

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

SOLMAR WATER SYSTEM, INC.

in the amount of \$1,000

DOCKET UW-160533

ORDER 01

ORDER DENYING HEARING; GRANTING
MITIGATION TO \$250

BACKGROUND

- 1 On February 29, 2016, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated water companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by Monday, May 2, 2016, 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 Solmar Water System, Inc. (Solmar or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 13, the Commission assessed a penalty of \$1,000 against Solmar, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 15, 2016, Solmar filed its annual report. On June 24, Solmar responded to the Commission's penalty assessment, requesting a hearing and disputing the violations. The Company explained that it attempted to file its annual report electronically on April 29, 2016, but was unable to verify that the report was received. The Company criticized the Commission's "substandard" electronic filing system, and contends its report was timely filed.
- 4 On July 7, 2016, Commission staff (Staff) filed a response recommending the Commission assess a reduced penalty of \$25 per day, or \$250, because the Company has no prior violations of 480-110-505. Staff noted that the Company filed only a "request for company electronic contact information" and paid its regulatory fee on April 29. The Company's annual report was neither filed nor received by the Commission until June 15.

DISCUSSION

- 5 WAC 480-110-505 requires regulated water companies to file annual reports and pay regulatory fees by May 1 of each year, or the first business day thereafter. Companies are responsible for complying with their legal obligations, and the Company should have taken steps to ensure its report was received by the deadline.
- 6 As a preliminary matter, we deny the Company's request for a hearing. The Commission's penalty assessment advised the Company that a request for hearing will only be granted if material issues of law or fact require consideration of evidence and resolution in hearing. Here, no issues of law or fact are in dispute. Commission records show that the Company's annual report was not received until June 15, 2016. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.
- 7 We will, however, construe the Company's submission as a request for mitigation and assess a reduced penalty. The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected, a company's history of compliance, and the likelihood the violation will recur.¹ Here, Solmar has since corrected the violation by filing a complete annual report. In addition, this is the Solmar's first violation of WAC 480-110-505 since its ownership was transferred in 2011; given the Company's history of compliance, the violations are unlikely to recur. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

- 8 (1) Solmar Water System Inc.'s request for mitigation of the \$1,000 penalty is GRANTED, in part, and the penalty is reduced to \$250.
- 9 (2) The \$250 penalty is due and payable no later than July 27, 2016.

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 13, 2016.

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.