



STATE OF WASHINGTON  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

December 4, 2012

David W. Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P. O. Box 47250  
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. New Horizons Communications Corp.*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket UT-120991

Dear Mr. Danner:

On July 31, 2012, the Washington Utilities and Transportation Commission issued a \$1,900 Penalty Assessment in Docket UT-120991 against New Horizons Communications Corp. (New Horizons) for 19 violations of Washington Administrative Code (WAC) 480-120-382, which requires permitted telecommunications companies to furnish annual reports to the commission no later than May 1 each year.

On August 9, 2012<sup>1</sup>, New Horizons wrote the commission requesting mitigation of penalties (Mitigation Request). In its Mitigation Request, New Horizons disputes that the violations occurred. The company states, "Enclosed is a payment of \$475. This represents 19 business days @ \$25 per day as indicated in the penalty notification. New Horizons also requests a review of arrival. The document was prepared in April and New Horizons believes it arrived well before the indicated date ... The company respectfully requests an adjustment to the total amount due based on the Commission's corresponded. For your convenience, I have enclosed a copy of that correspondence. The correspondence states in paragraph 5 that the \$100 per day penalty has been mitigated to \$25.00 per business day and therefore using the Commission's adjusted fee of \$25.00 per day at the Commission's calculated nineteen (19) business days, the Company is enclosing the above mentioned check at the adjusted amount. However, although the Company has paid in full at the adjusted rate, the Company also respectfully requests a review of the amount of days it took for the Commission to receive this report. The correspondence specifies that the report was filed nineteen (19) business days late and was received on May 26, 2012. New Horizons is surprised that the arrival date was May 26, 2012, the document was prepped on April 29, 2012 and sent for an officers signature and then to be mailed and should not have taken almost a full moth for the Commission to receive. I do not believe the Company received a date

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<sup>1</sup> See attachment A for a copy of New Horizons' Mitigation Request.



stamp cover letter back from the Commission as requested and therefore it is hard to track the actual date of arrival.”

It is the company’s responsibility to ensure that the regulatory fee and the annual report are filed by the May 1 deadline. On February 29, 2012<sup>2</sup>, Annual Report forms and Regulatory Fee packets were mailed to all regulated telecommunications companies. In addition to other information, the cover letter informed the regulated company it must complete the annual report form, pay any regulatory fees and return the material by May 1, 2012 to avoid enforcement action. On May 14, 2012<sup>3</sup>, the commission mailed a letter to those companies that had not yet filed an annual report or filed an incomplete annual report, notifying them that, to date, they had incurred a penalty of \$800. The letter went on to explain that companies who filed their annual reports no later than May 25, 2012, would receive mitigated penalties of \$25 per day, with an additional \$25 per day for each instance in the previous five years that the company received a penalty for filing a late report.

Commission staff reviewed the penalty assessment and the language in the fifth paragraph does say, “The penalty was mitigated from \$100 per day to \$25 per day for a total of \$1,900.” This language is not consistent with the penalty amount of \$1,900 which is reflected at the top of the assessment and again on the final page, which allows for payment of the penalty. New Horizons is responsible for a penalty of \$100 per business day for a total of \$1,900 because it did not file the documents necessary to complete its annual report until May 26, 2012.

The annual report on file with the commission is dated April 29, 2012, and shows a commission received date stamp of May 8, 2012. The annual report also shows a date stamp of May 30, 2012, which is the date the annual report was entered into the commission’s database.

Compliance staff received a delinquent filing status report from Financial Services on May 18, 2012 and New Horizons was on that report<sup>4</sup>. Commission Financial Services staff has indicated the annual report received date stamp is the date the report was originally received and the other date stamp is the date the annual report was completed.

Commission staff reviewed the commission’s Annual Reports Tracking System (ARTS) and the system shows the report was completed on May 26, 2012.

