

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UT-160600
TRANSPAC TELECOM, INC.	ORDER 01
in the amount of \$1,000	ORDER DENYING REQUEST FOR HEARING; GRANTING MITIGATION TO \$125

**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 TransPac Telecom, Inc. (TransPac or Company) did not file an annual report on May 2, 2016, and had not made that filing by May 16. On June 16, the Commission assessed a penalty of \$1,000 against TransPac, calculated as \$100 per business day from May 2 to May 16.
- 3 On July 5, 2016, TransPac responded to the Commission’s penalty assessment, requesting a hearing and disputing the violations. In its response, the Company stated, “On May 5, we filed online and paid the necessary regulatory fees. We were not alerted that the deadline was May 2<sup>nd</sup> as we did not get any letter or annual forms from the UTC. On May 9, 2016, we received a call from Ms. Amy Clark who informed us that we were missing the annual revenue information on page 4, Part D of our filed annual report. We indicated the revenue information and emailed it back to her on the same date, May 9.”
- 4 On July 18, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$125, because the Company has no prior violations of WAC 480-120-382. Staff explained that, due to administrative error, the Company’s annual report was not marked complete on May 9. Accordingly, the annual report was five business days late, not ten. Staff’s recommendation is based on a penalty calculation of \$25 per day for five business days.

## DISCUSSION

- 5 WAC 480-120-382 requires regulated telecommunications 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 should not rely on reminders from the Commission to ensure compliance.
- 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. Commission records show – and TransPac acknowledged – that the Company did not file a complete annual report until May 9. Based on Staff's response, we will revise the number of violations from ten to five to reflect the actual number of days the report was late, which resolves any factual dispute. Moreover, the law is clear that annual reports must be filed by May 1 or the first business day thereafter. Accordingly, the Company's request for a hearing is denied.
- 7 We will, however, construe the Company's submission as a request for mitigation and assess a reduced penalty. 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.<sup>1</sup> Here, TransPac corrected the violation by filing a complete annual report prior to receiving the penalty assessment. In addition, this is the TransPac's first violation of WAC 480-120-382 since it became regulated in 2008; given the Company's history of compliance, the violations are unlikely to recur. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$125.

## ORDER

### THE COMMISSION ORDERS:

- 8 (1) TransPac Telecom, Inc.'s request for mitigation of the \$1,000 penalty is **GRANTED** in part, and the penalty is reduced to \$125.

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

9 (2) The \$125 penalty is due and payable no later than August 23, 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 August 9, 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.**