

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TG-141009
Against)	
)	ORDER 01
JEFFERY K. CUMMINS)	
)	ORDER GRANTING
in the amount of \$1,000)	MITIGATION TO \$250
.....)	

BACKGROUND

- 1 Washington law requires solid waste companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-70-071. On February 28, 2014, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all regulated solid waste 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 Jeffery K. Cummins did not file its annual report on May 1, 2014. On May 22, the Commission assessed a penalty of \$1,000 against Jeffery K. Cummins, calculated as \$100 per business day from May 1 to May 15, the day the report was received.
- 3 On June 2, 2014, Jeffery K. Cummins responded to the Commission’s penalty assessment admitting the violations and requesting mitigation of the penalty based on the written information provided. The Company argued that it does not believe the penalty matches the offense, and that it constitutes a double standard.
- 4 On June 9, 2014, Commission Staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$250. Staff noted that this is the Company’s first violation of WAC 480-70-071.

DISCUSSION

- 5 WAC 480-70-071 requires regulated solid waste 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 its annual report by May 1, particularly given the Commission's reminders.
- 6 The Commission nevertheless agrees with Staff's recommendation. The Commission may consider a number of factors when entertaining a request for mitigation, including a company's history of compliance, whether the violation was promptly corrected, and the likelihood the violation will recur.¹ This is Jeffery K. Cummins's only infraction of WAC 480-70-071, and the company has been regulated by the Commission for more than 25 years. The Company also filed its report prior to incurring a penalty. Given the Company's history of compliance, the violation is not likely to recur. Accordingly, the Commission will exercise its discretion to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

- 7 (1) The request of Jeffery K. Cummins for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$250.
- 8 (2) The penalty is due and payable no later than August 18, 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 August 4, 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.