

SERVICE DATE

JUL 13 2012

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: UW-120863

PENALTY AMOUNT: \$2,100

EVERGREEN EXCHANGE INC.  
8233 S 123<sup>RD</sup> PLACE  
SEATTLE, WA 98178

According to the Commission's records, you have committed a violation of Commission rule: Washington Administrative Code (WAC) 480-110-505, which requires permitted water companies to file annual reports with the Commission by May 1 each year and pay regulatory fees annually on that date. You are classified as a water company. Commission records show that you did not file an annual report or pay annual regulatory fees by May 1, 2012.

Revised Code of Washington (RCW) 81.04.405 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. 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. The Commission interprets noncompliance with WAC 480-110-505 as continuing violations, giving rise to penalties of \$100 for each day a company fails to make each requisite filing after the date on which it was due.

As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount \$2,100 on the following basis:

On February 29, 2012, the Commission mailed 2011 Annual Report forms and 2012 Regulatory Fee packets to all water companies registered in Washington state. A letter from the commission's Executive Secretary David W. Danner, instructed these companies to file annual reports and pay regulatory fees by May 1, 2012. The letter stated failure to file the annual report by May 1 would result in a penalty and possible cancellation of the company's permit to operate in Washington. Those companies wishing to request an extension to file the annual report were asked to do so prior to April 24, providing a reason for the requested extension. You did not request an extension.

Evergreen Exchange Inc. did not file its annual report by May 31, 2012, which is 21 business days past the deadline of May 1. The penalty is \$100 per day for a total of \$2,100.

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

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**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 violations occurred. I have:
- Enclosed \$2,100 in payment of the penalty
- Submitted my payment of \$2,100 online at www.utc.wa.gov. My confirmation number is \_\_\_\_\_.
2. **Request for a hearing.** I believe that one or more of the alleged violations 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 violations, but I believe that the penalty should be reduced for the reason(s) set out below.

*Please see attached letter*

- a) I ask for a hearing for a decision by an administrative law judge based on the information presented above.
- 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: 7/18/2012 [month/day/year], at Arlington, WA [city, state]

Lochaven Water  
Name of Respondent (company) – please print

Chris Scott  
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.”

# LOHAVEN WATER LLC

P.O. Box 659  
ARLINGTON, WA 98223  
(425) 508-3295  
LOHAVENWATER@GMAIL.COM

July 18, 2012

To whom it may Concern:

In July of 2010 Lochaven Water purchased the assets of Evergreen Exchange and began to run the water system under (Lochaven Water LLC.). Lochaven Water LLC was unaware of the UTC regulations at that time. Since Evergreen Exchange had sold in 2010 they did not file an annual report and since Lochaven water was not aware of the need to file an annual report, no report was filed.

Lochaven Water LLC is willing to pay the fines assessed to Evergreen Exchange for the late filing of the annual report but given the circumstances we are respectfully requesting that the fees be reduced.

Sincerely,

A handwritten signature in black ink that reads "Chris Gott". The signature is written in a cursive style with a large initial "C" and "G".

Chris Gott