

**WAC 480-07-915 Penalty assessments.** (1) **Delegation.** The commission delegates to the director of the administrative law division, or another administrative law judge the director designates, the authority to assess penalties pursuant to RCW 80.04.405, 81.04.405, 81.04.530, 19.122.150, or any other statutes that authorize the commission to assess penalties outside of an adjudicative proceeding for violations of any commission order or any statute, rule, or regulation within the commission's jurisdiction except as provided in WAC 480-07-917.

(2) **Notice.** At the direction of the director of the administrative law division, the commission will serve a notice on the person assessed a penalty describing the violation with reasonable particularity, specifying the amount of the penalty, and advising the person that the penalty is due and payable.

(3) **Response.** Within fifteen days of receiving the notice, the person subject to the penalty assessment must take one of the following actions:

(a) *Pay the assessed penalty.* The penalized person may admit the violation and pay the full amount of the penalty by the due date.

(b) *Contest the violation.* The penalized person may submit written materials to contest the penalty assessment and may request that the commission make a determination based on those materials or may request the opportunity to present facts described in those materials through evidence at a hearing.

(c) *Request mitigation.* The penalized person may admit the violation but submit written materials in support of a request to reduce the amount of the penalty. The penalized person may request mitigation based solely on the written materials or may request the opportunity to present the facts described in those materials through evidence at a hearing.

(d) *Accept conditions.* If the commission offers to suspend any or all of the penalty based on specified conditions (e.g., to commit no additional violations within a specified period of time), the person may admit the violation, accept the conditions, and pay any unsuspended portion of the penalty by the due date, subject to complying with the conditions by the date specified in the notice of penalty assessment. Failure to comply with those conditions will result in the suspended portion of the original penalty immediately becoming due and payable.

(4) **Written statement.** Any response contesting the violation or requesting mitigation must include a written statement of the reasons supporting the requested relief. The commission may deny any contest to the violation or any mitigation request that does not include such a statement.

(5) **Staff reply.** Commission staff will file any reply to a response contesting the violation or requesting mitigation within ten business days. If the commission conducts a hearing on the request, commission staff will participate as a party in that proceeding.

(6) **Hearing.** The commission will grant a request for hearing to contest the violation or request mitigation only if material issues of law or fact require consideration of evidence and resolution in a hearing. If the commission denies a request for hearing, the commission will consider the contest of the violations or request for mitigation based on the written statement included in the response. If the commission grants a request for hearing, an administrative law judge other than the director of the administrative law division or the designee who signed the penalty assessment will review the evidence sup-

porting the contest of the violation or application for mitigation in a brief adjudicative proceeding pursuant to WAC 480-07-610. The executive secretary will issue a notice establishing the procedures, date, and time for the hearing.

(7) **Order.** The executive secretary will enter an order resolving contested violations or requests for mitigation the commission considers without a hearing. A person aggrieved by the order may request administrative review. The commission will consider the request using the same process and requirements applicable to commission review of initial orders set forth in WAC 480-07-825.

(8) **Compliance with conditions.** An order on mitigation may suspend all or part of an assessed penalty based on one or more conditions.

(a) *Compliance.* If the penalized person complies with all conditions in the order, commission staff will file a letter confirming that compliance. If the commission agrees, the executive secretary will issue a letter or notice waiving the suspended portion of the penalty.

(b) *Noncompliance.* If the penalized person does not comply with any such condition, commission staff will file a letter or motion requesting that the commission impose some or all of the suspended portion of the penalty. The penalized person must file any response to the letter or motion within five business days, including any request for a hearing to assess the person's compliance with the condition. The commission will consider and make a determination on the letter or motion and any request for hearing using the same procedure and requirements in subsections (6) and (7) of this rule.

(9) **Enforcement.** Unless a timely contest of the violation(s) or mitigation request is pending before the commission, failure to pay an assessed penalty by the due date is a violation of law for which the commission may take additional enforcement action including, but not necessarily limited to, one or more of the following:

(a) Assess additional penalties;

(b) Suspend or revoke the operating authority of a penalized public service company whose operating authority is subject to commission suspension or revocation until the company pays the penalty in full;

(c) Refer the debt to a collection agency;

(d) Initiate an adjudicative or brief adjudicative proceeding; or

(e) File an enforcement action in superior court.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-18-041 (Docket A-130355, General Order R-592), § 480-07-915, filed 8/29/18, effective 9/29/18.]