On May 26, 2012, Ronald A. Sheehan of New Horizons emailed commission staff the following, “Hi Mr. Perkinson. I have received a notice from the UTC indicating that my Annual Report for New Horizons Communications was not complete. To my surprise I just found a VM message from Ralin (not sure if I am spelling that correctly) which for some strange reason I did not receive until today. She had indicated that I did not include the my [sic] company’s financials. Attached please find the company’s balance sheet and Income [sic] statement. Should there be anything else I need to do to clear this deficiency [sic] please contact me at the [sic] below. Note I have left a message for Ralin to indicate this email was sent.”

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2 See attachment B for a copy of the letter sent to all regulated companies on February 29, 2012.

3 See attachment C for a copy of the enforcement letter sent to the company on May 14, 2012.

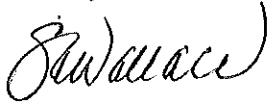
4 See attachment D for a copy of the delinquent filing status report received May 18, 2012.

New Horizons filed its annual report on May 26, 2012, which is 19 business days past the deadline of May 1, 2012. The penalty is \$100 per day for a total of \$1,900. New Horizons has never received a penalty for filing a delinquent annual report in the past. New Horizons enclosed a payment of \$475 with its mitigation request. In reviewing the penalty assessment, staff finds the penalty of \$1,900 is appropriate.

Staff supports mitigating the assessed penalty from \$1,900 to \$950, which represents a 50 percent reduction because this is New Horizons first late filing. New Horizons has already made a payment of \$475. If the commission follows staff's recommendation, New Horizons would have a remaining balance of \$475.

If you have questions regarding this recommendation, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105, or at [mperkinson@utc.wa.gov](mailto:mperkinson@utc.wa.gov).

Sincerely,

A handwritten signature in cursive script that reads "Sharon Wallace".

Sharon Wallace, Assistant Director  
Consumer Protection and Communications

Attachment A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT UT-120991

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 <sup>\$475<sup>00</sup></sup> \$1,900 in payment of the penalty (Change is per notification) Please see cover letter

Submitted my payment of \$1,900 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, based on the following information, and request a hearing, which is a process that allows an affected person to present argument to an administrative law judge 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 reason(s) set out below. Enclosed is a payment of \$475. This represents 19 Business Days @ \$25<sup>00</sup> per day as indicated in the penalty notification. New Horizons also requests a review of ~~perjury~~. The document was prepared in April, 2012. New Horizons believes it arrived well before the indicated date. Please see cover letter.

a) I ask for a hearing for a decision by an administrative law judge based on the information presented above.

OR  b) I waive a hearing and ask for an administrative decision on the information I present directly 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: Aug 5, 2012 (month/day/year), at Bedford Lexington MA (city, state)

Ronald A. Sheehan  
Name of Respondent (company) - please print

Ronald A. Sheehan  
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."

2012 AUG -9 PM 2:25  
COMMUNICATIONS  
MANAGEMENT



**NEW HORIZON  
COMMUNICATIONS**

August 5, 2012

Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia WA 98504-7250

Re: New Horizons Communications Corp.,  
UBI Number: 602658670  
Annual Report Penalty Assessment


RECEIVED  
AUG 05 2012  
WASH. UT. & TP. COMM

RECEIVED  
GENERAL MANAGER  
STATE OF WASH  
UTIL. AND TRANSP  
COMMISSION  
2012 AUG -9 PM 2:26

Enclosed for filing, please find the Washington Utilities and Transportation Commission's (the "Commission") Penalty Assessment UT-120991, on behalf of New Horizons Communications Corp (the "Company"). Also enclosed please find a check in the amount of \$475.00 to cover what penalties are due.

