



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. VMC Telecom, LLC*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket UT-121023

Dear Mr. Danner:

On August 1, 2012, the Washington Utilities and Transportation Commission issued a \$2,100 Penalty Assessment in Docket UT-121023 against VMC Telecom, LLC, 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 14, 2012<sup>1</sup>, VMC Telecom, LLC, wrote the commission requesting mitigation of penalties (Mitigation Request). In its Mitigation Request, VMC Telecom, LLC does not dispute the violations occurred. The company states, "In view of the mitigating circumstances, VMC Telecom, LLC 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 ... Immediately upon receiving the Certified Mail contain the Penalty Assessment UT 121023, we investigated this circumstance giving rise to this violation of the Commission's rules. VMC Telecom, LLC received authority from the Commission effective October 20, 2011. In response to changes in the industry, within three months of the effective date of Registration, VMC Telecom, LLC ceased efforts to move forward implementing the business plan ... In error, VMC Telecom, LLC did not instruct the company handling ongoing compliance to take necessary steps to withdraw or terminate operating authority in Washington, including the filing of final report ... We have corrected this oversight by requesting termination of the authority issued to VMC Telecom, LLC." 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. VMC Telecom, LLC, 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.

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<sup>1</sup> See attachment A for a copy of VMC Telecom, LLC's Mitigation Request.



Based on the above mentioned information, staff recommends waiving any and all penalties related to VMC Telecom, LLC'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](mailto:mperkinson@utc.wa.gov).

Sincerely,

A handwritten signature in cursive script that reads "SWallace".

Sharon Wallace, Assistant Director  
Consumer Protection and Communications

Attachment A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-121023

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](http://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.

a) I ask for a hearing for a decision by an administrative law judge

OR  b) I waive a hearing and ask for an administrative decision on the information I present here:

Attached please find an Application for Mitigation.

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 10, 2012 [month/day/year], at Kalamazoo, Michigan [city, state]

VMC TELECOM, LLC  
BY CROCKER & CROCKER, its Attorneys  
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."

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APPLICATION FOR MITIGATION

We are the attorneys for VMC Telecom, LLC. This law firm received the Notice of Penalties Incurred and Due for Violations of Laws and Rules from the Washington Utilities and Transportation Commission ("Commission") on or about August 6, 2012 attached hereto as Exhibit A. We believe this penalty should be reduced for the reasons set forth below.

Immediately upon receiving the Certified Mail containing the Penalty Assessment UT 121023, we investigated this circumstances giving rise to this violation of the Commission's rules. VMC Telecom, LLC received authority from the Commission effective October 20, 2011. In response to changes in the industry, within three months of the effective date of Registration, VMC Telecom, LLC ceased efforts to move forward implementing the business plan. With no further funding available, VMC Telecom, LLC notified the company handling the ongoing compliance to cease and desist all activity on behalf of VMC Telecom, LLC. In error, VMC Telecom, LLC did not instruct the company handling ongoing compliance to take necessary steps to withdraw or terminate operating authority in Washington, including the filing of final reports. This oversight resulted in VMC Telecom, LLC 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 VMC Telecom, LLC in Docket No. UT-11170, and attach a copy of the letter requesting such action as Exhibit B for your convenience

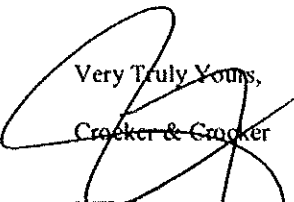
In this instance, the failure to file this Annual Report arose within months of VMC Telecom, LLC receiving authority and terminating all plans for business. Until receiving the certified letter, VMC Telecom, LLC was not made aware by the compliance company

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of the remaining outstanding ongoing obligation to file this Annual Report in 2012. In this instance, VMC Telecom, LLC did not intentionally fail to file the Annual Report due on May 1, 2012; rather, VMC Telecom, LLC failed to recognize this obligation during the winding down process. Importantly, due to the loss of the financial funding, VMC Telecom, LLC is without the resources available to pay the Penalty Amount of \$2,100 imposed in UT-121023.

In view of the mitigating circumstances, VMC Telecom, LLC 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 VMC Telecom, LLC in this matter.

Very Truly Yours,  
  
Crocker & Crocker

By: Patrick D. Crocker  
Attorneys for VMC Telecom, LLC  
Date: August 18, 2012



August 9, 2012

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

RE: VMC TELECOM, LLC

Dear Mr. Danner:

We are the attorneys for VMC TELECOM, LLC (hereinafter "VMC"). On October 20, 2011, the Washington Utilities and Transportation Commission ("Commission") previously authorized VMC to provide intrastate telecommunications services Docket No. UT-111700. VMC never offered service to the public and abandoned its business plan in early 2012. For these reasons, VMC no longer intends to retain authority in the State of Washington. Accordingly, we respectfully request that the Commission cancel VMC'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