

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

SOUTHWEST COMMUNICATIONS,
INC.

in the amount of \$1,000

DOCKET UT-160588

ORDER 01

ORDER 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 Southwest Communications, Inc. (Southwest or Company) filed an incomplete annual report on April 28, 2016, and had not made a complete filing by May 16. On June 15, the Commission assessed a penalty of \$1,000 against Southwest, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 20, 2016, Southwest responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the written information provided. The Company explained that it mistakenly failed to include its balance sheet and income statement with its filing. The Company further explained that it was unaware its report was incomplete until it received the penalty assessment. The Company believes it would have responded much sooner had it been notified of the deficiencies, which may have reduced the penalty amount. That same day, the Company filed a complete annual report and paid the required regulatory fee.
- 4 On June 22, 2016, Commission staff (Staff) filed a response and explained that Staff called the phone number listed on the Company's annual report on May 2, 2016, and left a message notifying the Company that its report was incomplete. Staff recommends the

Commission assess a reduced penalty of \$50 per day, or \$500. Although the Company received and paid \$75 and \$700 penalties for violations of WAC 480-120-382 in 2012 and 2013, respectively, 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 We find that mitigation is not appropriate under the circumstances presented here. 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 gain compliance going forward. Here, the Company has a history of non-compliance; it received and paid penalties of \$75 in 2012 and \$700 in 2013. Moreover, the Company has not presented any new or compelling information that would warrant a penalty reduction. The Company's explanation that it would have complied sooner had it been aware of the deficiencies is not credible in light of Staff's representation that it attempted to contact the Company without success. Accordingly, we find the \$1,000 penalty to be an appropriate incentive for the Company to ensure timely filings going forward.

ORDER

THE COMMISSION ORDERS:

- 7 (1) Southwest Communications, Inc.'s request for mitigation of the \$1,000 penalty is DENIED.
- 8 (2) The \$1,000 penalty is due and payable no later than July 19, 2016.

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

- 9 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.