



STATE OF WASHINGTON
 UTILITIES AND TRANSPORTATION COMMISSION

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 COMMISSION

December 20, 2022

Amanda Maxwell, Executive Director and Secretary
 Washington Utilities and Transportation Commission
 P.O. Box 47250
 Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Sky Harbor Shuttle LLC*
 Commission Staff's Response to Application for Mitigation of Penalties
 Docket TE-220755

Dear Ms. Maxwell:

On October 18, 2022, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Sky Harbor Shuttle LLC (Sky Harbor or Company) in the amount of \$10,100 for violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 391 – Qualification of Drivers; 49 C.F.R. Part 393 – Parts and Accessories Necessary for Safe Operation; and 49 C.F.R. Part 396 – Inspection, Repair, and Maintenance, as follows:

- **Ninety-nine violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.** Sky Harbor allowed drivers Mark Vincent, Ray Hirschi, Stephanie Carter, and Rodney Robbins to operate a commercial motor vehicle (CMV) without a valid medical certificate on 99 occasions between March 3 and September 3, 2022.
- **One violation of 49 C.F.R. § 393.41 – No or defective parking brake system on CMV.** Commission staff (Staff) discovered a CMV with a defective parking brake system. This CMV was placed out-of-service.¹
- **Two violations of 49 C.F.R. § 396.17(a) – Using a CMV not periodically inspected.** Sky Harbor failed to have an annual inspection performed on two CMVs.

On October 20, 2022, Sky Harbor submitted to Staff a corrective safety plan that describes in detail the actions, processes, and procedures the Company implemented to correct the violations and

¹ Vehicle Identification Number 1FTSE34L96HA17132.

prevent recurrence. In addition, Sky Harbor provided copies of valid medical certificates for drivers Mark Vincent and Ray Hirschi, as well as copies of annual vehicle inspections for its two CMVs.

On December 15, 2022, Sky Harbor filed with the Commission its application for mitigation of penalties. In the request for mitigation, Stacy Andrews, CEO of Sky Harbor, admits the violations, asks that the penalties be reduced, requests a hearing to present evidence before an administrative law judge, but fails to include reasons supporting its application for mitigation.

Companies are required to submit a request for mitigation within 15 days of receiving a penalty assessment and are directed to provide reasons to support the request, otherwise the Commission can deny the request. In this case, Sky Harbor submitted a detailed corrective action safety plan to Staff within the 15-day period but failed to file a response to the docket within the allotted time.

In response to Sky Harbor's request for a hearing, Staff recommends that the Commission deny the request. The Company does not contest that the violations occurred, Sky Harbor failed to provide reasons supporting its request for a hearing, and Staff believes there is sufficient documentation in the docket for an administrative law judge to decide without further expense and delay.


In response to Sky Harbor's application for mitigation of penalties, the Company remedied the first-time violations and implemented new procedures to prevent recurrence. For these reasons, Staff recommends the penalty of \$10,100 be reduced to \$5,200, calculated as follows:

- Staff recommends the penalty of \$9,900 for 99 violations of 49 C.F.R. § 391.45(a) be reduced to \$5,000.
- Staff recommends no reduction of the \$100 penalty for the out-of-service violation of 49 C.F.R. § 393.41.
- Staff recommends no mitigation for the two violations of 49 C.F.R. § 396.17(a), as the Commission assessed a "per category" penalty of \$100 for these critical violations.

Staff further recommends that \$2,600 of the reduced penalty be suspended for a period of two years, and waived thereafter, subject to the conditions that: (1) Staff conducts a focused safety investigation of 49 C.F.R. § 391.45(a) and 49 C.F.R. § 396.17(a) within two years or as soon thereafter as practicable to review the Company's compliance, (2) Sky Harbor does not incur any repeat violations, and (3) the Company pays the \$2,600 portion of the penalty that is not suspended.

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,

 Digitally signed by
Sharp, Jason (UTC)
Date: 2022.12.20
13:02:49 -08'00'

Jason Sharp
Motor Carrier Safety Supervisor, Transportation Safety