

From: Torrie Hughes [mailto:thughes@ipdatastream.com]
Sent: Friday, October 4, 2013 1:34 PM
To: Kopta, Gregory (UTC)
Cc: Walker, Kippi (UTC); McCloy, Lauren (UTC); Wallace, Sharon (UTC)
Subject: RE: IPDATASTREAM, LLC (Penalty Assessment), Docket UT-130819 -- Order Denying Request For Hearing

Thank you very much for the re consideration.

Torrie

From: Kopta, Gregory (UTC) [mailto:Gkopta@utc.wa.gov]
Sent: Friday, October 04, 2013 1:30 PM
To: Torrie Hughes
Cc: Walker, Kippi (UTC); McCloy, Lauren (UTC); Wallace, Sharon (UTC)
Subject: Re: IPDATASTREAM, LLC (Penalty Assessment), Docket UT-130819 -- Order Denying Request For Hearing

Mr. Hughes,

The Commission will consider your request and will enter an order next week mitigating the penalty to an amount that the Commission finds to be fair under the circumstances.

I hope you have a good weekend, too.

Gregory J. Kopta
Director
Administrative Law Division

On Oct 4, 2013, at 12:56 PM, "Torrie Hughes" <thughes@ipdatastream.com> wrote:

Mr. Kopta

You say that the events that took place on May 19th or about would have made no impact on this. Had I been told at that time the issue I would have had to opportunity to close the account and dispute the \$700.00 charge for not filing. Regardless if I would have been granted that or not it would have been less than \$700.00. According to the same letter that if I had been told to fill out that form that day I would have been able to have the late fee penalties reduced to 25/day because it was before the 24th of May which is around 200-500 depending on when that clock starts/finishes.

This call did take place, I just called Steven V. King's office which was the May 10th letter. On the letter it said to contact Kali Wraspir at 360-664-1214. I just now called in today and spoke with Katrina and she confirmed by looking up the docket number that I in fact spoke with someone on May 20th about the letter. Now I understand the conversation was not recorded and the notes reflect I was calling in about that letter for not filling.

The overall point of this is I am not disputing your rules, I am willing to abide by them. But you have to please understand that there is fault on someone at that end and the fines for a small company is more than I make in profit in the state of Washington at this time.

I only ask that you please reconsider the amount to be charged at 25/day for that time period and I will gladly pay it and move forward.

If I do not hear from you by the end of the day, have a great weekend.

Torrie

From: Kopta, Gregory (UTC) [<mailto:Gkopta@utc.wa.gov>]

Sent: Friday, October 04, 2013 11:02 AM

To: Torrie Hughes; Walker, Kippi (UTC); McCloy, Lauren (UTC)

Cc: Wallace, Sharon (UTC)

Subject: RE: IPDATASTREAM, LLC (Penalty Assessment), Docket UT-130819 -- Order Denying Request For Hearing

Mr. Hughes,

I understand your version of events, but as I have tried to explain to you, those events are largely irrelevant. Your company was required to file its annual report and pay any regulatory fee by May 1, 2013, and you failed to do so. The Commission rule is clear, and you do not dispute the facts that you did not file your company's annual report on May 1, 2013, you had not made that filing by May 19, 2013, when you claim to have contacted Commission Staff, and you did not make that filing until September 18, 2013. The fact that you may have had a conversation with Commission Staff personnel on May 19, 2013 -- 18 days after your annual report was due -- has no effect whatsoever on your company's violation of the Commission rule, regardless of the substance of that conversation. The Commission did not err in penalizing your company for failure to comply with Commission rules.

