

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UT-130813
Against)	
)	ORDER 01
Great America Networks, Inc.)	
)	ORDER DENYING WAIVER
in the amount of \$1,800)	
.....)	

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 packets 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 Great America Networks, Inc. (Great America or Company) that the Company’s annual fee and regulatory report were overdue, and that, as a consequence, Great America 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 Great America did not file its annual report or pay its regulatory fee by that date.

- 3 Great America filed its annual report and paid its regulatory fee on June 24, 2013. On August 1, 2013, the Commission assessed a penalty of \$1,800 against Great America, calculated as \$100 per business day from May 1 to May 24, the day Commission Staff (Staff) capped the penalty.

- 4 On August 14, 2013, Great America responded to the Commission’s penalty assessment, admitting the violation and checking the box on the penalty assessment form that indicates a company’s request for mitigation of the penalty amount. Great America provided a letter in support of its request purporting to seek a waiver of the penalty.¹ In the letter, Great America states that it does not “generate/report any revenue” in the state of Washington.
- 5 On September 3, 2013, Staff filed a response opposing the Company’s request to mitigate the penalty. 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, Great America did not file its annual report until June 24, 2013. Moreover, the Company previously missed the deadline for filing its annual report and paying its regulatory fee in 2008.

DISCUSSION

- 6 Great America seeks mitigation of the penalty for failing to timely file its annual report and pay the regulatory fee on the grounds that the Company does not generate or report any revenue in Washington. That fact is irrelevant. The rule requiring telecommunications companies to file annual reports and pay regulatory fees provides the Commission with information and funds it needs to protect the public interest.² Even if Great America does not generate revenue in Washington, the Company nevertheless is obligated to file annual reports as part of its regulatory obligations as a registered telecommunications carrier. Lack of revenues thus provides no basis for mitigating the penalty the Commission assessed for Great America’s failure to timely file its 2012 annual report.
- 7 Nor has Great America offered any other grounds for mitigating the penalty amount. The Commission may take a number of factors into consideration when choosing a particular enforcement action or level of penalty to be imposed, including whether the company promptly corrected the violation and the company’s past performance

¹ The Commission does not “waive” penalty assessments and thus we construe Great America’s response as a request for mitigation of the penalty to zero.

² RCW 80.04.080.

regarding compliance, violations, and penalties.³ In this case, Great America did not respond to the Commission's written reminders and offer to mitigate the penalty even when Great America'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:

- 8 (1) The request of Great America Networks, Inc., for mitigation of the \$1,800 penalty is DENIED.
- 9 (2) The penalty is due and payable no later than November 22, 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 8, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

³ Docket A-120061, Enforcement Policy of the Washington Utilities and Transportation Commission (January 7, 2013).

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.