

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UT-170499
VODAFONE US, INC.	ORDER 01
in the amount of \$1,000	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 Vodafone US, Inc. (Vodafone 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 Vodafone, calculated as \$100 per business day from May 1 to May 15.
- 3 On July 11, 2017, Vodafone 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, "The delay in filing was due to a computer programming error attributable to a third party, which in turn caused a delay in generating the data necessary to complete the return." The Company requested the Commission consider that it does not generate any revenue in Washington.
- 4 On July 18, 2017, Vodafone filed a complete annual report with no regulatory fee due.
- 5 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 Vodafone

failed to identify any such circumstances, Staff does not support the Company's request. Staff notes that the Vodafone elected not to request an extension to file its annual report.

### **DISCUSSION**

6 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 requested an extension for filing its annual report if it did not have the data it needed prior to the May 1 deadline.

7 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> Vodafone's explanation for its late filing – that a third party did not timely provide it with necessary information – does not meet the Commission's threshold for granting mitigation. The Company had an opportunity to request an extension from the Commission prior to the deadline but chose not to. Accordingly, we find that Vodafone 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) Vodafone US, Inc.'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.

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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 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 September 1, 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.**