

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment        ) DOCKET UT-150859  
Against    )  
  ) ORDER 01  
UNITY TELECOM LLC                                )  
  ) ORDER GRANTING MITIGATION  
in the amount of \$1,000                         ) TO \$500  
.....   )

**BACKGROUND**

- 1 Washington law requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-120-382. On February 27, 2015, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated telecommunications 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 Unity Telecom LLC (Unity Telecom or Company) did not file its annual report on May 1, 2015, and had not made that filing by May 15. On June 5, the Commission assessed a penalty of \$1,000 against Unity Telecom, calculated as \$100 per business day from May 1 to May 15.
- 3 On May 22, 2015, Unity Telecom filed its annual report with no regulatory fees owed. On September 2, Unity Telecom responded to the Commission’s penalty assessment, admitting the violations and requesting mitigation based on the written information provided. The Company explained that although it was granted authority to operate in Washington, it never established service within the state.
- 4 On September 9, 2015, Commission staff (Staff) filed a response recommending a penalty reduction to \$50 per day, or \$500. Although the Company received and paid a penalty for violations of WAC 480-120-382 in 2005, Staff supports a reduced penalty based on the Company’s recent history of compliance. Staff supports mitigation despite the Company’s failure to respond to the penalty assessment within 15 days.

## DISCUSSION

- 5 WAC 480-120-382 requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year. Annual reports and regulatory fees are due for all registered telecommunications companies, regardless of whether they actually provide service in Washington. The fact that Unity Telecom has not yet established service does not justify its failure to make the requisite filing; the Company should have ensured its report was timely filed, particularly in light of its prior violations. Moreover, the Company should have filed its application for mitigation within 15 days of receiving the penalty assessment.
- 6 The Commission nevertheless agrees with Staff's recommendation, with one modification. 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.<sup>1</sup> Although this is Unity Telcom's first violation of WAC 480-15-480 in 10 years, the Company provided no explanation for failing to timely respond to the penalty assessment. Accordingly, the Commission will exercise its discretion to reduce the penalty to \$500 conditioned on the Company timely filing its 2015 annual report and paying any regulatory fees owed by May 1, 2016. If Unity Telecom fails to file its 2015 annual report and pay any regulatory fees due by that date, remaining \$500 penalty will immediately become due and payable without further action by the Commission.

## ORDER

### THE COMMISSION ORDERS:

- 7 (1) Unity Telecom LLC's request for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$500 conditioned on Unity Telecom LLC filing a complete 2015 annual report and paying its 2016 regulatory fees by May 1, 2016. If Unity Telecom LLC fails to make a complete filing by that date, the remaining \$500 penalty will become due and payable on May 2, 2016, without further action by the Commission.
- 8 (2) The \$500 penalty is due and payable no later than September 30, 2015.

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

- 9 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 September 16, 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.**