



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

June 16, 2014

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Marvin Road Water Company*

Commission Staff's Response to Application for Mitigation of Penalties UW-140847

Dear Mr. King:

On May 28, 2014, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket UW-140847 against Marvin Road Water Company for 10 violations of Washington Administrative Code (WAC) 480-110-505, which requires water companies to furnish annual reports to the commission no later than May 1 each year.¹

On June 5, 2014, Marvin Road Water Company wrote the commission requesting mitigation of penalties (Mitigation Request).² In its Mitigation Request, Marvin Road Water Company does not dispute that the violation occurred. The company provided information regarding the recent passing of the company president and subsequent sale of the company to Thurston County Public Utilities. The company states, "We were under the assumption based on comments from the PUD and our attorney that we did not need to do the annual report. We now know this is incorrect. We understand that even though we no longer own MRWC we did own it during the period of time the annual report would cover."

It is the company's responsibility to ensure that the regulatory fee is paid and the annual report is filed by the May 1 deadline. On February 28, 2014, Annual Report packets were mailed to all regulated telecommunication companies. The instructions for annual report completion page of the annual report informed the regulated company that it must complete the annual report form, pay the regulatory fees, and return the materials by May 1, 2014, to avoid enforcement action.

¹See attachment A for a copy of the penalty assessment sent on May 28, 2014

²See attachment B for a copy of Marvin Road's Mitigation Request received on June 5, 2014

³See attachment C for a copy of Marvin Road's Notice of Sale received on May 30, 2014

UTC Annual Reports

June 16, 2014

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On May 30, 2014, Marvin Road Water Company filed documents regarding the sale of assets to Public Utility District No. 1 of Thurston County in Docket UW-141211.³ No prior violations of WAC 480-110-505 are on commission record. Staff supports the company's request for mitigation. Staff recommends the penalty be waived due to the extraordinary circumstances provided in the company's response to mitigation and recent sale of assets.

If you have any questions regarding this recommendation, please contact Amy Andrews, Regulatory Analyst, at (360) 664-1157, or aandrews@utc.wa.gov.

Sincerely,

Sondra Walsh, Director
Administrative Services

¹See attachment A for a copy of the penalty assessment sent on May 28, 2014

²See attachment B for a copy of Marvin Road's Mitigation Request received on June 5, 2014

³See attachment C for a copy of Marvin Road's Notice of Sale received on May 30, 2014

ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: UW-140847
PENALTY AMOUNT: \$1,000

Marvin Road Water Company
Swift Mgmt. Assets Inc.
PO Box 8850
Lacey, WA 98509

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-110-505, which requires water companies to file their annual reports and pay regulatory fees each year by May 1. You did not file an annual report or pay regulatory fees by May 1, 2014.

Revised Code of Washington (RCW) 80.04.080 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. Each violation is a separate and distinct offense and, in the case of a continuing violation, every day's continuance is a separate and distinct violation. The Commission interprets noncompliance with WAC 480-110-505 beyond May 1 as a continuing violation, and assesses penalties of \$100 for each day a company fails to file its report or pay its regulatory fees after that date.

As a result, the Commission has assessed penalties against you in the amount of \$1,000 on the following basis:

On February 28, 2014, the Commission mailed the 2013 annual report forms and the 2014 regulatory fee packets to all water companies registered in Washington. The instructions page for the annual report form instructed these companies to file annual reports and pay regulatory fees by May 1, 2014. The instructions page also stated that failure to file the annual report by May 1 would result in penalties. The deadline for requesting an extension to file your annual report was April 17. You did not request an extension.

As of May 15, 2014, Marvin Road Water Company has not filed its 2013 annual report or paid its 2014 regulatory fee. May 15 is 10 business days from May 1, resulting in a total penalty of \$1,000.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A

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request for a hearing must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. If there is a reason for the violation that you think should excuse or reduce the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. A request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW80.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection, which may file suit in state court to collect the penalty.

DATED at Olympia, Washington, and effective May 28, 2014.

