

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

In the Matter of a Penalty Assessment	)	DOCKET UT-071277
Against	)	
	)	
NATIONS BROADBAND, INC.,	)	ORDER 01
	)	
in the amount of \$100.	)	
	)	ORDER DENYING MITIGATION
.....	)	

1 **Penalty.** On July 5, 2007, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in Docket UT-071277 in the amount of \$100 against Nations Broadband, Inc. (Nations), for violation of WAC 480-120-382, which requires competitive telecommunications companies to file annual reports with the Commission by May 1 each year.

2 **Application for Mitigation.** Nations filed an Application for Mitigation on August 13, 2007, and waived a hearing. Nations did not state any reasons for mitigation on the application.

3 **Answer.** On August 16, 2007, Commission Staff filed a response opposing the petition for mitigation. Staff states that on March 8, 2007, the Commission mailed 2006 annual report forms, along with a letter of instruction, to competitive telecommunications companies registered in Washington State. The Commission sent out a reminder notice to these companies on April 6, 2007. On May 15, 2007, the Commission gave the competitive telecommunications companies that had not yet filed annual reports an extension until May 31, 2007.

4 Staff states that the Penalty Assessment was served on Nations by certified mail on July 9, 2007.<sup>1</sup> The penalty assessment contained language advising Nations 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. Nations was required to file a request for

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<sup>1</sup> On July 16, 2007, the Commission received a signed certified mail card identifying the penalty assessment as received.

mitigation by July 24, 2007. Nations filed its request for mitigation 20 days after it was due. In addition, the Commission still has not received Nation's 2006 annual report.

5     **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.

6     The Commission denies Nations' late petition for mitigation. It is undisputed that the company received the Penalty Assessment by certified mail on July 9, 2007. Therefore, under RCW 80.04.405, the company was required to ensure its response was received by the Commission no later than July 24, 2007. The company failed to do so.

7     Nations' petition for mitigation was received by the Commission on August 13, 2007, 20 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 \$100 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 August 16, 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.