

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UT-170498
VITCOM, LLC	ORDER 01
in the amount of \$1,000	DENYING CONTEST OF VIOLATIONS; 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 Vitcom, LLC (Vitcom or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On June 28, 2017, the Commission assessed a penalty of \$1,000 against Vitcom, calculated as \$100 per business day from May 1 to May 15.
- 3 On July 5, 2017, Vitcom filed a complete annual report and paid its regulatory fee. On July 10, Vitcom responded to the Commission’s penalty assessment, contesting the violations and requesting mitigation based on the written information provided. In its response, the Company states, “at the time that we were supposed to file our annual report, Vitcom, LLC was inactive so we were advised not to file until we got active again. We can prove it. I guess it was a mistake and misunderstanding.”
- 4 On July 31, 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 Vitcom 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 annual report was timely filed.

6 As a preliminary matter, we deny the Company's contest of the violations. The
undisputed facts show that the Commission received the Company's annual report on
July 5, 2017, long after the May 1 deadline. The Company has thus violated the law.

7 We also agree with Staff that mitigation of the penalty is not appropriate in the
circumstances presented here. The penalty assessment advised the Company that requests
for mitigation will only be granted if the violations occurred due to circumstances beyond
its control.¹ Vitcom's explanation for its late filing – that it misunderstood the
Commission's annual reporting requirements – was expressly identified as an
unacceptable basis for requesting mitigation. Accordingly, we find that Vitcom 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:

8 (1) Vitcom, LLC's request for mitigation of the \$1,000 penalty is DENIED.

9 (2) The \$1,000 penalty is due and payable no later than September 15, 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 employees; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

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 31, 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.