

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UT-140923
Against)	
)	ORDER 01
TELMEX USA, LLC)	
)	ORDER GRANTING
in the amount of \$1,000)	MITIGATION TO \$250
.....)	

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 Telmex USA did not file its annual report on May 1, 2014, and had not made that filing by May 15. On June 3, the Commission assessed a penalty of \$1,000 against Telmex USA, calculated as \$100 per business day from May 1 to May 15.
- 3 Telmex USA filed its annual report on May 16, 2014, with no regulatory fees due.
- 4 On July 3, 2014, Telmex USA 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 long-time regulatory consultant stopped working earlier this year, and recently passed away. As a result, the Company’s corporate counsel was handling all of its regulatory filings single-handedly.
- 5 On July 11, 2014, Commission Staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$250. Staff noted that Telmex USA has been active since

2005, and had violations of WAC 480-120-382 for late filed annual reports in 2006, 2008, 2010, and 2012.

DISCUSSION

6 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 been aware of the need to file an annual report, particularly given the Commission's reminders. In addition, the Company is responsible for ensuring reports are timely filed regardless of staffing issues.

7 The Commission nevertheless agrees with Staff's recommendation. The Commission may consider a number of factors when entertaining a mitigation request, including a company's past compliance with commission rules, whether a company promptly corrected the violation, and the likelihood the violation will recur.¹ Although Telmex USA has multiple prior violations of WAC 480-120-382, the Company presented compelling circumstances that contributed to its late filing, and filed its annual report prior to receiving a penalty. However, due to the Company's poor compliance history, we are not willing to waive the penalty in its entirety. The Commission will therefore exercise its discretion to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

- 8 (1) The request of Telmex USA, LLC for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$250.
- 9 (2) The penalty is due and payable no later than August 1, 2014.

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 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 July 18, 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.