The Company respectfully requests an adjustment to the total amount due based on the Commission's correspondence. For your convenience, I have enclosed a copy of that correspondence. The correspondence states in paragraph 5 that the \$100 per day penalty has been mitigated to \$25.00 per business day and therefore using the Commission's adjusted fee of \$25.00 per day at the Commission's calculated nineteen (19) business days, the Company is enclosing the above mentioned check at the adjusted amount. However, although the Company has paid in full at the adjusted rate, the Company also respectfully requests a review of the amount of days it took for the Commission to receive this report. The correspondence specifies that the report was filed nineteen (19) business days late and was received on May 26, 2012. New Horizons is surprised that the arrival date was May 26, 2012, the document was prepped on April 29, 2012 and sent for an officers signature and then to be mailed and should not have taken almost a full month for the Commission to receive. I do not believe the Company received a date stamp cover letter back from the Commission as requested and therefore it is hard to track the actual date of arrival.

Should any questions arise or any additional information is required, please contact me at the below contact information. Please acknowledge receipt of this filing by date-stamping the extra copy of the explanation letter and returning it to me in the self-addressed, stamped envelope provided for this purpose.

Sincerely,  
  
New Horizons Communications Corp  
Ronald A. Sheehan  
Tariff and Regulatory Specialist  
420 Bedford Street  
Suite 250  
Lexington, MA 02420  
Phone: 1-339-222-7518  
Fax: 1-781-207-0428  
Email: rsheehan@nhcgrp.com

## Attachment B



STATE OF WASHINGTON

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

February 29, 2012

Dear Regulated Company:

**Reference: Your 2011 Annual Report and 2012 Regulatory Fees are due May 1**

State law requires you to file an annual report and pay regulatory fees to the Washington Utilities and Transportation Commission (UTC).

#### What is required of you?

By May 1, you must:

- Complete and file one paper copy or electronic version of the enclosed 2011 annual report form
- Pay your 2012 regulatory fees

#### What happens if you do not file a completed annual report and pay regulatory fees on time?

If you do not file your company's completed annual report and pay the regulatory fees by May 1, the UTC will assess a financial penalty of \$100 for each business day after May 1 that the report is not filed and \$100 for each business day after May 1 the fees are unpaid. You may seek mitigation of the penalties in response to the assessment you receive, after you have filed a completed annual report and paid your regulatory fees. The amount of the penalties the UTC mitigates, if any, will depend on the reasons you were late and whether you have filed late in prior years. If you have not filed your completed annual report or paid your regulatory fees by June 1, 2012, Staff will initiate proceedings to have the UTC revoke your authority to operate in Washington.

#### What happens if you do not pay the regulatory fees by May 1?

If you do not pay your company's regulatory fees by May 1, you will incur a 2 percent penalty on the amount due and a 1 percent monthly interest charge on the unpaid balance. These amounts apply in addition to the assessment of a penalty of \$100 per business day after May 1 that the fees are unpaid.

#### May you request an extension of time if you are unable to file the annual report or pay your regulatory fees on time?

You may file a written request for an extension to file your completed annual report, but the UTC will not extend the deadline for paying regulatory fees. Any extension request must be filed with the UTC by April 24, 2012, and must state a valid reason for why you need an extension and identify a specific date by which you will file your completed annual report. The UTC will notify you by May 1 whether your request is approved or denied. Even if your request



UTC Annual Reports and Fees  
February 29, 2012  
Page 2

is approved, you will still be liable for penalties and interest payments if you fail to pay your regulatory fees by May 1.

**What should you do if your company is no longer operating in Washington?**

You may cancel your registration or permit by using the cancellation forms available on our website (see below), but if your company operated in Washington at any time during the 2011 calendar year, you must pay regulatory fees and file a closing annual report based on the months of operation during 2011 even if you cancel your registration or permit.

