



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

July 2, 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. Radix Networks LLC*

Commission Staff's Response to Application for Mitigation of Penalties UT-140912

Dear Mr. King:

On June 3, 2014, the Utilities and Transportation Commission issued a \$300 Penalty Assessment in Docket UT-140912 against Radix Networks LLC for 3 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 18, 2014, Radix Networks LLC wrote the commission requesting mitigation of penalties (Mitigation Request).² In its Mitigation Request Radix Networks LLC contests the penalty assessed and disputes that the violation occurred. The company states, "We complied with the WUTC regulation to submit our annual report no later than May 1st. We received an email from Ms. Amy Andrews late Friday afternoon May 2nd requesting altered copies of previously submitted documentation. In our attempt to comply with WUTC regulations we responded to Ms. Williams in a timely manner and submitted the requested information via the WUTC website within 1.5 business days." The statement continues, "Considering our diligence and full cooperation with WUTC requests for filing annual reports in a timely manner we kindly ask you to rescind the assessed penalty."

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 June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 2014

UTC Annual Reports
July 2, 2014
Page 2

The instructions for the annual report completion page also provided reference to WAC 480-07-160 for the requirements to file documents with a confidential status.

On May 6, 2014 Radix Networks LLC filed its completed annual report, which contained the required redacted version of the company financial statements, with no regulatory fees due. The company has been active since October 9, 2006. No previous violations of WAC 480-120-382 are on commission record. Staff does not support the company's request to rescind the penalty. However, as this is the first delinquent filing for Radix Networks LLC, staff does support mitigation of the penalty to \$25 per day for a total assessed penalty of \$125.

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 June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 2014

ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-140912
PENALTY AMOUNT: \$300

Radix Networks LLC
PO Box 102
Independence, OR 97351

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 \$300 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 6, 2014, Radix Networks LLC filed its 2013 annual report and paid its 2014 regulatory fee. May 6 is 3 business days from May 1, resulting in a total penalty of \$300.

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 June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 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 June 3, 2014.

DENNIS J. MOSS
Administrative Law Judge

¹See attachment A for a copy of the penalty assessment sent on June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-140912

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 June 3, 2014

²See attachment B for a copy of Radix Networks’ Mitigation Request received on June 18, 2014

ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-140912

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 18 AM 9:20

[] 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:

[] 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: 6/10/2014 [month/day/year], at Salem OR [city, state]

Radix Networks
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."

¹See attachment A for a copy of the penalty assessment sent on June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 2014

June 10, 2014

WUTC,

We hereby contest the penalty assessed for submission of the annual report to the WUTC. As a small company of two principals and no employees, we do not have a full-time regulatory department. We recognize the importance of regulatory agencies and have done our best to comply with regulations and requests for information. Since we have been certified by the WUTC to provide service in the State of Washington, we have always submitted our Annual Report in a timely manner.

I contacted the Commission via telephone on January 23, 2014 at 1:40 pm and spoke with Virgil Santos (360.664.1280). I asked Mr. Santos where we could find the Annual Report template for 2013 because we wished to submit our report to the State. Mr. Santos stated the report was not finalized. I courteously asked Mr. Santos to inform us via email or telephone once the report template became available and he readily agreed to do so. We did not receive a notification from the WUTC as requested. A copy of our call log is attached to confirm our call.

On April 29th 2014 we submitted our report to the WUTC via the WUTC website. A confirmation email was received and is attached. We complied with the WUTC regulation to submit our Annual Report no later than May 1st. We received an email from Ms. Amy Andrews late Friday afternoon May 2nd requesting altered copies of previously submitted documentation. In our attempt to comply with WUTC regulations we responded to Ms. Williams in a timely manner and submitted the requested information via the WUTC website within 1.5 business days (confirmation email is attached). To ensure Ms. Williams was informed of our submission, we sent a copy of the requested information directly to her email address.

Considering our diligence and full cooperation with WUTC requests for filing annual reports in a timely manner we kindly ask you to rescind the assessed penalty.

Sincerely,


Jerden Swanborn

2014 JUN 18 AM 9:21

WUTC
COMMUNICATIONS SECTION

¹See attachment A for a copy of the penalty assessment sent on June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 2014

[Voicemail](#)
[Call Monitor](#)

[Phone Features](#)
[Follow Me](#)
[Feature Codes](#)

[Settings](#)

[Logout](#)

Call Monitor for Jeroen (201)

duration

Results 181 - 195 of 10268

select: [all](#) [none](#)

