



STATE OF WASHINGTON  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

December 4, 2012

David W. Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P. O. Box 47250  
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Primus Telecommunications, Inc.*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket UT-121000

Dear Mr. Danner:

On July 31, 2012, the Washington Utilities and Transportation Commission issued a \$2,100 Penalty Assessment in Docket UT-121000 against Primus Telecommunications, Inc., (Primus) for 21 violations of Washington Administrative Code (WAC) 480-120-382, which requires competitively classified telecommunications companies to furnish annual reports to the commission no later than May 1 each year.

On November 2, 2012<sup>1</sup>, Primus wrote the commission requesting mitigation of penalties (Mitigation Request). In its Mitigation Request, Primus does not dispute that the violation occurred. The company states, "I respectfully request your consideration for relief of the penalty imposed on the attach invoice of \$2,100 for filing an incomplete tax return for not including the regulatory fee schedule and financial statements document. According to our records, we mailed a check of \$383.93, along with the 2011 Telecommunication Companies Annual Report on April 27, 2012 to comply with the deadline for filing this return. We thought we had filed the return on time. However, we did have a turnover of employees during the month of April and it appears there was an unintentional omission of some required schedules. In this context, we believe this penalty relief is justified on the basis that this is the first time this error occurred, that our intent to file on line was substantiated by our filling, and that we have taken steps to make sure this will not be repeated in the future. We have also complied by sending all the additional documents to complete this return. The penalty for the amount \$2,100 is excessive for filing a partial return in which in any case had a total tax due to the State of Washington of only \$383.93. We believe that this is out of proportion to the actual tax due and unfair to Primus Telecommunication for a minor and unintentional error. As a result, it would appear that this situation qualifies for relief of penalties or at least a reduction of amount due according to the base of the tax due. Primus always makes every effort to comply with filing and remitting our taxes before the due date. We have an excellent record of compliance with the Washington State

<sup>1</sup> See attachment A for a copy of Primus Telecommunications, Inc.'s Mitigation Request.



Utilities. Based on these factors, I would appreciate your consideration for relief of the penalty for filing an incomplete return.”

It is the company’s responsibility to ensure that the regulatory fee and the annual report are filed by the May 1 deadline. On February 29, 2012<sup>2</sup>, Annual Report forms and Regulatory Fee packets were mailed to all regulated competitively classified telecommunications companies. In addition to other information, the cover letter informed the regulated company it must complete the annual report form, pay any regulatory fees and return the material by May 1, 2012, to avoid enforcement action. On May 14, 2012<sup>3</sup>, the commission mailed a letter to those companies that had not yet filed an annual report notifying them that, to date, they had incurred a penalty of \$800. The letter went on to explain 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 for each instance in the previous five years that the company received a penalty for filing a late report.

On May 24, 2012, staff from the commission’s Financial Services office emailed Primus stating, “I received the Annual Report for Primus Telecommunications for Washington State. It is lacking both the enclosed regulatory fee calculation schedule and the financial documents. Both are a requirement for the report to be complete. Please complete the attached form and submit both the balance sheet and income statement as soon as possible.”

On August 3, 2012, a certified card addressed to Primus was signed, which delivered the penalty assessment dated July 31, 2012.

On September 25, 2012, Primus responded emailing the commission’s Financial Services office stating, “Please attached find [sic] the Fee calculation schedule and financials.” Following that email, Primus contacted the commission by telephone and asked how it could recourse its penalty assessment. Primus stated it submitted its annual report but the report was missing a section. Commission staff informed Primus, if the report was missing information when it was submitted, it is incomplete and a penalty is appropriate. Commission staff also informed Primus it was past the period for review and provided Primus with the commission’s records center email, if it still wished to provide its request for mitigation or hearing. Commission staff told Primus, based on the company failing to submit its request for mitigation within the review period, it would recommend against mitigation.

On November 1, 2012, Primus contacted the commission by telephone. Primus said it just received an invoice regarding its penalty, number 1271-4, in Docket UT-121000 and it wanted to know if there was anything it could do to mitigate its penalty. Commission staff found Primus already contacted the commission on September 25, 2012, and it was provided information on requesting mitigation or requesting a hearing. Commission staff again, told Primus it is outside the period for review, however it could submit something in writing explaining its circumstances. Commission staff provided the records center email and the commission’s physical and mailing address.

