

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: UT-111073
PENALTY AMOUNT: \$100**

**AMERICAN FIBER NETWORK, INC.
9401 INDIAN CREEK PARKWAY, SUITE 280
OVERLAND PARK, KS 66210**

The Washington Utilities and Transportation Commission (Commission) believes that you have committed a 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. You are classified as such a company. Commission records show that you did not make the filing by the required date of May 1, 2011. 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 is a separate and distinct violation.

As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$100, as follows:

On March 11, 2011, the Commission mailed 2010 Annual Report forms and 2011 Regulatory Fee packets to competitively classified telecommunications companies registered in Washington State. A letter from Executive Secretary David W. Danner instructed companies to file annual reports and pay regulatory fees by May 1, 2011. The letter also stated that failure to file an annual report by May 1 would result in a penalty. Those companies wishing to request an extension to file the annual report were instructed to do so before May 1, and to provide a reason for the extension. American Fiber Network, Inc. did not request an extension.

On April 20, 2011, the Commission mailed a notice to all competitively classified telecommunications companies reminding them that 2010 annual reports and 2011 regulatory fees were due by May 1, 2011.

On May 13, 2011, the Commission sent letters to those companies that had not yet filed their reports. The letter, signed by Mr. Danner, gave an extension to companies to file their reports by May 27, 2011. In the letter, Mr. Danner stated the Commission would not seek a fine or revoke the authority of any company whose report was postmarked by May 27, 2011.

As of June 15, 2011, American Fiber Network, Inc. failed to file a 2010 Annual Report.

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 81.04.405.

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.

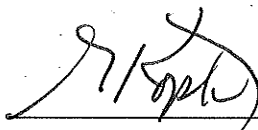
You must act within 15 days after receiving this notice to do one of the following:

- 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 28, 2011.



GREGORY J. KOPTA
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-111073

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 \$100 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, which is a process that allows an affected person to present argument to an administrative law judge 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, and

- 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 directly above.

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

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.”