



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 27, 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. NetworkIP, LLC*

Commission Staff's Response to Application for Mitigation of Penalties UT-140901

Dear Mr. King:

On May 30, 2014, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket UT-140901 against NetworkIP, LLC for 10 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.¹

On June 13, 2014, NetworkIP, LLC wrote the commission requesting mitigation of penalties (Mitigation Request).² In its Mitigation Request, NetworkIP, LLC does not dispute that the violation occurred. The company provided information regarding an additional section of the annual report being added by the commission which the company desired to be treated as confidential. The company misunderstood the staff request for an unredacted version of this portion of the report compounded by travel plans of the responsible party for submitting the requested documentation.

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.

On May 22, 2014, NetworkIP, LLC filed its complete annual report with no regulatory fees due. The company had a delinquent filing during the 2003 annual report year with no further violations of WAC 480-120-382 until this year. Staff supports the company's request for

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

²See attachment B for a copy of NetworkIP's Mitigation Request received on June 13, 2014

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mitigation due to the company's annual report history of compliance and the implementation of a new portion of the telecommunications annual report. Staff recommends a reduced penalty assessment of \$200.

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 30, 2014

²See attachment B for a copy of NetworkIP's Mitigation Request received on June 13, 2014

ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-140901
PENALTY AMOUNT: \$1,000

NetworkIP, LLC
119 West Tyler Street, Suite 100
Longview, TX 75601

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 \$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 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.

As of May 15, 2014, NetworkIP, LLC has not filed its complete 2013 annual report. 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 request for a hearing must include a written statement of the reasons supporting that request.

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

²See attachment B for a copy of NetworkIP's Mitigation Request received on June 13, 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.

GREGORY J. KOPTA
Administrative Law Judge

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

²See attachment B for a copy of NetworkIP's Mitigation Request received on June 13, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-140901

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.”

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

²See attachment B for a copy of NetworkIP’s Mitigation Request received on June 13, 2014

ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-140901

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 13 PM 3:01

- 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. (please see enclosed letter)

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: 6/12/2014 [month/day/year], at Dallas, TX [city, state]

NetworkIP, LLC
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.”

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

²See attachment B for a copy of NetworkIP’s Mitigation Request received on June 13, 2014



June 12, 2014

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

Re: Penalty Assessment

To the Honorable Judge Kopta:

As per your letter dated May 30, 2014, NetworkIP, LLC (hereinafter "NetworkIP") hereby responds to the penalty assessed against it in the amount of \$1,000.00 and respectfully requests that you consider mitigating that penalty for the reasons outlined in this letter.

NetworkIP timely submitted its annual report to the Commission via the online system on May 1, 2014 (confirmation number 559). The report itself was not filed confidentially, but our redacted financial statements were filed as "Confidential" and our non-redacted financial reports were filed as "Highly Confidential." This was our first time to file this report via the online reporting system, and as the person responsible for submitting all of NetworkIP's regulatory reports in all jurisdictions where it is licensed, I fully believed that I had provided the Commission with a complete report.

The next week I received an e-mail from Ms. Amy Andrews (which had been sent to me on Friday, May 2, 2014, in the afternoon) indicating that our report was not complete. Ms. Andrews' e-mail stated, in part:

"A review of your annual report submitted on May 1, 2014 indicates it is incomplete.

- **Schedule 1, Part D marked as confidential (redacted) without a confidential unredacted version being submitted."**

I re-evaluated the report I sent and saw that I had submitted the report as non-confidential – only our financial information was submitted confidentially, and Schedule 1, Part D referenced our financial information. Still believing that I had submitted the report correctly, I responded to Ms. Andrews on May 9, telling her that I had only submitted our financial information confidentially. She replied, "We just need to receive Schedule D submitted without the "CONFIDENTIAL" marking and showing the actual data. This will be included in the confidential version of your annual report."

As I am sure you are aware, Schedule 1, Part D was not a part of the annual report in prior years. After receiving Ms. Andrews' second e-mail I went back and read the report instructions. The instructions indicate that the report may be filed confidentially, but specifically excludes the regulatory fee sheet

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portion of the report. Schedule 1, Part D is not part of the regulatory fee sheet report, so I still did not fully understand Ms. Andrews' statement.

The next week I was out of town at a taxation conference from May 13 – 16, and had very limited access to my e-mail and any reports and financial schedules I might need to re-file the report. It was not until the next week, when I was able to return to my office, that I was able to piece together that Ms. Andrews had wanted me to remove the word "confidential" that I had written in Schedule 1, Part D. I had written that there to indicate that the information was confidential, knowing that I was concurrently filing the information requested in that section. On May 22, I therefore filed an updated report with our revenue number in Schedule 1, Part D.

NetworkIP's failure to timely file its annual report was not intentional. As I stated above, I believed that I had correctly submitted the report on May 1 and during my correspondence with Ms. Andrews. It was upon further reflection that I finally understood what Ms. Andrews had meant, and submitted the report as expeditiously as possible. NetworkIP is a privately owned company, operating in a competitive industry, and we zealously guard all financial information. My stating that the information in Schedule 1, Part D was "confidential" was an attempt to protect our revenue information, which was simultaneously submitted to the Commission as "highly confidential."

It is for the reasons above that NetworkIP respectfully requests a mitigation of the \$1,000.00 fine. The late filing was the result of a misunderstanding of the new portion of the report, the rules related to it, and the additional instructions of Ms. Andrews. NetworkIP's goal is to comply at all times with all regulatory bodies, and as a company we strive to ensure both our friends and competitors do the same. Please accept my humble apologies and assurances that this will not occur in the future. Do not hesitate to contact me at the e-mail address or phone number provided below.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Amanda Hutchison Harris".

Amanda Hutchison Harris, Esq
Regulatory Compliance Officer
aharris@networkip.net
903-323-4900

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

²See attachment B for a copy of NetworkIP's Mitigation Request received on June 13, 2014