**May you designate any information in your annual report as confidential?**

Yes, but if you satisfy two conditions:

- (1) You are eligible to request confidential treatment only if your company is regulated under Title 80 RCW, that is, if you operate an electric, natural gas, telecommunications or water company. Transportation companies, regulated under Title 81 RCW, may not request confidential treatment of documents because the authority for such treatment is found only in RCW 80.04.095. If a Title 81 company files its annual report or fee sheet as confidential, the UTC will not treat it as confidential.
- (2) You must follow the steps for filing confidential documents in WAC 480-07-160. You may find this rule at the UTC website, [www.utc.wa.gov/annual-reports](http://www.utc.wa.gov/annual-reports).

**Please note:** The regulatory fee sheet portion of your report is not a confidential document and will not be accorded confidential treatment under the rule. The UTC will not, however, disclose credit card information you list on the fee sheet.

**May you perform some of these tasks online?**

Yes. You may complete the following tasks from the annual reports page at the UTC website [www.utc.wa.gov/annualreports](http://www.utc.wa.gov/annualreports):

- Obtain electronic versions of annual report forms
- Pay regulatory fees
- File your report electronically
- Cancel your registration (telecommunications companies) or permit (transportation companies) if your company ceased operations in 2011.

**Where do you mail the completed annual report form and regulatory fee payment?**

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

**Is there any additional information you should file?**

- If you are a gas distribution company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 2.

## Attachment C



STATE OF WASHINGTON  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
1700 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

May 14, 2012

### NOTICE OF ENFORCEMENT ACTION

**Attention:**

Your 2011 annual report to the Utilities and Transportation Commission (commission) was due on May 1, as required by law. The report you submitted was incomplete.

Financial penalties of \$100 per day began accruing on May 2. As of the date of this letter, you have accrued a penalty of \$800. That penalty will increase by \$100 per day for each subsequent day you fail to comply.

**This letter tells you what you can do to mitigate your penalty.**

If the commission receives your complete report postmarked no later than May 25, commission staff will mitigate your penalty to \$25 per day. Additional penalties of \$25 per day will be added for each year you have filed late in the past five years, up to a maximum of \$100 per day.

Annual report forms are available on the commission's website at [www.utc.wa.gov](http://www.utc.wa.gov). If you have questions or require additional information, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105 or [mperkinson@utc.wa.gov](mailto:mperkinson@utc.wa.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "David W. Danner".

David W. Danner  
Executive Director and Secretary





Attachment D

Annual Reports System  
 Delinquent Filing Status  
 For report year 2011 and industry

Company Name	Rev. Id	Intrastate Revenue	Reg. Fee	Interest	Payments	Date Paid	Balance Due	Rpt. Rcvd
Convergence Technologies, Inc.					\$0.00			
CoSpeed, LLC					\$0.00			
CVC CTEC, LLC					\$0.00			
DeltaCOM, Inc.					\$0.00			
Etopia Communications, LLC					\$0.00			
Etran Networks					\$0.00			
Exponential Communications, LLC					\$0.00			
Go Solo Technologies, Inc.					\$0.00			
Gold Line Telemanagement, Inc.					\$0.00		50.00	4/9/2012
Grasshopper Group, LLC					\$0.00			
Greenfly Networks, Inc.					\$0.00			
Inmate Communications Corporation					\$0.00			
LDC Telecommunications, Inc.					\$0.00			
Legacy Long Distance International, Inc.					\$0.00			
MBC TELECOM, LLC					\$0.00			
McGraw Communications, Inc.					\$0.00			
Midwestem Telecommunications, Incorporated					\$0.00			
Momentum Telecom, Inc.					\$0.00			
NECC Telecom, Inc.					\$0.00			
Nehalem Telecommunications, Inc.					\$0.00			
NET TALK.COM, INC.	000000	\$4,327.50	\$0.00		\$0.00	4/23/2012	50.00	4/23/2012
Network Enhanced Technologies, Inc.					\$0.00			
New Horizons Communications Corps.	000000	\$14,196.86	\$0.00		\$0.00	5/10/2012	50.00	5/8/2012
Norlight, Inc.					\$0.00		50.00	
NOVOR, Inc.					\$0.00			