

BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In the Matter of PENALTY
ASSESSMENT AGAINST Advantage
Telecommunications Corp., in the
amount of \$100.00

DOCKET NO. UT-051697

COMMISSION STAFF'S
RESPONSE TO ADVANTAGE
TELECOMMUNICATIONS
CORP.'S APPLICATION FOR
MITIGATION

1 Pursuant to WAC 480-07-370(1)(c), Commission Staff submits this response
to Advantage Telecommunications Corp.'s Application for Mitigation.

I. BACKGROUND

2 On December 6, 2005, The Washington Utilities and Transportation
Commission (Commission) assessed a penalty in the amount of \$100 against
Advantage Telecommunications Corp. (Advantage) for failure to timely submit its
annual report to the Commission. On January 4, 2006, Advantage filed an
Application for Mitigation of Penalties. For the reason given below, Commission
Staff (Staff) supports fully mitigating the penalty assessed against Advantage.

3 Each year, in accordance with WAC 480-120-382, competitively classified
telephone companies must file an annual report and pay regulatory fees by May 1.
To assist companies with timely filing in 2005, the Commission sent each telephone
company subject to regulation by the Commission a notice on March 9, 2005, with

annual report forms attached.¹ Advantage filed its 2004 annual report with the Commission on May 2, 2005.² Commission records indicate, however, that the regulatory fee was not received until July 11, 2005.³

4 After May 1, the due date for filing annual reports and regulatory fees, the Commission sent out delinquency letters to each telecommunications company that had failed to timely submit its annual report and pay regulatory fees.⁴ In this letter, the Commission stated that the company had already incurred a penalty of 2% for failure to pay its regulatory fee by May 1 and that Staff intended to recommend enforcement action against any company that failed to file its annual report by July 1.⁵ The Commission sent out a delinquency letter on June 3, 2005, to Advantage.

5 Advantage paid its regulatory fee of \$143.07 on July 11, 2005.⁶ In its investigation report dated November 21, 2005, Staff determined in error that Advantage had filed its annual report, as well as its regulatory fee, on July 11, 2005.⁷ Because Staff found that the annual report had been filed after the July 1 enforcement deadline, the Commission sent Advantage a Notice of Penalties

¹ See Declaration of Sheri Hoyt, Attachment A at Appendix A.

² Declaration of Sheri Hoyt at ¶ 8.

³ *Id.*

⁴ Declaration of Sheri Hoyt, Attachment A at Appendix B.

⁵ *Id.*

⁶ Declaration of Sheri Hoyt at ¶ 8.

⁷ See Declaration of Sheri Hoyt at Attachment A.

Incurring and Due for Violations of Laws Rules and Regulations.⁸ In that notice, issued December 6, 2005, the Commission issued a penalty of \$100 for failure to timely file the 2004 annual report.⁹ The Commission made a citation error in the notice; namely, it referenced the provision that pre-dated WAC 480-120-382¹⁰ There is no claim by Advantage that the citation to the old rule number caused any confusion.

II. ARGUMENT

6 In its Application for Mitigation of Penalties, Advantage contends that it timely filed its 2004 annual report and enclosed a check for its 2005 regulatory fee with the report. Regarding the regulatory fee, there is no record of the payment arriving until July 11, 2005. Staff's subsequent review of Commission records revealed that Advantage's 2004 annual report, however, was timely filed on May 2, 2005, well before the July 1 enforcement deadline. Because the Commission assessed the penalty on the basis of failure to timely file the annual report, Staff recommends that the penalty be withdrawn. Furthermore, Staff recognizes the company's efforts in attempting to cure an apparently lost check, as evidenced in its handwritten notes (attached to the application for mitigation) documenting communications with Commission Staff.

⁸ Declaration of Sheri Hoyt at ¶ 4.

⁹ Declaration of Sheri Hoyt at ¶ 4.

¹⁰ *Id.*

III. CONCLUSION

7 Staff supports mitigating the entire assessed penalty of \$100. Accordingly, Staff requests that Advantage's Application for Mitigation of Penalties be granted.

DATED this 19th day of January, 2006, at Olympia, Washington.

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