---

2 See attachment B for a copy of the letter sent to all regulated companies on February 29, 2012.

3 See attachment C for a copy of the enforcement letter sent to the company on May 14, 2012.

On November 6, 2012, commission staff reviewed the commission's Annual Report Tracking System, (ARTS) and verified the report was received on April 30, 2012, and the report was completed on September 25, 2012.

Primus filed its completed annual report on September 25, 2012. Primus did not file its annual report by May 31, 2012, which is 21 business days past the deadline of May 1, 2012. The penalty is \$100 per day for a total of \$2,100. Primus became regulated in September 1999 and has never received a penalty for filing a delinquent annual report in the past.

Commission staff does not support mitigating the assessed penalty of \$2,100 because Primus failed to file its response within the 15 day timeframe required for the commission to consider mitigation or August 18, 2012. Primus submitted its request for mitigation 92 days from the day it received its penalty assessment. Primus did not file the documents required to complete its annual report until September 25, 2012, or 147 days past the deadline of May 1.

If you have any questions, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105 or at [mperkinson@utc.wa.gov](mailto:mperkinson@utc.wa.gov).

Sincerely,



Sharon Wallace, Assistant Director  
Consumer Protection and Communications

Attachment A



Via email and US Postal Service

November 2, 2012

Mr. Mathew Perkinson  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive SW  
Olympia, Washington 98504-7250

Dear Mr. Perkinson

Primus Telecommunications, Inc. Petition for Relief of Penalty  
Docket Number UT-121000 Taxpayer ID: 54-1744563  
Tax Period: Annual Report 2011

I respectfully request your consideration for relief of the penalty imposed on the attach invoice of \$2,100 for filing an incomplete tax return for not including the regulatory fee schedule and financial statements document. According to our records, we mailed a check of \$383.93, along with the 2011 Telecommunication Companies Annual Report on April 27, 2012 to comply with the deadline for filing this return. We thought we had filed the return on time. However, we did have a turnover of employees during the month of April and it appears there was an unintentional omission of some required schedules.

In this context, we believe this penalty relief is justified on the basis that this is the first time this error occurred, that our intent to file on line was substantiated by our filing, and that we have taken steps to make sure this will not be repeated in the future. We have also complied by sending all the additional documents to complete this return. The penalty for the amount \$2,100 is excessive for filing a partial return in which in any case had a total tax due to the State of Washington of only \$383.93. We believe that this is out of proportion to the actual tax due and unfair to Primus Telecommunication for a minor and unintentional error.

As a result, it would appear that this situation qualifies for relief of penalties or at least a reduction of amount due according to the base of the tax due. Primus always makes every effort to comply with filing and remitting our taxes before the due date. We have an excellent record of compliance with the Washington State Utilities. Based on these factors, I would appreciate your consideration for relief of the penalty for filing an incomplete return.

Please call me at 703-994-4453, if you have any questions. I would appreciate very much your consideration for this request.

Sincerely,

*Elias Thomasson*  
Sr. Tax Analyst  
[Ethomasson@ptgi.com](mailto:Ethomasson@ptgi.com)

Primus Telecommunications Group, Incorporated  
7901 Jones Branch Drive, Suite 900, McLean, VA 22102 USA  
Phone: 703.992.2600 Fax: 703.992.2014 [PTGI.com](http://PTGI.com)



## Attachment B



STATE OF WASHINGTON

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

February 29, 2012

Dear Regulated Company:

**Reference: Your 2011 Annual Report and 2012 Regulatory Fees are due May 1**

State law requires you to file an annual report and pay regulatory fees to the Washington Utilities and Transportation Commission (UTC).

#### What is required of you?

By May 1, you must:

- Complete and file one paper copy or electronic version of the enclosed 2011 annual report form
- Pay your 2012 regulatory fees

#### What happens if you do not file a completed annual report and pay regulatory fees on time?

If you do not file your company's completed annual report and pay the regulatory fees by May 1, the UTC will assess a financial penalty of \$100 for each business day after May 1 that the report is not filed and \$100 for each business day after May 1 the fees are unpaid. You may seek mitigation of the penalties in response to the assessment you receive, after you have filed a completed annual report and paid your regulatory fees. The amount of the penalties the UTC mitigates, if any, will depend on the reasons you were late and whether you have filed late in prior years. If you have not filed your completed annual report or paid your regulatory fees by June 1, 2012, Staff will initiate proceedings to have the UTC revoke your authority to operate in Washington.

