



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](http://www.utc.wa.gov)

August 12, 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. Monterra, Inc.*

Commission Staff's Response to Application for Mitigation of Penalties UW-140849

Dear Mr. King:

On May 29, 2014, the Utilities and Transportation Commission issued a \$800 Penalty Assessment in Docket UW-140849 against Monterra, Inc. for 8 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.<sup>1</sup>

On June 3, 2014, Monterra, Inc. wrote the commission requesting mitigation of penalties (Mitigation Request).<sup>2</sup> In its Mitigation Request, Monterra, Inc. does not dispute that the violation occurred. The company provided information regarding the recent change in accounting agencies and miscommunication regarding the time sensitive nature of the reports.

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 water 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.

On May 13, 2014, Monterra, Inc. filed its completed 2013 annual report and paid the required regulatory fees. The company has been active since 1991. The company was previously delinquent in filing the 2006 annual report. Staff supports the company's request for mitigation

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<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 29, 2014

<sup>2</sup>See attachment B for a copy of Monterra, Inc.'s Mitigation Request received on June 3, 2014

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due to its recent history of compliance. Staff recommends a reduced penalty assessment of \$25 per day for a total penalty assessment of \$175.

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

Sincerely,

Sondra Walsh, Director  
Administrative Services

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<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 29, 2014

<sup>2</sup>See attachment B for a copy of Monterra, Inc.'s Mitigation Request received on June 3, 2014

## ATTACHMENT A

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UW-140849  
PENALTY AMOUNT: \$800

Monterra, Inc.  
PO Box 574  
Sequim, WA 98382

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 \$800 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.

On May 13, 2014, Monterra, Inc. filed its 2013 annual report and paid its 2014 regulatory fee. May 13 is 8 business days from May 1, resulting in a total penalty of \$800.

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 request for a hearing must include a written statement of the reasons supporting that request.

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 29, 2014

<sup>2</sup>See attachment B for a copy of Monterra, Inc.'s Mitigation Request received on June 3, 2014

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 29, 2014.

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GREGORY J. KOPTA  
Administrative Law Judge

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<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 29, 2014

<sup>2</sup>See attachment B for a copy of Monterra, Inc.'s Mitigation Request received on June 3, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UW-140849

**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](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, 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.”

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 29, 2014

<sup>2</sup>See attachment B for a copy of Monterra, Inc.’s Mitigation Request received on June 3, 2014

ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UW-~~040849~~

140849

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 -3 AM 8:22

- 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](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, 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: 6-2-14 [month/day/year], at Sequim WA [city, state]

Monterra Water System  
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.”

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 29, 2014  
<sup>2</sup>See attachment B for a copy of Monterra, Inc.’s Mitigation Request received on June 3, 2014

Estates Water System Inc.  
Monterra Water System Inc.  
PO Box 3246  
Sequim, WA 98382

W.U.T.C.  
PO Box 47250  
Olympia, WA 98504-7250

Attn: Gregory J. Kopta

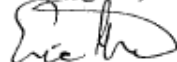
Dear Mr. Kopta,

Estates and Monterra Water Systems received your letter and penalty assessment on May 30 and I am applying for mitigation because of the following reasons.

We have always had our year end reports delivered to the W.U.T.C. in a timely manner and have never been late. We had our accountant of 16 years do all the correspondence with your agency. Recently, we changed our accountants and there was an over site on both our parts to get the documents in the mail. I had given them the completed documents and I failed to inform them that they were time sensitive. So I take full responsibility for getting them to the commission late.

I hope you see that this was an honest mistake and that we have always sent the year end reports in a timely manner.

Best regards,



Eric Thomas

RECEIVED

JUN 03 2014

WASH. UT. & TP. COMM

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 29, 2014

<sup>2</sup>See attachment B for a copy of Monterra, Inc.'s Mitigation Request received on June 3, 2014