

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UT-130806
Against)	
)	ORDER 01
Eloptia Communications, LLC)	
)	ORDER DENYING MITIGATION
in the amount of \$1800)	
.....)	

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 28, 2013, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated telecommunications companies. The cover letter accompanying the forms reminded companies to file their annual reports and pay their regulatory fees by May 1, 2013, and detailed potential penalties companies faced if they failed to file by that date. The penalties include an assessment of \$100 for each violation of Commission rules, and in the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 On May 10, 2013, the Commission notified Eloptia Communications, LLC (Eloptia or Company) that the Company’s annual fee and regulatory report was overdue, and that, as a consequence, Eloptia had accrued a penalty of \$700. That notice further explained that the penalty would increase by \$100 per day for each business day that the Company failed to file the report and pay the fee. The notice stated that companies that filed no later than May 24, 2013, would receive mitigated penalties, but Eloptia did not file its annual report or pay its regulatory fee by that date.
- 3 Eloptia filed its annual report and paid its regulatory fee on May 31, 2013. On July 31, 2013, the Commission assessed a penalty of \$1,800 against Eloptia, calculated as \$100 per business day from May 1 to May 24, the date Commission Staff (Staff) capped the penalty.
- 4 On August 23, 2013, Eloptia responded to the Commission’s penalty assessment, admitting the violation but seeking to have the penalty reduced to \$900. Eloptia states that the Company was undergoing management and key employee changes at

the time the annual report and regulatory fee were due, and that a lesser fine would be “appropriate” given these circumstances.

- 5 On September 3, 2013, Staff filed a response opposing the Company’s request for mitigation. Staff observes that in its May 10, 2013 letter, the Commission had offered to mitigate the Company’s penalty if the Company filed its annual report no later than May 24, 2013, and that despite the Commission’s offer, Eltopia did not file its annual report until May 31, 2013. Moreover, the Company previously missed the deadline for filing its annual report and paying its regulatory fee in 2012.

DISCUSSION

- 6 The Commission denies Eltopia’s request. The management and personnel changes the Company contends were responsible for the late filing do not relieve Eltopia of its regulatory obligations as a registered telecommunications company. The Company’s internal issues provide no basis for mitigating the penalty the Commission assessed for Eltopia’s failure to timely file its 2012 annual report.
- 7 The Commission may take a number of factors into consideration when choosing a particular enforcement action and later entertaining a request for mitigation of that action, including whether the company promptly corrected the violation and the company’s past performance regarding compliance, violations, and penalties.¹ In this case, Eltopia did not respond to the Commission’s written reminders and offer to mitigate the penalty even when Eltopia’s filing was overdue. The Company’s filings were also late in 2012. Therefore, the Commission believes that the penalty amount provides a reasonable deterrent to overlooking future filing deadlines and encouragement for the Company to file reports and pay annual regulatory fees on time.

ORDER

THE COMMISSION ORDERS:

- 8 (1) The request of Eltopia Communications, LLC, for mitigation of the \$1,800 penalty is DENIED.

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

9 (2) The penalty is due and payable no later than December 2, 2013.

10 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 November 18, 2013.

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. 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 website.