



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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January 3, 2018

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. Robany Work Services, LLC*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TV-171143

Dear Mr. King:

In November 2017, Motor Carrier Safety Investigator Sandi Yeomans completed a routine safety investigation of Robany Work Services, LLC (Robany). A safety investigation is an in-depth examination of a company's compliance with regulations that the Federal Motor Carrier Safety Administration has identified as "acute" or "critical."<sup>1</sup> Acute regulations are identified where non-compliance 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> Ms. Yeomans documented 127 violations, 64 of which were of critical regulations, resulting in a satisfactory safety rating.

The Washington Utilities and Transportation Commission's (Commission) Enforcement Policy provides that some 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. The Commission will assess penalties for any repeat violations of critical regulations, including for each occurrence of a repeat violation.<sup>3</sup>

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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.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On December 6, 2017, the Commission issued a penalty against Robany in the amount of \$12,400 for violations of Washington Administrative Code (WAC) 480-15-550 Cargo Insurance, and WAC 480-15-570 Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (CFR) Part 391 – Qualifications of Drivers, as follows:

- **Sixty-two violations of WAC 480-15-550 – Cargo Insurance.** During the six months preceding the safety investigation, Robany operated a commercial motor vehicle on sixty-two occasions without the required level of cargo insurance in effect. The company operated six times in May, eight times in June, 13 times in July, 12 times in August, 17 times in September, and six times in October, 2017.
- **Sixty-two violations of Title 49 CFR Part 391.45(b)(1) – Using a driver not medically examined and certified.** During the six months preceding the safety investigation, Robany owner Hachimi Ouedraogo drove a commercial motor vehicle on sixty-two occasions without having been medically examined and certified. Mr. Ouedraogo drove six times in May, eight times in June, 13 times in July, 12 times in August, 17 times in September, and six times in October, 2017.

On December 26, 2017, the Commission received an application for mitigation of penalties. In the application, Sarah Ouedrago, secretary for Robany, admitted the violations and requested mitigation of the penalties.

- **Mitigation Request: WAC 480-15-550 – Cargo Insurance.** Robany admits that it did not have the required level of cargo insurance. The company states it submitted proof of insurance to Commission staff along with its application and that staff approved its application with inadequate insurance.

**Staff response:** Companies are responsible for understanding and complying with applicable regulations. The WAC requires \$10,000 in cargo insurance for vehicles with a gross vehicle weight rating (GVWR) of less than ten thousand pounds, and \$20,000 in cargo insurance for vehicles with a GVWR of ten thousand pounds or more. Robany's vehicle has a GVWR of 12,300 pounds, which requires \$20,000 in cargo insurance.

Nevertheless, staff believes the company acted in good faith in obtaining its cargo insurance, and staff may have missed an opportunity to point out the discrepancy to the company. When it learned of the problem during the safety investigation, the company corrected the violation immediately. Thus, staff recommends this \$6,200 penalty be reduced to \$1,000.

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**Mitigation Request: Title 49 CFR Part 391.45(b)(1) – Using a driver not medically examined and certified.** The company did not address this violation in its mitigation request.

**Staff response:** Robany did not address this violation in its mitigation request. However, because the company did promptly correct the violation during the safety investigation, staff recommends this \$6,200 penalty be reduced to \$3,000.

Staff recommends reducing the entire penalty amount from \$12,400 to \$4,000. Staff also recommends suspending a \$2,000 portion of the remaining penalty on the condition the company pays the balance or files jointly with staff an approved payment plan, and has no similar violations within the next two years.

If you have any questions, please contact Mike Turcott, Compliance Investigations Supervisor, Consumer Protection, at (360) 664-1174, or by email at [mike.turcott@utc.wa.gov](mailto:mike.turcott@utc.wa.gov).

Sincerely,



Bridgit Feeser  
Assistant Director, Consumer Protection