

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

In the Matter of the Penalty Assessment)	DOCKET UT-101020
against)	
)	
)	ORDER 01
DELTEL, INC., d/b/a AUCTIONFON)	
)	
)	ORDER DENYING APPLICATION
In the Amount of \$100.)	FOR MITIGATION; REQUIRING
)	PAYMENT OF PENALTY
.....)	

1 **Penalty:** On June 30, 2010, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against DelTel, Inc., d/b/a AuctionFON (DelTel) in the amount of \$100 for one violation of Washington Administrative Code (WAC) 480-120-382, which requires competitively classified telecommunications companies to file annual reports with the Commission by May 1 each year. In the penalty assessment order, the Commission alleged that DelTel failed to timely file its 2009 Annual Report after the Commission had extended the May 1 deadline to May 31.

2 **Application for Mitigation:** On July 15, 2010, DelTel filed a request with the Commission asking for mitigation of the penalty. DelTel asserts that its annual report was timely filed with the Commission but that its financials were not initially sent with the annual report. According to DelTel, its financials were submitted at a later date.

3 **Answer:** On July 29, 2010, the Commission’s regulatory staff (Staff) filed its response to DelTel’s application and requested that the Commission reject DelTel’s request for mitigation. Staff asserts that DelTel filed an incomplete 2009 Annual Report on May 25, 2010.¹ The Annual Report lacked financial documents including a balance sheet and income statement.² Staff states that it cautioned DelTel that the

¹ Declaration of Rae Lynn Carnes, ¶ 3.

² *Id.*

missing financial documents would need to be received by the Commission by June 1, 2010, or DelTel would face enforcement action.³ Staff contends that the Commission received the company's financial documents on July 15, 2010, along with its mitigation application.⁴ Further, Staff asserts that DelTel did not contact the Commission to request an extension.⁵

4 **Commission Decision:** WAC 480-120-382 provides that competitive telecommunications companies are to file their annual reports with the Commission by May 1 each year. Nowhere in its application for mitigation does DelTel deny knowledge of the May 1st annual report deadline. Further, DelTel acknowledges that its filing was incomplete when initially submitted.

5 DelTel provides no basis, either legally or factually, that would support its application. Staff advised DelTel that its filing was not complete and provided a date for submitting the missing financial documents. Further, DelTel did not seek an extension of time to file the documents. Therefore, we find that DelTel's application should be denied.

6 The Commissioners have delegated authority to the Executive Secretary to enter this Order pursuant to RCW 80.01.030 and WAC 480-07-904(1)(h).

7 DelTel, Inc., d/b/a AuctionFON's Application for Mitigation is DENIED.

DATED at Olympia, Washington, and effective August 5, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

³ *Id.*, ¶ 4.

⁴ *Id.*, ¶ 5.

⁵ Declaration of Sheri Hoyt, ¶ 7.

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for 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. You may seek Commission review of this decision. 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.

This notice and review process is pursuant to the provisions of RCW 80.01.030 and WAC 480-07-904(2) and (3).