



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. Mark Doubravsky Trucking, Inc.*

Commission Staff's Response to Application for Mitigation of Penalties TV-140967

Dear Mr. King:

On June 5, 2014, the Utilities and Transportation Commission issued a \$200 Penalty Assessment in Docket TV-140967 against Mark Doubravsky Trucking, Inc. for 2 violations of Washington Administrative Code (WAC) 480-15-480, which requires household goods carrier companies to furnish annual reports to the commission no later than May 1 each year.¹

On June 19, 2014, Mark Doubravsky Trucking, Inc. wrote the commission requesting mitigation of penalties (Mitigation Request).² In its Mitigation Request, Mark Doubravsky Trucking, Inc. does not dispute that the violation occurred. The company provided the report had been set aside without any regulatory fees due with family medical issues arising. The company was under the impression the postmark date of May 1 would be accepted as the received date, but recognizes the instructions were specific to the requirement of being received by the commission by May 1.

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 household goods 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 May 5, 2014, Mark Doubravsky Trucking, Inc. filed the 2013 annual report with no regulatory fees due. The company has been active since July 18, 2005. No prior violations of

¹See attachment A for a copy of the penalty assessment sent on June 5, 2014

²See attachment B for a copy of Mark Doubravsky's Mitigation Request received on June 19, 2014

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WAC 480-15-480 are on commission record. Staff supports the company's request for mitigation and recommends the penalty be waived due to the compelling reasons set forth by the company and prior filing compliance.

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 June 5, 2014

²See attachment B for a copy of Mark Doubravsky'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: TV-140967
PENALTY AMOUNT: \$200

Mark Doubravsky Trucking, Inc.
PO Box 361
Goldendale, WA 98620

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-15-480, which requires household goods carrier companies to file their annual reports and pay regulatory fees each year by May 1. You did not file an annual report or pay regulatory fees 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 480-15-480 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 \$200 on the following basis:

On February 28, 2014, the Commission mailed the 2013 annual report forms and the 2014 regulatory fee packets to all household goods carrier 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. The deadline for requesting an extension to file your annual report was April 17. You did not request an extension.

On May 5, 2014, Mark Doubravsky Trucking, Inc. filed its 2013 annual report and paid its 2014 regulatory fee. May 5 is 2 business days from May 1, resulting in a total penalty of \$200.

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.

¹See attachment A for a copy of the penalty assessment sent on June 5, 2014

²See attachment B for a copy of Mark Doubravsky's Mitigation Request received on June 19, 2014

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 RCW81.04.405.

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 480-15-450 to cancel your permit to operate as a household goods carrier in Washington.

DATED at Olympia, Washington, and effective June 5, 2014.

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

¹See attachment A for a copy of the penalty assessment sent on June 5, 2014

²See attachment B for a copy of Mark Doubravsky's Mitigation Request received on June 19, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TV-140967

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 June 5, 2014

²See attachment B for a copy of Mark Doubravsky’s Mitigation Request received on June 19, 2014

ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TV-140967

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[] 1. Payment of penalty. I admit that the violations occurred. I have:

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[] 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:

[X] 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 [X] 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: June 16th., 2014 [month/day/year], at Goldendale, Washington [city, state]

Kimberley Doubravsky

Name of Respondent (company) - please print
Mark Doubravsky Trucking, Inc.

Signature of Applicant (handwritten signature)

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 June 5, 2014

2See attachment B for a copy of Mark Doubravsky's Mitigation Request received on June 19, 2014

Mark Doubravsky Trucking, Inc.
P. O. Box 361
Goldendale, Washington 98620

June 16th, 2014

RECEIVED
JUN 18 2014
WASH. UT. & TP. COMM

State of Washington
Washington Utilities and Transportation Commission
1300 S. Evergreen Park DR-S.W., 7250
P. O. Box 47250
Olympia, Washington 98504 -7250

RE: Penalty Assessment: TV-140967

Dear Honorable Marguerite E. Friedlander, Administrative Law Judge:

Enclosed please find our check number 6593 for \$ 200.00. This is for the penalty assessment on our annual report. There is no way that I would jeopardize our permit, as it is one of the oldest still active permits in the State of Washington. And we would like to hand it down and continue its life through our grandchildren.

When the annual report forms arrived, I put them aside unopened as I figured I had a of couple months to get them done. We did not have any regulatory fees due, so I put off doing this report.

Our family has had a couple of major medical issues in the first three months of this new year. First our uncle had brain surgery twice for melanoma cancer and then I had a third surgery for melanoma cancer on my hip.

I do bookkeeping for several clients and this extra away from the office time put me behind in my schedule of getting all of their quarterly and yearly reports filed timely. I did seriously think that if my WUTC annual report were postmarked by May 1st, 2014, I was compiling with the rules. I should have read all of the information supplied to me more carefully in the regulatory fees packet.

Most of the county, state and federal reports that I do for my clients are considered timely, if postmarked by the due date. I just had my mind in this mind set and assumed that the annual WUTC report would be the same.

Your consideration in the reduction of this penalty would be greatly appreciated.

Sincerely Yours,



Kimberley Doubravsky
Secretary / Treasurer

Cc: file
enclosures

¹See attachment A for a copy of the penalty assessment sent on June 5, 2014

²See attachment B for a copy of Mark Doubravsky's Mitigation Request received on June 19, 2014