

Service Date: July 8, 2016

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UT-160548
COMNET (USA) LLC	ORDER 01
in the amount of \$1,000	ORDER DENYING REQUEST FOR HEARING; GRANTING MITIGATION TO \$250

BACKGROUND

- 1 On February 29, 2016, 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 Monday, May 2, 2016, 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 ComNet (USA) LLC (ComNet or Company) filed an incomplete annual report on March 10, 2016, and did not make a complete filing by May 16. On June 13, the Commission assessed a penalty of \$1,000 against ComNet, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 14, 2016, ComNet filed a complete annual report. The Company timely paid its regulatory fee.
- 4 On June 20, 2016, ComNet responded to the Commission's penalty assessment, requesting a hearing and disputing the violations. The Company attached a copy of the documents it filed with the Commission on March 10, 2016, but failed to provide a written statement as required.
- 5 On June 27, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$250, because the Company has no prior violations of WAC 480-120-382.

DISCUSSION

6 WAC 480-120-382 requires regulated telecommunications 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.

7 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. Because ComNet failed to provide a written statement identifying any material issues of law or fact, the Company's request for a hearing is denied.

8 We will, however, construe the Company's submission as a request for mitigation and assess a reduced penalty. The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected, a company's history of compliance, and the likelihood the violation will recur.¹ Here, ComNet has since corrected the violation by filing a complete annual report. In addition, this is the ComNet's first violation of WAC 480-120-382 since it became regulated in 2010; given the Company's history of compliance, the violations are unlikely to recur. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

- 9 (1) ComNet (USA), LLC's request for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$250.
- 10 (2) The \$250 penalty is due and payable no later than July 19, 2016.

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

- 11* 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 July 8, 2016.

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.