

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment Against
MARATHON COMMUNICATIONS, INC.,
in the Amount of \$16,300

DOCKET NO. UT-051509

DECLARATION OF
SHERI HOYT

SHERI HOYT, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Compliance Specialist in the Business Practices Investigations Section. I have been employed at the Commission for over 14 years, holding various positions. As a Compliance Specialist, my responsibilities include conducting investigations regarding the business practices of regulated utility or transportation companies. As part of those duties, I investigate telecommunications companies that may be operating in violation of Commission statute, rule, or tariff.
3. On April 18, 2006, the Commission issued a penalty assessment against Marathon Communications, Inc. (Marathon) in the amount of \$16,300. The penalty assessment was a result of an investigation conducted by Staff into Marathon's business practices, specifically Marathon's responses to consumer complaints filed with the Commission. Staff found that, between January 1, 2005, and December 31, 2005, Marathon failed to respond to Commission Staff in accordance with Washington Administrative Code (WAC) 480-120-166 a total of 654 times.
4. On May 12, 2005, the Commission received a letter from Marathon in which the company agreed to pay the \$16,300 penalty assessment; however, Marathon requested it be allowed to make 12 equal monthly payments of \$1,358.33 beginning June 2006. Believing the request was made in good faith, Staff supported the payment plan.
5. On June 26, 2006, the Commission issued a Final Order granting Marathon's request for a payment plan. The first payment was to be made by July 31, 2006.
6. On September 18, 2006, I verified with Staff in the Commission's Financial Services office that Marathon had not yet made payment towards its balance owing. I then attempted to contact Marathon to find out why it was in violation of the Commission's order allowing an installment payment plan. Over the next few days I attempted to reach Marcos Melendez and Lisa Rucks of Marathon several times by both telephone and e-mail.

7. On September 22, 2006, I received an email from Marcos Melendez stating Marathon is no longer providing service to its customers and had transferred its customers to another carrier. Mr. Melendez requested that the Commission withdraw Marathon's tariffs and certifications. Further, Mr. Melendez stated that due to the company's financial position and the fact that it is no longer in operation, Marathon is unable to pay the penalty or any other fees.

Staff Recommendation

8. Commission Staff requests that the Commission rescind its Decision Granting Request For Installment Payments to Marathon Communications, Inc., in Docket UT-051509, and order the company to remit payment in full immediately.

DATED this 17th day of October, 2006 at Olympia, Washington.

SHERI HOYT