

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UT-130819
Against)	
)	ORDER 01
IPDATASTREAM, LLC,)	
)	ORDER DENYING REQUEST
in the amount of \$1,800)	FOR HEARING
)	
.....)	

BACKGROUND

1 Washington law requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-120-382. On February 28, 2013, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated telecommunications companies. The cover letter accompanying the forms reminded companies to file their annual reports and pay their regulatory fees by May 1, 2013, and detailed potential penalties companies faced if they failed to file by that date. Those penalties include an assessment of \$100 for each violation of Commission rules, and in the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.

2 On May 10, 2013, the Commission notified IPDATASTREAM, LLC (IPDATASTREAM or Company), that its annual fee and regulatory report were overdue, and that, as a consequence, the Company had accrued a penalty of \$700. That notice further explained that the penalty would increase by \$100 per day for each business day that the Company failed to file the report and pay the fee. The notice stated that companies that filed no later than May 24, 2013, would receive mitigated penalties, but IPDATASTREAM did not file its annual report or pay its regulatory fee by that date.

3 On August 1, 2013, the Commission assessed a penalty of \$1,800 against IPDATASTREAM, calculated as \$100 per business day from May 1 to May 24, 2013.

4 On September 18, 2013, IPDATASTREAM filed a request for hearing on the form provided by the Commission. IPDATASTREAM checked the box on that form indicating that the Company believes that one or more of the alleged violations did not occur for which the Commission assessed penalties. As justification for a hearing, IPDATASTREAM wrote that it is not currently providing services in

Washington. The Company also attached a completed annual report dated September 18, 2013.

DISCUSSION

- 5 The Commission denies IPDATASTREAM's request for a hearing. The notice of penalty assessment issued and served on the Company on August 1, 2013, provides that any request for a hearing to dispute the assessed penalty must be sent to the Commission within 15 days after the company receives the notice. The Commission received the Company's request for hearing on September 18, 2013, without any claim that the Company sent its request within 15 days of receiving the notice. Accordingly, the Company has failed to demonstrate that its request is timely.
- 6 Nor has IPDATASTREAM stated any substantive grounds for a hearing to dispute the assessed penalty. The sole basis the Company states to support its contention that no violation occurred is that IPDATASTREAM is not currently providing services in Washington. WAC 480-120-382, however, requires *all* competitively classified telecommunications companies, without exception, to file annual reports and to pay regulatory fees by May 1 of each year. Even if IPDATASTREAM is not currently providing services in Washington, that fact is irrelevant. The Company was required to file an annual report for 2012 and regulatory fees for 2013 by May 1, 2013, regardless of whether IPDATASTREAM was providing services in Washington, and the Company did not make that filing until September 18, 2013. As a matter of law, therefore, IPDATASTREAM violated WAC 480-120-382.

ORDER

THE COMMISSION ORDERS:

- 7 (1) The request of IPDATASTREAM, LLC, for a hearing on the \$1,800 penalty assessment is DENIED.
- 8 (2) The penalty is due and payable no later than October 18, 2013.

DATED at Olympia, Washington, and effective October 3, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Director, Administrative Law Division