

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

BED ROCK, INC.

in the amount of \$1,000

DOCKET TG-170569

ORDER 01

DENYING MITIGATION

BACKGROUND

- 1 On February 28, 2017, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all solid waste 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 Bed Rock, Inc. (Bed Rock or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On July 7, 2017, the Commission assessed a penalty of \$1,000 against Bed Rock, calculated as \$100 per business day from May 1 to May 15.
- 3 On September 13, 2017, Bed Rock filed a complete annual report and paid its regulatory fee. On September 18, the Company responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the information provided. In its response, the Company stated, "the renewal was sent to a PO Box in Vinta, OK, which at one time was our accounts receivable personnel and we are no longer using this vendor. Emails were sent to one of our girls in accounting to an old email, and it was not forwarded. I don't even know how we finally received the notice."
- 4 On July 31, 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 Bed Rock failed to identify any such circumstances, Staff does not support the Company's request.

DISCUSSION

- 5 WAC 480-70-071 requires solid waste companies to file annual reports by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should not rely on reminders from the Commission to ensure compliance. Moreover, the Company is required to provide the Commission with current contact information.
- 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 Bed Rock's explanation for its late filing – that it did not timely receive an annual report form from the Commission – is expressly identified in the penalty assessment as an unacceptable basis for mitigation. Accordingly, we find that Bed Rock failed to demonstrate that the violations occurred due to circumstances beyond its control, and conclude that its request for mitigation should be denied.

ORDER

THE COMMISSION ORDERS:

- 7 (1) Bed Rock, Inc.'s request for mitigation of the \$1,000 penalty is DENIED.
- 8 (2) Bed Rock, Inc. must pay the \$1,000 penalty no later than November 3, 2017.

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.

- 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 October 20, 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.