

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment	)	DOCKET UT-120987
Against	)	
	)	ORDER 01
NECC Telecom, Inc.,	)	
	)	ORDER PARTIALLY
in the amount of \$2,100.00.	)	SUSPENDING PENALTY,
	)	SUBJECT TO CONDITION
.....	)	

**MEMORANDUM**

- 1 **Penalty.** On July 31, 2012, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$2,100 against NECC Telecom, Inc., (NECC), for violations of Washington Administrative Code (WAC) 480-120-382. This rule requires competitively classified telecommunications companies to file annual reports with the Commission by May 1 each year.
- 2 On February 29, 2012, the Commission mailed Annual Report forms and Regulatory Fee packets to all regulated competitively classified telecommunications companies as required by WAC 480-120-382. On May 14, 2012, the Commission mailed a letter to companies that had not yet filed an annual report notifying them that they had incurred, as of that date, a penalty of \$800. The letter explained that companies who filed their annual reports no later than May 25, 2012, would receive mitigated penalties of \$25 per day, with an additional \$25 per day assessed for each instance in the previous five years that the company received a penalty for filing a late report.
- 3 NECC, however, did not file its 2011 annual report until June 4, 2012. This is 34 days late, making the company liable for a penalty of up to \$3,400 as provided in Revised Code of Washington (RCW) 80.04.405. The Commission, considering the nature of the offense and other factors, exercised its discretion to assess less than the maximum penalty. The Commission assessed a significant, but not unduly punitive, penalty of \$2,100.
- 4 **Mitigation Request.** On August 13, 2012, the company filed a form provided by the Commission requesting mitigation of the penalty (Mitigation Request). In its Mitigation Request, NECC does not dispute that the violation occurred. The company states: “Due

to the transition between compliance companies and our previous company, Thompson Reuters, dropped the ball on us. We no longer due [sic] business with them.”

5     **Commission Staff Opposition to Mitigation.** Commission Staff filed a Response to the Mitigation Request on October 22, 2012. Staff does not support mitigating the assessed penalty from \$2,100 because this is NECC’s second offense. NECC became subject to the Commission’s jurisdiction in September 2002 and received a penalty of \$100 for filing a delinquent annual report in 2006.

6     **Commission Determination.** The Commission determines that it should grant the Mitigation Request by suspending one-half of the penalty amount subject to the condition that NECC files its 2012 annual report by May 1, 2013. If the company fails to timely file its 2012 annual report, the suspended penalty will become due without further action by the Commission. An additional penalty may be assessed for any late filing of the 2012 annual report.

7     The Commission’s primary goal in reaching its determination is to promote future compliance. Both the assessed penalty remaining due and the suspended penalty support this goal. NECC’s prior violation was a number of years ago and sufficiently remote in time that it does not support a determination that the company has slipped into a pattern of noncompliance. The Commission cautions that a subsequent violation could be found to support such a determination.

### ORDER

#### THE COMMISSION ORDERS THAT:

8     (1)     The penalty of \$2,100 assessed against NECC Telecom, Inc., on July 31, 2012, is suspended in the amount of \$1,050 subject to the condition that NECC files its 2012 annual report by May 1, 2013. If the company fails to timely file its 2012 annual report, the suspended penalty will become due without further action by the Commission.

9     (2)     One-half of the \$2,100 penalty assessed against NECC Telecom, Inc., on July 31, 2012, (*i.e.*, \$1,050) is due and payable to the Commission within 15 days following the date of this Order.

- 10 (3) The Commission delegates to its Secretary authority to enter this Order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective October 26, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER  
Executive Director and Secretary

**NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. Under WAC 480-07-904(3), you may seek Commission review of this 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 under WAC 480-07-904(1). 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.**