	Date▼	Time	Caller ID	Source	Destination	Context	Duration	Monitor
<input type="checkbox"/>	2014-01-27	13:58:06	"PRESTIGE PAYMEN" <5032272250>	5032272250	1	ext-group	6 sec	
<input type="checkbox"/>	2014-01-24	15:49:32	"SARA SWANBORN " <5038817175>	5038817175	201	from-did-direct	237 sec	
<input type="checkbox"/>	2014-01-24	13:44:23	"INTEGRA" <5033609606>	5033609606	201	from-did-direct	1171 sec	
<input type="checkbox"/>	2014-01-24	11:39:19	"TOLL FREE CALL" <8003385094>	8003385094	1	ext-group	18 sec	
<input type="checkbox"/>	2014-01-24	11:33:35	"CENTURYLINK" <5032690094>	5032690094	201	from-did-direct	67 sec	
<input type="checkbox"/>	2014-01-24	11:32:57	"CENTURYLINK" <5032690094>	5032690094	201	from-did-direct	37 sec	
<input type="checkbox"/>	2014-01-24	09:13:23	5036069120	5036069120	4804815900	from-internal	47 sec	
<input type="checkbox"/>	2014-01-23	13:42:59	"Anonymous"	anonymous	201	from-did-direct	65 sec	
<input type="checkbox"/>	2014-01-23	13:40:16	5036069120	5036069120	3606641280	from-internal	39 sec	
<input type="checkbox"/>	2014-01-23	13:31:15	"COEFFICIENT" <5036069108>	5036069108	201	from-did-direct	8 sec	
<input type="checkbox"/>	2014-01-23	13:25:14	"COEFFICIENT" <5036069108>	5036069108	201	from-did-direct	13 sec	
<input type="checkbox"/>	2014-01-23	12:35:35	"PAUL HIRT " <5039999489>	5039999489	1	ext-group	461 sec	
<input type="checkbox"/>	2014-01-23	11:39:01	"TOLL FREE CALL" <8003385094>	8003385094	1	ext-group	16 sec	
<input type="checkbox"/>	2014-01-23	11:03:10	"Anonymous" <5202903741>	5202903741	1	ext-group	16 sec	
<input type="checkbox"/>	2014-01-23	10:52:14	"INTEGRA TELECOM" <5034538249>	5034538249	1	ext-group	291 sec	

First < 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 > Last

FreePBX 2.4 Version
Based on ABE from Littlejohn Consulting

¹See attachment A for a copy of the penalty assessment sent on June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 2014

Jeroen Swanborn

From: Records Service Center <Sharepointadmins@utc.wa.gov>
Sent: Tuesday, April 29, 2014 6:30 PM
To: regulatory@radixnetworks.com
Subject: UTC E-Filing submission received, confirmation ID 498

Your e-file submission has been received by the Washington Utilities and Transportation Commission. Please save this e-mail, and use the confirmation ID when contacting the Commission.

* Please do not reply to this message. This is an automated message, and the originating account cannot receive e-mails.

E-File submission details:

E-File ID: 498
Docket No:
Company: Radix Networks LLC
Filing description: Annual Report and Fee Statement

Documents filed:

Filename: 170 Telecommunications Annual Report Form 2013.xls
Description: Form 170
Confidentiality: None

Documents filed:

Filename: WUTC2013 Balance Sheet.pdf
Description: Balance Sheet
Confidentiality: Confidential

Documents filed:

Filename: WUTC2013 Income statement.pdf
Description: Income Statement
Confidentiality: Confidential

¹See attachment A for a copy of the penalty assessment sent on June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 2014

Jeroen Swanborn

From: Records Service Center <Sharepointadmins@utc.wa.gov>
Sent: Tuesday, May 06, 2014 2:11 PM
To: regulatory@radixnetworks.com
Subject: UTC E-Filing submission received, confirmation ID 608

Your e-file submission has been received by the Washington Utilities and Transportation Commission. Please save this e-mail, and use the confirmation ID when contacting the Commission.

* Please do not reply to this message. This is an automated message, and the originating account cannot receive e-mails.

E-File submission details:

E-File ID: 608

Docket No:

Company: Radix Networks LLC

Filing description: Redacted version of confidential financial statements

Documents filed:

Filename: WUTC2013 Income statement (Redacted).pdf

Description:

Confidentiality: Confidential

Documents filed:

Filename: WUTC2013 Balance Sheet (Redacted).pdf

Description:

Confidentiality: Confidential

¹See attachment A for a copy of the penalty assessment sent on June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 2014

Jeroen Swanborn

From: Jeroen Swanborn <jeroen@radixnetworks.com>
Sent: Tuesday, May 06, 2014 2:14 PM
To: 'Andrews, Amy (UTC)'; regulatory@radixnetworks.com
Subject: RE: Incomplete Annual Report Notification for Radix Networks
Attachments: WUTC2013 Balance Sheet (Redacted).pdf; WUTC2013 Income statement (Redacted).pdf

The redacted version of the financial statements have been filed (**E-file confirmation ID: 608**) and are attached.

Thank you,
Jeroen Swanborn
503.606.6000

From: Andrews, Amy (UTC) [<mailto:aandrews@utc.wa.gov>]
Sent: Friday, May 02, 2014 3:26 PM
To: regulatory@radixnetworks.com
Cc: Andrews, Amy (UTC)
Subject: Incomplete Annual Report Notification for Radix Networks

Dear Regulated Company,

On February 28, 2014 the Utilities and Transportation Commission (commission) mailed you an Annual Report. The report and fees are due by May 1, 2014.

A review of your annual report submitted on April 29, 2014 indicates it is incomplete.

- **Redacted version of confidential financial statements not provided per WAC 480-07-160**

Commission staff may recommend enforcement action, which includes penalties of up to \$100 per day, against any company that does not file a completed annual report. In order to avoid enforcement action, the commission must receive your completed report no later than May 1, 2014.

If you have any questions about your annual report please call me at (360) 664-1157 or e-mail at aandrews@utc.wa.gov.

Amy Andrews
Fiscal Analyst
Utilities & Transportation Commission
PO Box 47250
Olympia, WA 98504-7250
☎ 360.664.1157
☎ 360.664.1289
🌐 www.utc.wa.gov

¹See attachment A for a copy of the penalty assessment sent on June 3, 2014

²See attachment B for a copy of Radix Networks' Mitigation Request received on June 18, 2014