

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UT-160538
365 WIRELESS, LLC	ORDER 01
in the amount of \$1,000	ORDER DENYING MITIGATION

BACKGROUND

- 1 On February 29, 2016, 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 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.
- 2 365 Wireless, LLC (365 Wireless or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 3, the Company filed an annual report and paid the required regulatory fee. On June 13, the Commission assessed a penalty of \$1,000 against 365 Wireless, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 28, 2016, 365 Wireless responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the written information provided. The Company provided the following information in support of its request: "We are a small firm with only 5 employees and very little revenue and we utilized the services of a compliance firm to maintain our state filings and annuals. The firm overlooked Washington's filing date of 5/1/2016 and once they realized the report was overdue they informed 365 and we filed without delay. Being a small firm a \$1,000 fine would cripple our business."

4 On July 12, 2016, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for mitigation. Staff explained that the Company became regulated in 2012, and received and paid penalties for violations of WAC 480-120-382 in 2012 and 2013.

DISCUSSION

5 WAC 480-120-382 requires regulated telecommunications 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 timely filed.

6 We agree with Staff's recommendation and deny the Company's request for mitigation. 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 Ultimately, the Commission's goal is to deter repeat violations. Here, the Company has a history of non-compliance; it received and paid penalties of \$350 in 2012, \$50 in 2013, and \$200 in 2014 for violations of WAC 480-120-382. Moreover, the Company has not presented any new or compelling information that would warrant a penalty reduction. Accordingly, we find the \$1,000 penalty to be an appropriate incentive for the Company to ensure timely filings going forward.

ORDER

THE COMMISSION ORDERS:

7 (1) 365 Wireless, LLC's request for mitigation of the \$1,000 penalty is DENIED.

8 (2) The \$1,000 penalty is due and payable no later than August 1, 2016.

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 18, 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.