

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

IONEX COMMUNICATIONS NORTH,
INC.

in the amount of \$1,000

DOCKET UT-160565

ORDER 01

ORDER GRANTING MITIGATION TO
\$250

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 Ionex Communications North, Inc. (Ionex or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 14, the Commission assessed a penalty of \$1,000 against Ionex, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 23, 2016, Ionex filed an incomplete annual report and paid the required regulatory fee. On July 5, Ionex responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the written information provided. In its response, the Company states, "... communications has undergone a restructuring and the duties for compliance for the WA annual report moved from Kansas to Atlanta. This restructuring delayed the preparation of this annual report. This is the first time the company is late on this annual filing and we appreciate your consideration with relief of the penalty. We will take measurements so this will not occur in the future." On July 13, the Company filed a complete annual report.
- 4 On July 19, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$250, because the Company has no prior violations of WAC 480-120-382.

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 have ensured its annual report was timely filed despite its corporate restructuring.
- 6 The Commission nevertheless agrees with Staff's recommendation. 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, Ionex corrected the violation by filing its annual report and paying the required regulatory fee. In addition, this is the Ionex's first violation of WAC 480-120-382 since it became regulated in 2010; 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 \$250.

ORDER

THE COMMISSION ORDERS:

- 7 (1) Ionex Communications North, Inc.'s request for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$250.
- 8 (2) The \$250 penalty is due and payable no later than August 24, 2016.
- 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 August 10, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

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

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.