

White Pass Community Services Coalition
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February 24, 2019

From: Douglas H. Hayden,
Executive Director

TO: Washington Utilities and Transportation Commission
1300 Evergreen Park Dr. SW
Olympia, WA 98502

Subject: Response to WUTC Penalty Assessment TN-190036

Received
Records Management
02/25/19 16:44
State Of WASH.
UTIL. AND TRANSP.
COMMISSION

Having been directly involved with Wayne Gilbert's safety investigation of White Pass Community Services Coalition (WPCSC) in December of 2018, and having reviewed with Mr. Gilberts each of his findings, I'm submitting this request for mitigation (#3-b). I'm asking that you consider the following information in whether to mitigate this penalty.

1. I agree that I was not in compliance with WAC 480-31-130, Operation of Motor Vehicle which adopts Title 49 Code of Federal Regulations (CFR) Part 391-Qualification of Drivers.

(a) Site visits/review - In the past twenty (20) years I have managed the operations of LEWIS Mt. Hwy. Transit. In those 20 years I've participated in multiple state and federal agency's site visits to our offices in Morton, WA, to review our records and operations. These included WSDOT site visits, as well as an FTA site visit. I've been through (1) WUTC review in 2011; I've been through at least 10 site visits by ParaTransit Services out of Bremerton, WA as a sub-recipient as a prior Medicaid transportation provider.

Trainings, Conferences & Professional Peer meetings - I've been to at least 18 annual WSDOT state-wide transit conferences; and attended over 30 regional transportation meetings through WSDOT's Human Services Transportation Planning process. Throughout all of these years, I was aware that CDL licensed drivers were required to have valid/current Medical Exam cards. At the time of Mr. Gilbert's site inspection, at our facilities, all of our CDL licensed drivers had current medical card/certificates.

After all these years, and all these meetings and interactions with other transportation professionals, it was not until my discussions with Mr. Gilbert in December of 2018, that I had ever heard that “non” CDL Drivers, driving non-CDL vehicles, in vehicles with seating between for 8 – 14 passengers were also required to have a valid medical card/certificate. This information absolutely stunned me. As mentioned in Factor #3 we did not self-report, because, as cited above, we had never read, nor been informed by anyone that our non-CDL drivers, driving non-CDL vehicles with between 8 and 14 passengers ALSO needed valid medical cards/certificates.

- (b) As cited in Mr. Gilbert’s factors, WPCSC did cooperate with Mr. Gilbert throughout the investigation (4 &8). After having been given and having read a copy of Title 49 CFR Part 391.45(a), all WPCSC’s non-CDL drivers, office and maintenance staff acquired valid medical cards/certificates.
- (c) Actions taken to prevent repeat violations – WPCSC has developed an electronic calendar that identifies each driver/employee’s medical card expiration date and alerts office staff 30 days prior to that expiration which will allow us to notify/remind drivers to update their cards (see factor #8).

WPCSC is a not-for-profit organization providing services to a rural part of Lewis County. Approximately 95% of our ridership is identified as “special needs” passengers (low income, elderly, disabled, etc.). WPCSC’s LEWIS Mt. Hwy. Transit is the only public transportation option in Lewis County east of Centralia/Chehalis and, as such, we would never, knowingly, put our ridership, our drivers, the general public or our organization at risk.

This \$7,200 dollar penalty would be a huge financial hit to our organization. We ask that the Commission reconsider and reduce this penalty due to the factors stated above – WPCSC cooperated fully with Mr. Gilbert throughout his investigation; upon learning of our violations, we took immediate action to remedy the issues; and we set in place a process to prevent future violations.

Sincerely,



Douglas H. Hayden

Executive Director

Suggestions:

- I would like to suggest to the Commission that WUTC staff schedule, coordinate with and present a breakout session at the WSDOT Annual transportation conference so that UTC staff can identify issues of which public transportation provider in Washington need to be aware. These annual conferences are generally held toward the end of August to mid-September and last a couple of days. A WSDOT contact would be Don Chartock, who can be reached at 360-705-7928.
- The implications of Title 49 Code of Federal Regulations (CFR) Part 391-Qualification of Drivers, specifically related to requiring valid DOT medical cards for non-CDL drivers driving non-CDL vehicles with between 8-14 passengers has implications across multiple jurisdictions/interests.

WSP - In my discussions with local WSP Officers, they didn't have a clue as to what I was talking about when I asked if, when they stop a small cut-away bus that they know is not a CDL vehicle and if the driver has a valid WA Driver's license, and if the seating of this vehicle is between 8 and 14 passengers, would they also ask for the driver's Medical Card?

WSDOT – The WSDOT staff that I talked to were also unaware of this issue.

Insurance Carriers – My recent talk with a representative of the non-profit insurance carrier “Clear Risk Solutions” said that they were just beginning to hear about the WUTC's enforcement of this issue.

It would be helpful, for all involved, if all of these interests were on the same page regarding Title 49 Code of Federal Regulations (CFR) Part 391-Qualification of Drivers, specifically related to requiring valid DOT medical cards for non-CDL drivers driving non-CDL vehicles with between 8-14 passengers.

Thank you for consideration of these suggestions/recommendations.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TN-190036

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 and enclose \$7,200 in payment of the penalty.

2. **Contest the violations.** I believe that some or all of the alleged violations did not occur for the reasons I describe below (if you do not include reasons supporting your contest here, your request will be denied):

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.

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below (if you do not include reasons supporting your application here, your request will be denied):

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: 2/23/19 [month/day/year], at Morton, WA [city, state]

White Pass Community Services Coalition Daryl M. [Signature]
Name of Respondent (Company) - please print Signature of Applicant