



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)

July 1, 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. Big River Telephone Company, LLC*

Commission Staff's Response to Application for Mitigation of Penalties UT-140871

Dear Mr. King:

On May 30, 2014, the Utilities and Transportation Commission issued a \$600 Penalty Assessment in Docket UT-140871 against Big River Telephone Company, LLC for 6 violations of Washington Administrative Code (WAC) 480-120-382, which requires telecommunications companies to furnish annual reports to the commission no later than May 1 each year.<sup>1</sup>

On June 16, 2014, Big River Telephone Company, LLC wrote the commission requesting mitigation of penalties (Mitigation Request).<sup>2</sup> In its Mitigation Request Big River Telephone Company, LLC does not dispute that the violation occurred. The company states, "We actually filed our annual report on the due date of May 1<sup>st</sup>. On May 2<sup>nd</sup> we received a notice that we were missing the income statement and that we inadvertently marked the regulatory fee calculation sheet as Confidential." The statement continues, "Unfortunately our unfamiliarity with the Washington annual report process, coupled with an administrative oversight caused the aforementioned troubles with our 2013 annual report."

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.

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<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 30, 2014

<sup>2</sup>See attachment B for a copy of Big River Telephone Company's Mitigation Request received on June 16, 2014

UTC Annual Reports  
July 1, 2014  
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On May 9, 2014 Big River Telephone Company, LLC filed its completed annual report with no regulatory fees due. The company has been active since February 16, 2007. Big River Telephone Company, LLC was previously delinquent in filing its annual report in 2011 due to missing financial statements and received an automatically mitigated penalty. Staff does not support the company's request for mitigation due to prior violations of similar circumstance.

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 30, 2014

<sup>2</sup>See attachment B for a copy of Big River Telephone Company's Mitigation Request received on June 16, 2014

## ATTACHMENT A

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-140871  
PENALTY AMOUNT: \$600

Big River Telephone Company, LLC  
24 S. Minnesota Ave.  
Cape Girardeau, MO 63703

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-120-382, which requires telecommunications 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 480-120-382 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 \$600 on the following basis:

On February 28, 2014, the Commission mailed the 2013 annual report forms and the 2014 regulatory fee packets to all telecommunications 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 9, 2014, Big River Telephone Company, LLC filed its 2013 annual report and paid its 2014 regulatory fee. May 9 is 6 business days from May 1, resulting in a total penalty of \$600.

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 30, 2014

<sup>2</sup>See attachment B for a copy of Big River Telephone Company's Mitigation Request received on June 16, 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. The Commission may also initiate proceedings under WAC 480-121-060 to revoke your authority to provide telecommunications services in Washington.

DATED at Olympia, Washington, and effective May 30, 2014.

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GREGORY J. KOPTA  
Administrative Law Judge

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 30, 2014

<sup>2</sup>See attachment B for a copy of Big River Telephone Company's Mitigation Request received on June 16, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-140871

**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 30, 2014

<sup>2</sup>See attachment B for a copy of Big River Telephone Company’s Mitigation Request received on June 16, 2014

ATTACHMENT B

# BIG RIVER

24 S. Minnesota Ave. P.O. Box 1659 Cape Girardeau, MO 63702-1659 (573) 651-3373 (800) 455-1608

June 11, 2014

Washington Utilities and Transportation Commission  
Post Office Box 47250  
Olympia, Washington 98504-7250

RE: Big River Telephone Penalty Assessment: UT-140871

To Whom It May Concern:

I am writing in regards to the \$600 penalty assessed to Big River Telephone for the late filing of our annual report. We request an application for the mitigation of these penalties. We actually filed our annual report on the due date of May 1<sup>st</sup>. On May 2<sup>nd</sup> we received a notice that we were missing the income statement and that we inadvertently marked the regulatory fee calculation sheet as "Confidential". We immediately made the necessary corrections and resubmitted the report the same day, May 2<sup>nd</sup>. We received a second notice of incompleteness on May 6<sup>th</sup> because we didn't provide a redacted version of the income statement. We submitted the redacted income statement on May 9<sup>th</sup>.

We currently have no revenues in Washington. We registered with the state in anticipation of providing services, but our opportunity did not materialize. Nevertheless we are diligent in our efforts to adhere to state laws and regulations. Unfortunately our unfamiliarity with the Washington annual report process, coupled with an administrative oversight caused the aforementioned troubles with our 2013 annual report. We ask that the \$600 penalty be waived as a one-time consideration. It is clear that the actual report was filed on the May 1<sup>st</sup> deadline. With no revenues we had no fee to submit so our report was a zero filing. While we did have to revise two portions of the report it was not due to any misstatements or incorrect figures, but rather two formalities, therefore we don't think it is reasonable to assess \$600 in penalties. Because of this we respectfully ask that you please remove this penalty. You may contact me regarding this matter at (573) 388-3720 or [jcampbell@bigrivertelephone.com](mailto:jcampbell@bigrivertelephone.com).

Regards,



Joshua K. Campbell  
Director of Financial Operations

2014 JUN 16 PM 1:44  
COMMUNICATIONS SECTION  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on May 30, 2014

<sup>2</sup>See attachment B for a copy of Big River Telephone Company's Mitigation Request received on June 16, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-140871

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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 16 PM 1:44

[ ] 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:

*Please see attached letter.*

[ ] 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: 6/11/14 [month/day/year], at Cape Girardeau, MO [city, state]

Big River Telephone Company, LLC  
Name of Respondent (company) – please print

John L. Campbell  
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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