



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](http://www.utc.wa.gov)

July 7, 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. Ludtke-Pacific Trucking, Inc.*

Commission Staff's Response to Application for Mitigation of Penalties TG-141168

Dear Mr. King:

On June 9, 2014, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket TG-141168 against Ludtke-Pacific Trucking, Inc. for 10 violations of Washington Administrative Code (WAC) 480-70-071, which requires solid waste companies to furnish annual reports to the commission no later than May 1 each year.<sup>1</sup>

On June 20, 2014, Ludtke-Pacific Trucking, Inc. wrote the commission requesting mitigation of penalties (Mitigation Request).<sup>2</sup> In its Mitigation Request, Ludtke-Pacific Trucking, Inc. does not dispute that the violation occurred. The company states, "In early 2014 our longtime in house accountant became ill and tried very hard to hide the illness by giving use the impression that all was well with reports etc. It wasn't until we had to let her go that we discovered that she had missed all sorts of deadlines. We discovered the late filing of your report on May 1 and immediately gathered the information needed to support the fee associated with the revenue. We made the deadline for the payment and at the same time asked for an extension of the annul business report as we just did not have all the information needed to prepare an accurate accounting."

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 solid waste 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.

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 9, 2014

<sup>2</sup>See attachment B for a copy of Ludtke-Pacific Trucking's Mitigation Request received on June 20, 2014

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On May 1, 2014, Ludtke-Pacific Trucking, Inc. filed an extension request under Docket TG-140772. The request was denied on May 29, 2014 after consideration by the commission.

On June 6, 2014, Ludtke-Pacific Trucking, Inc. filed the 2013 annual report with the timely payment of regulatory fees on May 1, 2014. The company has been active since April 11, 2002. Ludtke-Pacific Trucking, Inc. previously missed the deadline for filing its annual report and paying its regulatory fees for the 2008 and 2012 reporting year. Staff does not support the company's request for mitigation due to prior filing violations.

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

Sincerely,

Sondra Walsh, Director  
Administrative Services

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<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 9, 2014

<sup>2</sup>See attachment B for a copy of Ludtke-Pacific Trucking's Mitigation Request received on June 20, 2014

## ATTACHMENT A

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TG-141168  
PENALTY AMOUNT: \$1,000

Ludtke – Pacific Trucking, Inc.  
4059 Bakerview Valley Rd.  
Bellingham, WA 98226

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-70-071, which requires solid waste companies to file their annual reports and pay regulatory fees each year by May 1. You did not file an annual report.

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 480-70-071 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 water 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. WAC 480-70-071 states that the Commission may grant an extension of time allowing a company to file its annual report after the May 1 due date if the Commission received a request for extension before May 1. You filed an extension request on May 1. This request was denied per Docket TG-140772 Order 01.

As of May 15, Ludtke – Pacific Trucking, Inc. 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

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 9, 2014

<sup>2</sup>See attachment B for a copy of Ludtke-Pacific Trucking's Mitigation Request received on June 20, 2014

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 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 480-70-071 to cancel your certificate to operate as a solid waste company in Washington.

DATED at Olympia, Washington, and effective June 9, 2014.

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MARGUERITE E. FRIEDLANDER  
Administrative Law Judge

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 9, 2014

<sup>2</sup>See attachment B for a copy of Ludtke-Pacific Trucking's Mitigation Request received on June 20, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TG-141168

**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](http://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.”

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 9, 2014

<sup>2</sup>See attachment B for a copy of Ludtke-Pacific Trucking’s Mitigation Request received on June 20, 2014

ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TG-141168

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.

2014 JUN 20 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:

[ ] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

[x] 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: 6/12/14 [month/day/year], at BELLINGHAM, WA [city, state]

LUOTKE-PACIFIC TRUCKING, INC  
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."

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 9, 2014

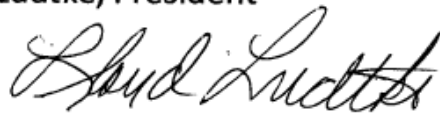
<sup>2</sup>See attachment B for a copy of Ludtke-Pacific Trucking's Mitigation Request received on June 20, 2014

Washington Utilities and Transportation Commission

2014 JUN 20 AM 8:12

The following will be my explanation for the late filing of our annual report and the subsequent reasons why I feel very strongly that the penalty is extreme. In early 2014 our longtime in house accountant became ill and tried very hard to hide the illness by giving us the impression that all was well with reports etc. It wasn't until we had to let her go that we discovered that she had missed all sorts of deadlines. We discovered the late filing of your report on May 1 and immediately gathered the information needed to support the fee associated with the revenue. We made the deadline for the payment and at the same time asked for an extension of the annual business report as we just did not have all the information needed to prepare an accurate accounting. As we trusted our employee to keep us in compliance as she has done for many years we just didn't make the deadline. We have since resolved that issue and submitted the report. We are now asking for mitigation on the \$1000 fine as we work very hard here for every dollar and it just seems that it is quite excessive for something that we just were blindsided by and had no control over the circumstances that prevented us from meeting the obligation. I respectfully submit this letter asking for a reduction or complete dismissal of the penalty imposed on us.

Lloyd A Ludtke, President



6/17/14

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 9, 2014

<sup>2</sup>See attachment B for a copy of Ludtke-Pacific Trucking's Mitigation Request received on June 20, 2014