

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment  
Against

GC PIVOTAL, LLC

in the amount of \$200

DOCKET UT-170450

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 telecommunications 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 On May 1, 2017, GC Pivotal, LLC (GC Pivotal or Company) filed an incomplete annual report, and did not make a complete filing by May 15. On June 26, 2017, the Commission assessed a penalty of \$200 against GC Pivotal for 10 violations of WAC 480-120-382.
- 3 On May 18, 2017, GP Pivotal filed a complete annual report. On July 12, the Company responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the written information provided. In its response, the Company states, "... we were not made aware of the violation until 10 business days had passed. It was then corrected within 3 hours (see attached emails). If we had known of the violation earlier, it would not have been late. But to penalize us for the 10 days that the Commission staff waited to notify us seems excessive."
- 4 On August 2, 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 GC Pivotal failed to identify any such circumstances, Staff does not support the Company's request. Staff further explained that it notified the Company on May 18, 2017, that its report was

incomplete. Because the Company responded quickly, Staff assessed a reduced penalty of \$200. Staff notes that the Company could have faced penalties of up to \$1,000.

### DISCUSSION

5 WAC 480-120-382 requires telecommunications companies to file annual reports by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have ensured its report was complete when originally filed.

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.<sup>1</sup> GC Pivotal, not Staff, is responsible for ensuring the Company files a complete annual report by the deadline. Moreover, the Commission acknowledged the Company's prompt response and assessed a reduced penalty on that basis. The Company has not introduced any information that would warrant further reduction of the penalty. Accordingly, we find that GC Pivotal 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) GC Pivotal, LLC's request for mitigation of the \$200 penalty is DENIED.
- 8 (2) The \$200 penalty is due and payable no later than September 19, 2017.

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<sup>1</sup> 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 September 5, 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.