

Newaukum Water System, Inc.  
P.O. Box 1287  
Enumclaw, WA 98022-1287

January 26, 2015

To: Steven King, Executive Director  
Washington Utilities and Transportation Commission, Water Division  
PO Box 47250  
1300 S. Evergreen Park Dr. SW  
Olympia, WA 98504-7250

**Subject:** Submission of "Mitigation Request Document for assessed penalty UW-150045

**Distributions required to:** Gregory J. Kopta, Director, Administrative Law Division

The attached original and (4) copies of our Request for Mitigation of UW-150045 are attached. Electronic copies have been sent.

It was suggested by Susie Paul (UTC) and agreed during our meeting with Jim Ward on 1/23/2015 that this mitigation be heard concurrently with UW-144112 on February 11, 2015 at 9:30 AM.

This document is submitted by:



Maurice Kurtz  
Chairman of the Board  
Newaukum Water System Inc.  
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To be Scheduled with UW-14411Z  
on 2/11/15

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT UW-150045

**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 violation occurred and enclose \$1,000 in payment of the penalty.

2. **Request for a hearing.** I believe that the alleged violation 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 violation, but I believe that the penalty should be reduced for the reasons set out below:

*See attached attachment I*

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: 01/26/2015 [month/day/year], at Auburn, WA [city, state]

Maurice Kurtz  
Name of Respondent (company) – please print

  
Signature of Applicant

**Newaukum Water System, Inc**  
**PO Box 1287**  
**Enumclaw, WA 98022-1287**

**Attachment I**

Subject: Mitigation request for Assessment UW-150045

Newaukum Water System (NWS) Board of Directors makes the following statements regarding your second levied penalty and our application for mitigation:

- 1) We request that the penalties for both UW-144112 and UW-150045 be voided by the presiding administrative judge. NWS received notice of the first fine (UW-144112) so close to the Christmas and New Year's holidays that we were unable to intervene in the billing process to change the billing amount for December (collected in January) from \$75 to \$55. Also, at that time we were still awaiting Judge Pearson's decision on NWS's Motion for Summary Judgment in regard to UTC jurisdiction over NWS. On January 5, 2015, we received Judge Pearson's decision that NWS is under UTC jurisdiction. Our accounting firm was notified after receipt of the jurisdiction ruling to stop all billing until after we knew the outcome of the scheduled January 23<sup>rd</sup> meeting.

It was also unknown that the staff would not be approving any debt payments until the January 23, 2015 meeting with Mr. Ward. This decree on the 23<sup>rd</sup> put us in a position of having to notify Bank of America and US Bank that as of February 1, 2015, Newaukum will no longer be able to make payment on our accounts.

The attorney, Wayne Wimer, that Newaukum still owes about \$1300 to, has already been notified as to possible default on his bill and the reason being that the UTC staff has reduced our income, so debt payments cannot be made.

The Newaukum board of Directors (BOD) is shocked by the fact that the UTC policy, not the laws of the state, dictate to a business that they cannot pay their LEGAL debts. If the \$75/mo. rate had not been approved by the Newaukum membership, the rate increase would have been in violation of our own bylaws, but it had been approved by the membership at the August 9, 2014 annual membership meeting.

- 2) The rules the staff uses for evaluating and approving rates has little to do with a company's cost of operation, because it only allows for using past history of expenditures for determining rates. The staff states that they will allow future costs only if there are firm quotations from a vendor to substantiate the cost. This ignores the fact that much of NWS's equipment is 45-50 years old and that there is no reserve fund to deal with breakdowns and replacements. Such expenses cannot be identified in advance. The BOD has been denied access to any written internal UTC policy justifying the staff's position to limit NWS's rate below its ability to pay their debt or accumulate enough money for emergency repairs.

These penalties penalize the efforts of Newaukum management for doing a good job of paying bills, insuring our system operates properly 24/7 to the DOH requirements and that customer distribution issues are promptly solved.

- 3) The NWS BOD affirms that all of the information in the UW-14112 response is still valid, except that our Motion for Summary Judgment of UTC jurisdiction over us was denied by Judge Pearson. Adding the fact that we have been denied payment to our debtors, it puts NWS into a position of being insolvent.