

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UT-160555
FAIRHAVEN LIGHT & ETHER, LLC	ORDER 01
in the amount of \$1,000	ORDER GRANTING MITIGATION TO \$250

BACKGROUND

- 1 On February 29, 2016, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated telecommunications companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by Monday, May 2, 2016, 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 Fairhaven Light & Ether, LLC (Fairhaven or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 14, the Commission assessed a penalty of \$1,000 against Fairhaven, calculated as \$100 per business day from May 2 to May 16.
- 3 On July 6, 2016, Fairhaven filed an annual report and paid the required regulatory fee. Also on July 6, Fairhaven responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the written information provided. The Company explained that it recently acquired Fairhaven and was not aware of the annual report filing requirement. Fairhaven provided documentation showing the sale and transfer of the Company from its previous owners.
- 4 On July 21, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$250. Although the Company received and paid a penalty for violations of WAC 480-120-382 in 2015, Staff supports a reduced penalty because the Company recently changed ownership. Accordingly, Staff views this as a first-time violation.

DISCUSSION

- 5 WAC 480-120-382 requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year, or the first business day thereafter. Companies are responsible for complying with their legal obligations, and the Company should have ensured its annual report was timely filed.
- 6 The Commission nevertheless agrees with Staff’s recommendation. The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected, a company’s history of compliance, and the likelihood the violation will recur.¹ Here, Fairhaven has corrected the violation by filing its annual report and paying its regulatory fee. Moreover, Fairhaven’s ownership was transferred in 2015, and we have routinely granted mitigation to similarly situated companies in their first year of operation. Accordingly, the Commission will exercise its discretion to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

- 7 (1) Fairhaven Light & Ether, LLC’s request for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$250.
- 8 (2) The \$250 penalty is due and payable no later than August 25, 2016.
- 9 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 11, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

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.