

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UW-170420
LAKE ALYSON WATER, 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 On April 27, 2017, Lake Alyson Water, Inc. (Lake Alyson Water or Company) filed an incomplete annual report, and had not made a complete filing by May 15. On June 22, 2017, the Commission assessed a penalty of \$1,000 against Lake Alyson Water, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 30, 2017, Lake Alyson Water responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the written information provided. In its response, Lake Alyson Water explained that it did not receive the May 8 email from Commission staff (Staff) notifying the Company that its report was incomplete.
- 4 On July 13, 2017, Lake Alyson Water filed a complete annual report.
- 5 On July 17, 2017, 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 Lake Alyson Water failed to identify any such circumstances, Staff does not support the Company's request. Staff notes that the Commission approved the sale and transfer of Lake Alyson Water to

Northwest Water Services, LLC in February 2017, but Lake Alyson Water has not yet petitioned the Commission for deregulation. Staff recommends the Commission suspend the entire penalty subject to the condition that the Company files a petition for deregulation no later than August 31, 2017.

DISCUSSION

- 6 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.
- 7 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 Lake Alyson Water acknowledged that it failed to file a complete annual report prior to the deadline, but argues the penalty should be waived because it did not receive Staff's email notification that its report was incomplete. Staff notes, however, that the Company failed to provide the Commission with an updated email address, as required. Accordingly, we find that Lake Alyson Water failed to demonstrate that the violations occurred due to circumstances beyond its control, and conclude that its request for mitigation should be denied.
- 8 We also decline to adopt Staff's recommendation to suspend the penalty subject to the condition that the Company file a petition for deregulation by August 31, 2017. As of September 5, the Company has failed to file such a petition. To reduce the financial impact of the penalty, the Company may work with Staff to establish mutually agreeable payment arrangements.

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 employees; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

ORDER

THE COMMISSION ORDERS:

- 9 (1) Lake Alyson Water, Inc.'s request for mitigation of the \$1,000 penalty is DENIED.
- 10 (2) Lake Alyson Water, Inc. must either pay \$1,000 penalty or file jointly with Staff a mutually agreeable payment arrangement no later than September 20, 2017.
- 11 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 6, 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.