

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

MARATHON COMMUNICATIONS, INC.,

Respondent.

DOCKET NO. UT-051509

STAFF MOTION FOR ORDER
RESCINDING ORDER 01
“COMMISSION DECISION
GRANTING REQUEST FOR
INSTALLMENT PAYMENTS”

1 Commission Staff hereby moves that the Commission enter an order rescinding
Order 01 Granting Request for Installment Payments¹ issued June 26, 2006 in this docket,
and require the company to remit payment in full immediately.

I. BACKGROUND

2 On April 18, 2006, the Washington Utilities and Transportation Commission
 (“Commission”) assessed a penalty in the amount of \$16,300 against Marathon
 Communications, Inc. (“Marathon” or “Company”) for violations of WAC 480-120-166,
 which requires telecommunications companies to report the results of their investigation of
 service-affecting informal complaints to Washington Utilities and Transportation
 Commission Staff (“Staff”) within two business days from the date Staff passes the
 complaint to the company; the results of nonservice-affecting informal complains to Staff
 within five business days from the date the Staff passes the complaint to the company; and
 to respond to requests from Staff for additional information on pending complaints within
 three business days.²

¹ *In the Matter of Penalty Assessment Against Marathon Communications, Inc.*, Docket No. UT-051509, Order 01 Commission Decision Granting Request for Installment Payments. (June 26, 2006).

² Docket No. UT-051509, Penalty Assessment. (April 17, 2006).

3 Pursuant to RCW 80.04.405, Marathon was given fifteen days to pay the penalty or
respond with a plea for mitigation. Marathon did not pay the penalty or file a request for
mitigation. Rather, Marathon sent a letter to Staff on May 12, 2006, in which it agreed to
pay the penalty assessment of \$16,300 but requested that it be allowed to make payments in
twelve equal parts of \$1358.33 per month beginning in June, 2006.³

4 Staff responded to Marathon's request, believing it to have been made in good faith,
by supporting a payment plan that would allow Marathon to make regularly scheduled
payments over a period of time not to exceed one year.⁴

5 The Commission granted the Company's request, allowing monthly payments of at
least \$1,358.33 beginning July 31, 2006, with a final payment of \$1,358.37 to be made
within one year.⁵

6 Order 01 contained notice of the availability of a petition for reconsideration of the
final order or a petition for rehearing.⁶ Marathon did not file a petition.

7 To date, Marathon has not made any monthly payments of its penalty. Staff verified
that the balance of the penalty remains at \$16,300.⁷ Staff investigated by attempting to
contact the Company in September, 2006, to determine why the Company had not complied
with the Commission's order.⁸ Staff received an e-mail message from the Company on
September 22, 2006, which stated that Marathon is no longer providing service to its

³ Docket No. UT-051509, Letter to Sheri Hoyt from Marcos Melendez on behalf of Marathon Communications, Inc., RE: Payment Arrangements for penalties assessed. (May 12, 2006).

⁴ Docket No. UT-051509, Staff Letter Supporting Payment Plan Request. (May 31, 2006). *See also* Attached Declaration of Sheri Hoyt, ¶ 4.

⁵ Docket No. UT-051509, Order 01 Commission Decision Granting Request for Installment Payments. (June 26, 2006).

⁶ *Id.*

⁷ Declaration of Sheri Hoyt, ¶ 6.

⁸ *Id.* at ¶ 6.

customers and has transferred all of its customers to another carrier. The Company further stated that due to its financial position and the fact that it is no longer in operation, it is unable to pay the penalty or any other fees.⁹ This information was not known to Staff at the time of its response to the Company's request for an installment payment plan.

II. COMMISSION AUTHORITY

8 Under RCW 80.04.210 and WAC 480-07-875, the Commission has the authority to rescind, alter or amend any order that it has entered, after notice to the public service company affected.

III. REQUEST FOR RELIEF

9 The Company is in violation of the Order Granting Request for Installment Payments, which was entered pursuant to the Company's express request, and with the support of Staff, which believed it to have been made in good faith. Accordingly, Commission Staff requests that the Commission issue an order rescinding its Order 01 Granting Request for Installment Payments, and order Marathon to pay in full immediately, the \$16,300 outstanding penalty.

10 DATED this 17th day of October, 2006.

Respectfully submitted,

ROB MCKENNA
Attorney General

MICHAEL A. FASSIO
Assistant Attorney General
Washington Utilities and
Transportation Commission
(360) 664-1192

⁹ *Id.* at ¶ 7; Docket No. UT-051509, E-mail to Sheri Hoyt from Marcos Melendez on behalf of Marathon Communications, Inc., RE: Status of Penalty Assessment Payments. (September 22, 2006).