

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

Special Mobility Services, Inc.

in the amount of \$400

DOCKET TN-240506

ORDER 01

GRANTING MITIGATION,
IN PART

BACKGROUND

1 On July 16, 2024, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Special Mobility Services, Inc. (Special Mobility or Company) in the amount of \$400 for violations of Washington Administrative Code (WAC) 480-31-100, Equipment - Safety, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 393 - Parts and Accessories Necessary for Safe Operation and WAC 480-31-130, Operation of Motor Vehicles, which adopts 49 C.F.R. Part 391 - Qualifications of Drivers, as follows:

- **One violation of 49 C.F.R. § 391.45(a) - Using a driver not medically examined and certified.** Special Mobility allowed driver Lisa Pritchett to operate a motor vehicle without a valid medical certificate. The Commission assessed a penalty of \$200 for the first-time critical violation.
- **One violation of 49 C.F.R. § 393.62 - Buses - Required emergency exit missing.** Special Mobility used a motor vehicle with an emergency exit that was not properly marked and operable. The vehicle was placed out-of-service.
- **One violation of 49 C.F.R. § 393.62 - Buses - Required emergency exit not properly marked.** Special Mobility used a motor vehicle with an emergency exit that was not properly marked. The vehicle was placed out-of-service.
- **One violation of 49 C.F.R. § 393.62 - Buses - Required emergency exit inoperative (does not open, close, and/or secure as designed).** Special Mobility used a motor vehicle with an emergency exit that was inoperable. The vehicle was placed out-of-service.

2 On July 22, 2024, Special Mobility filed with the Commission its application for mitigation of penalties (Application). In the Application, Elizabeth Mulcahy, contracts administration manager, addressed the out-of-service violations. Mulcahy admits the violations occurred and that the Company has corrected the violations. Special Mobility submitted the Driver/Vehicle Examination Reports

3 On July 24, 2024, Commission staff (Staff) filed a response recommending the Commission assess a reduced penalty of \$250. Staff made the following specific recommendations:

- The Commission assessed a penalty of \$100 for one violation of 49 C.F.R. § 391.45(a). The Company did not address this violation in the mitigation request. Staff recommended no mitigation of this penalty.
- The Commission assessed a penalty of \$100 for each occurrence (three) of 49 C.F.R. § 393.62, for a total of \$300. The Company certifies that these violations were corrected once it was informed. For these first-time violations, Staff recommended the penalty be reduced to \$150.

DISCUSSION AND DECISION

4 Washington law requires nonprofit transportation providers to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety inspections are subject to penalties of \$100 per violation.¹ Violations defined by federal law as “critical,” which are indicative of a breakdown in a carrier’s management controls, meet this standard.²

5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.³ The Commission also considers whether the

¹ See RCW 81.04.405.

² 49 C.F.R. § 385, Appendix B.

³ Enforcement Policy ¶19.

violations were promptly corrected, a company's history of compliance, and the likelihood the violation will recur.⁴

- 6 The Penalty Assessment levied a \$400 penalty for one violation of 49 C.F.R. § 391 - Qualifications of Drivers and three violations of 49 C.F.R. § 393 - Parts and Accessories Necessary for Safe Operation. In its Application, the Company acknowledged the violations regarding 49 C.F.R. § 393 and made corrections once informed. The Company submitted Driver/Vehicle Examination Reports. Special Mobility did not address the one violation of 49 C.F.R. § 391.
- 7 Staff recommends the penalty for the violations of 49 C.F.R. § 393 be reduced from \$300 to \$150 because the company promptly made corrections once informed of the violations. Staff recommends no mitigation of the violation of 49 C.F.R. § 391 because it was not addressed in the Company's Application. Because the Company accepted responsibility for the violations of 49 C.F.R. § 393 and quickly corrected them, we agree with Staff's recommendation and assess a reduced penalty of \$250.

FINDINGS AND CONCLUSIONS

- 8 (1) The Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including nonprofit transportation providers, and has jurisdiction over the parties and subject matter of this proceeding.
- 9 (2) Special Mobility Services, Inc. is a nonprofit transportation provider subject to Commission regulation.
- 10 (3) Special Mobility Services, Inc. violated 49 C.F.R. § 391.45(a) when it allowed a driver to drive without a valid medical certificate on one occasion.
- 11 (4) Special Mobility Services, Inc. should be penalized \$100 for one violation of 49 C.F.R. § 391.45(a).
- 12 (5) Special Mobility Services, Inc. violated 49 C.F.R. § 393.62 when it used a motor vehicle with an emergency exit that was not properly marked and/or operable on three occasions.

⁴ Enforcement Policy ¶15.

- 13 (6) Special Mobility Services, Inc. should be penalized \$150 for three violations of 49 C.F.R. § 393.62.
- 14 (7) The Commission should assess a total penalty of \$250 for 4 violations: 1 violation of 49 C.F.R. § 391.45(a) and 3 violations of 49 C.F.R. § 393.62.

ORDER

THE COMMISSION ORDERS:

- 15 (1) Special Mobility Services, Inc.'s request for mitigation of the \$400 penalty is GRANTED, in part, and the penalty is reduced to \$250.
- 16 (2) Special Mobility Services, Inc. shall pay the \$250 penalty within 14 days of the effective date of this order.
- 17 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Lacey, Washington, and effective July 31, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFF KILLIP
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.