLICATION FOR MITIGATION

Tuebor, Inc. provides the mitigating circumstances justifying a reduction in the Penalty Assessment in the Application for Mitigation attached hereto and incorporated herein as if set forth in full.

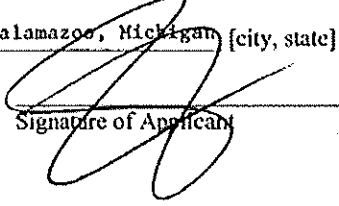
a) I ask for a hearing for a decision by an administrative law judge based on the information presented above.

OR b) I waive a hearing and ask for an administrative decision on the information I present directly above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: August 9, 2012 [month/day/year], at Kalamazoo, Michigan [city, state]

Tuebor, Inc. by Patrick D. Crocker
Name of Respondent (company) – please print


Signature of Applicant

RCW 9A.72.020:

"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."

APPLICATION FOR MITIGATION

Tuebor, Inc. received the Notice of Penalties Incurred and Due for Violations of Laws and Rules on or about August 6, 2012 attached hereto as Exhibit A. We believe this penalty should be reduced for the reasons set forth below.

Tuebor, Inc. ceased all operations on or about November, 2010. From inception, Tuebor, Inc. engaged a compliance support company to handle all monthly, quarterly and annual reports due, including the Annual Report filed with the Washington Utilities and Transportation Commission ("Commission"). Tuebor, Inc. lost all revenue abruptly in October, 2010. This loss of business and revenue necessitated the termination of all vendors providing service and support to Tuebor, Inc., including the ongoing compliance support company. Prior to Tuebor, Inc. terminating the services of the company handling the company's ongoing compliance in 2011, Tuebor, Inc. timely filed all Annual Report forms with the Commission. The Annual Report filed with the Commission on or about April 28, 2011 includes information relating to Tuebor, Inc.'s last activity in business.

Immediately upon receiving the Certified Mail containing the Penalty Assessment UT 121017, we investigated this circumstances giving rise to this violation of the Commission's rules. We find that instructions provided by Tuebor, Inc. to the staff at the ongoing compliance company to file the final return did not include withdrawal or termination of operating authority. This oversight resulted in Tuebor, Inc. failing to file the Annual Report with the Commission by May 1, 2011. We have corrected this oversight by requesting termination of the authority issued to Tuebor, Inc. in Docket No. UT-070486, and attach a copy of the letter requesting such action as Exhibit B for your convenience.

In this instance, the failure to file this Annual Report arose over one and a half years after Tuebor, Inc. ceased operations. Until receiving the certified letter, Tuebor, Inc. was not made aware by the compliance company of the remaining outstanding ongoing obligation to file this Annual Report in 2012. Tuebor, Inc. timely filed all prior Annual Reports due with the Commission, even during the winding down of the company in early 2011. Finally, Tuebor, Inc. is without the resources available to pay the Penalty Amount of \$2,100 imposed in UT-121017.

In view of the mitigating circumstances, Tuebor, Inc. respectfully requests that the Commission consider this failure to file this Annual Report a single violation or offense, and reduce the Penalty Amount to \$100.00.

Thank you very much for your professional courtesy rendered to Tuebor, Inc. in this matter.

Very Truly Yours,
Tuebor, Inc.

By: Patrick D. Crocker

Its: President

Date: August 9, 2012



August 9, 2012

David Danner, Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504

RE: TUEBOR, INC.

Dear Mr Danner:

We are the attorneys for TUEBOR INC. (hereinafter "TUEBOR"). On April 8, 2007, the Washington Utilities and Transportation Commission ("Commission") previously authorized TUEBOR to provide intrastate telecommunications services Docket No. UT-070486. TUEBOR ceased offering services in November 2010, and no longer intends to retain authority in the State of Washington. Accordingly, we respectfully request that the Commission cancel TUEBOR'S authority effective immediately.

Enclosed is a duplicate of this letter. Please stamp the duplicate received and return same in the postage-paid envelope attached thereto.

Please forward any additional forms or requirements, correspondence, or questions to the undersigned.

Very truly yours,

CROCKER & CROCKER

Patrick D. Crocker

PDC/pas

The Kalumazoo Building 407 West Michigan Avenue, Fourth Floor Kalamazoo, Michigan 49007

T 269 381 8800 F 269 381 4853