

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UT-121000
Against)	
)	ORDER 01
PRIMUS TELECOMMUNICATIONS,)	
INC.,)	ORDER PARTIALLY
)	SUSPENDING PENALTY,
in the amount of \$2,100)	SUBJECT TO CONDITION
)	
.....)	

MEMORANDUM

- 1 **Penalty.** On July 31, 2012, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$2,100 against Primus Telecommunications, Inc. (Primus or Company), for violations of Washington Administrative Code (WAC) 480-120-382. This rule requires competitively classified telecommunications companies to file annual reports with the Commission by May 1 each year.

- 2 On February 29, 2012, the Commission mailed Annual Report forms and Regulatory Fee packets to all regulated competitively classified telecommunications companies as required by WAC 480-120-382. On May 14, 2012, the Commission mailed a letter to companies that had not yet filed an annual report notifying them that they had incurred, as of that date, a penalty of \$800. The letter explained that companies who filed their annual reports no later than May 25, 2012, would receive mitigated penalties of \$25 per day, with an additional \$25 per day assessed for each instance in the previous five years that the company received a penalty for filing a late report.

- 3 Primus, however, did not file its completed 2011 annual report until September 25, 2012. This is nearly five months late, making the company liable for a penalty of nearly \$15,000 as provided in Revised Code of Washington (RCW) 80.04.405. The Commission, considering the nature of the offense and other factors, exercised its discretion to assess less than the maximum penalty. The Commission assessed a significant, but not unduly punitive, penalty of \$2,100.

4 **Mitigation Request.** On November 2, 2012, the Company filed a letter seeking relief from the penalty imposed. Primus does not dispute that the violation occurred, explaining the Company believed that on April 27, 2012, it had filed the annual report and mailed a check for \$383.93 to cover 2011 regulatory fees, but a turnover in employees may have resulted in the filing being overlooked. Given the unintentional nature of this omission and the Company's modest obligation for regulatory fees, Primus argues that a \$2,100 penalty is out of proportion and should be reduced.

5 **Commission Staff Opposition to Mitigation.** On December 4, 2012, Commission Staff filed a response opposing the Company's request. Staff points out that Primus did not submit its request for mitigation in a timely fashion, waiting more than three months from the date it first received the penalty to seek any relief. Staff concedes that Primus has been registered in Washington since September 1999 and that this is the Company's first penalty for filing a delinquent report.

6 **Commission Determination.** The Commission determines that it should exercise discretion to grant the Company's mitigation request by suspending one-half of the penalty amount subject to the condition that Primus files its 2012 annual report by May 1, 2013. If the company fails to timely file its 2012 annual report, the suspended penalty will become due without further action by the Commission. An additional penalty may be assessed for any late filing of the 2012 annual report.

7 This decision is based on the Company's acknowledgement that it violated the law and the fact that this is a first violation by the company. The Commission's primary goal in reaching its determination is to promote future compliance. Both the assessed penalty remaining due and the suspended penalty support this goal.

ORDER

THE COMMISSION ORDERS THAT:

8 (1) The penalty of \$2,100 assessed against Primus Telecommunications, Inc., on July 31, 2012, is suspended in the amount of \$1,050 subject to the condition that Primus Telecommunications, Inc., files its 2012 annual report by May 1, 2013. If the Company fails to timely file its 2012 annual report, the suspended penalty will become due without further action by the Commission.

- 9 (2) One-half of the \$2,100 penalty assessed against Primus Telecommunications, Inc., on July 31, 2012, (*i.e.*, \$1,050) is due and payable to the Commission within 15 days following the date of this Order.
- 10 (3) The Commission delegates to its Secretary authority to enter this Order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective December 7, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. Under WAC 480-07-904(3), you may seek Commission review of this decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision under WAC 480-07-904(1). You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's Web site.