

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment	)	DOCKET UT-081137
Against	)	
	)	
UMPQUA INDIAN DEVELOPMENT	)	ORDER 01
CORPORATION,	)	
	)	
in the amount of \$100.	)	ORDER DENYING MITIGATION
.....	)	

1 **Penalty.** On July 8, 2008, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in Docket UT-081137 in the amount of \$100 against Umpqua Indian Development Corporation (Umpqua), for violation of WAC 480-120-382, which requires competitive telecommunications companies to file annual reports with the Commission by May 1 each year. Umpqua failed to file its 2007 Annual Report by the extended deadline of May 30, 2008.

2 **Application for Mitigation.** Umpqua filed an Application for Mitigation on July 31, 2008, and waived a hearing. Umpqua stated that the Commission mailed the annual report forms to the personal address of Umpqua’s chairwoman. With the exception of the penalty assessment, Umpqua stated that it did not receive any of the Commission mailings.

3 **Answer.** On August 8, 2008, Commission Staff filed a response opposing the petition for mitigation. Staff states that Umpqua received the penalty assessment order on July 11, 2008. The mitigation application, attached to the penalty assessment order, states that the mitigation request must be filed within 15 days of receipt. Since the deadline for the filing of a mitigation request fell on Saturday, July 26, 2008, the mitigation application deadline was moved to the next business day, Monday, July 28, 2008. Staff asserts that, because Umpqua’s mitigation application was not received until July 31, 2008, after the deadline, Staff recommends that Umpqua’s mitigation request be denied.

4 **Commission Decision.** RCW 80.04.405 allows the Commission to consider remission or mitigation of penalties “upon written application ... received within fifteen days.” The statute makes no “good cause” or other exception to this 15-day

deadline to seek review of penalties imposed by the Commission. Thus, regardless of the circumstances, the Commission has no jurisdiction to consider untimely petitions.

5 The Commission denies Umpqua's late filed application for mitigation. It is undisputed that the company received the penalty assessment by certified mail on July 11, 2008. Therefore, under RCW 80.04.405, the company was required to ensure its response was received by the Commission no later than July 28, 2008. The company failed to do so.

6 Umpqua's application for mitigation was received by the Commission on July 31, 2008, three days after the statutory deadline for such applications had expired. Under RCW 80.04.405, the Commission has no jurisdiction to mitigate or otherwise review the penalty. Accordingly, the penalty of \$100 is due and payable immediately.

7 The Executive Director and Secretary has been delegated to enter this Order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective August 19, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER  
Executive Director and Secretary

**NOTICE TO PARTIES:** This is an order delegated to the Executive Secretary for decision. Under WAC 480-07-904(3), you may seek Commission review of this decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision under WAC 480-07-904(1). You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

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 Web site.