# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-090958
PENALTY AMOUNT: $200

DEVINE COMMUNICATIONS, INCORPORATED
2024 DIVISADERO, SUITE 1
SAN FRANCISCO, CALIFORNIA 94115

The Commission believes that you have committed a violation of Washington
Administrative Code (WAC) Code 480-120-382 which requires competitive
telecommunications companies to file annual reports with the Commission by May 1 each
year. You are classified as such a company. Commission records show that you did not make
the filing by the required date of May 1, 2009. Revised Code of Washington (RCW)
80.04.405 allows penalties of $100 for every such violation. Each and every such violation
shall be a separate and distinct offense and, in the case of a continuing violation, every day's
continuance shall be and be deemed to be a separate and distinct violation.

As a result, the Commission hereby notifies you that it has assessed penalties against you in
the amount $200, as follows:

> On March 2, 2009, the commission mailed 2008 Annual Report forms and
> 2009 Regulatory Fee packets to telecommunications carriers registered with it.
> A letter from Executive Director and Secretary David W. Danner instructed
> companies to file annual reports and pay regulatory fees by May 1, 2009.
> Further, the letter stated failure to file the annual report by May 1 could result
> in a penalty. Those companies wishing to request an extension to file the
> annual report were asked to do so prior to May 1, providing a reason for the
> requested extension.

> On March 27, 2009, the commission mailed a notice to all telecommunications
> carriers reminding them 2008 annual reports and 2009 regulatory fees were
> due by May 1, 2009.

> On May 15, 2009, the commission sent letters to those companies that had not
> yet filed their reports. The letter, signed by David Danner, gave an extension
> to companies to file their reports by May 29, 2009. In the letter, Mr. Danner
> stated the commission would not seek a fine or move to revoke the registration
> of any company with a report received by the commission postmarked no later
> than May 29.

As of June 23, 2009, Devine Communications, Incorporated, failed to file the 2008 Annual Report.

Devine Communications, Incorporated, also failed to file its 2007 annual report timely and, as a result, previously received a $100 penalty assessment in 2008. This penalty amount of $200 is for two consecutive years of non-compliance.

This information, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. If there is a reason for the violation that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty. See RCW 80.04.405.

You have the right to present your request for review or mitigation at a hearing, but you are not required to do so. If you do, the Commission will review the evidence supporting your request in an informal hearing, called a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider your plea and notify you of his or her decision.
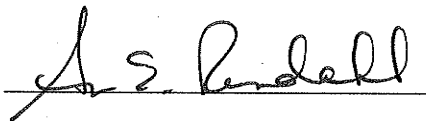
**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days,** the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective June 30, 2009.

ANN E. RENDAHL
Administrative Law Judge

# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

## PENALTY ASSESSMENT UT-090958

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. 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, the following statements.

[  ] 1.   **Payment of penalty.** I admit that the violation occurred and enclose $200 in payment of the penalty.

[  ] 2.   **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing for a decision by an administrative law judge:

[  ] 3.   **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below.
　　　　　[  ] a)   I ask for a hearing for a decision by an administrative law judge
　　OR　[  ] b)   I waive a hearing and ask for an administrative decision on the information I present here:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

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

_____　　　_____
Name of Respondent (company) – please print　　　Signature of Applicant

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RCW 9A.72.020:
"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if 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."