

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of PENALTY
ASSESSMENT AGAINST Maskina
Communications, Inc. f/k/a Transcom
Communications, Inc., in the amount of
\$100.00

DOCKET NO. UT-051707

COMMISSION STAFF'S
RESPONSE TO MASKINA
COMMUNICATIONS, INC.'S
APPLICATION FOR
MITIGATION

1 Pursuant to WAC 480-07-370(1)(c), Commission Staff submits this response
to Maskina Communications, Inc.'s Application for Mitigation.

I. BACKGROUND

2 On December 6, 2005, The Washington Utilities and Transportation
Commission (Commission) assessed a penalty in the amount of \$100 against
Maskina Communications, Inc. (Maskina) for failure to timely submit its annual
report to the Commission. No regulatory fees were due.¹ On December 19, 2005,
Maskina filed an Application for Mitigation of Penalties. For the reasons given
below, Commission Staff (Staff) does not support any mitigation of the penalty.

Each year, in accordance with WAC 480-120-382, competitively classified
telephone companies must file an annual report and pay regulatory fees by May 1.
To assist companies with timely filing in 2005, the Commission sent each telephone
company subject to regulation by the Commission a notice on March 9, 2005, with

¹ This company had revenue below the amount required to owe regulatory fees. See RCW 80.20.010.

annual report forms attached.² The notice informed each company that its annual report and regulatory fees were due by May 1, 2005.³ The Commission sent the notice to Maskina at the company address on file with the Commission for Transcom Communications, Inc., the name under which Maskina was registered to conduct business at the time.⁴

3 After May 1, the due date for filing annual reports and regulatory fees, the Commission sent out delinquency letters to each telecommunications company that had failed to timely submit its annual report and regulatory fees.⁵ In this letter, the Commission stated that Staff intended to recommend enforcement action, including possible penalties and/or suspension or revocation of authority, for any company that failed to file its annual report by July 1, 2005.⁶ The Commission sent out a delinquency letter on June 3, 2005, to Maskina at the company address on file with the Commission for Transcom Communications, Inc., the name under which Maskina was registered to conduct business at the time.⁷

4 The Commission received the 2004 annual report of Transcom Communications, Inc. on September 26, 2005.⁸ On October 11, 2005, the Commission received notice that Transcom Communications, Inc. had changed its

² See Declaration of Sheri Hoyt, Attachment A at Appendix A.

³ *Id.*

⁴ See Declaration of Sheri Hoyt at ¶ 10.

⁵ Declaration of Sheri Hoyt, Attachment A at Appendix B.

⁶ *Id.*

⁷ See Declaration of Sheri Hoyt at ¶ 11.

⁸ Declaration of Sheri Hoyt at ¶ 8 and at Attachment B.

name to Maskina Communications, Inc., and that the company's mailing address had changed.⁹

5 On December 6, 2005, the Commission mailed to Maskina a Notice of Penalties Incurred and Due for Violations of Laws Rules and Regulations.¹⁰ In that notice, the Commission issued a penalty of \$100 for failure to timely file the 2004 annual report.¹¹ In error, the Commission mailed the notice to the company's old address.¹² Nevertheless, Maskina received the notice and signed for it six days after it was posted.¹³ The Commission made one additional error in the notice, that of referencing the old cite to WAC 480-120-382;¹⁴ but Maskina has not made any claims that this error caused any confusion.

II. ARGUMENT

6 In its Application for Mitigation of Penalties, Maskina argues that it completed the 2004 annual report on May 28, 2005, and submitted it; but that the Commission did not receive it. The company asks that the penalty be withdrawn. Finally, Maskina notes that it has complied with name change requirements yet its address still is listed incorrectly. Consequently, the company claims, it does not receive notices or other information in a timely manner.

⁹ Declaration of Sheri Hoyt at ¶ 12.

¹⁰ Declaration of Sheri Hoyt at ¶ 13.

¹¹ Declaration of Sheri Hoyt at ¶ 4.

¹² Declaration of Sheri Hoyt at ¶ 13.

¹³ *Id.*

¹⁴ Declaration of Sheri Hoyt at ¶ 4.

Date Annual Report Was Filed

7 Because the Commission has no record of receiving Maskina's annual report before the May 1 or July 1 deadlines, Staff assessed a penalty for late filing. Although Maskina has provided copies of its email communication with its compliance service and the signatures on its annual report dated May 28, 2005, none of these documents provides any indication that the annual report was sent to or received by the Commission before September 26, 2005. Nevertheless, in recognition of the company's good faith belief that the annual report was filed May 28, 2005, supported by the signature date on the annual report, and in the interest of efficiently resolving this dispute, Staff supports mitigating the entire penalty.

Use of Incorrect Address

8 Up until the mailing of the penalty assessment notice on December 6, 2005, the Commission sent all documents to the correct address on file. Contrary to the implication in Maskina's Application for Mitigation that Commission error caused Maskina to miss filing deadlines, the fact that the penalty assessment notice was mailed in December to the incorrect address could not have affected timely receipt by the company of information sent to the correct address by the Commission in March and June. Staff concludes that Maskina has failed to show that the Commission's use of the company's old address when it mailed out the penalty

assessment notice in December prejudiced the company in filing its annual report by the May or July deadlines but recognizes the company's concerns.

III. CONCLUSION

9 Staff supports mitigating the assessed penalty of \$100. Accordingly, Staff requests that Maskina's Application for Mitigation of Penalties be granted.

DATED this 9th day of January, 2006, at Olympia, Washington.

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