



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

July 3, 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. Palouse Touring Company, LLC*

Commission Staff's Response to Application for Mitigation of Penalties TE-141072

Dear Mr. King:

On May 27, 2014, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket TE-141072 against Palouse Touring Company, LLC for 10 violations of Washington Administrative Code (WAC) 480-30-071, which requires charter and excursion carriers to furnish annual reports to the commission no later than May 1 each year.¹

On June 19, 2014, Palouse Touring Company, LLC wrote the commission requesting mitigation of penalties (Mitigation Request).² In its Mitigation Request, Palouse Touring Company, LLC does not dispute that the violation occurred. The company provided the status as a new company in 2013 and a desire to report the data required accurately as the reasons for the late filing. The company also provided several internal accounting process changes to avoid future fines or violations.

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 charter and excursion 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 June 4, 2014, Palouse Touring Company, LLC filed the 2013 annual report and timely paid the required regulatory fees on November 27, 2013. The company has been active since September 19, 2013. No previous violations of WAC 480-30-071 are on commission record.

¹See attachment A for a copy of the penalty assessment sent on May 27, 2014

²See attachment B for a copy of Palouse Touring Company's Mitigation Request received on June 19, 2014

UTC Annual Reports
July 1, 2014
Page 2

The UTC also recently adopted new rules requiring the annual report to be filed by May 1 while the regulatory fees remained due on December 31. Despite the commission communication regarding these filing changes to all regulated charter and excursion companies, and the company's good faith efforts to improve internal processes, commission staff supports the company's request for mitigation. Staff recommends a reduced penalty assessment of \$200.

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 27, 2014

²See attachment B for a copy of Palouse Touring Company's Mitigation Request received on June 19, 2014

ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-141072
PENALTY AMOUNT: \$1,000

Palouse Touring Company, LLC
PO Box 1188
Pullman, WA 99163

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-30-071, which requires charter and excursion carriers to file their annual reports. You did not file an annual report by May 1, 2014.

Revised Code of Washington (RCW) 81.04.080 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 480-30-071 beyond May 1 as a continuing violation, and assesses penalties of \$100 for each day a company fails to file its report 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 charter and excursion carriers registered in Washington. The instructions page for the annual report form instructed these companies to file annual reports 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, Palouse Touring Company, LLC has not filed its 2013 annual report. 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. Failure to provide such a statement will result in denial of the request. If there is a reason for the

¹See attachment A for a copy of the penalty assessment sent on May 27, 2014

²See attachment B for a copy of Palouse Touring Company's Mitigation Request received on June 19, 2014

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 RCW 81.04.405.

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 480-30-171 to cancel your certificate to operate as a charter and excursion carrier in Washington.

DATED at Olympia, Washington, and effective May 27, 2014.

GREGORY J. KOPTA
Administrative Law Judge

¹See attachment A for a copy of the penalty assessment sent on May 27, 2014

²See attachment B for a copy of Palouse Touring Company's Mitigation Request received on June 19, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TE-141072

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.”

1See attachment A for a copy of the penalty assessment sent on May 27, 2014

2See attachment B for a copy of Palouse Touring Company’s Mitigation Request received on June 19, 2014

ATTACHMENT B



Palouse Touring Company LLC
PO Box 1188, Pullman, WA 99163

June 11, 2014

Washington Utilities and Transportation Commission
Post Office Box 47250
Olympia, WA 98504-7250

Dear Grefory Kopta,

I, Robby Borden, the co-founder/owner of Palouse Touring Company LLC would like to explain the situation that led to our late filing of the annual report in an effort to dismiss the fine.

We are a new company that has only been in operation for one year. My business partner and I are both new to business ownership and have been struggling to keep our heads above water, both financially and with general workload.

For the last year we have been "shoebox" accountants. When it came time to file our federal taxes we had to apply for an extension because of the backlog of work to complete. We hired a college intern to come in and help get our accounting entered to the computer and get us on track. This process doesn't happen overnight. When I received the Annual Report in the mail I didn't fill it out because I wanted to make sure it was done correctly. The legal jargon included in the letter is frankly a bit scary and I wanted to make sure we accurately reported our revenue and expenses.

Our company has a number of employees (creating jobs) and is working very hard to comply with the laws and regulations. Our intern has now created a calendar so we can keep up with the reporting documents and deadlines. My business partner and I have worked hard since the beginning of this company to learn quickly from our mistakes. As soon as we learn of a report or agency we need to comply with we work very diligently to get into compliance immediately, and to avoid future fines or violations.

2014 JUN 19 AM 8:06

¹See attachment A for a copy of the penalty assessment sent on May 27, 2014

²See attachment B for a copy of Palouse Touring Company's Mitigation Request received on June 19, 2014

Our bank account today is \$3,627.84. We are located in Pullman, WA, which is a very seasonal area and summer is the slow time because all the WSU students are gone. We are seeking the dismissal of the \$1,000.00 fine. This fine seems more in line with a large, established \$5mm revenue company for not doing as they are supposed to. We are the little guy and simply cannot afford this large of a fine.

Sincerely,
Rob

A handwritten signature in black ink, appearing to read 'Rob Borden', with a long horizontal flourish extending to the right.

Rob Borden
PALOUSE TOURING COMPANY
PULLMAN, WA 99163

Phone: 253-261-4297

Email: rob@mycollegecabs.com

Web: www.mycollegecabs.com

¹See attachment A for a copy of the penalty assessment sent on May 27, 2014

²See attachment B for a copy of Palouse Touring Company's Mitigation Request received on June 19, 2014