GREGORY J. KOPTA
Administrative Law Judge

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²See attachment B for a copy of Marvin Road's Mitigation Request received on June 5, 2014

³See attachment C for a copy of Marvin Road's Notice of Sale received on May 30, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UW-140847

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 \$ _____ in payment of the penalty
 - Submitted my payment of \$ _____ 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, for the reasons I describe below, and I request a hearing based on those reasons 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 reasons set out below:
- a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision
 - OR b) I ask for a Commission decision based solely on the information I provide 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: _____ [month/day/year], at _____ [city, state]

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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ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UW-140847

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.

2014 JUN -5 AM 8:27

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

[] Enclosed \$ _____ in payment of the penalty

[] Submitted my payment of \$ _____ 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, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

[x] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

See two attachments

[] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR [x] b) I ask for a Commission decision based solely on the information I provide 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: 6/2/2014 [month/day/year], at Port Townsend, WA [city, state]

Marvin Road Water Company
Name of Respondent (company) - please print

[Signature]
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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Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250

June 2, 2014

RE: Penalty Assessment: UW-140847

Dear Commission,

I respectfully ask that you reconsider the penalty assessed to Marvin Road Water Company (MRWC) for the following reasons:

Steve Swift, then President of the company, received all correspondence for company matters. On January 24, 2014, he was admitted to Swedish Hospital ICU in critical condition. He remained in the ICU until March 6, 2014 when he passed away.

Unfortunately, the packet of information regarding the annual report would have arrived while Steve was in the hospital.

Since Steve's passing the board of director have been trying very hard to fill his shoes. During this time we were given an offer from Thurston County Public Utilities to purchase MRWC. We accepted their offer and signed closing documents on May 30, 2014. We were under the assumption based on comments from the PUD and our attorney that we did not need to do the annual report. We now know this is incorrect. We understand that even though we no longer own MRWC we did own it during the period of time the annual report would cover.

We will complete the 2013 annual report and submit it as soon as it is complete.

Thank you for your consideration.



Elaine Swift Bair
President
Swift Asset Management (Previous owner of MRWC)
email: marvinrwc@gmail.com
PO Box 8850
Lacey, WA 98509-8850

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Public Health - Seattle & King County Vital Statistics
CERTIFIED COPY OF DEATH CERTIFICATE

