

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment     ) DOCKET UT-130819  
Against   )  
   ) ORDER 02  
IPDATASTREAM, LLC,                             )  
   ) ORDER GRANTING  
in the amount of \$1,800                     ) MITIGATION  
.....   )

**BACKGROUND**

- 1     On August 1, 2013, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$1,800 against IPDATASTREAM, LLC (IPDATASTREAM or Company) for violation of WAC 480-120-382, which requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year.<sup>1</sup>
  
- 2     On September 18, 2013, IPDATASTREAM filed a request for hearing to contest the penalty assessment and attached a completed annual report. On October 3, 2013, the Commission entered Order 01 denying the Company’s request.
  
- 3     In a series of emails on October 3-4, 2013, IPDATASTREAM’s principal, Torrie Hughes, stated that he contacted the Commission on May 19, 2013, after receiving the Commission’s May 10, 2013, notice of the violation (Notice) and was told that because he is not providing service in Washington, he was not required to file an annual report or pay regulatory fees. The Commission has no record of this call. Mr. Hughes nevertheless represents that the Company filed an annual report only after Mr. Hughes contacted the Commission once again after receiving the penalty assessment in an attempt to resolve an issue he believed had previously been resolved.

**DISCUSSION**

- 4     The Commission construes the emails from Mr. Hughes as a request for mitigation of the penalty assessed against IPDATASTREAM. In addition, we accept Mr. Hughes’ representation that he contacted the Commission shortly after receiving the Notice. We will not find, based solely on Mr. Hughes’ recollection, that someone from

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<sup>1</sup> See Order 01, Order Denying Request for Hearing, for a more extensive summary of the applicable background.

Commission Staff gave him incorrect information, but we give IPDATASTREAM the benefit of the doubt that as a result of his contact with Commission Staff, Mr. Hughes misunderstood his Company's obligation to file an annual report.

5 Under the unique circumstances presented, we grant the Company's request for mitigation. The Commission's purpose in assessing penalties is to foster compliance with its rules, and the Commission finds that a \$1,800 penalty exceeds the amount necessary to further that goal in this case.

6 IPDATASTREAM has not previously failed to file its annual report on time, and in light of Mr. Hughes' diligence in pursuing this matter, it would be reasonable to assume that the Company would have made its filing by May 24, 2013 – the cut-off date for pre-mitigation stated in the Notice – had Mr. Hughes understood that WAC 480-120-382 requires registered telecommunications companies to file an annual report even if they are not providing service. Consistent with the penalties assessed against first-time offenders that filed on May 24, 2013, the Commission reduces the penalty to \$425, calculated as \$25 per day for each of the 17 business days from May 1 until May 24.

### **ORDER**

#### **THE COMMISSION ORDERS:**

- 7 (1) The penalty assessment against IPDATASTREAM, LLC, is mitigated to \$425.
- 8 (2) The mitigated penalty of \$425 is due and payable no later than October 25, 2013.
- 9 (3) 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 October 15, 2013.

**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.