

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment	)	DOCKET TG-150974
Against	)	
	)	ORDER 01
WASTE WEST & RECYCLING, INC.	)	
	)	ORDER DENYING REQUEST FOR
in the amount of \$300	)	HEARING; DENYING CONTEST
	)	OF VIOLATION; DENYING
.....	)	MITIGATION

**BACKGROUND**

- 1 Washington law requires solid waste companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-70-071. On February 27, 2015, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all solid waste companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2015, 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 81.04.405.
- 2 Waste West & Recycling, Inc. (Waste West or Company) filed its annual report late on May 6, 2015. On May 26, the Commission assessed a penalty of \$300 against Waste West, calculated as \$100 per business day from May 1 to May 6.
- 3 On June 10, 2015, Waste West responded to the Commission’s penalty assessment contesting the violations and requesting a hearing. The Company provided the following information: “Our annual report was mailed 4/30/15. It should have been received by WUTC on 5/1/15, or 5/2/15 at the latest. We should not be penalized for your mailroom snafu. We finally submitted the annual report on time and are still being penalized.” The Company included with its response a copy of a postage receipt dated April 30, 2015, with an expected delivery date of May 2.
- 4 On June 25, 2015, Commission staff (Staff) filed a response recommending the Commission deny the Company’s request for mitigation. Staff explained that Waste West filed its annual report late in 2005, 2007, 2013, and 2014, and presented no new or

compelling information in its request for the Commission to consider. Staff also noted that the Company's late payment fee of \$50.45 remains unpaid.

### **DISCUSSION**

- 5 WAC 480-70-071 requires solid waste 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 annual report was received by May 1, particularly in light of its multiple prior violations.
- 6 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. Here, no issues of law or fact are in dispute. The Company admits it mailed its annual report on April 30, 2015, and Commission records show it was received on May 6. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.
- 7 The Commission also denies the Company's contest of the violations. The undisputed facts demonstrate that the Commission received Waste West's annual report on May 6, 2015, three business days after the May 1 deadline. Even if the United States Postal Service estimated the filing would be delivered on May 2, Waste West, not the postal service, bears the ultimate responsibility to ensure that the Commission receives the Company's annual report by the due date. The Company failed to do so and thus violated the law.
- 8 Nor is mitigation of the penalty appropriate under these circumstances. The Commission may consider a number of factors when entertaining mitigation, including a company's history of compliance and the likelihood the violation will recur.<sup>1</sup> Waste West filed its annual reports late in 2005, 2007, 2013, and 2014, and its \$50.45 late payment penalty remains unpaid. Moreover, the Company has not presented any new or compelling information that would warrant a penalty reduction. We find the \$300 penalty to be an appropriate incentive for the Company to ensure timely filings in the future.

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

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**ORDER**

THE COMMISSION ORDERS:

- 9 (1) Waste West & Recycling, Inc.'s request for a hearing is DENIED.
- 10 (2) Waste West & Recycling, Inc.'s contest of the violations is DENIED.
- 11 (3) Waste West & Recycling, Inc.'s request for mitigation is DENIED.
- 12 (4) The \$300 penalty is due and payable no later than August 10, 2015.
- 13 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 30, 2015.

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.**