



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • www.utc.wa.gov

August 12, 2014

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Comtech 21, LLC*

Commission Staff's Response to Application for Mitigation of Penalties UT-140876

Dear Mr. King:

On May 29, 2014, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket UT-140876 against Comtech 21, LLC for 10 violations of Washington Administrative Code (WAC) 480-120-382, which requires telecommunications companies to furnish annual reports to the commission no later than May 1 each year.¹

On August 11, 2014, Comtech 21, LLC Communications, Inc. wrote the commission requesting mitigation of penalties (Mitigation Request).² In its Mitigation Request, Comtech 21, LLC does not dispute that the violation occurred. The company states, "Short staff, never had a violation before".

It is the company's responsibility to ensure that the regulatory fee is paid and the annual report is filed by the May 1 deadline. On February 28, 2014, Annual Report packets were mailed to all regulated telecommunication companies. The instructions for annual report completion page of the annual report informed the regulated company that it must complete the annual report form, pay the regulatory fees, and return the materials by May 1, 2014, to avoid enforcement action.

On May 12, 2014, Comtech 21, LLC filed an incomplete 2013 annual report. On May 12, 2014, commission staff contacted the company via email to notify the company of the required information³. On May 23, 2014 the company filed the missing information and the annual report was considered complete. The company has been active since 2004. Comtech 21, LLC was

¹See attachment A for a copy of the penalty assessment sent on May 29, 2014

²See attachment B for a copy of Comtech's Mitigation Request received on August 11, 2014

³See attachment C for a copy of staff email notifying company of incomplete status sent on May 12, 2014

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previously delinquent in filing the 2012 annual report. Additionally, the company failed to respond within the 15 days to request mitigation as required by the penalty assessment. Staff does not support the company's request for mitigation due to past violation and failure to respond within 15 days of the penalty assessment being received.

If you have any questions regarding this recommendation, please contact Amy Andrews, Regulatory Analyst, at (360) 664-1157, or aandrews@utc.wa.gov.

Sincerely,

Sondra Walsh, Director
Administrative Services

¹See attachment A for a copy of the penalty assessment sent on May 29, 2014

²See attachment B for a copy of Comtech's Mitigation Request received on August 11, 2014

³See attachment C for a copy of staff email notifying company of incomplete status sent on May 12, 2014

ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-140876
PENALTY AMOUNT: \$1,000

Comtech 21, LLC
One Barnes Park South
Wallingford, CT 06492

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 reports and pay regulatory fees each year by May 1. You did not file an annual report or pay regulatory fees by May 1, 2014.

Revised Code of Washington (RCW) 80.04.080 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. Each violation is a separate and distinct offense and, 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 1 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 \$1,000 on the following basis:

On February 28, 2014, the Commission mailed the 2013 annual report forms and the 2014 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 1, 2014. The instructions page also stated that failure to file the annual report by May 1 would result in penalties. The deadline for requesting an extension to file your annual report was April 17. You did not request an extension.

As of May 15, 2014, Comtech 21, LLC has not filed its complete 2013 annual report or paid its 2014 regulatory fee. May 15 is 10 business days from May 1, resulting in a total penalty of \$1,000.

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.

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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. A 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 RCW80.04.405.

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 May 29, 2014.

GREGORY J. KOPTA
Administrative Law Judge

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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-140876

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

Submitted my payment of \$ _____ 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, 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 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 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: _____ [month/day/year], at _____ [city, state]

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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ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UT-140876

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2014 AUG 11 AM 8:12

[] 1. Payment of penalty. I admit that the violations occurred. I have:

[] Enclosed \$ _____ in payment of the penalty

[] Submitted my payment of \$ _____ 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, 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: Short staff, never had a violation before.

[] 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: August 5, 2014 [month/day/year], at Wallingford, CT [city, state]

Comtech LLC
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."

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ATTACHMENT C

Andrews, Amy (UTC)

From: Andrews, Amy (UTC)
Sent: Monday, May 12, 2014 9:55 AM
To: regulatory@comtech21.com
Cc: Andrews, Amy (UTC)
Subject: Incomplete Annual Report Notification for Comtech21 LLC

Dear Regulated Company,

On February 28, 2014 the Utilities and Transportation Commission (commission) mailed you an Annual Report. The report and fees are due by May 1, 2014.

A review of your annual report submitted May 12, 2014 indicates it is incomplete.

- Schedule 1, Part C and Part D not complete
- Balance Sheet and Income Statement not provided

Commission staff may recommend enforcement action, which includes penalties of up to \$100 per day, against any company that does not file a completed annual report. In order to avoid enforcement action, the commission must receive your completed report no later than May 1, 2014.

If you have any questions about your annual report please call me at (360) 664-1157 or e-mail at aandrews@utc.wa.gov.

Amy Andrews

Fiscal Analyst

Utilities & Transportation Commission

PO Box 47250

Olympia, WA 98504-7250

☎360.664.1157

☎360.664.1289

🌐www.utc.wa.gov

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