

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NOTICE OF PENALTIES INCURRED AND DUE FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: UW-144112
PENALTY AMOUNT: \$1,000

Newaukum Water System, Inc.
P.O. Box 1287
Auburn, WA 98022

The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 80.28.080 by charging your customers a rate that is higher than the rate published in your tariff.

RCW 80.04.405 authorizes the Commission to assess penalties of \$100 for violations of statutes and Commission rules. Each violation is a separate and distinct offense, and a company violates RCW 80.28.080 for each customer the company charges a rate for regulated service that is not authorized in the applicable tariff. Accordingly, the Commission assesses penalties of \$100 for each customer a company charges an unlawful rate for water service.

The Commission has assessed penalties against you in the amount of \$1,000 on the following basis:

On March 18, 2014, Newaukum Water System, Inc. (Newaukum or Company) filed its initial tariff with the Commission in Docket UW-140445. The tariff became effective on March 20, 2014. The Company provides water service to 22 customers near the city of Auburn in King County.

On Sept. 11, 2014, Commission Staff (Staff) filed a Complaint Against Rates in Docket UW-143181, to determine whether the rates in the Company's tariff exceed a level that is fair, just, reasonable, and sufficient.

On Sept. 15, 2014, Newaukum filed a petition in Docket UW-143330 requesting to be removed from Commission regulation.

On Oct. 23, 2014, Staff met with Company representatives to discuss Newaukum's rates. The Company informed Staff of its intent to raise its rates from \$55 per customer per month to \$75 per customer per month. Staff advised the Company not to increase customers' rates until the new rate is published in the Company's tariff, and Staff offered to work with the Company to provide guidance on how to request a tariff revision. Staff also cautioned the Company that if it raised customer rates before the Commission approves them, the

Commission may take enforcement action against the Company, including assessing a penalty.

On Nov. 17, 2014, Staff contacted the Company and requested the rate it was currently charging customers. The Company informed Staff that it intended to bill each customer \$75 for water service in November without regard to the \$55 per customer monthly charge published in the Company's tariff

On Dec. 5, 2014, Newaukum sent billing statements to each of its 22 customers that included a charge of \$75 for November 2014 water service. RCW 80.28.080 provides, in relevant part, that no "water company may charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time." Newaukum violated RCW 80.28.080 with each bill it sent to its 22 customers demanding payment for water service at a rate other than the \$55 rate published in the Company's tariff schedule.

Newaukum is subject to a penalty of \$2,200, calculated as \$100 for each of the 22 violations of RCW 80.28.080. Because this is a small company that has only recently come under the Commission's jurisdiction and this is a first offense, the Commission will exercise its discretion to mitigate the penalty amount to \$1,000.

Your penalty is due and payable now. If you believe the violations did not occur, you may request a hearing to contest the penalty assessment. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. If there is a reason for the violation that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. The Commission will grant a request for a mitigation hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the amount due;
- Request a hearing to contest the occurrence of the violation; or
- Request mitigation to contest the amount of the penalty

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective December 18, 2014.

GREGORY J. KOPTA
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT UW-144112

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

- 1. **Payment of penalty.** I admit that the violation occurred and enclose \$1,000 in payment of the penalty.
- 2. **Request for a hearing.** I believe that the alleged violation did not occur for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:
- 3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below:
 - a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision
 - OR b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”