



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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May 24, 2016

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

RE: *Washington Utilities and Transportation Commission v. Team Forks, LLC,  
d/b/a Twilight Adventures*  
Commission Staff's Response to Request for Dismissal of Penalties  
Docket TE-160477

Dear Mr. King:

On May 10, 2016, the Washington Utilities and Transportation Commission (commission) issued Penalty Assessment TE-160477 against Team Forks, LLC d/b/a Twilight Adventures (Team Forks) in the amount of \$200 for two violations of WAC 480-30-221 Vehicle and Driver Safety Requirements, which requires charter and excursion carriers to comply with Title 49 CFR Part 395 – Drivers Hours of Service and Part 396 – Inspection, Repair and Maintenance, as follows:

- **Violation of CFR Part 395.8(a) – Failure to require driver to make a record of duty status.** Team Forks allowed employee Richard Breeden to drive on 15 occasions in September and October 2015 without making a record of his duty status.
- **Violation of CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected.** Team Forks used a vehicle that was not periodically inspected on 15 occasions in September and October 2015 when such inspections were due. The vehicle was last inspected in August 2012.

RCW 81.04.405 allows penalties of one hundred dollars for each violation of Parts 395 and 396. For most first-time violations, commission enforcement policy recommends a penalty of \$100 for each violation type.

On May 19, 2016 Team Forks filed with the commission notice of its intent to contest the violations.

Team Forks operates as a charter and excursion carrier under permit number CH-063844, which was granted on March 5, 2014, at which time new owner Charlene Cross acknowledged the company's obligation to comply with local, state, and federal regulations pertaining to charter operation.

In March 2016 Motor Carrier Safety Investigator Mathew Perkinson conducted a compliance review investigation, an in-depth examination of the motor carrier's compliance with regulations that the FMCSA has identified as "acute" or "critical."<sup>1</sup> Acute regulations are identified where noncompliance is so severe as to require immediate corrective action regardless of the overall safety posture of the motor carrier. Violations of critical regulations are generally indicative of breakdowns in a carrier's management controls. Non-compliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and unusually higher than average accident rates.<sup>2</sup> Mr. Perkinson found five violations, all of which were first-time violations.

The commission's Enforcement Policy provides that some commission requirements are so essential to safe operations that the commission may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues.<sup>3</sup> These types of violations are categorized as "acute" or "critical" under federal standards. Of the five violations found, two violations were of acute or critical regulations.

Ms. Cross contests the violations and states she was not aware of the requirements of operating as a charter carrier. She states that appropriate measures have been put in place to correct the violations. She believes that there should be no penalties assessed because the violations have been corrected. Staff response follows.

Team Forks is a small company with one vehicle under UTC authority and two drivers. The company reported 3,742 miles travelled in 2015 and \$34,119 in revenue. The company appears to be cooperative and willing to correct the violations noted. In its application for charter certificate Team Forks acknowledged its obligation to comply with local, state, and federal regulations pertaining to charter service. The penalty assessed represents the minimum penalty that can be assessed for each violation type. Team Forks allowed a driver to operate on 15 occasions without making record of duty status, and used a commercial vehicle not periodically

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<sup>1</sup> Code of Federal Regulations, [Appendix B to Part 385—Explanation of safety rating process](#)

<sup>2</sup> *Id.*

<sup>3</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

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inspected on 15 occasions. Rather than penalizing the company for each occurrence, the assessed penalty is \$100 for each type of violation. Staff recommends the penalty remain at \$200.

If you have any questions, please contact Mike Turcott, Compliance Investigator, Transportation Safety, at 360-664-1174, or by e-mail at [miturcot@utc.wa.gov](mailto:miturcot@utc.wa.gov).

Sincerely,



David Pratt  
Assistant Director, Transportation Safety

Enclosures