

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-121023

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:

[x] 3. Application for mitigation. I admit the violations, 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 [xx] b) I waive a hearing and ask for an administrative decision on the information I present here:

Attached please find an Application for Mitigation.

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: August 10, 2012 [month/day/year], at Kalamazoo, Michigan [city, state]

VMC TELECOM, LLC
BY CROCKER & CROCKER, its Attorneys
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."

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UTIL. AND TRANSPORTATION
COMMISSION

APPLICATION FOR MITIGATION

We are the attorneys for VMC Telecom, LLC. This law firm received the Notice of Penalties Incurred and Due for Violations of Laws and Rules from the Washington Utilities and Transportation Commission (“Commission”) on or about August 6, 2012 attached hereto as Exhibit A. We believe this penalty should be reduced for the reasons set forth below.

Immediately upon receiving the Certified Mail containing the Penalty Assessment UT 121023, we investigated this circumstances giving rise to this violation of the Commission’s rules. VMC Telecom, LLC received authority from the Commission Commission effective October 20, 2011. In response to changes in the industry, within three months of the effective date of Registration, VMC Telecom, LLC ceased efforts to move forward implementing the business plan. With no further funding available, VMC Telecom, LLC notified the company handling the ongoing compliance to cease and desist all activity on behalf of VMC Telecom, LLC. In error, VMC Telecom, LLC did not instruct the company handling ongoing compliance to take necessary steps to withdraw or terminate operating authority in Washington, including the filing of final reports. This oversight resulted in VMC Telecom, LLC. failing to file the Annual Report with the Commission by May 1, 2011. We have corrected this oversight by requesting termination of the authority issued to VMC Telecom, LLC in Docket No. UT-11170, and attach a copy of the letter requesting such action as Exhibit B for your convenience

In this instance, the failure to file this Annual Report arose within months of VMC Telecom, LLC receiving authority and terminating all plans for business. Until receiving the certified letter, VMC Telecom, LLC was not made aware by the compliance company

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of the remaining outstanding ongoing obligation to file this Annual Report in 2012. In this instance, VMC Telecom, LLC did not intentionally fail to file the Annual Report due on May 1, 2012; rather, VMC Telecom, LLC failed to recognize this obligation during the winding down process. Importantly, due to the loss of the financial funding, VMC Telecom, LLC is without the resources available to pay the Penalty Amount of \$2,100 imposed in UT-121023.

In view of the mitigating circumstances, VMC Telecom, LLC respectfully requests that the Commission consider this failure to file this Annual Report a single violation or offense, and reduce the Penalty Amount to \$100.00.

Thank you very much for your professional courtesy rendered to VMC Telecom, LLC in this matter.

Very Truly Yours,

~~Crocker & Crocker~~

By: Patrick D. Crocker
Attorneys for VMC Telecom, LLC

Date: _____

Handwritten signature and date: 8/10/2012

EXHIBIT A

SERVICE DATE

AUG - 1 2012

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-121023

PENALTY AMOUNT: \$2,100

VMC Telecom, LLC
107 W Michigan Avenue, 4th Floor
Kalamazoo, MI 49007

According to the Commission's records, you have committed a violation of Commission rule: 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 and pay regulatory fees annually on that date. You are classified as a telecommunication 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 480-120-382 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 telecommunication 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.

VMC Telecom, LLC 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 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.

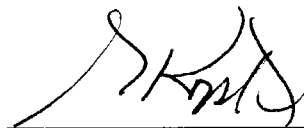
You must act within 15 days after receiving this notice to do one of the following:

- 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 will then sue you to collect the penalty.

DATED at Olympia, Washington, and effective August 1, 2012.



GREGORY J. KOPTA
Administrative Law Judge

EXHIBIT B



August 9, 2012

David Danner, Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504

RE: VMC TELECOM, LLC

Dear Mr. Danner:

We are the attorneys for VMC TELECOM, LLC (hereinafter "VMC"). On October 20, 2011, the Washington Utilities and Transportation Commission ("Commission") previously authorized VMC to provide intrastate telecommunications services Docket No. UT-111700. VMC never offered service to the public and abandoned its business plan in early 2012. For these reasons, VMC no longer intends to retain authority in the State of Washington. Accordingly, we respectfully request that the Commission cancel VMC's authority effective immediately.

Enclosed is a duplicate of this letter. Please stamp the duplicate received and return same in the postage-paid envelope attached thereto.

Please forward any additional forms or requirements, correspondence, or questions to the undersigned.

Very truly yours,


CROCKER & CROCKER

Patrick D. Crocker

PDC/pas