

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In the Matter of PENALTY  
ASSESSMENT AGAINST Maskina  
Communications, Inc. f/k/a Transcom  
Communications, Inc., in the amount of  
\$100.00

DOCKET NO. UT-051707  
  
COMMISSION STAFF'S  
CORRECTED RESPONSE TO  
MASKINA  
COMMUNICATIONS, INC.'S  
APPLICATION FOR  
MITIGATION

1 Pursuant to WAC 480-07-370(1)(c), Commission Staff submits this response  
to Maskina Communications, Inc.'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  
Maskina Communications, Inc. (Maskina) for failure to timely submit its annual  
report to the Commission. No regulatory fees were due.<sup>1</sup> On December 19, 2005,  
Maskina filed an Application for Mitigation of Penalties. For the reasons given  
below, Commission Staff (Staff) supports mitigation of the penalty.

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

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<sup>1</sup> This company had revenue below the amount required to owe regulatory fees. See RCW 80.20.010.

company subject to regulation by the Commission a notice on March 9, 2005, with annual report forms attached.<sup>2</sup> The notice informed each company that its annual report and regulatory fees were due by May 1, 2005.<sup>3</sup> The Commission sent the notice to Maskina at the company address on file with the Commission for Transcom Communications, Inc., the name under which Maskina was registered to conduct business at the time.<sup>4</sup>

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 regulatory fees.<sup>5</sup> In this letter, the Commission stated that Staff intended to recommend enforcement action, including possible penalties and/or suspension or revocation of authority, against any company that failed to file its annual report by July 1, 2005.<sup>6</sup> The Commission sent out a delinquency letter on June 3, 2005, to Maskina at the company address on file with the Commission for Transcom Communications, Inc., the name under which Maskina was registered to conduct business at the time.<sup>7</sup>

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<sup>2</sup> See Declaration of Sheri Hoyt, Attachment A at Appendix A.

<sup>3</sup> *Id.*

<sup>4</sup> See Declaration of Sheri Hoyt at ¶ 10.

<sup>5</sup> Declaration of Sheri Hoyt, Attachment A at Appendix B.

<sup>6</sup> *Id.*

<sup>7</sup> See Declaration of Sheri Hoyt at ¶ 11.

5           The Commission received the 2004 annual report of Transcom  
Communications, Inc. on September 26, 2005.<sup>8</sup> On October 11, 2005, the  
Commission received notice that Transcom Communications, Inc. had changed its  
name to Maskina Communications, Inc., and that the company's mailing address  
had changed.<sup>9</sup>

6           On December 6, 2005, the Commission mailed to Maskina a Notice of  
Penalties Incurred and Due for Violations of Laws Rules and Regulations.<sup>10</sup> In that  
notice, the Commission issued a penalty of \$100 for failure to timely file the 2004  
annual report.<sup>11</sup> In error, the Commission mailed the notice to the company's old  
address.<sup>12</sup> Nevertheless, Maskina received the notice and signed for it six days after  
it was posted.<sup>13</sup> The Commission made one additional error in the notice, that of  
referencing the old cite to WAC 480-120-382;<sup>14</sup> but Maskina has not made any claims  
that this error caused any confusion.

## II. ARGUMENT

7           In its Application for Mitigation of Penalties, Maskina argues that it  
completed the 2004 annual report on May 28, 2005, and submitted it; but that the  
Commission did not receive it. The company asks that the penalty be withdrawn.

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<sup>8</sup> Declaration of Sheri Hoyt at ¶ 8 and at Attachment B.

<sup>9</sup> Declaration of Sheri Hoyt at ¶ 12.

<sup>10</sup> Declaration of Sheri Hoyt at ¶ 13.

<sup>11</sup> Declaration of Sheri Hoyt at ¶ 4.

<sup>12</sup> Declaration of Sheri Hoyt at ¶ 13.

<sup>13</sup> *Id.*

<sup>14</sup> Declaration of Sheri Hoyt at ¶ 4.

Finally, Maskina notes that it has complied with name change requirements yet its address still is listed incorrectly. Consequently, the company claims, it does not receive notices or other information in a timely manner.

#### **Date Annual Report Was Filed**

8           Because the Commission has no record of receiving Maskina's annual report before the May 1 or July 1 deadlines, Staff assessed a penalty for late filing. Although Maskina has provided copies of its email communication with its compliance service and the signatures on its annual report dated May 28, 2005, none of these documents provides any indication that the annual report was sent to or received by the Commission before September 26, 2005. Nevertheless, in recognition of the company's good faith belief that the annual report was filed May 28, 2005, supported by the signature date on the annual report, and in the interest of efficiently resolving this dispute, Staff supports mitigating the entire penalty.

#### **Use of Incorrect Address**

9           Up until the mailing of the penalty assessment notice on December 6, 2005, the Commission sent all documents to the correct address on file. Contrary to the implication in Maskina's Application for Mitigation that Commission error caused Maskina to miss filing deadlines, the fact that the penalty assessment notice was mailed in December to the incorrect address could not have affected timely receipt by the company of information sent to the correct address by the Commission in

March and June. Staff concludes that Maskina has failed to show that the Commission's use of the company's old address when it mailed out the penalty assessment notice in December prejudiced the company in filing its annual report by the May or July deadlines but recognizes the company's concerns.

### III. CONCLUSION

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

DATED this 9th day of January, 2006, at Olympia, Washington.

ROB MCKENNA  
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