

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Penalty Assessment  
Against PARKLAND WATER  
SYSTEM, INC., in the Amount of \$100

DOCKET UW-081083

COMMISSION STAFF'S RESPONSE  
TO PARKLAND'S APPLICATION  
FOR MITIGATION

1 Pursuant to WAC 480-07-370(1)(c), Staff of the Washington Utilities and  
Transportation Commission (Staff) submits this response<sup>1</sup> to Parkland's letter to Senior  
Assistant Attorney General Sally Brown, received November 24, 2008.

2 On June 30, 2008, the Commission assessed a penalty of \$100 against Parkland  
Water System, Inc. (Parkland) for violating WAC 480-110-505. After receiving no payment  
and no communication from Parkland, the Commission sent Parkland a letter on September  
16, 2008, requesting payment of the penalty by September 30, 2008, and warning of  
additional sanctions and referral of the matter to the Washington State Office of the  
Attorney General for collection.<sup>2</sup> On November 19, 2008, Senior Assistant Attorney  
General Sally Brown sent Parkland a letter stating the following: "This is your final  
opportunity to respond. If you do not respond by December 1, 2008, you may incur  
additional penalties, and the commission may pursue its enforcement options in superior  
court."<sup>3</sup>

3 The Attorney General's Office received a letter from Parkland addressed to Ms.  
Brown, which was filed in this docket on November 25, 2008.<sup>4</sup> In this letter, Parkland

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<sup>1</sup> Please note that this response does not come from the Commission but from Commission Staff. Commission Staff is a party in this case and is separate from the Commission. The Commission will be the ultimate decision maker in this matter. An Administrative Law Judge will consider Parkland's statements and Commission Staff's statements and will issue a decision. The Commission may accept, modify, or reject that decision.

<sup>2</sup> See Docket UW-081082, Letter to Dennis A. Burke, Parkland Water System, Inc., from David W. Danner.

<sup>3</sup> Docket UW-081083, Letter to Dennis A. Burke, Parkland Water System, Inc.

<sup>4</sup> See Records Management System record of November 25, 2008, in Docket UW-081083.

makes arguments for mitigation and further states, “if you are unwilling or unable to mitigate the penalty, we will have no other choice than to appear in court. We will then seek to be relieved of Utilities and Transportation jurisdiction.” The Commission is the proper forum for determining whether Parkland is subject to Commission regulation, but that issue is beyond the scope of this proceeding. Staff is filing this response to Parkland’s arguments for mitigation in spite of the fact that the request for mitigation arrived approximately four months past the time set forth in RCW 80.04.405 for requesting mitigation. Staff opposes setting a hearing in this matter because Parkland did not timely request one, and Staff opposes mitigating the penalty for the reasons set forth in the attached declaration of Sheri Hoyt.

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Should the Commission wish to hear this matter, Staff requests that it be heard as a Brief Adjudicatory Proceeding on a paper record, restricted to the issue of this docket. Staff identifies the only issue in this docket as whether the late filing of the annual report should be excused in whole or in part.

DATED this \_\_\_ day of December, 2008.

Respectfully submitted,

ROBERT M. MCKENNA  
Attorney General

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Transportation Commission