

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty	)	DOCKET TV-140933
Assessment Against	)	
	)	ORDER 01
A&E, Inc.	)	
	)	INITIAL ORDER GRANTING
	)	MITIGATION
In the Amount of \$100	)	
.....	)	

1 **Background.** Washington law requires household goods carriers to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-15-480. On February 28, 2014, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all household goods carriers. 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.** A&E, Inc. (A&E or Company) filed its annual report on May 2, 2014, one day past the due date. On June 4, the Commission issued a penalty assessment against A&E in the amount of \$100 for one violation of WAC 480-15-480.

3 On June 17, 2014, A&E filed with the Commission a request for hearing. The Company explained that it mailed its annual report from the downtown Olympia post office on April 29 or 30 with several other documents, each of which it believes was received by its intended agency on May 1. The Company contested the violation, and requested the Commission review the postmark on the envelope of its annual report.

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 A&E 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 owner, Mike Michael, explained that he placed the report in the mailbox on April 30 with first quarter reports for the Department of Labor and Industries and the Department of Revenue. Mr. Michael did not receive penalties from any other agency, and believed his annual report need only be postmarked by May 1.

6 Because this is A&E's first violation of WAC 480-15-480, Commission Staff (Staff) testified in support of mitigating the penalty to \$25.

7 **Decision.** The Commission finds mitigation to be appropriate in this case. Mr. Michael took responsibility for his company's late filing and stated he would ensure that future filings are received by May 1.

8 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> This is A&E's first violation of WAC 480-15-480, and Mr. Michael credibly testified that he believed the report need only be postmarked by May 1. Moreover, the Company has been regulated since 2002; given its history of compliance and Mr. Michael's demonstrated understanding of the filing requirements at hearing, the violation is not likely to recur.

9 The penalty assessed against A&E is recalculated at a rate of \$25 per day for the one business day the company was late in filing its annual report. This results in a revised penalty in the amount of \$25.

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

**ORDER**

**THE COMMISSION ORDERS:**

- 10 (1) The \$100 penalty assessed against A&E, Inc. is mitigated to \$25.
- 11 (2) The penalty is due and payable by 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