

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UT-130808
Against)	
)	ORDER 01
Ethos Communications Group, Inc.)	
)	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. The Washington Utilities and Transportation Commission (Commission) is authorized to assess penalties 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 February 28, 2013, the Commission mailed annual report and regulatory fee packets to all regulated telecommunications companies. The packets contained a letter from the Commission reminding companies to file their annual reports and pay their regulatory fees by May 1, 2013, and detailing potential penalties companies faced if they failed to file by that date.
- 3 On May 10, 2013, the Commission notified Ethos Communications Group, Inc. (Ethos or Company) that the Company’s annual fee and regulatory report was overdue, and that, as a consequence, Ethos 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 Ethos did not file its annual report or pay its regulatory fee by that date.
- 4 On July 31, 2013, the Commission assessed a penalty of \$1,800 against Ethos, calculated as \$100 per business day from May 1 to May 24. Ethos filed its annual report and paid its regulatory fee the next day, August 1, 2013.
- 5 On August 8, 2013, Ethos responded to the Commission’s penalty assessment, admitting the violation but seeking to have the penalty reduced. Ethos states that its sole proprietor was out of town when the report and fee were due, the Company

cannot sustain a penalty of \$1,800, and the Company no longer has customers in the state of Washington.

- 6 On September 3, 2013, Commission Staff (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, Ethos did not file its annual report until August 1, 2013. Moreover, the Company previously missed the deadline for filing its annual report and paying its regulatory fee in 2010.

DISCUSSION

- 7 The Commission denies Ethos's request for mitigation. The Company is or should be fully aware of the Commission rule that requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year. Moreover, the Commission notified the Company on February 28, 2013, that Ethos would be subject to penalties if it failed to make the requisite filings by May 1, 2013. The Commission provided the Company with ample notice of Commission requirements and the consequences of failing to comply with them.
- 8 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, Ethos did not respond to the Commission's written reminders and offer to mitigate the penalty even when Ethos's filing was overdue. This is the company's second violation of the requirement to timely file its annual report and pay the regulatory fee. 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:

- 9 (1) The request of Ethos Communications Group, Inc., 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).

- 10 (2) The penalty is due and payable no later than October 10, 2013.
- 11 (3) 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 24, 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.