

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment Against  
FIRCROFT, INC., in the Amount of \$100

DOCKET UW-101045

DECLARATION OF  
SHERI HOYT

SHERI HOYT, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Consumer Program Specialist in the Consumer Protection Section. I have been employed at the Commission for 18 years, holding various positions. As a Consumer Program Specialist, my responsibilities include conducting investigations regarding annual reports filed by regulated utility and transportation companies. As part of those duties, I investigate water companies that may be operating in violation of Commission statute or rule.
3. On July 9, 2010, Paula Huffman, on behalf of Fircroft, Inc. (Fircroft), filed with the Commission an Application for Mitigation (Mitigation Request), in Docket UW-101045. I have read the Mitigation Request. In the Mitigation Request, Fircroft admits the violation occurred and requests an administrative decision by an administrative law judge.
4. This Mitigation Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on June 30, 2010, in Docket UW-101045. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code (WAC) 480-110-505, which requires water companies to file annual reports with the Commission by May 1 each year.
5. Before recommending the Commission issue penalties, as part of my job, I conducted an investigation of Commission records concerning Fircroft<sup>1</sup>. I documented my investigation in a report titled, "Staff Investigation - 2009 Annual Reports."<sup>2</sup> I identified the violation in this case from records maintained by the Commission.

<sup>1</sup> At the time the investigation was conducted, I was a Compliance Investigator in the Compliance Investigations Section.

<sup>2</sup> A true and accurate copy of the investigation report is attached to this declaration as Attachment A.

## Specific Issues Addressed by Fircroft in its Mitigation Request

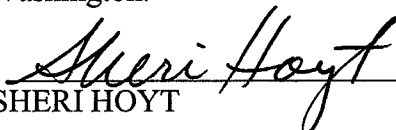
**Ms. Huffman states she contacted the Commission just before May 1 and told the person with whom she spoke that the company had to get an extension to file its taxes due to difficulties it was experiencing with its bookkeeper. In the Mitigation Request, Ms. Huffman also asks for an extension to file the report until August 15, 2010.**

6. Commission records indicate that the Commission mailed an annual report packet to Fircroft on February 26, 2010, to the address of record: Post Office Box 1174, Eastsound, Washington 98245. On March 31, 2010, the Commission mailed a notice to Fircroft reminding it that the annual report was due May 1, 2010. Further, records indicate that on May 14, 2010, the Commission sent a letter to the same post office box address notifying Fircroft that its annual report was delinquent and that it must file by May 31, 2010, to avoid enforcement action.
7. Commission records indicate that Fircroft did not request an extension to file its 2009 annual report after the May 1 deadline.
8. Commission records indicate Ms. Huffman was informed on April 26, 2010<sup>3</sup>, that a request for an extension to file the report after May 1 would need to be received by the Commission, in writing, before May 1, 2010.

### Staff Recommendation

9. Fircroft failed to timely file its 2009 annual report. Fircroft did not timely file a written request for an extension to file its report after May 1, 2010. The violation occurred, and the penalty is appropriate.

DATED this 23 day of July 2010 at Olympia, Washington.

  
SHERI HOYT

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<sup>3</sup> See Declaration of Rae Lynn Carnes.

## Attachment A

### Water Companies Staff Investigation - 2009 Annual Reports June 9, 2010

#### **Purpose**

The purpose of this investigation is to determine if four water companies are in violation of Washington Administrative Code (WAC) 480-110-505<sup>1</sup>. WAC 480-110-505 requires water companies to furnish annual reports to the Washington Utilities and Transportation Commission (commission) no later than May 1 each year.

#### **Background**

This investigation was prompted by commission staff's yearly review of annual reports for water companies registered with the commission.

On February 26, 2010, the commission mailed 2009 Annual Report forms and 2010 Regulatory Fee packets to water companies registered with it. A letter from Executive Director and Secretary David W. Danner instructed companies to file annual reports and pay regulatory fees by May 1, 2010.<sup>2</sup> Further, the letter stated failure to file the annual report by May 1 could result in a penalty. Those companies wishing to request an extension to file the annual report were asked to do so prior to May 1, providing a reason for the requested extension. None of the companies listed in Appendix A requested an extension.

On March 31, 2009, the commission mailed a notice to all water companies reminding them that 2009 annual reports and 2010 regulatory fees were due by May 1, 2010.<sup>3</sup>

#### **Investigation**

The four water companies listed in Appendix A failed to file their 2009 annual report by the May 1 deadline. On May 14, 2010, the commission sent letters to those companies that had not yet filed their reports. The letter, signed by David Danner, gave an extension to companies to file their reports by May 31, 2010.<sup>4</sup> In the letter, Mr. Danner stated the commission would not seek a fine from any company with a report received by the commission postmarked no later than May 31.

