



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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March 11, 2020

Mark L. Johnson, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. ATS Trans, LLC, d/b/a Around-The-Sound Transportation Specialists*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TE-200117

Dear Mr. Johnson:

On February 27, 2020, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against ATS Trans, LLC, d/b/a Around-The-Sound Transportation Specialists, (ATS or Company) in the amount of \$700 for violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 383 – Commercial Driver's License Standards; Requirements and Penalties, and 49 CFR Part 391 – Qualification of Drivers, as follows:

- **One violation of 49 CFR § 383.37(a) – Knowingly allowing, requiring, permitting, or authorizing an employee to operate a commercial motor vehicle during any period in which the driver does not have a current commercial learner's permit (CLP) or commercial driver's license (CDL) or does not have a CLP or CDL with the proper class or endorsements. An employer may not use a driver who violates any restriction on the driver's CLP or CDL to operate a commercial motor vehicle.** ATS allowed driver Brent Scott to operate a commercial motor vehicle with a downgraded CDL on a single occasion.
- **Five violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed driver Jeanie Henson to operate a commercial motor vehicle without a valid medical certificate on five occasions between August 10 and August 23, 2019.

- **Four violations of 49 CFR § 391.51(b)(9) – Failing to place a note related to the verification of the medical examiner’s listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver qualification file(s).** ATS failed to verify the medical examiners listed on the medical certificates of drivers Bruce Neihart, James Sauls, Brent Scott, and Dennis Short with the national registry.

On March 6, 2020, ATS filed with the Commission its application for mitigation of penalties. In the request for mitigation, Steve Hutchins, President and CEO of ATS, admits the violations, details corrective actions the Company has taken to ensure future compliance, and asks that the penalties be reduced for reasons set out in the response. Staff addresses the Company’s request for mitigation, as follows:

- **Mitigation Request: 49 CFR § 383.37(a) – Knowingly allowing, requiring, permitting, or authorizing an employee to operate a commercial motor vehicle during any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class or endorsements.** ATS states it has implemented new policies and procedures to review driver qualification files monthly to ensure all drivers are operating commercial motor vehicles with the proper endorsements.
- **Staff response:** The Company corrected this violation during the safety investigation and has implemented new procedures to prevent future occurrences of this violation. The assessed penalty is \$100 for a single occurrence of this acute violation. Staff recommends the penalty be reduced to \$50.
- **Mitigation Request: 49 CFR § 391.45(a) – Using a driver not medically examined and certified.** ATS states that all drivers will be required to obtain medical certification, even if those drivers aren’t performing Commission-regulated transportation services. ATS also states it has developed a system to ensure that each driver is qualified to operate their assigned vehicle.
- **Staff response:** ATS immediately corrected this violation by having its drivers medically examined and certified. The Company has also implemented a policy to medically certify all of its drivers, regardless of service provided. The assessed penalty is \$500 for five occurrences of this critical violation. Staff recommends the penalty be reduced to \$250.
- **Mitigation Request: 49 CFR § 391.51(b)(9) – Failing to place a note related to the verification of the medical examiner’s listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver qualification file(s).** ATS states it has implemented a new process to validate the medical examiner’s listing with the national registry as soon as its drivers are medically examined and certified.
- **Staff response:** The Company corrected this violation during the safety investigation; however, this is a repeat violation. Because the Commission assessed a “per category” penalty of \$100 for four occurrences of this violation, staff recommends no mitigation of this penalty.

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ATS operates three commercial motor vehicles and employs 19 drivers providing Commission regulated service. The Company reported \$71,000 in gross revenue for 2018. Staff recommends the penalty of \$700 be reduced to \$400.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at (360) 867-8305, or by email at Jason.Hoxit@utc.wa.gov.

Sincerely,

*/s/ Jason Sharp*

Jason Sharp

Motor Carrier Safety Supervisor, Transportation Safety