

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UT-130816
Against)	
)	ORDER 01
Inmate Communications Corporation)	
)	ORDER DENYING REQUEST
in the amount of \$700)	FOR FURTHER MITIGATION
)	
.....)	

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. Those 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 Inmate Communications Corporation (Inmate or Company), that its annual fee and regulatory report were seven business days overdue, and that, as a consequence, the Company 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 of \$25 per day plus an additional \$25 per day for each instance in the previous five years that the company received a penalty for filing a late report.

- 3 Inmate filed its annual report on May 21, 2013; the Company did not owe a regulatory fee. On August 1, 2013, the Commission assessed a mitigated penalty of

\$700 against Inmate, calculated as \$50 per business day from May 1 to May 21, 2013, because the Company's filings were also late in 2012.

- 4 On September 9, 2013, Inmate filed a request for further mitigation on the form provided by the Commission. Inmate checked the box on that form indicating that the Company waived a hearing and requested an administrative decision. As justification for the request, the Company wrote that the penalty would be a hardship because Inmate is a small company, lost administrative staff during the year, and did little business in Washington.

DISCUSSION

- 5 The Commission denies Inmate's request for further mitigation as both untimely and lacking substantive merit. The notice of penalty assessment issued on August 1, 2013, was served on the Company on August 8, 2013, and required that any application for mitigation must be sent to the Commission within 15 days after the company receives the notice. The Commission received the Company's request for hearing on September 9, 2013, without any demonstration that the Company submitted its request within 15 days of receiving the notice. Accordingly, the Company's request is not timely.
- 6 Nor do the Company's reasons for seeking further mitigation provide any substantive reason for further reducing its penalty. Inmate's personnel issues and minimal revenues do not justify failure to comply with the Company's regulatory obligations. The size of the Company is a factor the Commission considers when assessing a penalty, but the Commission also considers whether the Company has previously violated the rule and the likelihood it will do so again. Here, Inmate filed its annual report late last year, and an increased incentive to make timely filings in the future is necessary. On balance, the Commission finds that the penalty amount provides the appropriate incentive and declines to mitigate it further.

ORDER

THE COMMISSION ORDERS:

7 (1) The request of Inmate Communications Corporation for further mitigation of
the \$700 penalty is DENIED.

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

9 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.