

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In re Penalty Assessment No.)	DOCKET UT-090991
UT-090991 against)	
)	ORDER 01
NEXTLINK WIRELESS, INC.)	
)	
)	INITIAL ORDER RESCINDING
)	\$100 PENALTY
.....)	

1 *Synopsis.* This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. This Order proposes to rescind a penalty assessment as the annual report for Nextlink was properly received and filed in the same annual report for XO Holdings, Nextlink’s parent company.

2 On June 30, 2009, the Washington Utilities and Transportation Commission (Commission) served a penalty assessment against Nextlink Wireless, Inc. (Nextlink) in the amount of \$100 for violation of Washington Administrative Code 480-120-382 which requires competitive telecommunications carriers to file annual reports with the Commission by May 1 each year. In the penalty assessment, the Commission alleged Nextlink failed to file its 2008 annual report by the May 1 deadline.

3 Sharon Adams, Senior Regulatory Analyst for XO Holdings, Inc. (XO Holdings), parent company of Nextlink, contacted the Commission on July 2, 2009, advising that on May 6, 2009, XO Holdings submitted one financial document for its two subsidiary companies, XO Communications Services, Inc. (XO Communications) and Nextlink, and that Nextlink’s 2008 annual report was, in fact, complete and filed appropriately.

4 Commission Staff investigated the issue and determined that Commission Staff misunderstood the communication received with the financial documents on May 6, 2009, and attached the financial document only to XO Communications’ 2008 annual report. Staff considered Nextlink’s 2008 annual report incomplete when, in fact, the Commission has received all necessary information for the company.

- 5 There is good cause to rescind the penalty assessment issued against Nextlink in this matter, as the Commission has received the necessary financial documents to complete Nextlink's 2008 annual report.

ORDER

- 6 The Commission rescinds the \$100 penalty issued in the original order in this docket.

DATED at Olympia, Washington, and effective July 7, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Director, Administrative Law Division

NOTICE TO THE 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 (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 **3** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250