A review of commission records indicates one company, South Bainbridge Water System, Inc. (South Bainbridge), received a \$100 penalty issued June 30, 2008, for failing to timely file its 2007 annual report. South Bainbridge paid the penalty in full on September 30, 2008, and filed its 2007 annual report on November 3, 2008. In addition, records reflect the commission issued South Bainbridge a \$200 penalty assessment on June 26, 2009, for failing to file its 2008 annual report timely. Although the penalty was paid in full on September 29, 2009, the company has failed to file its 2008 annual report.

#### **Recommendation:**

Staff recommends the commission issue a \$100 penalty assessment to three of the four water companies listed in Appendix A for failure to file the annual report by May 1, 2010.

Staff recommends the commission issue a \$400 penalty assessment to South Bainbridge for failure to file its 2009 annual report by May 1, 2010. Staff finds it appropriate that the company receive an

<sup>1</sup> See Appendix A for a list of the delinquent water companies.

<sup>2</sup> See Appendix B for a copy of the February 26, 2010, letter sent to water companies.

<sup>3</sup> See Appendix C for a copy of the March 31, 2010, reminder notice sent to water companies.

<sup>4</sup> See Appendix D for a copy of the May 14, 2010, letter sent to delinquent water companies.

escalating penalty due to continued violations of WAC 480-110-505. RCW 80.04.405 allows penalties of \$100 for every such violation. Each and every such violation is a separate and distinct offense and in case of a continuing violation every day's continuance shall be and be deemed to be a separate and distinct violation.

**APPENDIX A**

	<b>Company Name</b>	<b>Report Received Yes or No</b>	<b>If yes, Date Received</b>	<b>Recommended Penalty Amount</b>
1.	Bethel Water Company, Inc.	No		\$100
2.	Fircroft, Inc.	No		\$100
3.	Pelican Point Water Company	No		\$100
4.	South Bainbridge Water System, Inc.	No		\$400

## APPENDIX B

February 26, 2010

Dear Regulated Company:

**Reference: Your 2009 Annual Report and 2010 Regulatory Fees are Due May 1**

State law requires you to file an annual report and pay regulatory fees to the Washington Utilities and Transportation Commission (UTC).

### What is required of me?

By May 1, you must:

- Complete and file one paper copy or electronic version of the enclosed 2009 annual report form
- Pay your 2010 regulatory fees

### What happens if I do not file a completed annual report by May 1?

If you do not file your company's annual report by May 1 UTC staff will recommend a financial penalty between \$100 and \$800 depending on whether you have filed late in the past. If you have repeatedly filed late, the penalty will be higher. Staff may also recommend revocation of your authority to operate in Washington. Staff will also recommend a \$100 financial penalty if your annual report is incomplete, *i.e.*, not signed or lacking requested information, even if it is filed on time.

### What happens if I do not pay my regulatory fees by May 1?

If you do not pay your company's regulatory fee by May 1, you will incur a:

- 2 percent penalty on the amount due; and
- 1 percent monthly interest charge on the unpaid balance.

### May I request an extension of time if I am unable to file the annual report by May 1?

Yes, however, you must make the request in writing before May 1 and include a valid reason for why you need an extension. We will notify you whether your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your fee by May 1.

### May I designate any information that I submit in my annual report as confidential?

Yes, however, you must meet two conditions. You may only request confidential treatment if your company is regulated under Title 80 RCW, that is, if you operate an electric, natural gas, telecommunications, or water company. Transportation companies, regulated under Title 81 RCW, may not request confidential treatment of documents because the authority for such

treatment is found only in RCW 80.04.095. If a Title 81 company files their annual report or fee sheet as confidential, we will not treat it as confidential.

Second, you must follow the requirements for filing confidential documents in WAC 480-07-160. You may find this rule at the UTC Web site, [www.utc.wa.gov](http://www.utc.wa.gov). Locate "Quick Links" on the right side of the home page then select "2009 annual reports."

**Please note:** The regulatory fee sheet portion of your report is not a confidential document and will not be accorded confidential treatment under the rule. We will not, however, disclose credit card information you list on the fee sheet.

**Where do I mail my completed annual report form and regulatory fee payment?**

Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250

**May I file my report electronically?**

Yes. You may file your report from the UTC's Web site – [www.utc.wa.gov](http://www.utc.wa.gov). From the home page, select the "document" tab at the top of the page and then locate and select "electronic filing" from the colored bar on the left side of the page. Alternatively you may go directly to the electronic filing page by entering [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing) into your browser.

