



June 23, 2016

Gregory J. Kopta, Administrative Law Judge  
Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250

RECEIVED  
ADMINISTRATIVE  
2016 JUN 24 AM 8:35  
OFFICE OF THE  
ADMINISTRATIVE  
JUDGES

RE: Penalty Assessment UT-160573

Dear Honorable Judge Gregory Kopta,

Attached herewith is documentation and confirmation of online reporting and relevant correspondence by and between the Washington Utilities and Transportation Commission (WUTC) and Nehalem Telecommunications, Inc. (NTI) for Penalty Assessment referenced above.

Nehalem Telecommunications, Inc. received an annual report form "Class B" and notice to file from the WUTC. This form was completed online via e-File in a timely manner (see confirmation e-mail notice dated April 27<sup>th</sup>). On April 29<sup>th</sup> NTI employee, Bev Arrington, received a call from WUTC representative, Amy Clark, wherein Amy stated she believed an incorrect annual reporting form had been submitted on behalf of NTI. Employee, Bev Arrington, stated this was the same form mailed to NTI for annual reporting. Amy said she would check into the situation and get back with Bev.

Amy Clark called back April 29<sup>th</sup> after 5:00pm MST (outside business hours) and left a voicemail message that indeed a wrong form had been mailed to NTI and ultimately submitted to the WUTC. The voicemail message left on Bev Arrington's direct line was made during non-working hours. Bev happened to be on vacation May 2<sup>nd</sup> – May 4<sup>th</sup>, the days immediately following the voicemail. Bev did not return to the office until May 5<sup>th</sup>. Upon Bev's return May 5<sup>th</sup> submission of requested form was immediately performed online (please see attached confirmation of online submission reporting via e-file). Payment for the indicated \$200 penalty fee was made at time of this e-filing. Although the original form mailed to NTI was presumptive to be a correct form for annual reporting, NTI paid the penalty in good faith, because perhaps it should have been somehow known that the WUTC supplied an incorrect form.

NTI subsequently received the attached "Notice of Penalties Incurred and Due for Violations of Laws and Rules" (Penalty Assessment: UT-160573) with a penalty amount of \$500. The notice states that the appropriate form was not filed until May 9<sup>th</sup> however, please see attached documentation proof that online submission of the correct Annual Report was performed on May 5<sup>th</sup> and the \$200 penalty fee paid at that time.

NTI does not believe the \$200 fine was appropriate, although paid, and disputes the additional \$500 penalty assessment due to the above mitigating facts.

Sincerely,

Mark R. Martell  
Administrative Manager

cc: Steven V. King, Executive Director and Secretary  
Richard Finnigan, Attorney at Law

# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-160573  
PENALTY AMOUNT: \$500

Nehalem Telecommunications, Inc.  
892 West Madison Avenue  
Glenns Ferry, ID 83623

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 their annual report and pay regulatory fees each year by May 1. May 1 was a Sunday, therefore you were required to file your annual report or pay regulatory fees by May 2, 2016. You did not file an annual report by May 2, 2016.

Revised Code of Washington (RCW) 80.04.405 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 2 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 \$500 on the following basis:

On February 29, 2016, the Commission mailed the 2015 annual report forms and the 2016 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 2, 2016. The instructions page also stated that failure to file the annual report by May 2 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 Monday, May 9, 2016, Nehalem Telecommunications, Inc. filed its 2015 annual report and paid its 2016 regulatory fee. Monday, May 9, 2016 is five business days from May 2, resulting in a total penalty of \$500.

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 15, 2016.

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GREGORY J. KOPTA  
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-160573

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 \$ \_\_\_\_\_ in payment of the penalty

[X] Submitted my payment of \$ 200.00 on 5/5/2016 online at www.utc.wa.gov. My confirmation number is 2873.

[ ] 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:

[X] 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

[X] 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: 6-23-16 [month/day/year], at Glens Ferry, ID [city, state]

Mark R. Martell
Name of Respondent (company) - please print

[Signature]
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."

2016 JUN 24 AM 9:35
COMMUNICATIONS SECTION

May 5, 2016

Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive, SW  
Olympia, WA 98504-7250

RE: Nehalem Telecommunications Inc. 2015 Annual Report

Dear Mr. King:

Nehalem Telecommunications Inc. hereby submits its 2015 Annual Report. The company originally submitted on April 27, 2016 a Class B report. We used the report type that was originally mailed to us. Bev Arrington received a call on Friday April 29, 2016 from Amy Clark that this type was probably incorrect and that she would check it out and call back. She did call back but after our business was closed. Bev was out of the office on May 2-4, 2016 and just retrieved the message from Amy today. We are filing the correct report today and will pay the regulatory fees and interest. This 2015 Annual Report submission is being filed electronically at <http://www.utc.wa.gov/docs/Pages/howToFile.aspx>.

