

**WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

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

PENALTY ASSESSMENT NO: UT-051459

PENALTY AMOUNT: \$ 200.00

TELECOMMUNICATIONS COMPANY:

NCI Data.com, Inc.
700 B Okoma Drive
Omak, WA 98841

The Commission believes that you have committed one or more violations of Washington Utilities and Transportation rules; specifically WAC 480-120-303, which requires competitively classified telecommunications companies to file annual reports with the Commission no later than May 1 each year. Despite repeated notice of this obligation, you did not file an annual report until July 29, 2005. As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$200.00. The basis for the penalty assessment is as follows:

On March 9, 2005, the Commission mailed 2004 Annual Report forms and 2005 Regulatory Fee packets to local and competitive telecommunications companies registered in Washington State. A letter signed by Executive Secretary Carole Washburn instructed companies to file annual reports by May 1, 2005. Companies requesting an extension were asked to do so prior to May 1, providing a reason for the requested extension.

On June 3, 2005, a letter signed by Carole Washburn was sent to each telecommunications company that had not filed an annual report by May 1, 2004. The letter stated that Staff intended to recommend enforcement action, including possible penalties and/or suspension or revocation of authority, for any company that failed to file a completed annual report by July 1, 2005.

NCI Data.com, Inc. was penalized last year for filing its 2003 annual report late. The annual report was due on May 1, 2004, and NCI Data.com, Inc. filed the report on July 29, 2004. On August 31, 2004, the Commission issued a \$100 penalty against NCI Data.com, Inc. for late filing its annual report. The company paid the penalty on September 15, 2004. The Commission can issue a \$100 penalty for each day a company is late in filing its annual report.

NCI Data.com, Inc. is well aware that annual reports are due on May 1 of each year and that the Commission will assess penalties for reports that are filed late. It is appropriate to increase the penalty in subsequent years for repeat violations of WAC 480-120-303.

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 5th day of December 2005.


MARK H. SIDRAN, Chairman


PATRICK OSHIE, Commissioner


PHILIP JONES, Commissioner

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

APPLICATION FOR MITIGATION OF PENALTIES

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

I have read and understand RCW 9A.72.020, which states that making false statements under oath is a class B felony (printed below). 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, application for mitigation of the penalties (as described in the attached Notice of Penalties), for the following reasons:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

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

Signature of Applicant _____

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree 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.”