



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 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. Umpqua Indian Development Corp.*

Commission Staff's Response to Request for a Hearing UT-140926

Dear Mr. King:

On June 3, 2014, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket UT-140926 against Umpqua Indian Development Corp. 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 10, 2014, Matt Dean with Telecom Professionals, Inc. contacted the commission on behalf of Umpqua Indian Development providing a UPS Internet Shipping Receipt for an Extension Request mailed on April 24, 2014.² Telecom Professionals, Inc. also represents several other regulated telecommunications companies for which extension requests were received. Commission staff verified the extension request for Umpqua Indian Development Corp. was not erroneously attached to another company's request. The company requested a hearing in response to the penalty assessment.³ In its Hearing Request, Umpqua Indian Development Corp. does dispute that the violation occurred. The company references the extension request mailing and immediate contact with the commission upon receipt of the penalty assessment and asks the fine be waived and the extension request be granted.

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

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

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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.

Umpqua Indian Development Corp. filed and was granted extensions during the 2012 and 2009 annual report years as required. The company did receive penalty assessments for late annual report filings during the 2008 and 2007 annual report years. Due to Umpqua Indian Development Corp. prior history of extension requests, in addition to the good faith documentation the extension request was provided to UPS for delivery, staff supports the company's request that the fine be waived and the extension request be considered.

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 Umpqua's UPS Internet Shipping Receipt received on June 10, 2014

³See attachment C for a copy Umpqua's Request for Hearing received on June 10, 2014

ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-140926
PENALTY AMOUNT: \$1,000

Umpqua Indian Development Corp.
480 NE Oakland Avenue
Roseburg, OR 97470

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, Umpqua Indian Development Corp. has not filed its 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.

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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

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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-140926

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

UPS Internet Shipping: Shipment Receipt

Page 1 of 1



Shipment Receipt

Transaction Date: 21 Apr 2014

Tracking Number:

1Z97WV150193217188

Address Information		
Ship To: WA Utilities & Transportation Telecommunications Department 1200 S. Evergreen Park Drive S. W. Richard Hemstad Building OLYMPIA WA 98504 Telephone:360-864-1160	Ship From: TELECOM PROFESSIONALS Matt Dean PO Box 720128 OKLAHOMA CITY OK 731720128 Telephone:405-755-8177 x25	Return Address: TELECOM PROFESSIONALS Matt Dean 12316 Hidden Forest Boulevard OKLAHOMA CITY OK 73142 Telephone:405-755-8177 x25

Package Information			
Weight	Dimensions / Packaging	Declared Value	Reference Numbers
1. Letter (Letter billable)	UPS Letter		Reference#1 - IMP INT MOS NI NOV OSC RIO TCS THR Reference#2 - WCI - WA AR'EXT REQ

UPS Shipping Service and Shipping Options	
Service:	UPS Next Day Air
Guaranteed By:	10:30 AM Tuesday, Apr 22, 2014
Shipping Fees Subtotal:	37.63 USD
Transportation	33.00 USD
Fuel Surcharge	3.73 USD

Payment Information	
Bill Shipping Charges to:	Shipper's Account 97WV15
A discount has been applied to the Daily rates for this shipment	
Total Charged:	37.63 USD
Negotiated Total:	28.22 USD

Note: Your invoice may vary from the displayed reference rates.
 * For delivery and guarantee information, see the UPS Service Guide. To speak to a customer service representative, call 1-800-PICK-UPS for domestic services and 1-800-742-7882 for international services.
Responsibility for Loss or Damage
 UPS's liability for loss or damage to each domestic package or international shipment is limited to \$100. Unless a greater value is recorded in the declared value field of the UPS shipping system used, the shipper agrees that the released value of each package covered by this receipt is no greater than \$100, which is a reasonable value under the circumstances surrounding the transportation. To increase UPS's limit of liability for loss or damage above \$100, the shipper must declare a higher value and pay an additional charge. See the UPS Tariff/Terms and Conditions of Service at www.ups.com for UPS's liability limits, maximum declared values, and other terms of service. UPS does not accept for transportation and shippers are prohibited from shipping packages with a value of more than \$50,000. Claims not made within nine months after delivery of the package (sixty days for international shipments), or in the case of failure to make delivery, nine months after a reasonable time for delivery has elapsed (sixty days for international shipments), shall be deemed waived. The entry of a C.O.D. amount is not a declaration of value for carriage purposes. All checks or other negotiable instruments tendered in payment of C.O.D. will be accepted by UPS at shipper's risk. UPS shall not be liable for any special, incidental, or consequential damages. All shipments are subject to the terms and conditions contained in the UPS Tariff/Terms and Conditions of Service (available at www.ups.com).

https://www.ups.com/uis/create?ActionOriginPair=default__PrintWindowPage&key=rec... 4/21/2014

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TELECOM

PROFESSIONALS, INC.

Judith A. Riley, J.D.

12316 Hidden Forest Blvd.
Oklahoma City, Ok 73142

April 21, 2014

Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. S.W.
Olympia, WA 98504
306-664-1160

RE: Umpqua Indian Development Corp. d/b/a Rio Communications (UBI No. 602.727.486)

Dear Commission:

On behalf of the above-named company, we respectfully request a sixty (60) day extension of time in order to file the 2013 Washington Annual Report. We are currently confirming the accuracy of year-end financial information and require additional time. Should we receive confirmation prior to July 1, 2014, we will file the report immediately.

We understand that the Regulatory Fee must still be filed and paid on or before May 1, 2014.

Please acknowledge receipt of these documents by emailing me at mdean@telecompliance.net or by US Mail at: Telecom Professionals, Inc., P.O. Box 720128, Oklahoma City, OK 73172-0128.

Thank you,



Matt Dean
Regulatory Agent
405-755-8177 x 25

Office (405) 755-8177

(800) 406-4777

Fax (405) 755-8377

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ATTACHMENT C



Judith A. Riley, J.D.

12316 Hidden Forest Blvd.
Oklahoma City, Ok 73142

June 11, 2014

Via email

Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. S.W.
Olympia, WA 98504
306-664-1160

RE: Penalty Assessment UT-140926

Dear Commission:

Umpqua Indian Development Corp. dba Rio Communications ("Rio") recently received a Penalty Assessment from the Washington Utilities and Transportation Commission ("UTC"). On April 21, 2014, Telecom Professionals, Inc. ("TPI") overnighted via UPS a sixty day extension request for Rio to file their 2013 Washington Annual Report; requesting up to and including July 1, 2014. This extension request was sent with other extension requests for several other telecom companies as well. The Regulatory Fee was filed and paid prior to May 1, 2014.

Rio contacted TPI upon receipt of their Penalty Assessment and TPI immediately contacted UTC Assistant Director Bill Weinman to discuss the matter. Mr. Weinman did recall receiving and approving numerous extension requests sent by TPI. TPI was able to furnish the UTC a copy of the UPS shipping receipt, which did make reference to Rio, and TPI promptly emailed the UTC a copy of the receipt.

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Attached herewith, please also find a copy of the signed extension request that was sent via UPS overnight delivery. It is our belief that somehow the extension request for Rio may have been misplaced amidst the other extension requests that were sent in the same shipment.

Based on the aforementioned events and the belief that Rio shows no pattern of late filings, we believe that the alleged violation did not occur and we respectfully request that the fine be waived and the extension request be granted.

Respectfully submitted,

/s/ Matt Dean

Matt Dean
Regulatory Agent for
Umpqua Indian Development Corp.
405-755-8177 x 25

Office (405) 755-8177

(800) 406-4777

Fax (405) 755-8377

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