This is a DBA and was originally set up to sell Long Distance Service. It has never been activated and doesn't have Financials.

Sincerely,

Michael J. Martell  
Vice President

MJM/baa

**Beverly A. Arrington**

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**From:** Records Service Center [Sharepointadmins@utc.wa.gov]  
**Sent:** Thursday, May 05, 2016 10:54 AM  
**To:** Beverly A. Arrington  
**Subject:** UTC E-Filing submission received, confirmation ID 4137

Your e-file submission has been received by the Washington Utilities and Transportation Commission. Please save this e-mail, and use the confirmation ID when contacting the Commission.

\* Please do not reply to this message. This is an automated message, and the originating account cannot receive e-mails.

**E-File submission details:**

E-File ID: 4137  
Docket No:  
Company: Nehalem Telecommunications Inc.  
Filing description:

**Documents filed:**

Filename: 2015 Annual Report NTL.pdf  
Description: Cover Letter  
Confidentiality: None

**Documents filed:**

Filename: 170 Telecommunications CLEC Annual Report Form 2015.xlsx  
Description: Annual Report  
Confidentiality: None

**Beverly A. Arrington**

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**From:** WA UTC Payments [DoNotReply@utc.wa.gov]  
**Sent:** Thursday, May 05, 2016 11:00 AM  
**To:** Beverly A. Arrington  
**Subject:** UTC Payment Confirmation



**Thank You for Submitting Your Payment**

Your payment of \$200.00 has been processed on 5-5-2016 10:00 AM.  
(Please allow up to three business days for this charge to post to your account.)

Confirmation Number: 2873

Company: Nehalem Telecommunications, Inc.

Any questions can be directed to Accounts Receivable, 360-664-1349.

**Beverly A. Arrington**

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**From:** WA UTC Payments [DoNotReply@utc.wa.gov]  
**Sent:** Thursday, May 05, 2016 10:58 AM  
**To:** Beverly A. Arrington  
**Subject:** UTC Payment Confirmation



**Thank You for Submitting Your Payment**

Your payment of \$153.00 has been processed on 5-5-2016 9:58 AM.  
(Please allow up to three business days for this charge to post to your account.)

Confirmation Number: 2872

Company: Nehalem Telecommunications, Inc.

Any questions can be directed to Accounts Receivable, 360-664-1349.



**Beverly A. Arrington**

**From:** Clark, Amy (UTC) [aclark@utc.wa.gov]  
**Sent:** Monday, May 09, 2016 4:38 PM  
**To:** Beverly A. Arrington  
**Subject:** RE: Nehalem Long Distance

Thank you.

**Amy Clark**  
(360) 664-1152  
[aclark@utc.wa.gov](mailto:aclark@utc.wa.gov)

**From:** Beverly A. Arrington [<mailto:Beverly.Arrington@ruraltel.org>]  
**Sent:** Monday, May 09, 2016 3:30 PM  
**To:** Clark, Amy (UTC)  
**Subject:** Nehalem Long Distance

Hello Amy,  
This is a DBA for Pend Oreille Telephone Company. It was set up when Pend Oreille was entertaining the idea of selling long distance service. The Company has never utilized the DBA and it doesn't not have financials. We will be closing this DBA.  
Thank You,

**Bev Arrington** | Sr. Accounting Specialist  
**Rural Telephone Company**  
892 W. Madison Avenue  
Glenns Ferry, ID 83623  
**Phone:** 208.366.2614 | **Fax:** 208.366.2615  
**Direct:** 208.653.1213  
**E-mail:** [beverly.arrington@ruraltel.org](mailto:beverly.arrington@ruraltel.org)  
**Web:** [www.rtc.net](http://www.rtc.net)

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**Beverly A. Arrington**

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**From:** Records Service Center [Sharepointadmins@utc.wa.gov]  
**Sent:** Wednesday, April 27, 2016 2:01 PM  
**To:** Beverly A. Arrington  
**Subject:** UTC E-Filing submission received, confirmation ID 3948

Your e-file submission has been received by the Washington Utilities and Transportation Commission. Please save this e-mail, and use the confirmation ID when contacting the Commission.

\* Please do not reply to this message. This is an automated message, and the originating account cannot receive e-mails.

**E-File submission details:**

E-File ID: 3948  
Docket No:  
Company: Nehalem Telecommunications Inc.  
Filing description:

**Documents filed:**

Filename: 2015 Annual Report Letter.pdf  
Description:  
Confidentiality: None

**Documents filed:**

Filename: 170 Telecommunications ILEC\_Class B Annual Report 2015 NTL.xlsx  
Description:  
Confidentiality: