**BEFORE THE WASHINGTON**

**UTILITIES AND TRANSPORTATION COMMISSION**

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| In the Matter of a Penalty Assessment Against COMNET (USA) LLCin the amount of $1,000 | DOCKET UT-160548ORDER 01ORDER DENYING REQUEST FOR 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 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. ComNet (USA) LLC (ComNet or Company) filed an incomplete annual report on March 10, 2016, and did not make a complete filing by May 16. On June 13, the Commission assessed a penalty of $1,000 against ComNet, calculated as $100 per business day from May 2 to May 16.
3. On June 14, 2016, ComNet filed a complete annual report. The Company timely paid its regulatory fee.
4. On June 20, 2016, ComNet responded to the Commission’s penalty assessment, requesting a hearing and disputing the violations. The Company attached a copy of the documents it filed with the Commission on March 10, 2016, but failed to provide a written statement as required.
5. On June 27, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to $25 per day, or $250, because the Company has no prior violations of WAC 480-120-382.

# DISCUSSION

1. 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 ensured its complete annual report was timely filed.
2. 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. Because ComNet failed to provide a written statement identifying any material issues of law or fact, the Company’s request for a hearing is denied.
3. 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]](#footnote-1) Here, ComNet has since corrected the violation by filing a complete annual report. In addition, this is the ComNet’s first violation of WAC 480-120-382 since it became regulated in 2010; 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:

1. (1) ComNet (USA), LLC’s request for mitigation of the $1,000 penalty is GRANTED in part, and the penalty is reduced to $250.
2. (2) The $250 penalty is due and payable no later than July 19, 2016.
3. 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, 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.**

1. Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013). [↑](#footnote-ref-1)