

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of PENALTY
ASSESSMENT AGAINST Threshold
Communications, Inc., in the amount of
\$100.00

DOCKET NO. UT-051706

COMMISSION STAFF'S
RESPONSE TO THRESHOLD
COMMUNICATIONS, INC.'S
APPLICATION FOR
MITIGATION

1 Pursuant to WAC 480-07-370(1)(c), Commission Staff submits this response
to Threshold Communications, Inc.'s Application for Mitigation.

I. BACKGROUND

2 On December 6, 2005, The Washington Utilities and Transportation
Commission (Commission) assessed a penalty in the amount of \$100 against
Threshold Communications, Inc. (Threshold) for failure to timely submit its annual
report to the Commission. On December 22, 2005, Threshold filed an Application
for Mitigation of Penalties. For the reason given below, Commission Staff (Staff)
supports fully mitigating the penalty assessed against Threshold.

3 Each year, in accordance with WAC 480-120-382, competitively classified
telephone companies must file an annual report and pay regulatory fees by May 1.
To assist companies with timely filing in 2005, the Commission sent each telephone
company subject to regulation by the Commission a notice on March 9, 2005, with

annual report forms attached.¹ Threshold filed its 2004 annual report with the Commission on April 29, 2005.² The company did not submit its regulatory fee, however, before the May 1 deadline.³

4 After May 1, the due date for filing annual reports and regulatory fees, the Commission sent out delinquency letters to each telecommunications company that had failed to timely submit its annual report and pay regulatory fees.⁴ In this letter, the Commission stated that the company had already incurred a penalty of 2% for failure to pay its regulatory fee by May 1 and that Staff intended to recommend enforcement action against any company that failed to file its annual report by July 1.⁵ The Commission sent out a delinquency letter on June 3, 2005, to Threshold.

5 Threshold paid its regulatory fee of \$83.20 on July 19, 2005.⁶ Staff determined, in error, that Threshold had filed its annual report, as well as its regulatory fee, late.⁷ On December 6, 2005, the Commission sent Threshold a Notice of Penalties Incurred and Due for Violations of Laws Rules and Regulations.⁸ In that notice, the Commission issued a penalty of \$100 for failure to timely file the

¹ See Declaration of Sheri Hoyt, Attachment A at Appendix A.

² Declaration of Sheri Hoyt at ¶ 8.

³ *Id.*

⁴ Declaration of Sheri Hoyt, Attachment A at Appendix B.

⁵ *Id.*

⁶ Declaration of Sheri Hoyt at ¶ 8.

⁷ Declaration of Sheri Hoyt at Attachment A.

⁸ Declaration of Sheri Hoyt, Attachment A at Appendix B.

2004 annual report.⁹ The Commission made a citation error in the notice; namely, it referenced the provision that pre-dated WAC 480-120-382¹⁰ There is no claim by Threshold that the citation to the old rule number caused any confusion.

II. ARGUMENT

6 In its Application for Mitigation of Penalties, Threshold contends that it sent its 2004 annual report to the Commission on April 28, 2005, by overnight mail and that it was received and signed for on April 29, 2005. The Commission does not dispute this claim. Staff's subsequent review of Commission records revealed that although the regulatory fee was filed late, the annual report had been filed on time. Because the Commission assessed the penalty on the basis of failure to timely file the annual report, Staff recommends that the penalty be withdrawn.

III. CONCLUSION

7 Staff supports mitigating the entire assessed penalty of \$100. Accordingly, Staff requests that Threshold's Application for Mitigation of Penalties be granted.

⁹ *Id.*

¹⁰ Declaration of Sheri Hoyt at ¶ 4.

DATED this 9th day of January, 2006, at Olympia, Washington.

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