

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

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|---------------------------------------|---|--------------------------|
| In the Matter of a Penalty Assessment |) | DOCKET UW-101045 |
| Against |) | |
| |) | ORDER 01 |
| Fircroft, Inc., |) | |
| |) | ORDER DENYING MITIGATION |
| in the amount of \$100. |) | |
| |) | |

1 **Penalty.** On June 30, 2010, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in Docket UW-101045 in the amount of \$100 against Fircroft, Inc. (Fircroft), for violation of WAC 480-110-505. This rule requires all water companies to, among other things, complete and file with the Commission an annual report form and accompanying regulatory fee no later than May 1st of each year. The penalty assessment contained language advising Fircroft 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 violation, or request mitigation to contest the amount of the penalty. The Penalty Assessment was served on Fircroft by certified mail on June 30, 2010.

2 **Mitigation Request.** On July 8, 2010, Fircroft admitted the violation but asked that the penalty be reduced or waived because of extenuating circumstances surrounding the company’s bookkeeping. Fircroft explained that their bookkeeper had quit in June 2009 and refused to provide the company with electronic versions of its tax files. For this reason, the company had sought an extension in filing its tax returns and now seeks an extension from the Commission with regard to its annual report form. The Commission received the letter on July 9, 2010, the next business day.

3 Commission Staff filed a Response opposing Fircroft’s request for mitigation on July 27, 2010. Staff notes that it was aware of Fircroft’s issues with its bookkeeper and had offered to consider extending the May 1st deadline, but only if Fircroft made its request in writing and prior to May 1, 2010. Fircroft failed to do so.

4 **Jurisdiction.** RCW 80.04.405 allows the Commission to consider remission or mitigation of penalties “upon written application therefore, received within fifteen days.” Fircroft’s application for mitigation was timely delivered to the Commission.

- 5 **Commission Decision.** The Commission denies Fircroft's petition for mitigation. Each year, regulated companies are provided adequate notice of the requirement to file their annual reports and the procedures for requesting any necessary extension. In this case, the Commission's initial letter advising Fircroft of its obligation was mailed on February 26, 2010, and a reminder notice was sent on March 31, 2010. In late April 2010, Commission Staff had direct contact with Fircroft and personally explained the appropriate way to timely file for an extension in writing. Finally, on May 14, 2010, the Commission sent one final letter extending the filing deadline to May 31, 2010, at which time a penalty would be sought for failure to file a report.
- 6 Despite multiple contacts from the Commission and its Staff, Fircroft failed to take any action to avoid a Commission enforcement proceeding. In its application for mitigation, Fircroft offers no justification for why its request for an extension of time could not have been submitted prior to May 1, 2010. Therefore, the application for mitigation is denied.
- 7 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 9, 2010.

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.