

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

ISO FUSION COMMUNICATIONS,
LLC

in the amount of \$1,000

DOCKET UT-170460

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 Isofusion Communications, LLC (Isofusion or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On June 27, 2017, the Commission assessed a penalty of \$1,000 against Isofusion, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 28, 2017, Isofusion 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, "When I was assigned this report in April, I glanced at the information and noted incorrectly that late fees would be 2%. Since I was having some mental health problems and took time off, I put this aside and forgot about it." The Company further explained that the penalty would create a financial burden.
- 4 On July 17, 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 Isofusion failed to identify any such circumstances, Staff does not support the Company's request.

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 timely filed.

6 ¹ 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.¹ Isofusion's explanation for the violations – that it overlooked the filing deadline
– is expressly identified in the penalty assessment as an unacceptable basis for mitigation.
Accordingly, we find that Isofusion 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) Isofusion Communications, LLC's request for mitigation of the \$1,000 penalty is
DENIED.
- 8 (2) The \$1,000 penalty is due and payable no later than September 19, 2017.

¹ 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.