

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty	)	DOCKET UT-140922
Assessment Against	)	
	)	ORDER 01
TELEWISE, LLC	)	
	)	INITIAL ORDER GRANTING
	)	MITIGATION
In the Amount of \$1,000	)	
.....	)	

1 **Background.** Washington law requires regulated telecommunications companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-120-382. On February 28, 2014, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated telecommunications companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2014, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.

2 **Procedural History.** Telewise, LLC (Telewise or Company) did not file its annual report on May 1, 2014, and had not made a complete filing by May 15. On June 2, the Commission issued a penalty assessment against Telewise in the amount of \$1,000, calculated as \$100 per business day between May 1 and May 15.

3 On June 9, 2014, Telewise filed with the Commission a request for hearing. The Company explained that it filed its annual report through the Commission’s website on April 30, and received a confirmation email acknowledging the Commission received it.

4 **Hearing.** Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determined that a brief adjudicative proceeding was appropriate for determining whether the penalty should be mitigated and what actions might be necessary to ensure that Telewise complies with its regulatory obligations. On July 28, 2014, the Commission issued a Notice of Brief Adjudicative Proceeding and set August 26,

2014, at 9:30 a.m. as the time for the parties to make oral statements concerning their positions.

5 **Evidence.** At hearing, the Company's managing member, Charles Power, explained that he filed the Company's annual report on April 30, 2014, and received confirmation that the report was received. Mr. Power testified that he heard nothing further until June 2, when he received an email from Staff notifying him that several pages of the annual report form were missing. Mr. Power expressed confusion about which information was missing and how to file it. Finally, Mr. Power testified that the Company's total revenue for 2014 was \$4,000, and that he believes the penalty is disproportionately large.

6 Commission Staff (Staff) testified that Telewise received and paid a penalty for filing its 2012 annual report on May 2, 2013, one day after the due date. Because this is Telewise's second consecutive violation of WAC 480-30-71, Commission Staff (Staff) supports mitigating the penalty by only fifty percent, to \$500. Staff's recommendation was conditioned on the Company filing its completed annual report no later than Friday, August 29, at 12 p.m.

7 On August 27, 2014, the Company filed its completed annual report.

8 **Decision.** The Commission finds mitigation to be appropriate in this case. Mr. Power took responsibility for his company's late filing and sought to make amends by appearing in person at the Commission's headquarters. He testified credibly and sincerely about his intentions to comply with the Commission's rules and meet all future deadlines, and expressed genuine confusion about the information needed to complete his report.

9 The Commission may consider a number of factors when entertaining a request for mitigation, including a company's history of compliance, whether the violation was promptly corrected, and the likelihood the violation will recur.<sup>1</sup> Here, the Company received and paid a \$25 penalty for one violation of WAC 480-120-382 in 2013. The Company has since cured the violations at issue here by submitting its completed annual report after receiving assistance and clarification from Staff. Finally, Mr.

---

<sup>1</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

Power testified credibly that the violations were unintentional; now that he understands the requirements, we believe the violations are unlikely to recur. We will therefore exercise our discretion to reduce the penalty below Staff's recommendation to \$200, an amount still considerably greater than the 2013 penalty. We believe the amount proposed by Staff would be unduly punitive given the Company's good faith effort to file its report on April 30, and its sincere belief it had done so.

- 10 The penalty assessed against Telewise is recalculated at a rate of \$20 per day for the  
11 10 business days the company was late in filing its annual report. This results in a  
12 revised penalty in the amount of \$200.

**ORDER**

**THE COMMISSION ORDERS:**

- 11 (1) The \$1,000 penalty assessed against Telewise, LLC is mitigated to \$200.  
12 (2) The penalty is due and payable no later than September 16, 2014.

DATED at Olympia, Washington, and effective September 2, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON  
Administrative Law Judge

## NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **one** copy of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250