

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

In the Matter of a Penalty Assessment	)	DOCKET UT-070607
Against	)	
	)	ORDER 01
WTI, LLC,	)	
	)	
in the amount of \$7,600.00.	)	ORDER DENYING MITIGATION
	)	
.....	)	

1 **Penalty.** On May 4, 2007, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in Docket UT-070607 in the amount of \$7,600 against WTI, LLC, for various violations of WAC 480-120-166. This rule requires a telecommunications company to, among other things, report the results of its investigation of informal complaints to Commission staff within a specified number of business days from the date Commission staff passes the complaint to a company. The penalty assessment contained language advising WTI, LLC, that it was required to act within 15 days of receiving the notice to either pay the amount due, request a hearing to contest the alleged violations, or request mitigation to contest the amount of the penalty. The Penalty Assessment was served on WTI, LLC, by certified mail on May 7, 2007.<sup>1</sup>

2 On May 30, 2007, four days after WTI should have sent a response to the Penalty Assessment, the Commission sent WTI, LLC, a letter seeking payment of the \$7,600 penalty no later than June 13, 2007, or it would consider additional sanctions.

3 **Late Mitigation Request.** On Friday, June 1, 2007, at 6:00 p.m., WTI, LLC, sent a letter to the Commission by facsimile admitting the violations but seeking mitigation of the penalty from \$7,600 to \$3,800. The letter explained that WTI, LLC, did not attend to correspondence from the WUTC because it faced a difficult business situation in the preceding three weeks. The Commission received the letter on Monday, June 4, 2007, the next business day.

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<sup>1</sup> On May 9, 2007, the Commission received a signed certified mail card identifying the penalty assessment as received.

4 **Jurisdiction.** RCW 80.04.405 allows the Commission to consider remission or mitigation of penalties “upon written application therefore, 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 **Commission Response.** On June 6, 2007, the Commission sent a letter to WTI, LLC, denying its late petition for mitigation. After sending the letter, it became apparent that under recent changes to the Commission procedural rules, WAC 480-07-904(1)(h), it is appropriate to deny the company’s late request in the form of an order.

6 **Commission Decision.** The Commission denies the late petition of WTI, LLC for mitigation. It is undisputed that the company received the Penalty Assessment by certified mail on May 7, 2007. Therefore, under RCW 80.04.405, the company was required to ensure its response was received by the Commission no later than May 22, 2007. The company failed to make any response until prompted by a second letter from the Commission indicating an intent to seek additional sanctions if the penalty was not timely paid.

7 WTI, LLC’s petition for mitigation was received by the Commission on June 4, 2007, twelve days after the statutory deadline for such petitions had expired. Under RCW 80.04.405, the Commission has no jurisdiction to mitigate or otherwise review the penalty. Accordingly, the penalty of \$7,600 is due and payable immediately.

8 The Executive 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 June 26, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN  
Executive 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.