The Commission, I repeat, has no record of any conversation between you and anyone on Commission Staff on May 19, 2013. That is not to say that no such conversation occurred. The Commission simply has no record of it. At this point, we have only your version of the content of that call, which conflicts with Commission rules and procedures. No staff member can "take care" of a penalty assessment or modify the application of Commission rules. Only the Commission can do that through the process described in the notice you received. I am not prepared to believe that anyone at the Commission stated otherwise simply because you say they did, but I am willing to accept that as a result of that call, you misunderstood the Commission's requirements. That is not grounds for disputing your company's violation of the rule, but it is a basis for seeking mitigation of the penalty amount assessed for that violation.

Accordingly, I will consider your messages as a request for mitigation. The Commission's primary objective in assessing penalties is to encourage future compliance with its rules, and I believe that \$1,800 under the circumstances presented here is more than the amount required to encourage your company to timely file its annual report and pay any regulatory fee in the future. I will recommend that the Commission enter an order to that effect, mitigating the penalty to \$900, which is consistent with the mitigated amount assessed against other companies that had not previously violated this rule. But it is that order, not this email message, that would effect that action. The Commission acts formally in these matters, and I strongly advise you to rely in future on Commission rules, notices, and orders, rather than solely on your understanding of conversations with Commission Staff.

I trust this addresses your concerns.

Gregory J. Kopta
Director, Administrative Law Division
Washington Utilities and Transportation Commission

From: Torrie Hughes [thughes@ipdatastream.com]
Sent: Thursday, October 03, 2013 5:43 PM
To: Kopta, Gregory (UTC); Walker, Kippi (UTC); McCloy, Lauren (UTC)
Cc: Wallace, Sharon (UTC)
Subject: RE: IPDATASTREAM, LLC (Penalty Assessment), Docket UT-130819 -- Order Denying Request For Hearing

Mr. Kopta

Going to try and explain this another way. I wish someone would just pick up the phone and speak with me and you will understand where your office messed up.

Per your ruling received today: "On May 10, 2013, the Commission notified IPDATASTREAM, LLC (IPDATASTREAM or Company), that its annual fee and regulatory report were overdue, and that, as a consequence, the Company had accrued a penalty of \$700."

On or around May 19th, your office took my call, if you review the notes you will see that an employee in your office took my call, she explained to me that since I was no longer in business there was nothing that needed to be done and she would take care of it. That employee has been since let go from what 3 of your employees have told me. Had someone told me on that phone call that I could dispute it and explained that I needed to file the paperwork I would have done that. I might have even paid the \$700.00 fine because of it, but she said don't worry about it.

Then in September I received the next notice for \$1800.00 which to my surprise was even sent. When I called in 2 more of your employees confirmed the conversation I had on the 19th (but not the details) and sent me to Lauren which said to just fill out the paper work and send it in and go ahead and dispute it even though it was already ruled.

So to say there is no notes is false when 2 or 3 different people in that office or the one on the letter took my call, spoke with me about this and I did what they told me to do. If you look at the most recent call to Lauren whoever that employee was that sent me over to her was the one that went back to May 19th +/- a day or so and said that in fact I had called in and spoke to an employee that was no longer there. She said that the file for IPDATASTREAM didn't have the notes, but the employee at that time had it in her personal notes and she could see it.

Why would I call in right after the first letter and not either pay the \$700 fine or file the paperwork at that time? Is it possible that your employee messed up? Is it possible she didn't understand the process I was supposed to do?

Please reconsider the ruling and at least I will pay some fine just to make this all go away, but for me to pay a \$1800.00 fine on an error on your office end is unfair.

Torrie

From: Kopta, Gregory (UTC) [<mailto:Gkopta@utc.wa.gov>]
Sent: Thursday, October 03, 2013 5:03 PM
To: Torrie Hughes; Walker, Kippi (UTC); McCloy, Lauren (UTC)
Cc: Wallace, Sharon (UTC)
Subject: RE: IPDATASTREAM, LLC (Penalty Assessment), Docket UT-130819 -- Order Denying Request For Hearing

Mr. Hughes,

The Commission does not record telephone calls and has no record of any notes of a call in May between you and any Commission personnel with regard to this matter. Nor would any conversation between you and Commission Staff be relevant to whether your company violated the Commission rule requiring registered telecommunications companies to file annual reports and pay regulatory fees by May 1 each year, particularly if that conversation occurred long after the May 1, 2013, deadline had passed without the company making the required filing. The Order Denying Request for Hearing is the Commission's resolution of your request.

