

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment)	DOCKET UT-101022
against)	
)	
)	ORDER 01
ETHOS COMMUNICATIONS)	
GROUP, INC.)	
)	ORDER DENYING APPLICATION
)	FOR MITIGATION; REQUIRING
In the Amount of \$100.)	PAYMENT OF PENALTY
)	
.....)	

- 1 **Penalty:** On June 30, 2010, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Penalty Assessment against Ethos Communications Group, Inc.(Ethos or Company) in the amount of \$100 for one violation of Washington Administrative Code (WAC) 480-120-382, which requires competitively classified telecommunications companies to file annual reports with the Commission by May 1 each year.¹ The Commission advised the Company that it was required to act within 15 days of receiving the Notice by paying the amount due, requesting a hearing, or requesting that the penalty be reduced.

- 2 **Application for Mitigation:** On August 17, 2010, Ethos filed an application for mitigation of the penalty because the Company was not operating in Washington during 2009.

- 3 **Jurisdiction:** RCW 80.04.405 allows the Commission to consider remission or mitigation of penalties “upon written application therefore received within fifteen days.” The statute does not provide for a “good cause” or other exception to this deadline. Thus, regardless of the circumstances, the Commission lacks jurisdiction to consider applications for mitigation received after the 15-day deadline.

¹ This year, the Commission extended the deadline to May 31, 2010, for competitively-classified telecommunications companies to file their annual reports.

4 **Commission Decision:** According to WAC 480-120-382, competitively-classified telecommunications companies are required to file their annual reports with the Commission by May 1 each year. This year, the Commission extended the filing deadline to May 31, 2010, thus affording competitively-classified telecommunications companies an additional opportunity to submit their annual reports in a timely manner. Despite the extended filing deadline, Ethos failed to file its annual report. Moreover, Ethos failed to submit its request for mitigation in a timely manner. Ethos was served with the Notice of Penalty Assessment on July 3, 2010.² Therefore, the Company had 15 days, or until July 18, 2010, to request mitigation. The Commission received the Company's application for mitigation approximately one month after it was due. Under RCW 80.04.405, the Commission has no jurisdiction to mitigate or otherwise review the penalty assessment. Accordingly, the penalty of \$100 is due and payable immediately.

5 The Commissioners have delegated authority to the Executive Secretary to enter this Order pursuant to RCW 80.01.030 and WAC 480-07-904(1)(h).

6 Ethos Communications Group, Inc.'s Application for Mitigation is DENIED.

DATED at Olympia, Washington, and effective August 30, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

² The Commission sent the Notice of Penalty Assessment Certified Mail, Return Receipt Requested. The certified mail receipt demonstrates that the Company received the notice of July 3, 2010.

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision. You may seek Commission review of this decision. You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's Web site.

This notice and review process is pursuant to the provisions of RCW 80.01.030 and WAC 480-07-904(2) and (3).