

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UW-150788
Against)	
)	ORDER 01
P & D DEVELOPMENT, INC.)	
)	ORDER DENYING REQUEST FOR
in the amount of \$1,000)	HEARING; DENYING CONTEST
)	OF VIOLATION; GRANTING
)	MITIGATION TO \$250
.....)	

BACKGROUND

- 1 Washington law requires regulated water companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-110-505. On February 27, 2015, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all regulated water companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2015, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 P & D Development, Inc. (P & D Development or Company) did not file its annual report by May 1, and had not made that filing by May 15. On May 20, the Commission assessed a penalty of \$1,000 against P & D Development, calculated as \$100 per business day from May 1 to May 15.
- 3 On May 29, 2015, P & D Development filed an incomplete annual report. That same day, P & D Development responded to the Commission’s penalty assessment, contesting the violations and requesting a hearing. The Company provided the following information: “This is a request for a hearing because I believe one or more of the alleged violations did not occur because I have a copy of my 2014 Annual Report dated April 6, 2015, and mailed on that same day to your office.”
- 4 On June 15, 2015, Commission Staff (Staff) filed a response recommending the Commission assess a reduced penalty of \$25 per day, or \$250, conditioned on the Company immediately correcting the deficiency in its annual report. Staff notes that P & D Development has no prior violations of WAC 480-110-505, but, as of June 15, 2015, has failed complete its annual report filing for 2015.

DISCUSSION

5 WAC 480-110-505 requires regulated water companies to file annual reports and pay regulatory fees by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have ensured its complete annual report was timely filed and received.

6 As a preliminary matter, we deny the Company's request for a hearing. The Commission's penalty assessment advised the Company that a request for hearing will only be granted if material issues of law or fact require consideration of evidence and resolution in hearing. Here, no issues of law or fact are in dispute. The Commission did not receive the Company's annual report until May 29. Moreover, the May 29 filing remains incomplete despite Staff notifying the Company of the deficiency. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.

7 The Commission also denies the Company's contest of the violations. The undisputed facts demonstrate that, as of June 15, 2015, the Commission has not received the Company's completed annual report. Because P & D Development submitted an incomplete annual report and has yet to correct its deficiency, the Company has violated the law.

8 The Commission nevertheless agrees with Staff's recommendation. The Commission may consider a number of factors when entertaining a request for mitigation, including a company's history of compliance and the likelihood the violation will recur.¹ This is P & D Development's first violation of WAC 480-110-505, and the Company has been regulated since 2010. Given the Company's history of compliance, a reduced penalty is appropriate. The Commission will therefore exercise its discretion to reduce the penalty to \$25 per day, or \$250, provided the Company completes its annual report filing within 10 days of the date of this order. If the Company fails to complete its filing by that date, the remaining \$750 penalty will immediately become due and payable without further action by the Commission.

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

ORDER

THE COMMISSION ORDERS:

- 9 (1) P & D Development, Inc.'s request for a hearing is DENIED.
- 10 (2) P & D Development, Inc.'s contest of the violations is DENIED.
- 11 (3) P & D Development, Inc.'s request for mitigation is GRANTED, in part, and the penalty is reduced to \$250 conditioned on P & D Development, Inc. completing its annual report filing no later than June 29, 2015. If P & D Development, Inc. fails to complete its filing by that date, the remaining \$750 penalty will become due and payable on June 30, 2015, without further action by the Commission.
- 12 (4) The \$250 penalty is due and payable no later than June 29, 2015.
- 13 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective June 17, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.