

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UT-140865
Against)	
)	ORDER 01
AMERICAN PHONE SERVICES,)	
CORPORATION)	ORDER GRANTING
)	MITIGATION TO \$150
in the amount of \$600)	
.....)	

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, 2014, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated telecommunications companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2014, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 American Phone Services filed an incomplete annual report on April 30, 2014. On May 30, the Commission assessed a penalty of \$600 against American Phone Services for filing an incomplete annual report, calculated as \$100 per business day from May 1 to May 9, the day the Company’s complete report was received.
- 3 On June 9, 2014, American Phone Services responded to the Commission’s penalty assessment admitting the violations and requesting mitigation of the penalty based on the written information provided. The Company explained that its financial documentation was mistakenly omitted during the electronic transmission of its annual report form on April 30, 2014. The Company provided assurances that it now has safeguards in place to ensure the error will not recur.

4 On June 20, 2014, Commission Staff (Staff) filed a response recommending a penalty reduction to \$150. Staff explained that the Company first filed an incomplete annual report on April 30, 2014, with no regulatory fee due, then filed a corrected report on May 9. Staff noted that although American Phone Services filed a late annual report in 2006, it has since filed timely, and recommended a reduced penalty of \$25 per day, or \$150.

DISCUSSION

5 WAC 480-120-382 requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have taken measures to ensure its electronic filing was submitted in its entirety.

6 The Commission nevertheless agrees with Staff's recommendation. The Commission may consider a number of factors when entertaining a mitigation request, including whether a company promptly corrected the violation at issue, a company's past compliance with commission rules, and the likelihood the violation will recur.¹ This is American Phone Services' only violation of WAC 480-120-382 in more than five years, and the Company promptly filed a corrected annual report prior to receiving a penalty. In addition, we are satisfied with the Company's representation that it has implemented safeguards to prevent the same error from recurring. The Commission will therefore exercise its discretion to reduce the penalty to \$150.

ORDER

THE COMMISSION ORDERS:

- 7 (1) The request of American Phone Services, Corporation for mitigation of the \$600 penalty is **GRANTED** in part, and the penalty is reduced to \$150.
- 8 (2) The penalty is due and payable no later than July 21, 2014.

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 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 July 7, 2014.

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.