#### What happens if you do not pay the regulatory fees by May 1?

If you do not pay your company's regulatory fees by May 1, you will incur a 2 percent penalty on the amount due and a 1 percent monthly interest charge on the unpaid balance. These amounts apply in addition to the assessment of a penalty of \$100 per business day after May 1 that the fees are unpaid.

#### May you request an extension of time if you are unable to file the annual report or pay your regulatory fees on time?

You may file a written request for an extension to file your completed annual report, but the UTC will not extend the deadline for paying regulatory fees. Any extension request must be filed with the UTC by April 24, 2012, and must state a valid reason for why you need an extension and identify a specific date by which you will file your completed annual report. The UTC will notify you by May 1 whether your request is approved or denied. Even if your request

UTC Annual Reports and Fees  
February 29, 2012  
Page 2

is approved, you will still be liable for penalties and interest payments if you fail to pay your regulatory fees by May 1.

**What should you do if your company is no longer operating in Washington?**

You may cancel your registration or permit by using the cancellation forms available on our website (see below), but if your company operated in Washington at any time during the 2011 calendar year, you must pay regulatory fees and file a closing annual report based on the months of operation during 2011 even if you cancel your registration or permit.

**May you designate any information in your annual report as confidential?**

Yes, but if you satisfy two conditions:

- (1) You are eligible to request confidential treatment only if your company is regulated under Title 80 RCW, that is, if you operate an electric, natural gas, telecommunications or water company. Transportation companies, regulated under Title 81 RCW, may not request confidential treatment of documents because the authority for such treatment is found only in RCW 80.04.095. If a Title 81 company files its annual report or fee sheet as confidential, the UTC will not treat it as confidential.
- (2) You must follow the steps for filing confidential documents in WAC 480-07-160. You may find this rule at the UTC website, [www.utc.wa.gov/annual-reports](http://www.utc.wa.gov/annual-reports).

**Please note:** The regulatory fee sheet portion of your report is not a confidential document and will not be accorded confidential treatment under the rule. The UTC will not, however, disclose credit card information you list on the fee sheet.

**May you perform some of these tasks online?**

Yes. You may complete the following tasks from the annual reports page at the UTC website [www.utc.wa.gov/annualreports](http://www.utc.wa.gov/annualreports):

- Obtain electronic versions of annual report forms
- Pay regulatory fees
- File your report electronically
- Cancel your registration (telecommunications companies) or permit (transportation companies) if your company ceased operations in 2011.

**Where do you mail the completed annual report form and regulatory fee payment?**

Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250

**Is there any additional information you should file?**

- If you are a gas distribution company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 2.

UTC Annual Reports and Fees  
February 29, 2012  
Page 3

- If you are an electric company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 1.
- If you are a class 1 Railroad, please also file a copy of your Surface Transportation Board Form R-1 - including statistics specific to the state of Washington.

If you have questions about any aspect of your report or regulatory fee, please contact Rae Lynn Carnes at (360) 664-1152 or [rcarnes@utc.wa.gov](mailto:rcarnes@utc.wa.gov).

If you need this letter or an annual report form in an alternate format, please call 360-664-1243. The TTY Toll-Free phone number is 1-800-416-5289.

Sincerely,



David W. Danner  
Executive Director and Secretary

Enclosures



## Attachment C



STATE OF WASHINGTON  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

May 14, 2012

### NOTICE OF ENFORCMENT ACTION

**Attention:**

Your 2011 annual report to the Utilities and Transportation Commission (commission) was due on May 1, as required by law. Financial penalties of \$100 per day began accruing on May 2. As of the date of this letter, you have accrued a penalty of \$800. That penalty will increase by \$100 per day for each subsequent day you fail to comply.

**This letter tells you what you can do to mitigate your penalty.**

If the commission receives your report postmarked no later than May 25, commission staff will mitigate your penalty to \$25 per day. Additional penalties of \$25 per day will be added for each year you have filed late in the past five years, up to a maximum of \$100 per day.

Annual report forms are available on the commission's website at [www.utc.wa.gov](http://www.utc.wa.gov). If you have questions or require additional information, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105 or [mperkinson@utc.wa.gov](mailto:mperkinson@utc.wa.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "David W. Danner".

David W. Danner  
Executive Director and Secretary

