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Winter Park, FL
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July 15, 2015
Via Overnight Delivery

Mr. Steven V. King
Washington Utilities & Transportation Comm.
1300 S. Evergreen Park Drive, S.W.
Olympia, WA 98504-7250

RE: Cbeyond Communications, LLC d/b/a Birch
WA Annual Report and Regulatory Fees-Penalty
Payment Due Date: July 15, 2015
UBI Number: 602-055-266
Penalty Assessment: UT-150803

RECEIVED
RECORDS MANAGEMENT
2015 JUL 16 AM 11:19
STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

Dear Mr. King:

Enclosed please find the WA Annual Report and Regulatory Fees-Penalty due July 15, 2015, filed on behalf of Cbeyond Communications, LLC d/b/a Birch. A check in the amount of \$1,000.00 is enclosed to cover the remittance fees due.

Questions regarding this filing should be directed to my attention at 407-740-8575. Thank you for your assistance in this matter.

Sincerely,

Craig Neeld
Compliance Reporting Specialist

file: Cbeyond Communications, LLC d/b/a Birch - Reporting - Washington

CN/jg

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-150803

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.

[x] 1. Payment of penalty. I admit that the violations occurred. I have:

[x] Enclosed \$ 1,000.00 in payment of the penalty

[] Submitted my payment of \$ _____ 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, for the reasons I describe below, and I request a hearing based on those reasons 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 reasons set out below:

[] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR [] b) I ask for a Commission decision based solely on the information I provide 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: 7-13-15 [month/day/year], at Maitland, Florida [city, state]

Cbeyond Communications, LLC
Name of Respondent (company) - please print

[Signature]
Signature of Applicant

TECHNOLOGIES MANAGEMENT INC.
AS ATTORNEY-IN-FACT

BY CAREY ROESEL, CONSULTANT

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."

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COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NOTICE OF PENALTIES INCURRED AND DUE SERVICE DATE
FOR VIOLATIONS OF LAWS AND RULES

JUN - 2 2015

PENALTY ASSESSMENT: UT-150803

PENALTY AMOUNT: \$1,000

CBeyond COMMUNICATIONS, LLC
320 INTERSTATE N. PARKWAY, STE. 300
ATLANTA, GA 30339-2213

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-120-382, which requires telecommunications companies to file your annual report and pay regulatory fees each year by May 1. You did not file an annual report or pay regulatory fees by May 1, 2015.

Revised Code of Washington (RCW) 80.04.080 authorizes the Commission to assess a penalty of \$100 for each violation of a Commission rule. In the case of a continuing violation, every day's continuance is a separate and distinct violation. The Commission interprets noncompliance with WAC 480-120-382 beyond May 1 as a continuing violation, and assesses penalties of \$100 for each day a company fails to file its report or pay its regulatory fees after that date.

As a result, the Commission has assessed penalties against you in the amount of \$1,000 on the following basis:

On February 27, 2015, the Commission mailed the 2014 annual report forms and the 2015 regulatory fee packets to all telecommunications companies registered in Washington. The instructions page for the annual report form instructed these companies to file annual reports and pay regulatory fees by May 1, 2015. The instructions page also stated that failure to file the annual report by May 1 would result in penalties. The deadline for requesting an extension to file your annual report was April 15. You did not request an extension.

On May 1, 2015, Cbeyond Communications, LLC filed an incomplete 2014 annual report and paid its 2015 regulatory fee. As of May 15, the report remains incomplete. May 15 is 10 business days from May 1, resulting in a total penalty of \$1,000.

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. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request.

If there is a reason for the violation that you think should excuse or reduce the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. The Commission will grant a request for a hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW 80.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider the evidence and will 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, which may file suit in state court to collect the penalty. The Commission may also initiate proceedings under WAC 480-121-060 to revoke your authority to provide telecommunications services in Washington.

DATED at Olympia, Washington, and effective June 2, 2015.



GREGORY J. KOPTA
Administrative Law Judge