

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment) DOCKET UT-140897
Against)
) ORDER 01
LOCAL ACCESS LLC)
) ORDER GRANTING
in the amount of \$1,000) MITIGATION TO \$200
.....)

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 Local Access LLC did not file its annual report on May 1, 2014, and had not made that filing by May 15. On May 30, the Commission assessed a penalty of \$1,000 against Local Access LLC, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 4, 2014, Local Access LLC paid the \$1,000 penalty. The Company filed its annual report on June 6; because it did not conduct business in Washington in 2013, no regulatory fee was owed.
- 4 On June 9, 2014, Local Access LLC 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 it relied on a third party vendor to file its annual report. When the vendor was unable to provide the

Company with proof of filing, the Company terminated its business relationship with the vendor. The Company provided assurances of timely filings going forward.

- 5 On June 20, 2014, Commission Staff (Staff) filed a response recommending a penalty reduction to \$200. Staff explained that the Company became registered in Washington on August 14, 2013, and this is its first delinquent filing.

DISCUSSION

- 6 The Commission agrees with Staff's recommendation to reduce the penalty, but on different grounds. The basis for Staff's recommendation – that this is the Company's first delinquent filing – is unpersuasive; this was the Company's first and only opportunity to timely file, and it did not. Companies are ultimately responsible for complying with their legal obligations, regardless of the actions of their agents.

- 7 The Commission considers a number of factors when entertaining a request for mitigation, including whether the company promptly corrected the violations, the likelihood that the violations will recur, and a company's annual intrastate revenue.¹ Ultimately, the Commission's goal is to gain compliance going forward. Here, the Company promptly remedied the violation by filing its annual report, and has reduced the likelihood of recurrence by terminating its relationship with the vendor who failed to file on its behalf. Although the Company reported no intrastate revenue for 2013, we are unwilling to mitigate the penalty in its entirety. The Commission is, however, satisfied with the Company's representations of future compliance, and will therefore exercise its discretion to reduce the penalty to \$200.

ORDER

THE COMMISSION ORDERS:

- 8 (1) The request of Local Access LLC for mitigation of the \$1,000 penalty is **GRANTED** in part, and the penalty is reduced to \$200.

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

9 (2) The Commission will refund \$800 of the \$1,000 payment Local Access LLC made on June 4, 2014.

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 July 8, 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.