

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT NO: UT-050713

PENALTY AMOUNT: \$2,600

TELECOMMUNICATIONS COMPANY:

Excel Telecommunications, Inc.
2440 Marsh Lane
Carrollton, TX 75006

The Commission believes that you have committed one or more violations of Washington Utilities and Transportation rules; specifically Washington Administrative Code (WAC) WAC 480-120-166, which requires telecommunications companies to report the results of its investigation of service-affecting informal complaints to Commission staff within two business days from the date Commission staff passes the complaint to the company; of non-service-affecting informal complaints to Commission staff within five business days from the date the Commission staff passes the complaint to the company; and for requests from Commission staff for additional information on pending complaints within three days.

Despite repeated notices of violation of WAC 480-120-166, you continued to be non-responsive to Commission-referred complaints on 26 occasions. As a result, the Commission hereby notifies you that it has assessed a penalty against you in the amount of \$2,600.

The basis for the penalty is as follows:

In July 2003, revised rules governing telephone companies became effective. The Commission sent copies of the new rules to all registered telephone companies, including Excel. Also in July 2003, Business Practices Investigations staff conducted a review of complaints filed by customers of Excel. Information in the complaints indicated that the company had not responded timely to Staff on numerous occasions. As a result, the Commission sent a letter to Excel to provide additional technical assistance on the requirements in WAC 480-120-166.

From January to December 2004, Commission staff repeatedly informed Excel of

the requirements of WAC 480-120-166 through customer complaints. During that time period, in three of 28 complaints, Excel did not respond within the relevant response time requirement when Commission staff referred complaints or requested additional information, despite the fact that Staff continued to remind the company of these requirements. In those three complaints, a total of 26 violations was found for each business day a complete response was not received from Excel.

Penalties are assessed totaling \$2,600 for 26 violations of WAC 480-120-166.

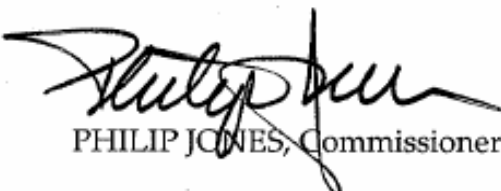
Penalties are due and payable upon receipt of this penalty notice. If for any reason you believe the violations described did not occur, you may request a hearing to contest the occurrence of the violations. If you have an explanation as to why the violations occurred, or have other facts you believe the Commission should have considered, RCW 80.04.405 provides that you may make application for mitigation of this penalty. To do so, complete the enclosed mitigation form and return it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, within FIFTEEN (15) days of your receipt of this penalty notice. You may, although you are not required to, present your request for mitigation at a hearing. The Commission will consider your plea and notify you of its determination.

If you request a hearing to contest either the occurrence of the violations or the amount of the penalty, please state why you believe a hearing is called for in your circumstances. Failure to request a hearing to contest the occurrence of the violations or the amount of the penalty, return the mitigation plea, or pay the amount due within 15 days will cause the Commission to refer this matter to the Office of the Attorney General for collection. Suit may then be brought against you and after trial, judgment may be entered against you.

DATED at Olympia, Washington and effective this ~~28th~~ day of June, 2005.


MARK H. SIDRAN, Chairman


PATRICK OSHIE, Commissioner


PHILIP JONES, Commissioner

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

APPLICATION FOR MITIGATION OF PENALTIES

I have read and understand RCW 9.72.030, which prescribes penalties for making false affidavits (printed below), and hereby make, under oath, application for mitigation of the penalties (as described on the attached form), for the following reasons:

NOTE: This form must be completed, signed and notarized, and received by the Commission within 15 days of your receipt of this form.

I swear that the foregoing is a true and complete statement of the facts in this case.

Signature of Applicant

Sworn to and subscribed before me
this ____ day of _____,
20__

NOTARY PUBLIC in and for the
State of Washington, residing in

RCW 9.72.030:

"Perjury-Second Degree: Every person who, whether orally or in writing, and whether as a volunteer or in a proceeding or investigation authorized by law, shall knowingly swear falsely concerning any matter whatsoever shall be guilty of perjury in the second degree and shall be punished by imprisonment in the state penitentiary for not more than five years or by imprisonment in the county jail for not more than one year."