Local File Number: 2496 Washington State Certificate of Death State File Number

1. Legal Name (please print) First Middle LAST Steven Dennis Swift			2. Death Date 03/06/2014		
3. Sex (M/F) M		4a. Age - Last Birthday 61		5. Social Security Number 531-54-6544	
7. Birthdate Nov 3 1952		8a. Birthplace (City, Town, or County) Olympia		8b. Decedent's Education Master's degree (MEng.)	
10. Was Decedent of Hispanic Origin? (Yes or No) If yes, specify. No			11. Decedent's Race(s) White		12. Was Decedent ever in U.S. Armed Forces? No
13a. Residence: Number and Street (e.g., 424 SE 5th St.) (Exclude Apt. No.) 15302 5th Ave. N. E.				13b. City or Town Shoreline	
15c. Residence: County King		13d. Tribal Reservation Name (if applicable)		13e. State or Foreign Country Washington	
14. Estimated length of time at residence. 38 years		16. Marital Status at Time of Death Married		14. Surviving Spouse's or Domestic Partner's Name (Give name prior to first marriage) Elizabeth Ann Eldredge	
17. Usual Occupation (indicate type of work done during most of working life. Do not use abbrev.) Electrical Engineer			18. Kind of Business/Industry (Do not use Company Name) Electrical Design Engineering		
19. Father's Name (First, Middle, Last, Suffix) John David Swift			20. Mother's Name Before First Marriage (First, Middle, Last) Mary Kathleen Robbins		
21. Informant's Name Elizabeth Swift		22. Relationship to Decedent Wife		23. Mailing Address: Number and Street or P.O. Box, City or Town, State, Zip 15302 5th Ave. N. E., Shoreline, WA 98155	
24. Place of Death, if Death Occurred in a Hospital: Inpatient			24. Place of Death, if Death Occurred Somewhere Other than a Hospital:		
25. Facility Name (if not a facility, give number & street or location) University of Washington Medical Center			26a. City, Town, or Location of Death Seattle		26b. State WA
27. Zip Code 98195		28. Method of Disposition Burial		29. Place of Final Disposition (Name of cemetery, crematory, other place) Holyrood Cemetery	
30. Location-City/Town, and State Shoreline, Washington			31. Name and Complete Address of Funeral Facility Hoffner Fisher & Harvey, 508 N. 36th St., Seattle, WA 98103		
32. Date of Disposition Mar 13 2014			33. Funeral Director Signature X <i>J.P. Harvey</i>		
34. Enter the chain of events - diseases, injuries, or complications - that directly caused the death. DO NOT ABBREVIATE. Add additional lines if necessary. Cause of Death (See instructions and examples) IMMEDIATE CAUSE (Final disease or condition resulting in death) → T-cell Lymphoma Interval between Onset & Death: Weeks Sequentially list conditions, if any, leading to the cause listed on line a. Enter the UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST Interval between Onset & Death: Interval between Onset & Death: Interval between Onset & Death: Interval between Onset & Death:					
35. Other significant conditions contributive to death but not resulting in the underlying cause given above			36. Autopsy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		37. Were autopsy findings available to complete the Cause of Death? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
38. Manner of Death <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Homicide <input type="checkbox"/> Undetermined <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Pending		39. If female <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Not pregnant, but pregnant within 42 days before death <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to 1 year before death <input type="checkbox"/> Unknown if pregnant within the past year		40. Did tobacco use contribute to death? <input type="checkbox"/> Yes <input type="checkbox"/> Probably <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	
41. Date of injury (mm/dd/yyyy)		42. Hour of Injury (24hrs)		43. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area)	
44. Injury at Work? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unk			45. Location of Injury: Number & Street, City or Town, County, State, Zip Code + 4		
46. Describe how injury occurred			47. If transportation injury, specify: <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Pedestrian <input type="checkbox"/> Passenger <input type="checkbox"/> Other (Specify)		
48a. Certifying Physician - To the best of my knowledge, death occurred at the time, date, and place and due to the cause(s) and manner listed. <i>James Lariton</i>			48b. Medical Examiner/Coroner - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated.		
49. Name and Address of Certifier, Physician, Medical Examiner or Coroner (Type or Print) James Lariton, MD, 1335 NE Pacific St, Seattle, WA 98195			50. Hour of Death (24hrs) 1315		51. Name and Title of Attending Physician (if other than Certifier (Type or Print)) Edo Y. Wang, MD
52. Date Signed (mm/dd/yyyy) 03/07/2014		53. Title of Certifier MD		54. License Number ML60358691	
55. ME/Coroner File Number		56. Was case referred to ME/Coroner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		57. Registrar Signature <i>[Signature]</i>	
58. Date Reported (mm/dd/yyyy) MAR 10 2014		59. Amendments			

DOHCHS 003 March 2012

DOH 01-003 (1/13)

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ATTACHMENT C

Law Office of
Richard A. Finnigan
2112 Black Lake Blvd. SW
Olympia, Washington 98512

Richard A. Finnigan
(360) 956-7001
rickfinn@localaccess.com

Candace Shofstall
Legal Assistant
(360) 753-7012
candaces@localaccess.com

May 30, 2014

VIA ELECTRONIC FILING

Mr. Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Swift Asset Management Inc. d/b/a Marvin Road Water Company – Sale to Public
Utility District No. 1 of Thurston County

Dear Mr. King:

This letter is to inform the Commission that the water company assets related to the regulated activities of Swift Asset Management Inc. d/b/a Marvin Road Water Company have been sold to Public Utility District No. 1 of Thurston County. This transaction closed on May 30, 2014.

The customers have been notified of the sale. As a courtesy, a copy of the letter that was sent to the customers informing them of the transaction is attached.

The purpose of this letter is to ask the Commission to remove Marvin Road Water Company from the list of regulated companies.

If you have any questions concerning this matter, please contact the undersigned. Thank you for your attention to this matter.

Sincerely,

RICHARD A. FINNIGAN

RAF/ cs

cc: Client (via e-mail)
Joseph Rehberger (via e-mail)

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