

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

MAXWELTON SHORES WATER CO.

in the amount of \$1,000

DOCKET UW-160530

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 water 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 Maxwelton Shores Water Co. (Maxwelton or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 13, the Commission assessed a penalty of \$1,000 against Maxwelton, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 17, 2016, Maxwelton responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the written information provided. The Company explained that it mailed its annual report to the Commission on March 22, 2016, but that it "unfortunately ... had no control of the mail once dropped at the post office and obviously it did not arrive as planned."
- 4 On June 22, 2016, Commission staff (Staff) filed a response recommending the Commission assess a reduced penalty of \$50 per day, or \$500. Although the Company received \$2,100 and \$1,000 penalties for violations of WAC 480-120-382 in 2012 and 2014, respectively, Staff supports a reduced penalty based on the Company's recent history of compliance.

DISCUSSION

5 WAC 480-110-505 requires regulated water 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 have taken steps to ensure its report was received by the deadline, particularly in light of the significant penalties it incurred for previous violations.

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 Here, the Company has a history of non-compliance; it received penalties of \$2,100 in 2012 and \$1,000 in 2014 for violations of WAC 480-110-505. Moreover, the \$2,100 penalty assessed in 2012 remains unpaid. The Company is cautioned that its continued failure to pay the \$2,100 penalty may result in further enforcement action, including penalties of \$100 per day for each day the Company remains in violation of a Commission order.

7 Finally, the Company has not presented any new or compelling information that would warrant a penalty reduction. The Company has multiple options to ensure its report is received by the Commission, including electronic filing, certified mail, or overnight delivery service. 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:

- 8 (1) Maxwelton Shores Water Co.'s request for mitigation of the \$1,000 penalty is DENIED.
- 9 (2) The \$1,000 penalty is due and payable no later than July 20, 2016.

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

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 July 6, 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.