

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UW-170416
DEER MEADOWS WATER COMPANY, INC.	ORDER 01
in the amount of \$1,000	DENYING MITIGATION

BACKGROUND

- 1 On February 28, 2017, 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 May 1, 2017, 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 Deer Meadows Water Company, Inc. (Deer Meadows or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On June 22, 2017, the Commission assessed a penalty of \$1,000 against Deer Meadows, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 28, 2017, Deer Meadows filed a complete annual report. On July 7, the Company 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, "Prior to submitting our annual report we worked with UTC staff to insure that everything was complete before submitting. We feel that under those circumstances the \$1,000 fine should be waived ... It would be a financial hardship on our Company if we have to pay this fine."
- 4 On July 25, 2017, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for mitigation. The penalty assessment notified the Company that mitigation would only be granted if the Company could demonstrate that the violations occurred due to circumstances beyond its control. Because Deer Meadows failed to identify any such circumstances, Staff does not support the

Company's request. Staff does, however, recommend the Commission suspend the entire penalty on the condition the Company timely files its 2017 annual report by May 1, 2018.

DISCUSSION

- 5 WAC 480-110-505 requires regulated water companies to file annual reports by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have ensured its report was complete when filed.
- 6 We agree with Staff that mitigation of the penalty is not appropriate in the circumstances presented here. The penalty assessment advised the Company that a request for mitigation will only be granted if the violations occurred due to circumstances beyond its control.¹ Deer Meadows acknowledged that it failed to file a complete annual report prior to the deadline, but argues the penalty should be waived because the Company worked with Staff to ensure its report was complete prior to filing. While we appreciate the Company's efforts to comply with annual reporting requirements, its explanation for the violations does not meet the Commission's threshold for granting mitigation. Accordingly, we find that Deer Meadows failed to demonstrate that the violations occurred due to circumstances beyond its control, and conclude that its request for mitigation should be denied.
- 7 Finally, we decline to adopt Staff's recommendation to suspend the penalty based on the Company's financial status. The penalty assessment expressly excludes financial hardship as a basis for leniency. To reduce the impact of the penalty, Deer Meadows may work with Staff to establish a mutually agreeable payment arrangement.

¹ Those circumstances include, but are not limited to: death or serious illness of the person responsible for filing the report, or a member of that person's immediate family; destruction by fire or other casualty of the company's place of business or business records; or an act of fraud, embezzlement, theft, or conversion on the part of an employee. Circumstances that do not qualify as an acceptable basis for requesting mitigation include: financial hardship; a misunderstanding or lack of knowledge of Commission rules; failure to receive an annual report form from the Commission; mistakes or misconduct on the part of an employee; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

ORDER

THE COMMISSION ORDERS:

- 8 (1) Deer Meadows Water Company, Inc.'s request for mitigation of the \$1,000 penalty is DENIED.
- 9 (2) Deer Meadows Water Company, Inc. must either pay \$1,000 penalty or file jointly with Staff a mutually agreeable payment arrangement no later than September 15, 2017.
- 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 September 1, 2017.

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.