**Where may I obtain an electronic version of the annual report form?**

Forms are available on our Web site at [www.utc.wa.gov](http://www.utc.wa.gov). Locate "Quick Links" on the right side of the home page and then select "2009 annual reports."

**May I pay my regulatory fees electronically?**

Yes. You may call 360-664-1152 or e-mail [rcames@utc.wa.gov](mailto:rcames@utc.wa.gov) requesting information about payment by Automated Clearing House. A statement of payment should accompany your Annual Report and Regulatory Fee Sheet.

**Is there any additional information I should file?**

- If you are a gas distribution company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 2.
- If you are an electric company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 1.
- If you are a class 1 Railroad, please also file a copy of your Surface Transportation Board Form R-1 - including statistics specific to the state of Washington.

**What should I do if my company is no longer operating in Washington?**

You may cancel your registration or permit by using the cancellation forms available on our Web site at [www.utc.wa.gov](http://www.utc.wa.gov). Locate "Quick Links" on the right side of the home page and then select "2009 annual reports." From the annual reports page select the

cancellation link to access the forms. Please note that if your company operated in Washington during the 2010 calendar year you must pay regulatory fees and file a closing annual report based on the months of operation during 2009.

**Who do I contact if I have questions?**

If you have questions about any aspect of your report or regulatory fee, please contact Rae Lynn Carnes at (360) 664-1152 or [rcarnes@utc.wa.gov](mailto:rcarnes@utc.wa.gov).

If you need this letter or an annual report form in an alternate format, please call 360-664-1243. The TTY Toll-Free phone number is 1-800-416-5289.

Sincerely,

David W. Danner  
Secretary

Enclosures



APPENDIX C

**Reminder!**  
**Annual Reports and Regulatory Fees are due May 1, 2010**

On February 26, we sent you a 2009 annual report form and 2010 regulatory fee form. This is just a friendly reminder that your company's completed annual report and payment of your regulatory fees are due, postmarked, no later than May 1.

If you already mailed your annual report and regulatory fees, **thank you!** Please disregard this notice. If you have not yet filed, please be sure not to miss this deadline.

You may mail your completed annual report form and regulatory fee payment to:

Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250

You may also file your report electronically via the UTC's Web filing portal. From the UTC's home page, [www.utc.wa.gov](http://www.utc.wa.gov), select the "document" tab at the top of the page and then locate and select "electronic filing" from the colored bar on the left side of the page. Alternatively you may go directly to the electronic filing page by entering <http://utc.wa.gov/e-filing> into your browser.

You may obtain an electronic version of the annual report and regulatory fee sheet at our Web site; locate "Quick Links" on the homepage and then select "2009 annual reports".

If you fail to pay your regulatory fee or file your company's completed annual report, postmarked by May 1, UTC staff will recommend the commission issue a financial penalty. Staff may also recommend that the commission cancel your authority to operate in Washington.

Please don't let either happen. If you have questions about your report or fee or need assistance, please contact me at 360-664-1152 or e-mail me at [rcarnes@utc.wa.gov](mailto:rcarnes@utc.wa.gov).

Sincerely,

Rae Lynn Carnes,  
Revenue Accountant

APPENDIX D

May 14, 2010

Attention:

Your annual report to the Utilities and Transportation Commission (commission) was due by May 1 as required by law. You are now subject to enforcement action by the commission, including financial penalties. This letter tells you what you can do to avoid this. **If you have already submitted your annual report, please disregard this notice.**

Commission staff mailed you a 2009 annual report form and fee calculation sheet on February 26, 2010. On March 1, 2010, staff mailed a reminder to file your report and pay your fees. Commission records indicate that you have not yet filed the completed report form.

**Commission staff will file for enforcement action against your company unless your completed report is received postmarked no later than May 31.** Enforcement action in this matter may include penalties of up to \$100 for each day you are late. If your annual report was late last year and you received a penalty, the penalty this year will be incrementally higher.

If the commission receives your report **postmarked no later than May 31**, commission staff will not seek a fine.

Annual report forms are available on the commission's Web site at [www.utc.wa.gov](http://www.utc.wa.gov). If you have questions or require additional information, please contact Sheri Hoyt, Compliance Investigator, at (360) 664-1149 or [shoyt@utc.wa.gov](mailto:shoyt@utc.wa.gov).

Sincerely,



David W. Danner  
Executive Director and Secretary