

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment)	DOCKET UT-101034
against)	
)	ORDER 01
TELENATIONAL)	
COMMUNICATIONS, INC.)	
)	ORDER DENYING APPLICATION
In the Amount of \$100.)	FOR MITIGATION; REQUIRING
)	PAYMENT OF PENALTY
.....)	

1 **Penalty:** On June 30, 2010, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Penalty Assessment against Telenational Communications, Inc., (Telenational or Company) in the amount of \$100 for one violation of Washington Administrative Code (WAC) 480-120-382, which requires competitively classified telecommunications companies to file annual reports with the Commission by May 1 each year.¹ The Commission advised the Company that it was required to act within 15 days of receiving the Notice by paying the amount due, requesting a hearing, or requesting that the penalty be reduced.²

2 **Applications for Mitigation/Responses:** On August 17, 2010, Telenational filed an application for mitigation of the penalty. The Company stated that it had fired its regulatory firm on May 1, 2010, and had not received any of the paperwork. Telenational stated that it would file the report the week of August 17, 2010. On August 19, 2010, the Commission Staff filed a response to the application for mitigation.³ Staff opposed mitigation because Telenational has been registered with

¹ This year, the Commission extended the deadline to May 31, 2010, for competitively-classified telecommunications companies to file their annual reports.

² On July 13, 2010, the first class mail copy of the Notice was returned as undeliverable. On July 29, 2010, the certified mail receipt copy was also returned as undeliverable. The Commission re-mailed the Notice to a new address on August 4, 2010, and the Commission received the certified mail receipt verifying delivery on August 10, 2010.

³ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do

the Commission since April 2002 to provide telecommunications services in Washington. Staff noted that the Company's 2007 and 2008 annual reports indicate the address to which the penalty assessment was initially sent but after having the notice returned twice, Staff conducted additional research and located the Company's current mailing address. According to Staff, Telenational failed to timely file its 2009 annual report and also failed to notify the Commission, in a timely manner, of its current mailing address. Staff argued that the violation occurred and the penalty is appropriate.

3 On August 23, 2010, Telenational filed an amended application for mitigation in which it waived a hearing and requested a decision by an administrative law judge. The Company reiterated that it had fired its tax and regulatory firm and was not receiving its mail. The Company stated that it would now be performing tax and regulatory functions in-house. On August 30, 2010, Staff filed a response to the amended application for mitigation. Commission Staff opposed the amended application for the same reasons cited in its August 19, 2010, response.

4 **Commission Decision:** According to WAC 480-120-382, competitively-classified telecommunications companies are required to file their annual reports with the Commission by May 1 each year. This year, the Commission extended the filing deadline to May 31, 2010, thus affording competitively-classified telecommunications companies an additional opportunity to submit their annual reports in a timely manner. Despite the extended filing deadline, Telenational failed to file its 2009 annual report. The Company asserts that the penalty should be mitigated because it terminated the services of its tax and regulatory firm on May 1, 2010. From this information we must presume that Telenational used the services of the regulatory firm to file its annual report. However, the use of an outside firm to perform certain functions does not excuse the Company from performing its regulatory duties. Telenational, not its tax and regulatory firm, has the obligation to submit its annual reports and to do so in a timely manner.

5 In its amended application for mitigation, Telenational also asserts that it was not getting its mail. The Commission's experience in attempting to serve Telenational

with the notice of penalty assessment verifies this assertion. The Commission sent the penalty assessment to the address on file for the Company and that mail was returned as undeliverable. Only after the Commission conducted additional research was it able to locate a current address for Telenational. However, the Company's inability to receive its mail does not excuse its failure to timely file its annual report. It appears that the Company's mail delivery problems are attributable to its failure to provide the Commission with a current address. The Company must maintain on file with the Commission its current address and telephone number. Accordingly, the penalty of \$100 is reasonable and appropriate.

- 6 We take this opportunity to advise the Company that the Commission could have sought a greater sanction for its violations of Commission rules. In this case, the Commission is assessing Telenational a \$100 penalty for failure to timely file its annual report. However, according to WAC 480-121-060(1), the Commission may revoke a registration, after notice and opportunity for hearing, for good cause. According to this rule, good cause includes the failure to file an annual report⁴ or maintain the telecommunications' company's current address and telephone number.⁵
- 7 The Commissioners have delegated authority to the Executive Secretary to enter this Order pursuant to RCW 80.01.030 and WAC 480-07-904(1)(h).
- 8 Telenational Communications, Inc.'s Application for Mitigation is DENIED.

DATED at Olympia, Washington, and effective September 1, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

⁴ WAC 480-121-060(1)(a).

⁵ WAC 480-121-060(1)(d).

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision. You may seek Commission review of this decision. You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's Web site.

This notice and review process is pursuant to the provisions of RCW 80.01.030 and WAC 480-07-904(2) and (3).