

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET UT-132153
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 04
)	
v.)	
)	
GRASSHOPPER GROUP, LLC,)	INITIAL ORDER APPROVING
)	SETTLEMENT AGREEMENT
Respondent.)	
)	
.....)	

1 **NATURE OF PROCEEDING.** Docket UT-132153 arises out of a formal complaint filed by Commission Staff on April 16, 2014, against Grasshopper Group, LLC (Grasshopper or Company). The complaint alleges that Grasshopper filed an inaccurate 2012 Annual Report and paid incorrect regulatory fees, in violation of RCW 80.04.080 and WAC 480-120-382. The complaint alleges that Grasshopper did not correct its filing until August 9, 2013, a period of 101 days after the May 1, 2013, deadline for filing annual reports. The complaint seeks a penalty of up to \$30,300.

2 **PARTY REPRESENTATIVES.** Brett Shearer, Assistant Attorney General, Olympia, represents the Commission’s regulatory staff (Commission Staff or Staff).¹ Michael Donahue and Ronald Quirk, Jr., Marashlian & Donahue, LLC, McLean, Virginia, represent respondent Grasshopper.

3 **PROCEDURAL HISTORY.** The Commission held a prehearing conference in this matter on May 19, 2014, and adopted a procedural schedule. The Commission set

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

deadlines for motion practice and scheduled an evidentiary hearing for Tuesday, June 17, 2014.

4 On May 28, 2014, the presiding officer denied Grasshopper's motion to dismiss.² On June 12, 2014, the Commission denied the Company's motion for interlocutory review and also denied its request for a continuance of the evidentiary hearing.³

5 **SETTLEMENT AGREEMENT.** On June 16, 2014, the parties filed with the Commission a Settlement Agreement and a Narrative Supporting Settlement Agreement. The Settlement Agreement includes (1) the Company's acknowledgment of a single violation of its obligation under RCW 80.04.080 and WAC 480-120-382 to file accurate annual reports; (2) a requirement that Grasshopper pay a monetary penalty of \$10,100, due within 30 days of issuance of a final order in this matter; (3) imposition of a suspended \$20,200 penalty subject to waiver on condition that (a) the Company files accurate and timely annual reports with the Commission by May 1 of each year for a period of two consecutive years (through to June 16, 2016) or (b) the Company withdraws or cancels its registration as a competitively classified telecommunications company in Washington.

6 **DISCUSSION AND DECISION.** WAC 480-07-750(1) states in part: "The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission." Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

² *WUTC v. Grasshopper Group, LLC*, Docket UT-132153. Order 02 Denying Grasshopper's Motion to Dismiss (May 28, 2014).

³ *WUTC v. Grasshopper Group, LLC*, Docket UT-132153. Order 03 Denying Grasshopper's Petition for Interlocutory Review and Denying Request for Continuance (June 12, 2014).

7 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

8 We approve the Settlement Agreement without condition. The Settlement Agreement ensures that Grasshopper pays an appropriate penalty for filing an inaccurate annual report and puts a significant suspended penalty in place to ensure the Company's future annual report filings are timely and accurate. The Agreement serves the public interest by promoting continuing compliance with Commission statutes and rules going forward without imposing an unwarranted financial burden on the Company in penalizing Grasshopper for its failure to comply fully in the past with all applicable statutory requirements.

9 The settlement represents a compromise of the parties' original positions that concludes this matter without delay and without requiring expenditure of additional Commission resources to litigate the case. Further, the terms in the Settlement Agreement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. We find that the Settlement Agreement is consistent with the public interest and should be approved as filed and without condition.

ORDER

THE COMMISSION ORDERS:

- 10 (1) The Settlement Agreement attached as Exhibit A to this Order, and incorporated into this Order by this reference, is approved without condition and adopted as the final resolution of the issues in this docket.
- 11 (2) Grasshopper must pay a penalty of \$10,100 to the Commission no later than 30 days after this order becomes final.

- 12 (3) Grasshopper must comply with all terms of the Settlement Agreement for two years following the date of this order or be subject to a further penalty of \$20,200. This suspended penalty will be waived on June 16, 2016 (two years following the date of the Settlement Agreement) without further action by the Commission being required, assuming full compliance.
- 13 (4) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective July 7, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **five (5)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

**Exhibit A
Settlement Agreement**