

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

PEND OREILLE VALLEY NETWORK,
INC.

in the amount of \$1,000

DOCKET UT-160582

ORDER 01

ORDER DENYING CONTEST OF
VIOLATIONS; 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 Pend Oreille Valley Network, Inc. (POVN or Company) filed an incomplete annual report on May 4, 2016, and had not made a complete filing by May 16. On June 15, the Commission assessed a penalty of \$1,000 against POVN, calculated as \$100 per business day from May 2 to May 16.
- 3 On August 9, 2016, POVN responded to the Commission's penalty assessment, disputing the penalty. The Company failed to include the required penalty assessment form – signed under penalty of perjury – that indicates whether the Company contests or admits the violations and requires a written explanation in support of its request. The Company explained that it believed its report was complete as filed on May 4, and expressed confusion about why it is regulated and why it must file annual reports.
- 4 On August 10, 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 2005, and received and paid penalties of \$100 and \$750 for violations of WAC 480-120-382 in 2011 and 2013, respectively. The \$750 penalty

assessed in 2013 remains unpaid, and the Company's 2015 annual report remains incomplete.

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 complete when it was originally filed.

6 As a preliminary matter, we deny the Company's contest of the violations. The undisputed facts demonstrate that the Commission has yet to receive a complete annual report from POVN. The Company has thus violated the law.

7 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 not yet corrected the violations at issue; as of the date of this Order, the Company's annual report remains incomplete. The Company must file updated information for pages four and five of its report to reconcile the discrepancy between page four, which lists no Company or Washington revenue, and the Income Statement, which lists revenue.

8 In addition, POVN has a history of non-compliance. The Company received and paid penalties of \$100 in 2011 and \$750 in 2013 for violations of WAC 480-120-382, and, as of the date of this Order, the \$750 penalty remains unpaid. Finally, the Company has not presented any new or compelling information that would warrant a penalty reduction. If the Company does not believe it should be regulated by the Commission, it may voluntarily cancel its authority. As long as it remains regulated, however, it must comply with the Commission's annual reporting requirements. We find the \$1,000 penalty appropriate in light of the circumstances.

ORDER

THE COMMISSION ORDERS:

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

9 (1) Pend Oreille Valley Network, Inc.'s request for mitigation of the \$1,000 penalty is DENIED.

10 (2) The \$1,000 penalty is due and payable no later than August 30, 2016.

11 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 16, 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.