

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment  
Against

BREMERTON-KITSAP AIRPORTER,  
INC.

in the amount of \$100

DOCKET TE-240785

ORDER 01

DENYING MITIGATION

**BACKGROUND**

- 1 On November 12, 2024, the Washington Utilities and Transportation Commission (Commission) assessed a \$100 penalty (Penalty Assessment) against Bremerton-Kitsap Airporter, Inc. d/b/a Bremerton-Kitsap Airporter, Ft. Lewis/McChord Airporter, The Sound Connection, Pierce-SeaTac Airporter (Bremerton-Kitsap or Company) for a violation of Washington Administrative Code (WAC) 480-30-221, which adopts by reference sections of Title 49 Code of Federal Regulations (C.F.R.).<sup>1</sup> The Penalty Assessment is for one violation of 49 C.F.R. § 393.62 - Buses - Required emergency exit not properly marked. The Company used a commercial motor vehicle with an emergency exit that was not properly marked. The vehicle was placed out-of-service.<sup>2</sup>
- 2 On November 15, 2024, Bremerton-Kitsap filed a response to the Penalty Assessment admitting the violation occurred and requesting mitigation or suspension of the penalty amount (Mitigation Request).
- 3 On November 21, 2024, Commission staff (Staff) filed a response recommending that the Commission deny the Company's Mitigation Request.

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<sup>1</sup> This Order refers to Commission safety regulations that adopt federal rules only by the applicable section of Title 49 C.F.R.

<sup>2</sup> Vehicle Identification Number 1FDUF5GY8BEB16153.

## DISCUSSION AND DECISION

- 4 Washington law requires charter and excursion carriers to comply with federal safety requirements and undergo routine safety inspections. In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.<sup>3</sup> Violations defined by federal law as “acute” or “critical” meet this standard.<sup>4</sup>
- 5 Violations are considered “acute” when non-compliance is so severe that immediate corrective action is required regardless of the overall safety posture of the company. Violations classified as “critical” are indicative of a breakdown in a carrier’s management controls. Acute violations discovered during safety inspections are subject to penalties of \$1,500 per violation,<sup>5</sup> and critical violations are subject to penalties of \$100 per violation.<sup>6</sup>
- 6 The Commission considers several factors when entertaining a request for mitigation, including whether a 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 a company’s compliance.<sup>7</sup> We address the specific violation category below.
- 7 **49 C.F.R. § 393.62.** The Penalty Assessment includes a \$100 penalty for one violation of 49 C.F.R. § 393.62 due to Bremerton-Kitsap using a commercial motor vehicle with an emergency exit that was not properly marked. In its response, the Company states that it was told that the out-of-service condition was a “fix it ticket,” and that it was not told that the violation would result in a monetary penalty. However, safety investigators do not issue tickets, nor do they issue penalties because of the violations that are identified during vehicle inspections. That responsibility lies with the Commission.
- 8 Staff recommends that the Commission deny the Company’s request to mitigate or suspend the penalty because the Company did not offer any information that would indicate that the out-of-service violation was taken in error or that management controls to prevent future occurrences of this violation have been implemented. Additionally,

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<sup>3</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

<sup>4</sup> 49 C.F.R. § 385, Appendix B.

<sup>5</sup> See RCW 81.04.530.

<sup>6</sup> See RCW 81.04.405.

<sup>7</sup> Enforcement Policy ¶ 19.

Staff noted that it believes the Commission acted in a manner consistent with the enforcement policy. We agree with Staff's recommendation and deny Bremerton-Kitsap's request to mitigate or suspend the penalty for this critical violation.

### FINDINGS AND CONCLUSIONS

- 9 (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 passenger transportation companies, and has jurisdiction over the parties and subject matter of this proceeding.
- 10 (2) Bremerton-Kitsap Airporter, Inc. is a passenger transportation company subject to Commission regulation.
- 11 (3) Bremerton-Kitsap Airporter, Inc. committed one violation of 49 C.F.R. § 393.62 by using a commercial motor vehicle with an emergency exit that was not properly marked.
- 12 (4) The Commission should penalize Bremerton-Kitsap Airporter, Inc. \$100 for one violation of 49 C.F.R. § 393.62.

### ORDER

#### THE COMMISSION ORDERS:

- 13 (1) Bremerton-Kitsap Airporter, Inc.'s request for mitigation or suspension of the \$100 penalty is DENIED.
- 14 (2) The \$100 penalty is immediately due and payable.
- 15 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-903(2)(e).

DATED at Lacey, Washington, and effective November 22, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Jeff Killip*  
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.**