

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET UT-130792
Against)	
)	ORDER 01
CASCADE NETWORKS, INC.,)	
)	ORDER GRANTING
in the amount of \$1800)	MITIGATION TO \$900
.....)	

BACKGROUND

- 1 Washington law requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-120-382. On February 28, 2013, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated telecommunications companies. The cover letter accompanying the forms reminded companies to file their annual reports and pay their regulatory fees by May 1, 2013, and detailed potential penalties companies faced if they failed to file by that date. The penalties include an assessment of \$100 for each violation of Commission rules, and in the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.

- 2 On May 10, 2013, the Commission notified Cascade Networks, Inc. (Cascade or Company) that the Company’s annual fee and regulatory report was overdue, and that, as a consequence, Cascade had accrued a penalty of \$700. That notice further explained that the penalty would increase by \$100 per day for each business day that the Company failed to file the report and pay the fee. The notice stated that companies that filed no later than May 24, 2013, would receive mitigated penalties, but Cascade did not file its annual report or pay its regulatory fee by that date.

- 3 On May 17, 2013, Commission Staff (Staff) received a notification from Cascade that the Company planned to voluntarily cancel its registration to provide telecommunications services in Washington, but Cascade withdrew that notification on June 4, 2013. On May 31, 2013, the Company emailed its annual report to Staff. No regulatory fee was due because Cascade did not generate any intrastate revenues

in 2012. On September 25, 2013, the Commission assessed a penalty of \$1,800 against Cascade for the late filing, calculated as \$100 per business day from May 1 to May 24, the date on which daily penalties ceased to accrue.

- 4 On October 14, 2013, Cascade responded to the Commission's penalty assessment, admitting the violation but requesting a hearing to seek mitigation of the assessed penalty. The Company failed to provide any grounds for a hearing or mitigation, and on October 17, 2013, the Commission issued a notice denying the request for hearing and providing an opportunity for the Company to submit written reasons in support of mitigation.
- 5 On October 25, 2013, Cascade submitted a letter detailing factors the Commission should consider in determining the appropriate penalty. Those factors include (1) attached email correspondence with Staff on June 6, 2013, in which the Company was told it would not be penalized, and (2) confusion about the date on which Cascade submitted its annual report. The Company also contends that it had no intention to mislead the Commission or not pay its "fair share," but Cascade did not generate any revenue that would result in paying any regulatory fees.
- 6 On November 1, 2013, Staff filed a response supporting mitigation. Staff states that regardless of any communications or confusion, Cascade did not submit its annual report until May 31, 2013, at the earliest, which was one week after the date by which companies were required to file their annual reports to receive substantial mitigation. Staff nevertheless recommends mitigating the penalty to \$900 because the Company had not previously missed the deadline for filing its annual report.

DISCUSSION

- 7 We agree with Staff's recommendation. Neither of Cascade's mitigation factors supports reducing the assessed penalty amount. The correspondence between Staff and the Company is ambiguous, but even construing Staff's email as stating the Company would not receive penalties for the late filing, that communication occurred on June 6, 2013 – after both the May 24 deadline for companies to make their filings to receive a mitigated penalty and May 31, the date on which Cascade actually filed its annual report. Staff's statement thus had no impact on when the Company filed its

annual report. The Commission, moreover, not its Staff, determines whether a company will be penalized.

8 With respect to the date on which the Company filed its annual report, Cascade contributed to the confusion by emailing the report to Staff, rather than filing it with the Commission's Records Center as required. Even considering May 31, 2013, as the filing date, the Company missed the deadline by 30 days, and a penalty of \$1,800 is appropriate. Cascade's good intentions and lack of intrastate revenues do not justify failing to comply with a deadline that is applicable to all telecommunications companies.

9 The Commission, however, has mitigated this amount to \$900 for other companies in similar circumstances that had not previously failed to timely file their annual reports and pay regulatory fees. Accordingly, we grant the same level of mitigation to Cascade.

ORDER

THE COMMISSION ORDERS:

10 (1) The request of Cascade Networks, Inc., for mitigation of the \$1,800 penalty is GRANTED.

11 (2) The penalty is reduced to \$900, which is due and payable no later than December 31, 2013.

12 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 December 11, 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.