

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment) DOCKET UT-140876
Against)
) ORDER 01
COMTECH 21, LLC)
) ORDER DENYING MITIGATION
in the amount of \$1,000)
.....)

BACKGROUND

- 1 Washington law requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-120-382. On February 28, 2014, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated telecommunications companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2014, 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 Comtech 21 did not file a complete annual report on May 1, 2014, and had not made that filing by May 15. On May 12, Comtech 21 filed an incomplete annual report. The Company’s complete filing was received on May 23.
- 3 On May 29, 2014, the Commission assessed a penalty of \$1,000 against Comtech 21, calculated as \$100 per day from May 1 to May 15.
- 4 On August 11, 2014, Comtech 21 responded to the Commission’s penalty assessment admitting the violations and requesting mitigation of the penalty based on the written information provided. The Company stated, “Short staff, never had a violation before.”
- 5 On August 12, 2014, Staff filed a response recommending the Commission deny the Company’s request for mitigation. Staff explained that the Company was delinquent in filing its annual report in 2013, and received and paid a mitigated penalty at that

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time. Staff also noted that the Company failed to request mitigation of the penalty within 15 days, as required.

DISCUSSION

6 WAC 480-120-382 requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have been aware of the need to file an annual report, particularly given the Commission's reminders and the Company's past violation.

7 The Commission agrees with Staff's recommendation and denies the Company's request for mitigation. The Commission considers a number of factors when entertaining a request for mitigation, including the company's compliance history, and the likelihood the violation will recur.¹ The Company failed to request mitigation until more than 60 days after the penalty assessment was issued, well beyond the 15-day window provided for such requests. Moreover, because the Company has a history of noncompliance and previously received a mitigated penalty, the violation is likely to recur absent an escalated penalty. Accordingly, the Commission finds the penalty amount to be a reasonable means of compelling the Company's compliance with Commission filing deadlines and requirements.

ORDER

THE COMMISSION ORDERS:

- 8 (1) The request of Comtech 21, LLC for mitigation of the \$1,000 penalty is DENIED.
- 9 (2) The penalty is due and payable no later than September 2, 2014.

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

10 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 August 20, 2014.

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. 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 website.