

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT NO: UT-051509

PENALTY AMOUNT: \$16,300

TELECOMMUNICATIONS COMPANY:

Marathon Communications, Inc.

1550 North 34th Street #200

Seattle, Washington 98103

The commission believes that you have committed one or more violations of Washington Utilities and Transportation rules; specifically Washington Administrative Code (WAC) 480-120-166, which requires telecommunications companies to report the results of its investigation of service-affecting informal complaints to commission staff within two business days from the date commission staff passes the complaint to the company; of nonservice-affecting informal complaints to commission staff within five business days from the date the commission staff passes the complaint to the company; and for requests from commission staff for additional information on pending complaints within three business days.

A review of commission records indicates that staff provided Marathon technical assistance of WAC 480-120-166 on at least 17 occasions in 2004. Despite those instances of technical assistance, you failed to respond in accordance with the rules in 10 complaints, for a total of 654 violations in 2005. Note that each day the company fails to respond is a separate and distinct violation.

Since the conclusion of staff's investigation, staff and Marathon have been in discussions and you report that Marathon has changed complaint response processes, including the addition of a staff person whose primary responsibility is responding to complaints. Commission records indicate that Marathon has responded timely to the two complaints lodged against it in 2006. Staff is cautiously optimistic that going forward, late responses from Marathon will not be a problem. As a result, the commission is assessing penalties equal to 25% of the total violations. In accordance with Revised Code of Washington 80.04.405, the commission hereby notifies you that it has assessed penalties against you in the amount of \$16,300.

The basis for the penalty assessment is as follows:

- In complaint 93239, 2 violations of WAC 480-120-166(7);
- In complaint 93239, 8 violations of WAC 480-120-166(8);
- In complaint 93280, 151 violations of WAC 480-120-166(8);
- In complaint 93536, 2 violations of WAC 480-120-166(6);

- In complaint 93536, 74 violations of WAC 480-120-166(8);
- In complaint 93893, 56 violations of WAC 480-120-166(7);
- In complaint 93939, 17 violations of WAC 480-120-166(6);
- In complaint 94223, 143 violations of WAC 480-120-166(8);
- In complaint 94245, 134 violations of WAC 480-120-166(8);
- In complaint 94867, 34 violations of WAC 480-120-166(7);
- In complaint 95056, 23 violations of WAC 480-120-166(7); and
- In complaint 95208, 10 violations of WAC 480-120-166(7).

Penalties are due and payable upon receipt of this penalty notice. If for any reason you believe the violations described did not occur, you may request a hearing to contest the occurrence of the violations. If you have an explanation as to why the violations occurred, or have other facts you believe the commission should have considered, RCW 80.04.405 provides that you may make application for mitigation of this penalty.


To do so, complete the enclosed mitigation form and return it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, within FIFTEEN (15) days of your receipt of this penalty notice. You may, although you are not required to, present your request for mitigation at a hearing. The commission will consider your plea and notify you of its determination.

If you request a hearing to contest either the occurrence of the violations or the amount of the penalty, please state why you believe a hearing is called for in your circumstances. Failure to request a hearing to contest the occurrence of the violations or the amount of the penalty, return the mitigation plea, or pay the amount due within 15 days will cause the commission to refer this matter to the Office of the Attorney General for collection. Suit may then be brought against you and after trial, judgment may be entered against you.

DATED at Olympia, Washington and effective this ~~17th~~ day of April, 2006.


MARK H. SIDRAN, Chairman


PATRICK OSHIE, Commissioner


PHILIP JONES, Commissioner

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

APPLICATION FOR MITIGATION OF PENALTIES

NOTE: This form must be completed, signed, and received by the commission within 15 days of your receipt of this form.

I have read and understand RCW 9A.72.020, which states that making false statements under oath is a class B felony (printed below). 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, application for mitigation of the penalties (as described in the attached Notice of Penalties), for the following reasons:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree 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.”