

BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

In re Penalty Assessment No.	)	DOCKET NO. UT-051707
UT-051707	)	
	)	ORDER NO. 01
MASKINA COMMUNICATIONS,	)	
INC., F/K/A TRANSCOM	)	ORDER GRANTING MITIGATION
COMMUNICATIONS, INC.	)	
.....	)	

1 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 as required by WAC 480-120-382, which requires competitively classified telephone companies to file an annual report by May 1 of each year.<sup>1</sup>

2 As of May 1, 2005, the Commission had not received Maskina’s annual report. The Commission sent Maskina a delinquency letter on June 3, 2005. The letter informed Maskina that Staff intended to recommend enforcement action, including possible penalties and/or suspension or revocation of authority, if the company failed to file its annual report by July 1, 2005. The Commission sent the delinquency letter to 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. The Commission has no record that the delinquency letter was returned as undeliverable.

3 The Commission received the 2004 annual report of Transcom Communications, Inc., on September 26, 2005. On October 11, 2005, the Commission received

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<sup>1</sup> The Commission sent each telephone company subject to regulation by the Commission a notice on March 9, 2005, with annual report forms attached, to remind companies of their obligation to file by May 1.

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

4 On December 6, 2005, the Commission mailed to Maskina a Notice of Penalties Incurred and Due for Violations of Laws, Rules and Regulations. In that Notice, the Commission issued a penalty of \$100 for failure to timely file the 2004 annual report. In error, the Commission mailed the Notice to the company's old address. Nevertheless, Maskina received the Notice and signed for it six days after it was posted.

5 On December 19, 2005, Maskina filed a timely petition for mitigation of the penalty assessment. The petition does not seek a hearing and does not request a hearing to contest the factual basis of the penalties. In its Application, Maskina's Controller, Cynbol Glynn, states under oath that the company completed its 2004 annual report on May 28, 2005, and submitted it. Later, according to the sworn statement, Maskina was informed that the Commission had not received the report. Maskina submitted a copy of the 2004 annual report dated May 28, 2005, on September 26, 2005, as discussed above.

6 On January 10, 2006, Commission Staff responded to Maskina's Application for Mitigation. Staff's response states that although the Commission has no record of receiving Maskina's annual report before the May 1 or July 1 deadlines, Staff has no reason to doubt the company's good faith belief, supported by its officer's sworn statement, that the annual report was filed May 28, 2005. Accordingly, Staff recommends that the violation be fully mitigated.

7 The Commission finds that Maskina believes, in good faith, that it submitted its 2004 annual report within the time-frame established by the Commission's delinquency letter of June 3, 2005. It is not clear from the record whether the reason the Commission did not receive the report was due to Maskina's failure, in fact, to submit the report, or to some cause beyond the Company's control

such as loss of the report during transmission. Under these circumstances, the Commission concludes it should mitigate in full the penalty assessed.

**ORDER**

8 The Commission grants the Application for Mitigation of Penalties of Maskina Communications, Inc.

9 In doing so, the Commission rescinds the penalty assessment and mitigates to zero the penalty assessed.

DATED at Olympia, Washington, and effective this 19th day of January, 2006

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

**NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.**