



Rob McKenna

## ATTORNEY GENERAL OF WASHINGTON

Utilities and Transportation Division

1400 S Evergreen Park Drive SW • PO Box 40128 • Olympia WA 98504-0128 • (360) 664-1183

November 19, 2008

Philip Wahlbom III  
Marathon Communications Corporation  
8014 Cumming Highway, Suite 403-357  
Canton, Georgia 30107

**RE: Penalty Assessment UT-081140**

Dear Mr. Walbom:

On July 9, 2008, the Utilities and Transportation Commission (commission) issued a Notice of Penalties to Marathon Communications Corporation (Marathon) in the amount of \$200 for violation of Washington Administrative Code (WAC) 480-120-382 (copy enclosed). WAC 480-120-382 requires telecommunications companies to furnish annual reports and pay regulatory fees to the commission no later than May 1 of each year. The penalty assessment required Marathon to either pay the penalty or ask for mitigation within 15 days.

On September 16, 2008, the commission sent Marathon a letter informing it the penalty assessment was outstanding. Payment was required by September 30, 2008, or the commission would consider additional sanctions and would refer the matter to the Office of the Attorney General for collection.

**This is your final opportunity to respond.** If you do not respond by December 1, 2008, you may incur additional penalties, and the commission may pursue its enforcement options in superior court.

If you have any questions about this letter or about the company's obligations under commission rules, you may contact me at (360) 664-1193, or Sheri Hoyt, Compliance Investigator, at (360) 664-1149.

Sincerely,

Sally Brown

Assistant Attorney General

Enclosure



# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-081140  
PENALTY AMOUNT: \$200

Marathon Communications Corporation  
8014 Cumming Highway, Suite 403357  
Canton, Georgia 30107

The Washington Utilities and Transportation Commission (Commission) believes that you have committed a violation of Washington Administrative Code 480-120-382 which requires competitive telecommunications companies to file annual reports with the Commission by May 1 each year. You are classified as such a company. Commission records show that you did not make the filing by the required date of May 1, 2008. Revised Code of Washington (RCW) 80.04.405 allows penalties of \$100 for every such violation. Each and every such violation shall be a separate and distinct offense and, in the case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation.

As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount \$200, as follows:

On February 29, 2008, the Commission mailed 2007 Annual Report forms and 2008 Regulatory Fee packets to competitive telecommunications companies registered in Washington State. A letter from Executive Secretary Carole Washburn instructed companies to file annual reports and pay regulatory fees by May 1, 2008. Further, the letter stated failure to file the annual report by May 1 would result in a penalty and possible revocation of the company's registration to operate in Washington.

On April 1, 2008, the Commission mailed a notice to all telecommunications companies reminding them that 2007 annual reports and 2008 regulatory fees were due by May 1, 2008.

On May 15, 2008, the Commission sent letters to those companies that had not yet filed their reports. The letter, signed by Carole Washburn, gave an extension to companies to file their reports by May 30, 2008. In the letter, Ms. Washburn stated the Commission would not seek a fine or move to revoke the registration of any company with a report received by the Commission postmarked no later than May 30.

As of June 12, 2008, Marathon Communications Corporation, failed to file the 2007 annual report.

Marathon Communications Corporation also failed to file its 2006 annual report timely and, as a result, previously received a \$100 penalty assessment in 2007. This penalty amount of \$200 is for two consecutive years of non-compliance.

This information, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

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. If there is a reason for the violation that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty. See RCW 80.04.405.

You have the right to present your request for review or mitigation at a hearing, but you are not required to do so. If you do, the Commission will review the evidence supporting your request in an informal hearing, called a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider your plea and notify you of his or her decision.

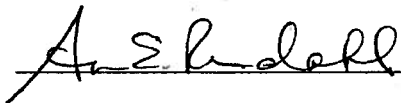
**You must act within 15 days after receiving this notice** to do one of the following:

- 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. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective June 30, 2008.



ANN E. RENDAHL  
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-081140

**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. If you have questions regarding this penalty, please contact Sheri Hoyt, Compliance Specialist, by phone at (360) 664-1149 or by e-mail at shoyt@utc.wa.gov.

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 violation occurred and enclose \$200 in payment of the penalty.
- 2. **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing for a decision by an administrative law judge:

- 3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below.
  - a) I ask for a hearing for a decision by an administrative law judge
  - b) I waive a hearing and ask for an administrative decision on the information I present here:

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

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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.”