

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UT-160584
PRIORITY TERABIT, INC.	ORDER 01
in the amount of \$1,000	ORDER IMPOSING AND SUSPENDING PENALTIES ON CONDITION OF FUTURE COMPLIANCE

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 Priority Terabit, Inc. (Priority Terabit or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 15, the Commission assessed a penalty of \$1,000 against Priority Terabit, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 20, 2016, Priority Terabit responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the written information provided. The Company explained that it did not receive the annual report form mailed by the Commission in February.
- 4 On June 27, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to \$50 per day, or \$500. Although the Company received and paid a \$250 mitigated penalty for violations of WAC 480-120-382 in 2013, Staff supports a reduced penalty based on the Company's recent history of compliance.

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 not rely on reminders from the Commission to ensure compliance.
- 6 The Commission nevertheless agrees with Staff's recommendation, with one modification. Rather than waiving a \$500 portion of the penalty, we will suspend it on the condition of future compliance.
- 7 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 Although Priority Terabit has been regulated since 2000, this is the Company's second violation of WAC 480-120-382 in three years. We appreciate the Company's recent compliance, but are not willing to waive a portion of the penalty entirely. We will, however, exercise our discretion to suspend and then waive a \$500 portion of the penalty conditioned on the Company timely filing its 2016 annual report by May 1, 2017. The remaining \$500 portion of the penalty is due and payable within ten days of the date of this order.

ORDER

THE COMMISSION ORDERS:

- 8 (1) Priority Terabit Inc.'s request for mitigation of the \$1,000 penalty is GRANTED in part. The Commission suspends \$500 of the \$1,000 penalty originally assessed until May 1, 2017, and will waive that amount thereafter provided the Company files its complete 2016 annual report no later than May 1, 2017. If the Company fails to file its complete 2016 annual report by May 1, 2017, the \$500 suspended portion of the penalty will become due and payable on May 2, 2017, without further action by the Commission.

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

9 (2) The \$500 portion of the penalty that the Commission does not suspend is due and payable no later than July 19, 2016.

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 5, 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.