Gregory J. Kopta
Director, Administrative Law Division
Washington Utilities and Transportation Commission

From: Torrie Hughes [<mailto:thughes@ipdatastream.com>]
Sent: Thursday, October 3, 2013 12:44 PM
To: Kopta, Gregory (UTC); Walker, Kippi (UTC); McCloy, Lauren (UTC)
Cc: Wallace, Sharon (UTC)
Subject: RE: IPDATASTREAM, LLC (Penalty Assessment), Docket UT-130819 -- Order Denying Request For Hearing

You might want to check your records and call records in May, I spoke with someone at that office after receiving the first 700 bill. That person no longer works there but there is notes of the call and I am sure you record those call. I would suggest you look at your side first before denying my response in this matter.

Torrie

From: Kopta, Gregory (UTC) [<mailto:Gkopta@utc.wa.gov>]
Sent: Thursday, October 03, 2013 12:07 PM
To: Torrie Hughes; Walker, Kippi (UTC); McCloy, Lauren (UTC)
Cc: Wallace, Sharon (UTC)
Subject: RE: IPDATASTREAM, LLC (Penalty Assessment), Docket UT-130819 -- Order Denying Request For Hearing

Mr. Hughes,

The Commission's Records Center maintains the official contact information for each company the agency regulates. If the contact information for your company is incorrect, you must notify the Commission, in writing, of the change. If you fail to do so, the Commission is not responsible for any delay in, or lack of, receipt of notices the Commission serves on the company.

If you are no longer wish to be authorized to provide telecommunications services in Washington, you may request, in writing, that the Commission cancel the company's registration. The Commission has no record of any such request from your company. As long as the company retains its registration, it must file an annual report and be subject to penalties if it fails to comply with that requirement, regardless of whether the company is actually providing service.

If you file a request to cancel your company's registration, you may also request a waiver of the \$1,800 penalty the Commission assessed for your failure to timely file the company's annual report. Otherwise, the penalty is due and payable as provided in the Order Denying Request for Hearing.

You should consult with legal counsel if you wish to challenge the Commission's actions in this matter in court.

Gregory J. Kopta
Director, Administrative Law Division
Washington Utilities and Transportation Commission

From: Torrie Hughes [<mailto:thughes@ipdatastream.com>]
Sent: Thursday, October 3, 2013 11:08 AM
To: Walker, Kippi (UTC); McCloy, Lauren (UTC)
Cc: Wallace, Sharon (UTC); UTC DL ALD
Subject: RE: IPDATASTREAM, LLC (Penalty Assessment), Docket UT-130819 -- Order Denying Request For Hearing

Can I speak to someone about this. You were not sending the letters to the correct location. I spoke to your office back in March when the first one came through and you told me you would take care of it because we had not been doing business in Washington. I said I would not mention that part of it in my response but now since you are assessing the fee for me doing NOTHING in your state I want a hearing, I want to know the process to fight this in court.

Torrie Hughes
503-972-2390

From: Walker, Kippi (UTC) [<mailto:KWalker@utc.wa.gov>]
Sent: Thursday, October 03, 2013 8:45 AM
To: thughes@ipdatastream.com; McCloy, Lauren (UTC)
Cc: Wallace, Sharon (UTC); UTC DL ALD
Subject: IPDATASTREAM, LLC (Penalty Assessment), Docket UT-130819 -- Order Denying Request For Hearing

A courtesy copy of the following order served today in Docket UT-130819 is attached:

-Order 01
Order Denying Request For Hearing

Kippi Walker
UTC - Administrative Law Division
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1139